

## **CONSULTATION ON DRAFT STATEMENT OF LICENSING POLICY**

### **1 SUMMARY**

- 1.1 This report details the responses to consultation on the Council's draft Statement of Licensing Policy carried out between 6 September 2004 and 29 October 2004.
- 1.2 It proposes changes to the original draft with suggested wording, where appropriate, and seeks Members' approval for placing before Full Council on 21 December 2004.

### **2 INTRODUCTION**

- 2.1 Section 5 of the Licensing Act 2003 requires the Council to determine its Licensing Policy and to publish a Statement of Licensing Policy (SOLP) in respect of each 3-year period that the Secretary of State has decreed will commence on 7 January 2005.
- 2.2 The Act requires the Council to keep the policy under review throughout each period and to revise it as necessary. Prior to making any changes, or in advance of a new 3-year period, the Council must carry out a consultative process in the same way it did on the original draft Policy.
- 2.3 A draft SOLP was produced for initial consideration of Members. The original draft was an incomplete document, particularly relating to some of the appendices that relied on further regulations being published by the Department for Culture, Media & Sport (DCMS).
- 2.4 When Members have considered the responses to the draft SOLP and approved any amendments, the Policy will be complete, with the exception of those appendices subject to DCMS publishing regulations.
- 2.5 It is suggested therefore that, as the content of those appendices will contain only technical information, eg, flow charts showing the licensing process, Members do not need to consider them in order to recommend approval of the SOLP to Full Council. All appendices will be included in the SOLP to be considered by Full Council.

### **3 CONSULTATION PROCESS**

- 3.1 Following consideration by the Appeals & Licensing Committee on 31 August 2004, the draft SOLP was amended and circulated for consultation by statutory partners, others whom it was thought would have an interest in the Policy and those who requested copies of the Policy.

- 3.2 Those persons are shown at Appendix A.
- 3.3 In addition, the draft Policy was published on the Council's website and articles were published in *Rochford District Matters* and local newspapers to explain the implications of the Act and to advertise the Policy's existence.
- 3.4 Officers of the Licensing Unit personally visited every premise in the District holding a Justices on-licence, restaurant licence, club registration certificate and public entertainment licence to discuss the implications of the Act and to deliver a copy of the Policy.
- 3.5 Two open meetings were held, at The Freight House on 18 October 2004 and Mill Hall on 25 October 2004, which were attended by members of the licensed trade, Chambers of Commerce, solicitors and public.

#### **4 RESPONSE TO CONSULTATION**

- 4.1 At the conclusion of the consultative period 9 responses had been received that proposed alterations to the Policy, these being from: -
- CAMRA
  - Live Music Forum
  - Independent Street Arts Network (ISAN)
  - RSPCA
  - Bar Entertainment & Dance Association (BEDA)
  - Rural Community Council of Essex
  - Essex Police
  - Berwin, Leighton, Paisner (Solicitors)
  - British Beer & Pub Association
- 4.2 The responses included complimentary comments on the overall document, as well as identifying specific issues.
- 4.3 The table at Appendix B details the responses that raise specific issues, together with suggested amendments to the Policy, where appropriate. The table lists each paragraph about which issues were raised, the respective respondent and a summary of their comments. Where similar comments have been received in respect of the same paragraph, for expediency one comment comprising an edited version of all has been produced. Where appropriate, an officer's comment and suggested action is included.

**4.4 It will be seen that: -**

- the responses from CAMRA, Live Music Forum, ISAN, RSPCA and BEDA's are generic in nature and address draft Policy Statements nationally,
- the response from Rural Communities Council of Essex raises questions directed more towards the provisions of the Licensing Act 2003 rather than raise specific issues to our draft document,
- the response from Essex Police focuses on a suggested inclusion to the Policy to address a lack of response from any representing the interests of children and
- the responses from Berwin, Leighton & Paisner and British Beer & Pub Association address specific issues, some of which are common to both.

**4.5 To facilitate considering those issues in comparison with the suggested amendments to the relevant paragraphs of the draft SOLP, Members are requested to bring their copy of the draft Policy to the meeting.**

**5 RISK IMPLICATIONS**

**5.1 Strategic Risk**

There is a statutory obligation for the Statement of Licensing Policy to be published by 7 January 2005. Amendments to the draft Policy have to be decided and the appropriate changes made before consideration by Full Council on 21 December 2004.

**5.2 Operational Risk**

There is certainly a risk that, if unchanged, those areas of the Policy over which issues have been raised will form the basis for legal challenge.

**5.3 Resource Risk**

In the absence of changes to those areas of the Policy that have been challenged there is the potential risk of Judicial Review being sought and of licensing appeals being lodged against Committee decisions that, if successful, would result in costs being awarded against the Council.

**5.4 Reputation Risk**

If successfully challenged on the content of the Policy, the Council's reputation would be harmed.

**5.5 Regulatory Risk**

The Council is bound by the provisions of the Act, the statutory guidance issued by the Secretary of State and its own Statement of Licensing Policy in administration of the licensing regime and in determining licensing issues. The Council cannot permit a situation to arise whereby its Policy has not been approved by Full Council and published by 7 January 2005.

**6 RECOMMENDATION**

6.1 It is proposed that the Committee **RESOLVES**

- (1) To consider the responses received to the draft policy statement and agree appropriate amendments.
- (2) To recommend to Full Council that it approves the amended Statement of Licensing Policy on 21 December 2005.

G Woolhouse

Head of Housing, Health & Community Care

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**Background Papers: -**

None

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