

# Licensing Committee

## Licensing Act 2003 Statement of Licensing Policy

9 December 2010

### Report of Head of Safer Communities, Urban & Rural Services

#### PURPOSE OF REPORT

The development and adoption of the Statement of Licensing Policy is a statutory requirement under the Licensing Act 2003. The function of approving the Statement and the subsequent reviews of it are the responsibility of the Licensing Committee in accordance with Cherwell District Councils Constitution and Scheme of Delegation. The current Statement was approved by Full Council for a period of three years in 22 October 2007. The publication date of the Statement of Licensing Policy was 1 January 2008.

This report seeks final approval of the Statement of Licensing Policy. A number of amendments have been made to the current policy statement further to the consultation exercise. As with the development of the current policy statement we have liaised with the other district councils in Oxfordshire and have, where appropriate, incorporated amendments suggested as a result of the consultation process.

The details of the consultation responses and any resulting proposed amendments are attached as appendix 1. All amendments are highlighted by track changes within the policy statement at appendix 2.

This report is public
-----------------------

#### **Recommendations**

---

The Licensing Committee is recommended to:

- (1) Consider the schedule of responses and proposed alterations on the draft statement of licensing policy and decide whether any draft policies should be altered, omitted or others included.
- (2) Authorise the Head of Urban & Rural Services in consultation with the Chairman of the Licensing Committee, to make any minor alterations to the policy should the publication of regulations make expressed policies inconsistent with the regulations (NB – this would only apply up to the point of publication on Wednesday 5 January 2011, thereafter any alterations would be subject to full consultation in accordance with the Licensing Act 2003).

## **Executive Summary**

---

### **Introduction**

- 1.1. The consultation ran from 8 September 2010 through until 15 November 2010. To ensure that our consultation process was as comprehensive as possible, the following bodies were invited to comment:-
- 1.2. All relevant statutory and representative bodies as prescribed by the Licensing Act 2003:
  - the Chief Officer of Police for the Licensing Authority's area;
  - the Fire Authority for that area;
  - such persons as the Licensing Authority considers to be representative of holders of Premises Licences issued by that Authority;
  - such persons as the Licensing Authority considers to be representative of holders of Club Premises Certificates issued by that Authority;
  - such persons as the Licensing Authority considers to be representative of holders of Personal Licences issued by that Authority; and
  - such other persons as the Licensing Authority consider being representative of businesses and residents in its area.
- 1.3. As with the consultation of the current policy document other non-statutory bodies who have an interest in licensing functions, for example:
  - Responsible Authorities
  - Alcohol Concern and similar organisations
  - Community Associations
  - Children and Young People Organisations
  - Health and Safety Executive
  - Oxfordshire Primary Care Trust and Medical Agencies
- 1.4. The consultation exercise has brought forward a number of responses; these are tabulated for the Committee's Consideration.

### **Proposals**

- 2.1. The Committee is requested to:
  - Consider the schedule of responses and proposed alterations on the draft statement of licensing policy and decide whether any draft policies should be altered, omitted or others included
  - Authorise the Head of Urban & Rural Services in consultation with the Chairman of the Licensing Committee, to make any minor alterations to the policy should the publication of regulations make expressed policies inconsistent with the regulations (NB – this would only apply up to the point of publication on Wednesday 5 January 2011, thereafter any alterations would be subject to full consultation in accordance with the Licensing Act 2003);

## **Background Information**

---

- 3.1. A copy of the draft Statement of Licensing Policy for approval is included with this report and a table showing details of the proposed amendments are attached as appendix 1.
- 3.2. This draft Statement has been developed with the other district councils of Oxfordshire. This involved an initial consultation with those Responsible Authorities who have had major legislative change that could impact on the policy in a significant way to allow the resulting amendments to be incorporated into the draft document prior to consultation including:
  - Thames Valley Police
  - The Fire Authority
- 3.3. In preparing the Statement of Licensing Policy Officers have had full regard to the guidance issued by the Secretary of State, as set out in the statutory guidance issued under Section 182 of the 2003 Act.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

### **Option One**

Consider the schedule of responses and proposed alterations on the draft statement of licensing policy and decide whether any draft policies should be altered, omitted or others included; and

Authorise the Head of Urban & Rural Services in consultation with the Chairman of the Licensing Committee, to make any minor alterations to the policy should the publication of regulations make expressed policies inconsistent with the regulations (NB – this would only apply up to the point of publication on Wednesday 5 January 2011, thereafter any alterations would be subject to full consultation in accordance with the Licensing Act 2003);

### **Option Two**

Consider the schedule of responses and proposed alterations on the draft statement of licensing policy and decide whether any draft policies should be altered, omitted or others included

## **Consultations**

---

All responses are attached at Appendix 1

## **Implications**

---

### **Financial:**

There are no financial effects from adopting the Statement of Licensing Policy other than the cost of communicating it to the licence applicants. There is existing budget provision to cover these costs including printing and postage.

Comments checked by Denise Taylor, Service Accountant, 01295 221982.

**Legal:**

The Council is required by the Licensing Act 2003 to have a Statement of Licensing Policy. Members should have regard to the responses received from all consultees in coming to their determination in this matter.

Comments checked by Paul Manning, Solicitor 01295 221691

**Risk Management:**

Risk assessment –

**Risk 1**

Policy Statement being challenged at Judicial Review.

**Likelihood**

Low

**Impact**

Medium to High – Cost of court action and increase in workloads for officers in preparation for court appearances.

**Mitigating Actions**

Policy developed in accordance with the Licensing Act 2003, based on the format suggested by guidance and the Lacors template. In addition, thorough consultation is undertaken before final policy is adopted.

**Risk 2**

Policy Statement not published by 05 January 2011. Could lead to Judicial Review.

**Likelihood**

Low

**Impact**

Medium to High – Cost of court action and increase in workloads for officers in preparation for court appearances.

**Mitigating Actions**

Between the date of adoption and the date of publication, authorise the Head of Urban & Rural Services in consultation with the Chairman of the Licensing Committee, to make any minor alterations to the policy should the publication of regulations make expressed policies inconsistent with the regulations.

Comments checked by Rosemary Watts, Risk management & Insurance Officer, 01295 221566

**Wards Affected**

---

All

**Document Information**

---

Appendix No	Title
Appendix 1	Schedule of proposed amendments

Appendix 2	Draft Statement of Licensing Policy with highlighted amendments
<b>Background Papers</b>	
<ul style="list-style-type: none"> <li>• Licensing Act 2003</li> <li>• Secretary of States Guidance issued under Section 182 of the Licensing Act 2003, issued in October 2010</li> </ul>	
<b>Report Author</b>	Claire Bold, Licensing Team Leader
<b>Contact Information</b>	01295 753741 claire.bold@Cherwell-dc.gov.uk