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<b>PART B:</b>	<b>RECOMMENDATION TO COUNCIL</b>
<b>REPORT TO:</b>	<b>LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>23 JANUARY 2014</b>
<b>REPORT OF THE:</b>	<b>HEAD OF ENVIRONMENT PHIL LONG</b>
<b>TITLE OF REPORT:</b>	<b>LICENSING ACT 2003 - RESULTS OF CONSULTATION ON REVIEW OF LICENSING POLICY</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 To advise members of the consultation undertaken in relation to the Council's draft Licensing Policy in relation to the Licensing Act 2003 and to seek Members' views prior to adoption by Council.

### **2.0 RECOMMENDATION**

- 2.1 It is recommended that :
- (i) the Licensing Policy is referred to Council in March for final adoption.

### **3.0 REASON FOR RECOMMENDATION**

- 3.1 The Council must review its Licensing Policy every five (previously every three) years. The Policy is due for review and must be consulted on and ratified by full Council prior to it coming into force. Following any proposed amendments by this Committee a final draft version of the Licensing Policy will be submitted to Full Council on the 6 March 2014. The consideration of licensing applications cannot proceed without a reviewed Licensing Policy being in place.

### **4.0 SIGNIFICANT RISKS**

- 4.1 Failure to formally review or consult on a Licensing Policy within the timetable required by the Act, Regulations and Guidance would mean the Council was not complying with its statutory duty and would also leave the Council open to legal challenge and any subsequent costs.

## **REPORT**

### **5.0 BACKGROUND AND INTRODUCTION**

- 5.1 Section 5 of the Licensing Act 2003 requires that all Licensing Authorities prepare and publish a statement of Licensing Policy that they propose to apply in exercising their functions under the Act during the five (previously three) year period to which the policy applies. The Licensing Policy will now last a maximum of five years, but can be reviewed and revised by an authority at any time. The existing Licensing Policy has been kept under review since coming into force on the 7 January 2011 and no revision has been deemed necessary to date. However, in light of recent legislative changes to the Licensing Act 2004, officers think it prudent to review the Licensing Policy at this time.
- 5.2 A report of 19 September 2013, sought Members support of the draft Licensing Policy for consultation. Section 7 of the Act provides that functions in relation to the five year Licensing Policy cannot be delegated but must be approved by full Council.
- 5.3 The report advises Members of the consultation that has taken place on the Council's draft Licensing Policy. The Policy is required to be consulted on prior to its adoption by Council.

### **6.0 POLICY CONTEXT**

- 6.1 The following Policies have informed this report:
- Community Plan
  - Corporate Plan
  - Environment Services Delivery Plan
  - Corporate Risk Assessment
  - Budget Policies

### **7.0 CONSULTATION**

- 7.1 Consultation period:-30<sup>th</sup> September-30<sup>th</sup> December 2013.
- 7.2 List of consultees:-
- Chief Officer of Police for North Yorkshire
  - North Yorkshire Fire & Rescue Services
  - Director of Public Health for North Yorkshire
  - All Ryedale District Councillors
  - All town and parish councillors (96 in total)
  - All public Houses, restaurants, hotels, clubs and village halls in Ryedale (346 in total)
  - Yorkshire Housing
  - Hard copies were made available at the five libraries in Ryedale
  - Hard Copy was available at Ryedale House
  - The draft policy was advertised and available to download from the Council's website

## **8.0 REPORT DETAILS**

- 8.1 The draft Licensing Policy was formally published for consultation following the recommendation of this Committee on the 19 September 2013. This allowed the Cabinet Office recommended consultation period of twelve weeks to take place. All statutory undertakers have received a full copy of the draft Licensing Policy, and notification of the draft Policy was given to all Council Members, parish and town councils and all libraries. Further, all relevant premises and specific bodies requesting information have been advised of the draft Licensing Policy and its availability. Finally, a copy of the draft Licensing Policy was also available on Ryedale District Councils Website.
- 8.2 The Licensing Policy is a draft document suggesting the Council's proposals to ensure a balanced approach towards the licensing of premises which sell/supply alcohol or provide regulated forms of entertainment. The draft Policy has been based on the requirements of the Act and includes changes as a result of either new or amended legislation, regulations or guidance issued by the Secretary of State.
- 8.3 Despite widespread consultation, only one comment was received supporting the proposed revisions. It is therefore recommended that the Licensing Policy as submitted to this Committee on the 19 September 2013 be submitted for adoption by the Council on the 6 March 2014.

## **9.0 IMPLICATIONS**

- 9.1 The following implications have been identified:

a) Financial

The Secretary of States guidance advised that beyond the statutory requirements, it is for each licensing authority to decide the full extent of its consultation. When undertaking consultation exercises, licensing authorities should have regards to cost and time. The Department of Culture, Media and Sport (DCMS) have indicated that there is no legal obligation for authorities to always embark on a full and lengthy consultation and authorities should use proportionate methods to reflect the nature of the change to the policy. Eg authorities may wish to host their consultation on websites only, or for a shorter period of time than normally allowed. Public copies were placed in each public library and at Ryedale House. Copies have also been available to download from the Council's website and all licensed premises and parish and district councillors have been notified of the consultation document. Other than the costs of consultation no other costs will be incurred.

b) Legal

The Licensing Policy must be reviewed before the end of its five (previously three) year period. Failure to review the Licensing Policy, seek approval by full Council and publish it could leave the Council subject to judicial review and have serious financial implications.

c) Others

Ryedale's Licensing Policy is fundamental to the successful operation of the Licensing system and is a core document Members of a Licensing Sub

Committee have regard to when arriving at licensing decisions. The draft Policy has been subject to a wide consultation and it is hoped that the final Policy will reflect a balance between the commercial interests of the licensed trade and the communities they serve and impact on.

**Phil Long**  
**Head of Environment**

**Author:** Steven Richmond, Health and Environment Manager  
**Telephone No:** 01653 600666 ext: 247  
**E-Mail Address:** [steve.richmond@ryedale.gov.uk](mailto:steve.richmond@ryedale.gov.uk)

**Background Papers:**

Licensing Act 2003  
Policing and Crime Act 2009  
National Guidance issued under Section 182 of the Licensing Act 2003  
Ryedale District Councils Statement of Licensing Policy January 2011  
Police Reform and Social Responsibility Act 2011  
Live Music Act 2012

## LICENSING ACT 2003- RESULTS OF CONSULTATION ON REVIEW OF LICENSING POLICY - RISK MATRIX ANNEX A

Issue/Risk	Consequences if allowed to happen	Likelihood	Impact	Mitigation	Mitigated Likelihood	Mitigated Impact
The Council must by law review and consult on its Licensing Policy every five years.	Failure to review its Policy may lead to a Judicial Review	<b>3</b>	<b>C</b>	Revised draft Policy in line with revised or amended guidance issued by the Secretary of State. Timetable for consultation, review and adoption within the required 5 year period as outlined in the report	<b>1</b>	<b>A</b>

Score	Likelihood	Score	Impact
1	Very Low	A	Low
2	Not Likely	B	Minor
3	Likely	C	Medium
4	Very Likely	D	Major
5	Almost Certain	E	Disaster