



PART B:	RECOMMENDATION TO COUNCIL
REPORT TO:	LICENSING COMMITTEE
DATE:	23 SEPTEMBER 2010
REPORT OF THE:	HEAD OF ENVIRONMENT PHIL LONG
TITLE OF REPORT:	LICENSING ACT 2003 – RESULTS OF CONSULTATION ON REVIEW OF LICENSING POLICY
WARDS AFFECTED:	ALL

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 amended as outlined in Annex C;
 - (ii) the Licensing Policy, as amended, is referred to Council in November for final adoption.

3.0 REASON FOR RECOMMENDATION

- 3.1 The Council must review its Licensing Policy 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 by 7 January 2011. Following any proposed amendments by this Committee a final draft version of the Licensing Policy will be submitted to full Council on the 4 November 2010. 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 three year period to which the policy applies. The Licensing Policy will last a maximum of three 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 2008 and no revision has been deemed necessary to date. However, the Licensing Policy requires reviewing during 2010 in order for it to take effect from the 7 January 2011 (when the new three year cycle will commence).
- 5.2 A report of 3 June 2010, sought Members support of the draft Licensing Policy for consultation. Section 7 of the Act provides that functions in relation to the three 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 Service Delivery Plan
 - Corporate Risk Assessment
 - Budget Policies

7.0 CONSULTATION

- 7.1 Consultation period:-7th June – 30th August 2010.
- 7.2 For full list of consultees, see Annex B.

8.0 REPORT DETAILS

- 8.1 The draft Licensing Policy was formally published for consultation following the recommendation of this Committee on the 3 June 2010. 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, all relevant service unit managers and all libraries. A copy of the draft Licensing Policy was also available on Ryedale District Council Website (www.ryedale.gov.uk). All relevant premises, personal licence holders and specific bodies requesting information have been advised of the draft Licensing Policy and its availability. A full list of consultees is available in Annex B. Suggested amendments to the original draft Licensing Policy are available in Annex C.
- 8.2 The Licensing Policy is a draft document suggesting the Council's proposals for

ensuring 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 regulations and guidance issued by the Secretary of State. It is intended as a basis for discussion. Nothing in this draft is to be taken as given and all matters within it are for debate and could be subject to change that reflects comments made through the consultation process. Members' views on any aspect of the draft Licensing Policy are welcomed.

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. E.g. authorities may wish to host their consultation on their websites only, or for a shorter period of time than normally allowed. Public copies were placed in each Council office and each public library. Copies have also been available to download from the Council's website and all licensed premises and parish 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 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 implications.

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 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 SERVICE

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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