



Executive
13 December 2010

**Report from the Director of
Environment and
Neighbourhood Services**

Wards affected:
ALL

Review of Statement of Licensing Policy

1.0 Summary

- 1.1 This report sets out the outcome of consultation over the review of the Council's Statement of Licensing Policy under the Licensing Act 2003 and recommends changes to that policy.

2.0 Recommendations

- 2.1 Members are asked to agree this report and adopt the proposed changes to the Statement of Licensing Policy.

3.0 Detail

- 3.1 The Licensing Act 2003 requires the Council to prepare, consult and publish a statement of licensing policy before it can carry out its duties under the Act. The Statement of Licensing Policy is a statement of how Brent as the licensing authority intends to exercise the licensing functions imposed upon it by the Act. It may state the Council's general approach to the making of licensing decisions and the regulation of licensing activities. It should provide transparency for all those affected by the licensing regime which means not only applicants for licences but also local residents who are able to make representations to Brent in opposition to certain applications for a licence.
- 3.2 The policy first published in January 2005 has to be reviewed every three years. The first review was carried out in 2007 and the policy published in January 2008. Our second policy review has now been carried out.
- 3.3 A copy of the policy and officer's recommendations were sent to the Heads of Responsible Authorities, trade representatives and all the consultees involved

in the original policy, in all over 150 consultation letters were sent out. In addition the same consultation documents were displayed on our website.

- 3.4 Replies were received from the Police, Committee Services and the Greater London Authority.
- 3.5 The comments received as part of the consultation and officers recommendations regarding those comments have been listed in Appendix A of this report.
- 3.6 Officers have not recommended any alterations to the policy themselves. The Government are currently reviewing the Act and associated regulations. If the Government consultation results in changes to current legislation our policy will have to be revised in accordance with the changes.
- 3.7 Where new paragraphs suggested for insertion in the policy duplicate existing numbers then subsequent paragraphs will be renumbered.

4.0 Financial Implications

- 4.1 There are none arising from this report.
- 4.2 The Council is required to publish copies of its policy and the cost of this will come from Health Safety & Licensing's existing budget. The original 2005 policy was published in book form and the revised 2008 policy was published on the internet. This policy will be published on the internet and hard copies made available if requested.

5.0 Legal Implications

- 5.1 Before Brent can carry out any of its functions under the Act, it is required to prepare and publish a Statement of Licensing Policy. The Government issued an order appointing the 7th January 2005 as the day by which each licensing authority must have determined and published its policy. There was also a requirement that policies must be reviewed every three years or sooner.
- 5.2 Alongside the Act, the Government has issued Statutory Guidance in June 2004 (and revised this year) under s182 of the Act which sets out a framework of contents for the Statement of Licensing Policy. Members should note that policies could be challenged by way of judicial review where they do not comply with the Act or their contents do not accord with the Government's Guidance without good reason. The Policy could also be challenged if the administrative processes for consultation are found to be flawed. This could include circumstances where the Licensing Authority has failed to suitably review its statement of policy.

6.0 Diversity Implications

- 6.1 Paragraphs 10.0 to 10.4 of the policy deal with diversity matters.
- 6.2 An equality impact assessment was undertaken in respect of the policy in

2008 and did not identify any adverse impact towards the various groups within the community.

- 6.3 Further monitoring and consultation has taken place during the life of the last policy and this has not highlighted any adverse impact.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 None specific to this report

Background Papers

Details

The Licensing Act 2003
Government Guidance
Consultation Documents

File

Legal File
HSL Library
Consultation File

Contact Officers

Any person wishing to inspect the above papers should contact Alan Howarth, Health, Safety and Licensing Division, Brent House, 349-357 High Road, Wembley, Middlesex HA9 6BZ, Telephone: 0208 937 5369.

Sue Harper

Director of Environment and Neighbourhood Services

Appendix A

Date	Consultee	Comments	Officer's Recommendations	Reason
29/09/10	Brent Committee Services	In respect of paragraph 14.7 of the Policy concerning making representations on applications, it mentions that the Council will withhold publishing personal details of individuals where there is sufficient reason to believe that this would lead to intimidation. However, it does not go into any detail as to how this is determined i.e. is it sufficient for the individual concerned to express such a fear, or does the Council take a considered view as to whether that would be appropriate? Also, is there any prior information to those making representation that alerts them to the right to request withholding their personal details? In view of this, would it be considered appropriate to add some further detail to the paragraph outlining how personal details can be prevented from becoming public?	Insert New Paragraph 14.8 "Where persons making a representation wish to have their details kept confidential this will be considered on an individual basis after receiving a request from the person concerned, and they will be required to show that there is a reasonable fear of intimidation. In any event sufficient information (without identifying the objector) will be given to the other party to enable them to address the objection. Information informing objectors of our policy over the right to have personal details withheld is included on the consultation notice we ask applicants to display and in our acknowledgement letter sent on the receipt of an objection.	To clarify the Council's approach to the confidentiality of objectors.
28/10/10	Greater London Authority	The Council is fully committed to a safe and successful Olympic and Paralympic games in London in 2012. The Council recognises that the resources of the police and emergency services will be planned out and	Agreed and be inserted into the policy as paragraph 4.1.5	To give guidance to applicants with respect to applications made for events to be held during the period of

