

ITEM NO: 5

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| DECISION-MAKER: | LICENSING COMMITTEE COUNCIL | | |
| SUBJECT: | LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY | | |
| DATE OF DECISION: | 14 TH NOVEMBER 2007 20 TH NOVEMBER 2007 | | |
| REPORT OF: | SOLICITOR TO THE COUNCIL | | |
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STATEMENT OF CONFIDENTIALITY

N/A

SUMMARY

In accordance with Section 5 Licensing Act 2003, the Council, as Licensing Authority, is required to adopt a Statement of Licensing Policy every three years. The Council's original Statement of Licensing Policy was adopted by Council on 7th January 2005 and, therefore, requires fresh adoption prior to 7th January 2008. The Licensing Committee is one of the consultees.

RECOMMENDATIONS:

Licensing Committee

- (i) That the Committee considers the current Statement of Licensing Policy and the very slight revisions made to it and recommend its adoption to Full Council.

Full Council

- (ii) That Council adopts the revised Statement of Licensing Policy as attached at Appendix 1.

REASONS FOR REPORT RECOMMENDATIONS

1. The current Statement of Licensing Policy has been in place for nearly three years and has remained unchallenged and unchanged during this period, which was the initial period of implementation under the Act. The Policy is a broad outline of the policy that the Council must adopt in consideration of any application or review. In the view of officers and the Responsible Authorities, the Policy has worked well. Accordingly, there is no cogent reason why significant changes should be made to the Policy at this point in time.

CONSULTATION

2. The Council has undertaken a wide consultation exercise in excess of the minimum required by the Act or Government guidance. The Council has consulted with the statutory consultees comprising the Chief Officer of Police for the area, the Fire Authority, persons or bodies representative of local

holders of premises licences, premises certificates, personal licences and business and residents in its area. In addition, the consultation exercise has been advertised on the Council's website and in City View.

3. Attached at Appendix 2 is the full list of consultees and the consultation responses.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. No alternative options have been considered as the Council has, by law, to adopt a Statement of Licensing Policy every three years.

DETAIL

5. As previously indicated, the Statement of Licensing Policy has, in effect, been used for the last three years during the initial period of activity under the legislation whereby numerous current licence holders sought to extend or vary their hours in respect of the licences they held under previous legislation. The Authority had regard to the Licensing Policy during this period of time and it is officers and Responsible Authorities' views that the Policy is robust, reasonable and appropriate for the City at the current time. Should the situation change, the Authority has the ability to revisit the Policy and bring it to Full Council for reconsideration.
6. Minor typographical and other changes have been made to the Policy which are indicated in the attached draft, although none of these changes are significant.
7. By way of background, it is the duty of the Council as licensing authority to carry out their functions under the Act with a view to promoting four licensing objectives which are:
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 - Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
9. In addition, in determining this Policy, the licensing authority must have regard to the Guidance provided by the Department of Culture, Media and Sport.
10. Whilst the Policy must set out a general approach to the making of licensing decisions, it cannot be ignorant or inconsistent with the provisions of the Act. For example, the Policy must not undermine or exclude the right of an individual to apply under the terms of the Act for a variety of permissions and to any have such application considered on its individual merit.
11. The Policy should also make it clear that licensing is about regulating the carrying on of licensable activities on licensed premises by qualifying clubs and temporary events and that conditions attached to various authorisations can only be focussed on matters which are within the control of individual licensees and others granted relevant authorisations. Accordingly, these matters will focus on the premises and places being used for licensable activities and the vicinity of those premises and places. Anti-social behaviour in the vicinity of licensed premises is a broad issue that can be, and is,

referred to in the Policy. However, whether or not incidents can be regarded as “in the vicinity” of licensed premises or places is a question of fact and will depend on the particular circumstances of each case under consideration. However, the Council will encourage, as far as it is possible, that licence holders have regard to the impact of their business or activity on the neighbourhood and wider community. In cases of dispute, the question will ultimately be decided by the Courts. The current Policy makes it clear in addressing this matter the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working and engaging in normal activity in the area concerned. The Policy also makes it clear that the licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and, therefore, beyond the direct control of the individual club or business holding the licence certificate for the organisation concerned.

12. Officers, the Police and other partnership organisations are concerned with regard to the proliferation of licensed premises concentrated in particular areas and the impact they may have in any given neighbourhood. The north/south spine area is one such example. It is possible to agree to a special policy relating to such “cumulative impact” where it is justified based on evidential grounds. Reference is made to this in paragraph 8 of the Policy and in due course, it is possible that the Council may need to consider adoption of such a policy. However, this will only apply to applications for new licensed premises and not those that currently have the benefit of appropriate licences.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

13. None.

Revenue

14. There are no resource implications from the changes to or re-adoption of the current Licensing Policy.

Property

15. There are no specific property implications arising from this report.

Other

16. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

17. As has been previously stated in Section 5 of the Licensing Act 2003, the Council as Licensing Authority is duty bound to adopt such Statement of Licensing Policy. As with all policies produced by the Council, it is necessary for it to be reasonable and workable in order to avoid any legal challenge by third parties.

Other Legal Implications:

18. None.

POLICY FRAMEWORK IMPLICATIONS

19. It is a statutory obligation to produce a Statement of Licensing Policy by references specifically made in the Policy at paragraph 8? to the need to integrate other strategies such as the local tourist economy, Council Strategy for the City, Night-time Economy, Crime and Disorder Strategy, Anti-Social Behaviour Strategy and other relevant corporate policies.

SUPPORTING DOCUMENTATION

Appendices

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| 1. | Statement of Licensing Policy (with proposed amendments) |
| 2. | List of Consultees and consultee responses |

Documents In Members' Rooms

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| 1. | None. |
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Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

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|----|---|--|
| 1. | DCMS Guidance to Local Authorities April 2006 | |
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Background documents available for inspection at:

Office of the Solicitor to the Council, Civic Centre, Southampton

E-mail: Richard.ivory@southampton.gov.uk

FORWARD PLAN No: N/A

KEY DECISION? N/A

WARDS/COMMUNITIES AFFECTED:

All