

FULL COUNCIL

Licensing Act 2003 Review of Statement of Licensing Policy

Report of Executive Member: Housing, Transport and Planning

17th December 2014

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Purpose of Report

The purpose of this report is to ask Members to consider the revised statement of licensing policy attached at **appendix I**, and whether it should replace the Council's existing licensing policy.

Recommendations

Members are recommended to:-

- a) approve the revised Statement of Licensing Policy attached at **appendix I**

LICENSING ACT 2003 REVIEW OF STATEMENT OF LICENSING POLICY

REPORT OF EXECUTIVE MEMBER - HOUSING, TRANSPORT AND PLANNING

1 Background

- 1.1 The Licensing Act 2003 requires that licensing authorities prepare and publish a statement of its licensing policy every five years. The policy must be kept under review and the licensing authority may make such revisions to it, as it considers appropriate. Oldham Council adopted the current Statement of Licensing Policy on 15th December 2010
- 1.2 The Councils Statement of Licensing Policy fulfils two principal purposes; firstly, it provides advice to business and the public on what the Council expects of those licensed under the Licensing Act 2003. Secondly, it provides a decision-making framework for the Council via its Licensing Committee, and its Licensing Premises Panel, to exercise its quasi-judicial functions under the Act. These two principles mean the policy must strike the right balance between the legitimate needs of businesses and demand for leisure and cultural activities and the need to protect those adversely affected by licensable activities.
- 1.3 The policy must balance these needs with a view to promoting the four statutory 'Licensing Objectives', those being:-
 - a) the prevention of crime and disorder
 - b) public safety
 - c) the prevention of public nuisance; and
 - d) protection of children from harm
- 1.4 Failure to achieve this balance could lead the policy to being, both overly prescriptive and open to challenge, or alternatively though a failure to promote the licensing objectives effectively, ineffective to the needs of those adversely affected by licensable activities. .

2 Current Position

- 2.1 The current Statement of Licensing Policy was adopted by Full Council on the 15th December 2010, and came into effect on the 6th January 2011.
- 2.2 Since the coming into effect of the existing policy there have been a number of substantial changes to the Licensing Act 2003, including the deregulation of some 'regulated entertainment', the introduction of powers to introduce Early Morning Restriction Order, and / or a Late Night Levy and the introduction of 'Public Health' as a responsible authority.
- 2.3 It is against the backdrop of these changes the policy review takes place, and the proposed policy attached at **appendix I**, seeks to outline the Council's position and provide guidance on those legislative changes, and other matters the Council feels appropriate.

2.4 With that in mind Members attention is drawn to the following sections of the proposed policy:-

- Section 13 – Sets out the Council's position in relation to the Late Night Levy
- Section 14 – Sets out the Council's position in relation to the Early Morning Alcohol Restriction Orders
- Section 16 – Provides guidance on the deregulation of 'regulated entertainment', introduced by the Live Music Act 2012.
- Section 18 – Provides guidance on 'Public Health' being a 'Responsible Authority'

2.5 In addition to the changes outlined in paragraph 2.4 above the following amendments are also proposed:-

- Section 7 – Public Safety (para 7.8)

Fire Safety for premises with living accommodation above – As part of the consultation on the revised policy, Greater Manchester Fire & Rescue Service have proposed this amendment to take into account the growing number of premises that are converting the space above takeaways into accommodation.

- Section 10 – Selling Alcohol Responsibly (para 10.8 – 10.12)

Do-you-Pass Training – This training is part of the 'Trading Standards Institutes' ('TSI') fair trading award. The training is delivered by an Oldham Council Trading Standards Officer, accredited trainers in two-and-a-half sessions, which includes a short examination, assessed and certificated by the TSI.

- Section 10 – Selling Alcohol Responsibly (para 10.13 – 10.14)

Written and Spoken English – This section sets out the Council's expectation that it's licence holders should have a modicum of understanding of written and spoken English, to enable licence holders to understand the terms of their licence and their legal obligations.

3 Options / Alternatives

3.1 Members have the option to either:-

- a) approve the proposed amendments and adopt the amended policy as presented at **appendix I**,
- b) amend / reject the proposed changes at Section 7 (para 7.8), Section 10 (para 10.8 – 10.12, and para 10.13 – 10.14). The other proposed changes bring the Council's statement of licensing policy in line with changes to legislation and therefore should not be amended or rejected.

