

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 13th February 2009

Report of: Mrs K Khan – Licensing Solicitor

Title: Licensing Act 2003 – Statement of Licensing Policy

1.0 Purpose of Report

- 1.1 Licensing Authorities must approve and publish a Statement of Licensing Policy in order to carry out functions relating to the licensing of alcohol and entertainment under the Licensing Act 2003. Where practicable the Council is required to produce its Statement of Licensing Policy by 1st April 2009.
- 1.2 The Council is required to undertake a consultation exercise with stakeholders on the content of the Statement before it is determined. The purpose of this report is to advise the Committee of representations received and that any amendments considered appropriate in the light of the representations are made.

2.0 Decision Required

- 2.1 The Licensing Committee is requested to consider the consultation responses received in relation to the Statement of Licensing Policy under the Licensing Act 2003 and to recommend the draft policy, subject to any amendments the Committee considers necessary, to Council.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 The Local Government (Structural Changes)(Transitional Arrangements)(No 2) Regulations 2008 provide that the preparation of a statement of principles by the shadow Council will be taken as satisfying the requirements of the Licensing Act 2003 as regards the three year period commencing on 7th January 2011. For this reason the statement is not required to be reviewed again until January 2014.

5.0 Legal Implications

- 5.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of policy that it proposes to apply in exercising its functions under the Act.

- 5.2 The Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 provide that, where it is practicable to do so, a statement of principles under the Licensing Act 2003 shall be produced by 1 April 2009.

6.0 Risk Assessment

- 6.1 There would be a risk of legal challenge if consultation responses received were not considered.

7.0 Background and Options

- 7.1 As Members will be aware, section 5 of the Licensing Act 2003 requires all licensing authorities to prepare and publish a Statement of Licensing Policy which that authority will apply when exercising its functions under the Act during the three year period to which the policy applies.
- 7.2 At its meeting on 17th December 2008 Cabinet resolved to approve the draft policy in order that it may go forward for statutory consultation.
- 7.3 The Act requires that the following persons/bodies must be consulted before any policy is published: the Police, the Fire Authority, local licence holders and/or their representatives and local businesses and residents or their representatives. Copies of the policy was forwarded to Parish and Town Councils together with residents groups and local Pub Watch representatives. A copy of the policy has also been available on the Council's website throughout the consultation period.
- 7.4 In determining its Statement of Policy, the Council, as Licensing Authority, must have regard to the statutory requirements within the Act and the Secretary of State's Guidance issued under section 182 of the Act. In addition, the Council is required to take into account the views of those who submit consultation responses; the Guidance states that 'the views of all these persons/bodies listed should be given appropriate weight when the policy is determined.'
- 7.5 Attached as Appendix A is the draft policy as it went out for consultation. Appendix B is a table showing the details of the consultation responses received.
- 7.6 The Committee is requested to consider the consultation responses and any amendments to the draft statement of principles as a result of these responses. The Committee is further requested to recommend the statement to Council, subject to any amendments the Committee feels are required.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 The requirement to have a Statement of Licensing Policy in place is, where practicable, a Day One requirement.

9.0 Reasons for Recommendation

- 9.1 The Council is required to produce and publish, every three years a statement of the policy which it proposes to apply when exercising its functions under the Licensing Act 2003; where practicable this is required to be done by 1 April 2009. The Committee is asked to recommend the policy to Council so that it may be formally approved to take effect on 1 April 2009.

For further information:

Officer: Mrs K Khan

Tel No: (01625) 504264

Email: k.khan@macclesfield.gov.uk

Background Documents:

The Licensing Statement of Macclesfield Borough Council

The Licensing Statement of Congleton Borough Council

The Licensing Statement of Policy of Crewe & Nantwich Borough Council dated 28th November 2007

Documents are available for inspection at:

Macclesfield Borough Council – Legal and Democratic Services, Town Hall, Macclesfield

Congleton Borough Council – Community Safety Dept, Westfields, Middlewich Road, Sandbach

Crewe & Nantwich Borough Council – Licensing Section, Municipal Buildings, Earle Street, Crewe