

Wiltshire Council

Licensing Committee

2 September 2013

Review of Wiltshire Council Statement of Licensing Policy

Cabinet member: Councillor Keith Humphries – Public Health and Protection, Adult Care & Housing

Summary

A previous report presented to the Licensing Committee on 14 September 2012 considered the new tools available to the Council when licensing premises in the area. At the time that the report was written the secondary legislation was not available and therefore the new tools could not be considered for inclusion into any subsequent review of the Council's Statement of Licensing Policy. During the last twelve months three significant consultations have been carried out by the Home Office and the Department for Culture Media and Sports which have had further influence and change on Licensing legislation. This report informs the Committee on the progress made on reviewing the Council's Statement of Licensing Policy and outlines the next steps.

Proposal

That the Licensing Committee note the report and task the Corporate Director to ensure that the next steps are carried out within the next twelve months as recommended in the report.

Reason for Proposal

Wiltshire Council is a Licensing Authority for the purpose of the Licensing Act 2003. Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Licensing Policy every five years. This outlines how the Licensing Authority proposes to exercise their functions under the Act during the period to which the Policy Statement applies.

Maggie Rae, Corporate Director

1. Purpose of Report

- 1.1 To inform the Committee on the progress made in reviewing the Council's Statement of Licensing Policy.
- 1.2 To task the Corporate Director to carry out the next steps during the subsequent twelve months as recommended in the report.

2. Background

- 2.1 A previous report presented to the Licensing Committee on 14 September 2012 considered the new tools available to the Council when licensing premises in the area. At the time that the report was written the secondary legislation was not available and therefore the new tools could not be considered for inclusion into any subsequent review of the Council's Statement of Licensing Policy. During the last twelve months three significant consultations have been carried out by the Home Office and the Department for Culture Media and Sports which have had further influence and change on Licensing legislation. Any future review must take these changes in legislation in to account.
- 2.2 The Council is required to prepare and publish a Statement of Licensing Policy every five years. The last policy statement was published by the Council in November 2009, to meet our statutory responsibilities the new statement must be prepared and published before November 2014.

3. Key Areas that the Policy Will Address

Legislation

- 3.1 Since the publication of the Council's Statement of Licensing Policy in November 2009 there have been significant changes made to the Licensing Act 2003 and associated section 182 Guidance. The Guidance has been reissued seven times during this period. Certain forms of Regulated activities have either been totally deregulated hence they are no longer licensable or partially deregulated. New tools such as Early Morning Restriction Orders and Late Night levies have been introduced. The new policy must take account of these changes.

Community Engagement

- 3.2 In light of experience the issue of large scale licensable events such as festivals needs to be addressed within the new policy. Currently the policy is not strong enough when addressing these events. Applicants often do not engage with the Licensing Authority or Responsible Authorities prior to submitting a formal application for a license, thus not providing sufficient time to properly assess the impact that the event may have on the local community, especially concerning public nuisance or public safety issues. The emphasis has shifted from a cafe culture to one where the community has a much stronger voice due to the removal of the vicinity test. To

ensure that communities have a greater say, Area Boards should be added to the list of consultees once the new policy has been drafted.

Fees

- 3.3 At the time of writing this report the Council are waiting for a response from the Local Government Association concerning a recent licensing fees case R (Hemming and others) v Westminster City Council and its implications around any introduction of Late Night Levies.
- 3.4 At present the fees associated with Licensing Act 2003 applications have been set by central Government. There is a current challenge to this position due to the decision made in the above case.
- 3.5 The level of licensing fees set by central Government concerning large scale events should also be addressed, as currently these events can have an adverse impact on public funds.
- 3.6 To ensure that all future license fees set by local authorities comply with Article 13.2 of the European Services Directive (2006/123) it is highly likely that all licensing fees will be set locally including those associated with the Licensing Act 2003. If central Government change the statute within the next six months Wiltshire Council must change its policy to adopt locally set fees. The method of setting fees must be clear, unambiguous, transparent and easily understood. The fees should be based on full cost recovery to the council when exercising the licensing function. The fees will not include wider costs such as managing the night time economy. The fees must equate as nearly as possible to the aggregate costs of discharging the licensing function and a share of the Licensing Authorities general costs.
- 3.7 When setting fees the Committee will need to have all relevant information before it when determining them to avoid any legal challenge. The next steps to be taken in anticipation of locally set fees is to task the new Head of Service for Community Safety and Licensing to carry out a budget audit on the Licensing Act 2003 income and expenditure to ensure that the Council are providing a cost neutral licensing service.