4 Preferred Option

4.1 The preferred option is to:-

- a) approve the proposed amendments and adopt the amended policy as presented at **appendix I**.

- 4.2 Approving the proposed policy will ensure the Council's 'Statement of Licensing Policy' reflects the current legislative framework, and will assist in improving the standards of licensed premises.

5 Consultation

- 5.1 The proposed Statement of Licensing Policy attached at **appendix I** has been subject to consultation in accordance with the provisions of the Act. These require that the Authority must consult with:
- a) the Chief Officer of Police;
 - b) the Fire Authority;
 - c) such persons as the licensing authority considers to be representative of holders of premises licences;
 - d) such persons as the licensing authority considers to be representative of holders of club premises certificates;
 - e) such persons as the licensing authority considers to be representative of holders of personal licences; and
 - f) such other persons as the licensing authority considers to be representative of residents and businesses in the area

- 5.2 One response was received from Greater Manchester Fire & Rescue Service, who requested the amendments detailed in paragraph 7.8 of the proposed policy.

- 5.3 Response(s) to the consultation from members of the public / trade are attached at **appendix II**.

- 5.4 The policy was presented to the 16th October 2014, Overview & Scrutiny Board. Members of the board asked if it was feasible to have the Licensing Act Policy printed in additional languages. Officers are looking into the feasibility of this.

6 Financial Implications

- 6.1 No financial implications

7 Legal Comments

- 7.1 Every five years the Council must determine its policy with respect to the exercise of its licensing functions and publish a Statement of Licensing Policy. The draft policy complies with the guidance issued under Section 182 of the Licensing Act 2003. (A Evans)

8 Environmental and Health & Safety Implications

- 8.1 There are no environmental implications.

9 Community Cohesion Implications [including Crime & Disorder Implications in accordance with Section 17 of the Act] and Equalities Implications

- 9.1 An Equality Impact Assessment has been carried out and is attached at **appendix III**

10 Background Papers

10.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

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11 Appendices

- Appendix I Proposed Policy
- Appendix II Public response to consultation
- Appendix III Equality Impact Assessment

1 Responses to Public Consultation

- 1.1 As well as being asked to provide comments on the whole of the policy the consultation asked for specific comments on the main changes to the policy. It is against those changes the following comment(s) were received from one member of the public:

Section(s)	Changes
10.8 – 10.12	Inclusion of information about the Trading Standards Institutes 'do-you-pass' training course
	<p>Comment –</p> <p>All licence holders have already been trained in these objectives and there seems little benefit in just "ticking boxes" by imposing more training. The issue is that the authorities are not challenging licensees that fail to act within the law, these licensees know that they can get away with ignoring the law as there is virtually no chance of them being caught out.</p>
10.13 – 10.14	Information regarding what the Licensing Authority expects in relation to licence holders being able to understand written and spoken English.
	<p>Comment –</p> <p>I absolutely agree but will it be enforced on a regular basis? In my experience it appears that a significant number of licensed outlets employ staff that have no language skills whatsoever other than to demand payment & give change. More test purchases need to be done on a very regular basis.</p>
10.15 – 10.16	Inclusion of information about the 'Reduce the Strength' campaign, and new mandatory condition relating to selling alcohol below the cost of duty plus VAT.
	<p>Comment –</p> <p>The paper that was issued regarding this whilst being accurate & legal was very hard to understand. The major operators will understand it and comply but I think the smaller operators that ignore this directive will rely on the fact that the document confused them. They will not realise that a promotional offer of £5 entrance that includes 5 "free" drinks could contravene this directive.</p>
Section 13	Information regarding the 'Late Night Levy'
	<p>Comment –</p> <p>Totally agree but this should also be applied geographically so that an area remote from the town centre hub which does not present problems should not have to pay the levy, however if that same area does begin to cause policing issues then the levy should be applied. Let those that do not control their operations whilst profiting from that same lack of control pay!</p>
Section 14	Information regarding the 'Early Morning Alcohol Restriction Orders'
	No comments
Section 16	Changed to reflect the de-restriction of certain entertainment, as introduced by the Live Music Act
	No Comments