

## **West Wiltshire District Council**

### **Cabinet**

**27 October 2004**

### **Licensing Policy**

#### **1 Purpose**

This report informs the Cabinet of the policy established under the Licensing Act 2003, and recommends the new Licensing Policy is referred to Council for approval at its meeting on 10 November. To assist members an executive summary can be found near the front of the policy document, a copy of which is appended to this report (see ANNEX A, attached)

#### **2 Background**

The Licensing Act 2003 introduces four key licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The new Licensing Act removes the responsibility for liquor licensing from the Magistrate's Court and brings alcohol and other new licensing controls to the Council. Guidance has been issued giving details on how Councils as Licensing Authorities should adopt the new duties. The Department of Culture Media and Sport (DCMS) has set the first appointed date for 7 February 2005. This is the date when the first applications under the new Act will be received, including those for transfer. The second appointed date is likely to be November 2005, but has not yet been confirmed. This is the date after which new licences come into effect. As a result of the introduction of the new powers, the Council's scheme of delegation in the constitution will need to be amended.

The Government require that Licensing Authorities have their policy adopted by 7 January 2005.

We are still awaiting an announcement on the level of fees which will be set by central government.

As part of the development of the new policy extensive consultation has taken place. The Council has consulted with groups of interested parties including the police and fire authority, residents, trade groups and current licence holders and interested parties.

Members have also had a key role in developing the policy, and a Policy Project Group has met twice to assist in this work.

The Licensing Authority has to formally review the policy every three years. During this time changes can be made, but only in light of feedback from the local community on whether the licensing objectives are being met, or on issues raised through legal appeals.

### **3 Key issues**

The key issues which have arisen through the consultation process are:

The need for the policy to be permissive in respect to trading hours in line with the Government guidance. The policy cannot impose blanket closing hours as each case must be considered on its merits.

The need for personal licence holders to be on the premises should be relaxed. The policy should not be used as means to control smoking (we have left the option to deal with exceptional circumstances).

We should be clearer about the need to consider each application on its merits.

The practical difficulty of takeaways closing 30 minutes before the last pub (we have changed this to a time that will not give rise to nuisance or crime and disorder).

The length of notice for Temporary Event Notices (TENS) (we have clarified when longer notice could be appropriate).

All these issues have been addressed in the revised policy a copy of which is attached to this report.

***Financial implications:*** There are none for developing the policy. However the operation of the new licensing regime will attract fees, the level of which have not yet been set. The Government has indicated that these should be at a level sufficient to cover the cost of operating the scheme.

***Legal issues:*** the Council has fulfilled its requirement to consult upon the policy before adoption.

***Human rights:*** The human rights issues have also been considered in drafting of the new policy.

### **4 Options**

The Act requires that the Council adopt a Licensing Policy which complies with DCMS guidance. Cabinet may wish to comment on the proposed scheme of delegation in Appendix F of the policy. The scheme is in line with Government guidance, except it proposes that officers deal with applications where initial objections have subsequently been resolved to the satisfaction of all parties.

**5 List of background papers**

Licensing Act 2003, guidance issued under section 182 of the Licensing Act 2003, and the consultation on draft regulations and order to be made under the Licensing Act.

**6 Recommendations**

It is recommended that Cabinet:

- Note this report
- Endorse the Licensing Policy
- Refer it to Council for approval

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Portfolio holder

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Environmental Health Manager

JC/GLC30.10