

<b>DECISION-MAKER:</b>	LICENSING COMMITTEE COUNCIL
<b>SUBJECT:</b>	LICENSING ACT 2003 – TRIENNIEL REVIEW OF STATEMENT OF LICENSING POLICY
<b>DATE OF DECISION:</b>	4 <sup>TH</sup> NOVEMBER 2010 (LICENSING COMMITTEE) AND 17 <sup>TH</sup> NOVEMBER 2010 (COUNCIL)
<b>REPORT OF:</b>	SOLICITOR TO THE COUNCIL
<b>STATEMENT OF CONFIDENTIALITY</b>	
N/A	

### **BRIEF SUMMARY**

In accordance with Section 5 Licensing Act 2003, the Council, as Licensing Authority, is required to adopt a Statement of Licensing Policy by January every three years. The Council's current Statement of Licensing Policy was adopted in November 2008 and requires fresh adoption prior to 7th January 2011. The Licensing Committee is one of the consultees

### **RECOMMENDATIONS:**

Licensing Committee

- (i) That the Committee considers the current Statement of Licensing Policy and the revisions made to it and recommend its adoption to Full Council.

Council

- (ii) That Council adopts the revised Statement of Licensing Policy as attached at Appendix 1.

### **REASONS FOR REPORT RECOMMENDATIONS**

1. The core of the current Statement of Licensing Policy has been in place for nearly three years and has remained broadly unchanged during this period. The only significant addition was that of a Cumulative Impact Policy (CIP) as an addendum to the main policy in May 2009.
2. The Policy is a broad outline of the policy that the Council must adopt in consideration of any application or review. In the view of officers and the Responsible Authorities, the Policy has worked well. Accordingly, there is no cogent reason why significant changes should be made to the Policy at this point in time.

### **DETAIL (Including consultation carried out)**

3. The Council has undertaken a wide consultation exercise in excess of the minimum required by the Act or Government guidance. The Council has consulted with the statutory consultees comprising the Chief Officer of Police for the area, the Fire Authority, persons or bodies representative of local holders of premises licences, premises certificates, personal licences and business and residents in its area. In addition, the consultation exercise has been advertised on the Council's website.

4. No alternative options have been considered as the Council has, by law, to adopt a Statement of Licensing Policy every three years.
5. As previously indicated, the Statement of Licensing Policy has been in place since January 2005. The Authority had regard to the Licensing Policy during this period of time and it is officers and Responsible Authorities' views that the Policy is robust, reasonable and appropriate for the city at the current time. Should the situation change, the Authority has the ability to revisit the Policy and bring it to Full Council for reconsideration, as it did when considering the city centre CIP areas in May 2009.
6. The only significant addition to the policy is the inclusion of the emerging Cultural Quarter in the city centre which deserves special mention as it sits firmly inside the current CIP area and would therefore be ordinarily bound by that sub policy. Due to the nature of the uses and event space that it is envisaged will be utilised in this area some of the provisions of the CIP would be contradictory to this and accordingly an exception is sought to the ordinary CIP criteria.
7. By way of background, it is the duty of the Council as licensing authority to carry out their functions under the Act with a view to promoting four licensing objectives which are:-
  - Prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm
8. In addition, in determining this Policy, the licensing authority must have regard to the Guidance provided by the Government.
9. Whilst the Policy must set out a general approach to the making of licensing decisions, it cannot be ignorant or inconsistent with the provisions of the Act. For example, the Policy must not undermine or exclude the right of an individual to apply under the terms of the Act for a variety of permissions and to any have such application considered on its individual merit.
10. The Policy should also make it clear that licensing is about regulating the carrying on of licensable activities on licensed premises by qualifying clubs and temporary events and that conditions attached to various authorisations can only be focussed on matters which are within the control of individual licensees and others granted relevant authorisations. Accordingly, these matters will focus on the premises and places being used for licensable activities and the vicinity of those premises and places. Anti-social behaviour in the vicinity of licensed premises is a broad issue that can be, and is, referred to in the Policy. However, whether or not incidents can be regarded as "in the vicinity" of licensed premises or places is a question of fact and will depend on the particular circumstances of each case under consideration. However, the Council will encourage, as far as it is possible, that licence holders have regard to the impact of their business or activity on the neighbourhood and wider community. In cases of dispute, the question will ultimately be decided by the Courts. The current Policy makes it clear in

addressing this matter the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working and engaging in normal activity in the area concerned. The Policy also makes it clear that the licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and, therefore, beyond the direct control of the individual club or business holding the licence certificate for the organisation concerned.

11. Officers, the Police and other partnership organisations are concerned with regard to the proliferation of licensed premises concentrated in particular areas and the impact they may have in any given neighbourhood. The north/south spine area is one such example. It is possible to agree to a special policy relating to such “cumulative impact” where it is justified based on evidential grounds. Reference is made to this in paragraph 8 of the Policy and in due course, it is possible that the Council may need to consider adoption of such a policy. However, this will only apply to applications for new licensed premises and not those that currently have the benefit of appropriate licences.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

12. There are no resource implications from the changes to or re-adoption of the current Licensing Policy.

### **Property/Other**

13. There are no specific property implications arising from this report.

## **LEGAL IMPLICATIONS**

### **Statutory Power to undertake the proposals in the report:**

14. As has been previously stated in Section 5 of the Licensing Act 2003, the Council as Licensing Authority is duty bound to adopt such Statement of Licensing Policy. As with all policies produced by the Council, it is necessary for it to be reasonable and workable in order to avoid any legal challenge by third parties.

### **Other Legal Implications:**

15. None.

## **POLICY FRAMEWORK IMPLICATIONS**

16. It is a statutory obligation to produce a Statement of Licensing Policy by references specifically made in the Policy at paragraph 8 to the need to integrate other strategies such as the local tourist economy, Council Strategy for the City, Night-time Economy, Crime and Disorder Strategy, Anti-Social Behaviour Strategy and other relevant corporate policies.

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**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

**Appendices**

1.	Statement of Licensing Policy (with proposed amendments)
2.	Map of the Cultural Quarter

**Documents In Members' Rooms**

1.	None.
2.	

**Integrated Impact Assessment**

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
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**Other Background Documents**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
DCMS Guidance to Local Authorities April 2006	

1.		
2.		

**Integrated Impact Assessment and Other Background documents available for inspection at: Not applicable**

<b>WARDS/COMMUNITIES AFFECTED:</b>	All wards
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Report Tracking

VERSION NUMBER:	2
DATE LAST AMENDED:	26/10/2010
AMENDED BY:	RI