

Environmental Services
Salisbury District Council
PO Box 2117
Salisbury
Wiltshire SP2 2DF

direct line: 01722 434334

fax: 01722 434643

email: enhmail@salisbury.gov.uk

web: www.salisbury.gov.uk

REPORT

Subject : Review of the Proposed Licensing Policies for Wiltshire Council

Report to : The Cabinet

Date : Wednesday 28 January 2009

Author : Head of Environmental Services

Cabinet Member for Environment: Councillor Robertson

1. **Purpose of Report:**

- 1.1. To provide the Cabinet with an opportunity to consider the draft proposed Sex Establishment Policy (the Miscellaneous Provisions Act 1982), the Licensing Act 2003 Policy and the Gambling Act 2005 Policy that will be placed before the Implementation Executive prior to vesting day.

2. **Background:**

- 2.1. The Licensing Act 2003 and the Gambling Act 2005 require the Council to publish a licensing policy prior to implementing the legislation. The Local Government Miscellaneous Provisions Act 1982 provides the mechanism for councils to draw up policies, make regulations and set standard conditions and adopt the act to permit the regulation of Sex Establishments within its area.
- 2.2. The four district councils within Wiltshire that, along with Wiltshire County Council, will become Wiltshire Council on 1 April 2009, established policies under the Licensing Act 2003 and the Gambling Act 2005 and these were all formally ratified by the respective Councils. Three of the district councils, Kennet, Salisbury and West Wiltshire, had adopted the Miscellaneous provisions Act 1982 and two, Salisbury and West Wiltshire, had set policy, regulations and standard conditions, that had been approved via their respective full councils.
- 2.3. The new Wiltshire Council is required to set policy prior to continuing to implement the related legislation. In order for the new council to operate in this respect from 1 April 2009 the development of new policy must take place now and the decision making body will be the Implementation Executive.

3. **Timescale for Implementation:**

- 3.1. The draft revised policies were produced by officers from all four district councils, in consultation with Wiltshire Police, in readiness for full consultation with all of the responsible authorities and the public. All of the separate consultations close on 4 March 2009.
- 3.2. Upon the closure of the consultations, the responses to each policy consultation will be compiled in preparation for presentation before the Implementation Executive in mid March (date to be confirmed).

4. **Consultation:**

- 4.1. The consultation is on going and will close on 4 March 2009.
- 4.2. Salisbury District Councillors may wish to make representations collectively or in their own right in relation to one or more of the policies.



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5. **The New Policies:**

5.1. In drafting all of the policies officers from the four councils worked together to review the current content of the four individual policies, provide current best practice and review concerns that had been raised during the life of the individual policies. Consideration was given to the case of Canterbury Council and the ruling of the High Court Judge which set precedents for the format and content of licensing policies.

5.2. The Licensing Act 2003 was of particular concern and with the Canterbury Council case in mind the recommendation for the regulation of hours has not been included in the draft proposed policy. This does not prevent the Licensing Committee from making decisions around licensing hours based on valid representations, but it has been viewed that the matter should not appear to be predetermined within the new Council's policy.

5.3 Copies of the following draft policies are attached:

- [The Licensing Act 2003 Policy is attached at Annex A](#)
- [The Gambling Act 2005 Policy is attached at Annex B](#)
- [The Sex Establishment Policy and Regulations are attached at Annex C](#)

6. **Conclusions:**

6.1. Creating a single set of policies from the district council's existing policies will inevitably mean that the new policies will look somewhat different to those that we currently have in place, and which we may feel have served the authority well. Nevertheless, it is considered that draft policies represent the best way forward for establishing a single approach for the new unitary council.

6.2. The terminology has been clarified in line with current guidance to ensure that the policy is proportionate and relevant, and that areas which may have previously lead to uncertainty have been clarified. It is considered that the revised policies are broadly similar to those that currently exist within Salisbury District and consequently will continue to serve the council well into the future.

7. **Recommendations:**

7.1. It is recommended that Members consider the draft policies with a view to informing the Implementation Executive's decision on their adoption for the new Wiltshire Council.

8. **Background Papers:** None

9. **Implications:**

Financial :	None
Legal :	
Human Rights :	None
Personnel :	None
Community Safety :	Ensuring public safety through the licensing objectives of the Gambling Act and the Licensing Act and the regulations of Sex Establishments
Environmental :	None
ICT :	None
Council's Core Values :	Fairness and equal opportunity, communicating and working together to provide a sustainable district and thriving economy.
Wards Affected :	All