

LONDON BOROUGH OF TOWER HAMLETS

COUNCIL MEETING

WEDNESDAY, 8TH DECEMBER 2010

LICENSING POLICY REVIEW

**REPORT OF CORPORATE DIRECTOR -
COMMUNITIES, LOCALITIES AND CULTURE**

SUMMARY

1. This report advises Full Council on the review of the Council's Licensing Policy.

RECOMMENDATION

2. The Council is recommended to adopt and request the publishing the Statement of Licensing Policy in Appendix B to this report.

BACKGROUND

- 3.1 The Council's current Licensing Policy was adopted by Full Council in December 2007.
- 3.2 Under the Licensing Act 2003, the Council as the Borough's licensing authority must review its licensing policy every three years and publish the outcome of that review. The policy must be informed by a statutory consultation process.
- 3.3 Following consultation, the reviewed Licensing Policy must go to Full Council for consideration.
- 3.4 The Government is currently consulting on changes to the Licensing Act 2003; these changes will be substantial and are likely to be implemented within eighteen months requiring a further review at this time.

3.5 The current review is therefore suggesting minimal changes to the current policy. The changes respond in the main to guidance and regulatory change from central government during the course of the last three years. Therefore it is not considered necessary to go beyond the statutory levels of consultation. The Statutory Consultation requirements consist of:-

- The Chief Officer of Police for the Licensing Authority area
- The Fire Authority for the area
- Such persons as the Licensing Authority consider to be representative of holders of existing licences
- Such persons as the Licensing Authority considers to be representative of holders of existing clubs
- Such other persons as the Licensing Authority considers to be representative of businesses and residents in its area

3.6 The draft policy for consultation was presented to the Licensing Committee on 2nd November 2010 and commented on by them.

3.7 The responses from the consultation process have been analysed and any relevant changes incorporated in the revised Policy. None of the changes from the consultation process are significant or controversial.

4.0 Policy Changes

4.1 *Striptease and Lap Dancing Premises* - The Policing and Crime Act 2009 came into effect on 6 April 2010. One of the effects of that Act is to enable local authorities to adopt powers in that regulate sex entertainment venues (SEVs). As Striptease and Lap Dancing premises will be regulated by this legislation and not the Licensing Act 2003 this Council will adopt the powers. A separate policy for Sex Encounter Establishments will have to be developed and agreed by the Council. This will mean that Section 15 of the proposed Licensing Policy will be redundant and will be removed from the Licensing Policy. The new policy for Sex Encounter Establishments has been drafted and is being considered by Legal Services before it is brought to Cabinet

5.0 Other Policy Changes

5.1 Other changes are detailed in Appendix A to this report. The most significant additions are as a result of legislative changes these are:-

- *Minor Variations* - This enables the licence holder to make relatively minor variations to their premises, and the licensable activities they carry out, without being required to go through the full variation process
- *Mandatory Conditions* – Government have introduced mandatory conditions that will be applied to all licences. These conditions relate to

- Drinks Promotions - Restricting drinks promotions that encourage irresponsible drinking.
- Age Restrictions / Proof of Age Cards – All licensees to have an age verification policy

5.2 *No Traveller Signs* - The Licensing Committee suggested that Section 22 be changed to refer to all adult minority groups

6.0 **Legal Comments**

6.1 Pursuant to section 5(1) of the Licensing Act 2003, the Council is required, on a 3 yearly basis, to determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy. The current version of the licensing policy was published on 7 January 2008 and thus expires on 6 January 2011.

6.2 The determination of the policy is a matter for full Council, by virtue of the Licensing Act 2003 and the Council's Constitution. Prior to such determination the Council must undertake statutory consultation, consider any representations, and make any changes to the proposed policy that are considered necessary to make in light of any such representations.

6.3 It is important that the licensing policy is presented to Full Council on 8 December 2010. The next meeting of Full Council after December is the meeting on 2 February 2011. This would leave the Council without a licensing policy for a period of just under one month, as the current policy expires on 6 January 2011. This would be a matter of concern, as section 4(3) of the Licensing Act 2003 requires the Council to have regard to its published licensing policy in carrying out its licensing functions. There is an argument that if the Council is temporarily without a licensing policy, then it is also temporarily unable to carry out licensing functions.

6.4. As to the content of the licensing policy, any proposed changes will have to be lawful and legal clarification on any proposed changes will need to be sought as part of the re-publishing process.

7 **Finance Comments**

7.1 There are no financial implications in this report.

8.0 One Tower Hamlets Implications

- 8.1 The existing policy already contains a section on race equality. This section is still relevant and will be retained. A clear and equalities tested policy ensures transparency of process and demonstrates to all communities in the Borough that the Council's approach to licensing is fair to all.
- 8.2 The Policy has been revised to address the display of signs at premises that discriminate all adult minority groups.

9.0 Anti Poverty Implications

- 9.1 The Licensing Policy, amongst other things, attempts to create an environment where licensed businesses can flourish in a controlled environment. Since the implementation of the Licensing Act 2003, the number of licensed premises in the Borough has increased by 43%.

10.0 Sustainable Action for a Greener Environment Implications

- 10.1 None.

11.0 Risk Management Implications

- 11.1 The major risk is ensuring the revised Licensing Policy is approved by February 2011. Failure to do so could lead to legal challenges to decisions made by the Council.

12. Crime and Disorder Reduction Implications

- 12.1 The Licensing regime requires all premise licence holders to ensure they address matters of crime and disorder that relate to the operation of their licence. The Licensing Policy explains the expectation of how licensees can fulfil their obligations

13. Efficiency Statement

- 13.1 There are no efficiency issues directly relating to this report. However, an effective licensing policy will ensure that there is less need to take expensive court actions and less disturbance resulting in the need for police intervention or intervention from other enforcement agencies.

APPENDIX A

Detailed Changes to the Licensing Policy

Page	Change
3	Hyperlinks added in Background
15	Para 12.9 – “Premises licensed for the sale of alcohol for consumption off the premises only” removed as late opening off licences have been the source of considerable anti social behaviour in the Borough
24	“No travellers” signs section to be changes to read all adult minority groups
28	The minor variations process allows for licence holders to make certain variations to their premises licence or club premises certificate, subject to specific restrictions. This enables the licence holder to make relatively minor variations to their premises, and the licensable activities they carry out, without being required to go through the full variation process which would be more time consuming and costly to the applicant. (Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates Order 2009’) Minor Variations have been added to the delegation of functions
29	Appendix 1, now carry a full list of responsible authorities. The previous policy referred to the list in a web link.
30, 31, 32	Government has made, under the Licensing Act 2003 a Mandatory Condition Order 2010. Appendix 2 of the policy has been amended to include these conditions The Pool conditions have been amended to take into account the mandatory conditions and are in Appendix 3