

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

REPORT TO THE LICENSING COMMITTEE – 19 September 2007

Title of report	REVIEW OF STATEMENT OF LICENSING POLICY
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Purpose of report	To present the draft Statement of Licensing Policy.
Strategic aims	<p>Safer Communities Stronger Communities Local Prosperity and Employment</p>
Implications:	
Financial/Staff	All resources employed in the implementation of the Statement of Licensing Policy must be recovered via Licensing Act fees and charges.
Health/Anti-Poverty	None
Crime and Disorder	One of the fundamental principles of the Act is to have regard to crime and disorder issues.
Risk Management	If target dates are not met, North West Leicestershire District Council will be in breach of its statutory duty under the Licensing Act 2003.
Human Rights	None.
E-Government	None.
Consultees	As required under section 5(3) of the Licensing Act 2003
Comments of	

Monitoring Officer	
Comments of Section 151 Officer	“The report is satisfactory”
Comments of Head of Paid Service	“The report is satisfactory”
Background papers	Guidance issued under Section 182 of the Licensing Act 2003.
Recommendations	<ol style="list-style-type: none"> 1. To consider and comment on the draft Statement of Licensing Policy prior to consideration by Council on 6th November 2007. 2. To consider and comment on the revised Statement of Licensing Policy prior to consideration by Council on 15th January 2008.

1. Background

- 1.1 The Licensing Act 2003 requires that every licensing authority must prepare and publish a statement of its licensing policy every three years. The policy must be published before the authority carries out any function in respect of individual applications made under the 2003 Act. The current policy expires on 6 January 2008 and the new one must be agreed by the full Council before it comes into force on 7 January 2008.
- 1.2 The Secretary of State must issue and, from time to time, may revise Guidance to Licensing Authorities on the discharge of their functions under the 2003 Act. The Guidance contains provisions dealing with the development and preparation of Statements of Licensing Policy for publication by Licensing Authorities. Following a consultation exercise the Guidance was reviewed and the revised version came into force when it was laid before Parliament on 28th June 2007.
- 1.2 Before a licensing authority can publish its policy it must consult with bodies/persons listed in section 5(3) of the 2003 Act. They are as follows:
- the Chief Officer of police for the area;
 - the fire and rescue authority for the area;
 - persons/bodies representative of local holders of premises licences;
 - persons/bodies representative of local holders of club premises certificates;
 - persons/bodies representative of local holders of personal licences;
 - persons/bodies representative of local holders of businesses and residents in its area.

- 1.3 There is no flexibility in any of the dates mentioned. The policy must be agreed by 7 January 2008. Under the Licensing Act 2003 it can only be determined by a meeting of the full Council.

2. Statement of Licensing Policy

- 2.1 Legal advice has been sought from Mr David Lucas, a prominent licensing solicitor with Fraser Brown Solicitors in Nottingham, on the consultation process set out below.
- 2.2 The consultation Guidance published by the Cabinet Office recommends a period of 12 weeks for consultation in respect of a document such as the Statement of Licensing Policy. The Guidance issued to Licensing Authorities under Section 182 of the Licensing Act 2003 states that it is good practice to consult widely and follow the Cabinet Office Guidance but it may not always be necessary or appropriate and it is for each Licensing Authority to decide the full extent of its consultation. So, for instance, proposed revision which merely updates a Policy may be subject to a simpler consultation exercise.
- 2.3 A procedural irregularity by a Licensing Authority in relation to the determination of its Policy may be the subject of a challenge by way of Judicial Review to the Administrative Court.
- 2.4 In order for the new Statement of Licensing Policy to be published prior to 7th January 2008 it must be approved by the Council at the meeting on 6th November 2007. In order to meet this timescale the consultation period will be less than that recommended by the Cabinet Office Guidance. It is therefore proposed that following minor amendments the current Statement of Licensing Policy is retained as the Policy for the next three year period beginning on 7th January 2008. The minor nature of the amendment will justify the reduced period of consultation which will end on 12th October 2007. A copy of the current Statement of Licensing Policy as amended is attached as Appendix 1.
- 2.5 As the current Statement of Licensing Policy has not been revised since 8th November 2005 it is proposed that it should be the subject of a full Review. The Review takes into account the experience gained since the full implementation of the new licensing regime in November 2005 and the revised version of the Statutory Guidance published on 28th June 2007. As the proposed Review of the Statement of Licensing Policy consists of substantial amendments it will be necessary for the revised Policy to be the subject of a full consultation exercise over the recommended period of 12 weeks. The consultation period will end on 24th November 2007 and the revised policy together with any responses received during the consultation period may then be further considered by the Licensing Committee on 21st November 2007 in order for the revised Policy to go forward to the Council for consideration at the

meeting on 15th January 2008. A copy of the revised Statement of Licensing Policy is attached as Appendix 2.

- 2.6 For the sake of expediency and in order to ensure that the relevant timescales can be met both the existing Statement of Licensing Policy as amended and the revised Policy have been put out to consultation at the same time. The reduced period of consultation on the current Statement of Licensing Policy will enable it to be determined and published prior to 7th January 2008. Having been subject to a full consultation exercise the revised Policy will then be capable of being determined and published on 15th January 2008.
- 2.7 By adopting a dual consultation process the Licensing Authority will have a Statement of Licensing Policy in force when the next three year period begins on 7th January 2008. It will then be reviewed and an updated Policy will come into force on 15th January 2008 being the earliest opportunity following completion of a full consultation exercise when that may take place.
- 2.8 Members confirmation is sought that the current Statement of Licensing Policy as amended may be taken to full Council on 6th November 2007 for final approval and publication subject to consideration of any responses received during the reduced consultation period.
- 2.9 Shortly before the end of the full consultation period for the review of the Statement of Licensing Policy any responses received on the revised Policy will be considered by the Licensing Committee on 21st November 2007. The proposed revised Statement of Licensing Policy will then be submitted to full Council for final approval on 15th January 2008 subject to consideration of all responses, if any, received during the consultation period.

3. Recommendation

- 3.1 Consider and comment on the draft Statement of Licensing Policy prior to consideration by Council on 6th November 2007.
- 3.2 Consider and comment on the revised Statement of Licensing Policy prior to consideration by Council on 15th January 2008.