



PART A: MATTERS DEALT WITH UNDER DELEGATED POWERS

REPORT TO: LICENSING COMMITTEE

DATE: 3 JUNE 2010

**REPORT OF THE: HEAD OF ENVIRONMENT
PHIL LONG**

TITLE OF REPORT: LICENSING ACT 2003 – REVIEW OF LICENSING POLICY

WARDS AFFECTED: ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 To seek Members approval for the review of the Council's Licensing Policy.

2.0 RECOMMENDATION

2.1 It is recommended that Members support the draft revision of the Council's Licensing Policy for consultation.

3.0 REASON FOR RECOMMENDATION

3.1 Under the provisions of the Licensing Act 2003, the Council as the Licensing authority must keep its policy under review and determine its policy every three years.

4.0 SIGNIFICANT RISKS

4.1 The Council must by law review and consult on its Licensing Policy every three years and as such has no option but to review its Policy.

REPORT

5.0 BACKGROUND AND INTRODUCTION

5.1 The Council's current Licensing Policy was adopted by Council on 8 November 2007 and is now due for review. The report advises Members of the requirements to review the existing Licensing Policy.

6.0 POLICY CONTEXT

6.1 The following Policies have informed this report:

- Community Plan
- Corporate Plan
- Environmental Health Services Delivery Plan
- Corporate Risk Assessment
- Budget Policies

7.0 CONSULTATION

7.1 The proposed consultation period is 7 June to 30 August 2010.

7.2 List of consultees: -

- The chief officer of police for the licensing authority's area,
- The fire authority for that area,
- Such persons as the licensing authority consider being representative of holders of premises licences issued by that authority,
- Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- Such persons as the licensing authority considers to be representative of the holders of personal licences issued by that authority,
- Such other persons as the licensing authority consider being representative of businesses and residents in its area.

8.0 REPORT DETAILS

8.1 Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy every three years. During the three-year period, the policy must be kept under review and the licensing authority may make such revisions to it, as it considers appropriate. Where revisions are made, the licensing authority must publish a statement of revisions or the revised licensing statement. Before determining its policy for any three-year period, the local authority must consult the chief officer of police for the area, the fire authority, representatives of local holders of premises licences, representatives of local holders of club premises certificates, representatives of local holders of personal licences and representatives of business and residents in its area. In determining its policy the licensing authority shall have regard to any guidance issued by the Secretary of State.

8.2 The determination of the Councils Licensing Policy must be made by Council and cannot be delegated to the Licensing Committee. The Council approved the existing Licensing Policy on 8 November 2007. The policy is due for revision and the consultation draft has been amended so as to include a limited number of changes as a result of either new or amended regulations and guidance issued by the Secretary of State. The consultation period will allow for 12 weeks, with a view to reporting results of the consultation back to this Committee on the 23 September and approval of the Policy by Council on the 4 November 2010. A copy of the draft revised Policy (is attached at Annex B) and will be available in the Members' room and via the intranet. Members should note that the Policy has only been amended so as to include changes as a result of either new or amended regulations or guidance issued by the Secretary of State. These limited changes to the text of the Policy are shown in italics in the draft Policy.

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 regard 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 statement. For example authorities may wish to host their consultation on their websites only, or for a shorter period of time than that normally allowed. Public copies will be placed in each Council office and each public library. Copies will be available to download from the Council's website and all licensed premises and parish councillors will be 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 second three-year term and is classed as high priority. Failure to review the Licensing Policy, seek approval by full Council and publish it before 7 January 2011 could leave the Council subject to judicial review and have serious financial implication.

c) Other

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 revised draft Policy will be subject to a wide consultation and it is hoped the final Policy will reflect the balance between the commercial interests of the licensed trade and the communities they serve and impact on.

Phil Long, Head of Environment

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Background Papers:

Policing and Crime Act 2009

Licensing Act 2003

National Guidance issued under Section 182 of the Licensing Act 2003

Ryedale District Councils Statement of Licensing Policy January 2008

Council-Licensing Act 2003-Adoption of Licensing Policy 08.11.2007

The Licensing Act 2003 (Licensing statement period) Order 2004

Background Papers are available for inspection at:

Ryedale House, Malton

www.ryedale.gov.uk