

**LICENSING ACT 2003
STATEMENT OF LICENSING POLICY**

(Report by Head of Democratic and Central Services)

1. Introduction

- 1.1 The Licensing Act 2003 requires the Council in its role as the licensing authority to adopt a statement of licensing policy and to have regard to that statement in the exercise of its functions under the Act. The existing statement, the second such document that the Council has approved, came into effect on 7th January 2008 for a period of three years and will expire shortly. The Council must therefore review its policy and approve a new statement that will come into effect on 7th January 2011.
- 1.2 The Act also requires each licensing authority to have regard to any guidance issued by the Secretary of State, with revised guidance having been issued in March 2010.

2. Secretary of State's Guidance

- 2.1 The authority can depart from the guidance where this is felt appropriate but must have good reason for doing so and must be able to substantiate its decision if challenged through the courts.
- 2.2 Various legislative changes have taken place since the previous statement of licensing policy was approved and these have been reflected in the Secretary of State's current guidance. These include –
- a mandatory code of practice for alcohol retailers;
 - elected members of licensing authorities becoming interested parties for the purposes of making representations and applying for reviews;
 - re-classification of lap dancing clubs so that they require a sex establishment licence;
 - new mandatory conditions in relation to the supply of alcohol.
- 2.3 The new coalition government has issued a consultation paper on 'rebalancing the Licensing Act' which is likely to result in further changes to the Act and the issue of revised guidance. A separate report on the potential changes has been considered by the Licensing Committee. Until such time as any changes are made however, the statement of licensing policy must reflect the existing guidance.

3. Statement of Licensing Policy

- 3.1 Approval of the statement cannot be delegated by the Council. Regard must be had to the statement by the authority in carrying out its licensing functions and there must be good reasons for deviating from its content.
- 3.2 The existing statement reflected the Secretary of State's earlier guidance and has not attracted any adverse challenge to its application in terms of the Council's licensing activities under the Act.

- 3.3 The new draft statement therefore has been modelled on the existing document and changes made only where it would otherwise conflict with the Secretary of State's updated guidance. A copy has been distributed to all Members under separate cover and comments invited from a wide variety of organisations with a closing date of 21st October.
- 3.4 The previous government had proposed that the need to review the statement of licensing policy every three years be repealed as this was thought to be no longer necessary and an administrative burden. Although this was not implemented before the last election, the lack of response to the consultation exercise on this occasion reinforces the view that a review every three years is inappropriate.
- 3.5 Only two replies were received. St Ives Town Council asked for the statement to be amended to make provision for town and parish councils to be consulted on applications for premises licences. The legislation currently requires an applicant to serve notice of an application on all responsible authorities but these do not include parish councils. A local council is an interested party under the Act as it represents persons who live in the vicinity of a licensed premise but interested parties are advised of an application by way of a site notice posted by an applicant. The notification procedure is prescribed by regulation and licensing authorities are encouraged not to deviate from those requirements.
- 3.6 Sawtry Parish Council has proposed that the statement contains a policy on the number of sex establishments that the Council considers is appropriate in Huntingdonshire, suggesting that the limit should be set at zero or at one such establishment which should be located in Huntingdon or St Neots, with none permitted elsewhere in the more rural areas. The representation is not relevant as the licensing of sex establishments is regulated by the Local Government (Miscellaneous Provisions) Act 1982 and the statement of licensing policy relates only to licensing under the Licensing Act 2003.

4. Conclusion and Recommendation

- 4.1 Once adopted, the statement of licensing policy can be amended by the licensing authority at any time during the ensuing three years, prior to its renewal in 2014.
- 4.2 The consultation exercise on the revised statement has elicited a poor response and the Licensing Committee has proposed that no change be made to the draft other than minor corrections. It is

Recommended

that the Cabinet endorse the revised statement of licensing policy for submission to the Council for approval.

Background Papers:

- Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003
- Statement of Licensing Policy of the authority dated January 2008
- Draft statement of Licensing Policy of the authority dated January 2011.
- Consultation replies as set out in the report.

Contact Person: Roy Reeves
Head of Democratic and Central Services
Tel: (01480) 388003.