Special Policies

- 3.8 Special Policies to deal with the Cumulative Impact of licensed premises have not in the past been adopted by Wiltshire Council.
- 3.9 In determining whether to adopt a Special Policy for a particular area the Licensing Authority may gather evidence and intelligence from Responsible Authorities and local residents concerning levels of crime, disorder and nuisance.
- 3.10 There is evidence and intelligence to inform the adoption of a Special Policy for the Milford Street area in Salisbury. This evidence relates to incidents of crime and disorder recorded by Wiltshire Police, complaints

from local residents and data provided by both the local minor injuries unit and the South West Ambulance Trust.

- 3.11 The next steps in adopting a Special Policy for Milford Street in Salisbury will involve further analysis of the data and evidence to identify the area in which problems are arising, and the boundaries of that area, making an assessment of the causes and carry out a full consultation process for a twelve week period with all Responsible Authorities, the city council, Salisbury and District Chamber of Commerce, Salisbury Pub Watch and Poppleston Allen, Licensing Solicitors.

Best Practice Schemes

- 3.12 The last key subject that the new policy should address is industry best practise schemes such as `Pub Watch`, Purple Flag and Business Improvement Districts. The Council recognises the value of such schemes and needs to be a key player in supporting their introduction and maintenance.

4. Safeguarding Considerations

- 4.1 Children's services are a Responsible Authority and statutory consultees where new premises license and variation applications are concerned. It will be incumbent upon officers to make a representation or call a review if safeguarding issues arise around licensed premises.

5. Public Health Implications

- 5.1 From April 2012 Public Health has become a Responsible Authority and statutory consultee where new premises license and variation applications are concerned. Consideration of early interventions associated with the irresponsible sale of alcohol should be made by the Public Health team in the licensing context.

6. Environmental and Climate Change Impact of the Proposal

- 6.1 There is minimal environmental impact of these proposals.

7. Equalities Impact of the Proposal

- 7.1 The impact of these proposals is assessed as "low" against the Council's statutory responsibilities.

8. Risk Assessment

- 8.1 If the Licensing Authority do not prepare and publish a new Statement of Licensing Policy during the next twelve months it will not meet its statutory responsibilities.

9. Financial Implications

- 9.1 Costs will be incurred in the carrying out of the consultation for both the Special Policy dealing with cumulative impact in Milford Street Salisbury and the new Statement of Licensing Policy.

10. Legal Implications

- 10.1 The Council will consult on the proposal to introduce a Special Policy for Milford Street in Salisbury and it will consult widely on its new Statement of Licensing Policy. The Council will consider changes to its policy in light of comments made by persons responding to the consultation.

11. Conclusions

Next steps

- 11.1 The Council must prepare and publish a new Statement of Licensing Policy before November 2014.
- 11.2 All changes to licensing statute must be considered and included in the preparation of the Councils Statement of Licensing Policy.
- 11.3 In the interest of giving communities a stronger say Area Boards should be added to the list of consultees when the statement has been prepared.
- 11.4 Consideration should be given to the introduction of locally set fees when the statute allows.
- 11.5 Emphasis must be given to the early engagement of applicants with the Licensing Authority and all Responsible Authorities where new Festival applicants are concerned.
- 11.6 Further analysis of the available data and evidence in support of the adoption of a Special Policy for the Milford Street area of Salisbury needs to be carried out and a consultation process completed with all interested parties over a twelve week period.

12. Recommendation

- 12.1 The Licensing Committee note the report and task the Corporate Director to carry out the next steps within the next twelve months as recommended in the report.

Maggie Rae
Corporate Director

Report Author: Kate Golledge, Public Protection Manager (Licensing)

Contact Details: kate.golledge@wiltshire.gov.uk

Background Papers

The following published documents have been relied on in the preparation of this report:

Licensing Act 2003

Section 182 Guidance to the Licensing Act 2003

Wiltshire Councils Statement of Licensing Policy