		prioritised for the security of major events before, during and after the games from May 1 2012 until October 31 2012. Due consideration will be given by the Council to representations from the Police in relation to licence applications for activity during the games time on the grounds of public safety and security when police and other emergency services resources are insufficient to deal with the risks presented. Where, as a result of representations from a responsible authority, it is identified that a licence or proposed event presents a risk that the licensing objectives will be compromised, it is [the Council's policy] likely that such applications will not be granted.		the London Olympic and Paralympic Games
31/10/10	Metropolitan Police	Can we have a definitive time that the representation period starts for all applications to be clearly identified?	Not agreed	The legislation states the times that a representation period starts and finishes. There are different times and periods for different types of application.
31/10/10	Metropolitan Police	The policy should acknowledge that “Best Bar None” has had a positive effect on the	Insert new heading and paragraphs. “Best Bar None”	This is a voluntary scheme and therefore

		licensing objectives and therefore the Council has an expectation that pubs, clubs and bars sign up to the scheme or to reach the minimum standards of operation set out in the scheme.	<p>"Best Bar None has been running in Brent since 2007 and has had a positive effect on the promotion of the licensing objectives."</p> <p>"The Council is committed to supporting Best Bar None and participating in the organisation, promotion and running of the scheme."</p> <p>"The Council will encourage and support eligible premises to participate in the scheme or to reach the scheme's minimum standards."</p>	we should encourage rather than expect licensee to join. We do however acknowledge that the scheme has been a great success and we should be encouraging as many premises as possible to participate.
31/10/10	Metropolitan Police	An expectation to fully address the licensing objectives in the operating schedule after a written risk assessment has been completed.	Not agreed	<p>There is already a paragraph (3.3) that addresses operating schedules.</p> <p>It is open to the Police or any other Responsible Authority to make a representation to an application if they feel the operating schedule has not fully addressed the licensing objectives.</p>
31/10/10	Metropolitan	A declaration that a Temporary Event Notice	Agreed and insert new paragraph "3.6	To ensure the safety

	Police	should not be used to supersede a premises licence condition.	where there is a notification to hold a temporary event the Council will assume, where applicable, the holder of the event to comply with the relevant conditions attached to the premises licence where the event is to be held.”	of persons attending a temporary event.
31/10/10	Metropolitan Police	A declaration that a Temporary Event Notice should not be used to cover the full 96 hour period unless it covers one specific event.	Agreed and insert new paragraph “3.7 A notification of a temporary event should not be used to cover multiple events. The Council expects each notification to be for a single event and for the date and times that event is to be held. One notification for 96 hours should not be used to cover more than one event.”	To deter persons from making a multiple application and holding more events than is allowed by statute.
31/10/10	Metropolitan Police	“Police recommend in general that outside areas (e.g. beer gardens) should not normally be used after 23:00 hours.”	Agreed and add to paragraph 6.2	To advise applicants on the police policy towards outside areas.
31/10/10	Metropolitan Police	On major event days at Wembley Stadium all licensed premises in the vicinity of the Stadium will be expected to adhere to a voluntary code whereby (i) they close one hour before the scheduled start of the event, (ii) customers shall not be allowed to congregate outside the premises, (iii) No glass bottles shall be handed over the bar but decanted into plastic vessels, (iv) the DPS shall work in partnership with the	Agree and insert in the policy as paragraph 4.1.6. “It is recommended that, for major events at Wembley Stadium, licensees should, where appropriate, include the following in their operating schedule, (i) they close one hour before the scheduled start of the event, (ii) customers shall not congregate outside the premises, (iii) No glass bottles shall be served (iv) the	To clarify the Police and Council’s approach to licensed premises within the vicinity of Wembley Stadium on event days.

		<p>Police and if necessary comply with any direction given by the most senior Police Officer on duty at the event, (v) no alcohol or “alcopop” type drinks shall be displayed or sold in glass containers with the exception of wines and spirits, (vi) no more than 4 cans per person shall be sold.</p>	<p>DPS shall work in partnership with the Police and if necessary comply with any direction given by the most senior Police Officer on duty at the event, (v) no alcohol drinks shall be displayed or sold in glass containers with the exception of wines and spirits, (vi) no more than 4 cans per person shall be sold.</p> <p>Where the applicant offers this as part of their operating schedule or where there is a relevant representation and the Licensing Sub-Committee at a hearing use their discretion to impose a condition the following recommended conditions will be taken from our pool of model conditions and applied.</p> <p>On major event days at Wembley Stadium the following shall apply:</p> <ul style="list-style-type: none"> • Customers shall not be allowed to congregate outside the premises. • No glass bottles shall be handed over the bar but decanted into plastic vessels. • The DPS shall work in partnership with the Police and if necessary comply with any direction given by the most senior 	
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			<p>Police Officer on duty at the event.</p> <ul style="list-style-type: none"> • No alcohol or “alcopop” type drinks shall be displayed or sold in glass containers with the exception of wines and spirits. • No more than 4 cans shall be sold per customer. <p><u>These conditions shall not apply unless they have formed part of the applicant’s operating schedule or they have been imposed by the Licensing Sub-Committee following a hearing to determine a relevant representation.”</u></p>	
19/11/10	Legal Services	<p>14.7 In some exceptional and isolated circumstances interested parties may be reluctant to make representations because of fears of intimidation or violence if their personal details such as names and addresses are divulged to the applicant. If the Council consider that the reasons for such fear are genuine and well founded it will withhold some or all of the interested party’s personal details</p>	Agreed	<p>To clarify paragraph 14.7 because of the inclusion of a new paragraph (14.8)</p>

		<p>from the applicant, giving only enough details (such as street name or general location within a street) which would allow an applicant to be satisfied that the interested party is within the vicinity of the premises. However, withholding such detail will only be considered where the circumstances justify such action and the Council is satisfied that the complaints are not frivolous or vexatious. Objectors will be informed of the Council's policy on disclosure of personal details in the consultation notices applicant's are required to display and also in the acknowledgement letter sent on the receipt of an objection</p>		