

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

4 AUGUST 2010

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

LICENSING ACT 2003
STATEMENT OF LICENSING POLICY

1 Purpose of Report

- 1.1 To present to Committee the main findings of a consultation process required in connection with the Council's Statement of Licensing Policy for the period 2011-2013 before the Policy is submitted to Cabinet and Council for noting and approval.

2 Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 The duties of the licensing authority are regulatory in nature, and the Act sets out the licensing objectives which must be considered as part of any decision making process. The licensing objectives of the prevention of crime and disorder and public nuisance, public safety and the protection of children from harm support many of the aims of the corporate priorities and Community Safety Plan.

3 Background

- 3.1 The Council is required to publish a Statement of Licensing Policy and to review it every three years. Part of the review process requires consultation on any proposed changes. The consultation must include agencies such as the South Wales Police and interested parties such as trade representatives, Pub Watch Schemes and representatives of local residents. Formal approval of the Policy is a Council function.

- 3.2 The public were invited to respond via the Bridgend County Borough website. Consultees also included the following groups or representatives who may be affected by the licensing policy of the authority:

- Town and community councils
- Voluntary Sector representatives
- Faith representatives
- Transport representatives
- Access groups
- Arts and entertainment groups
- Community Safety Partnership

- 3.3 The consultation period ran from 21 April to 30 June 2010 by direct mailing (including electronic mail) to statutory consultees and interested parties and via the Bridgend County Borough Council website.

4 Current situation/proposal

- 4.1 The Statutory Guidance accompanying the Licensing Act 2003 acknowledges that the licensing regime is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. The role of the Council as the licensing authority is to regulate licensable activities, including the sale of alcohol and regulated entertainment at licensed premises. However, the Statement of Licensing Policy may reflect the fact that the authority's licensing policy is part of a holistic approach to managing the impact of licensed premises.
- 4.2 Examples of complementary measures, in addition to licensing policy, include the creation of two Designated Public Places Orders, in Bridgend Town Centre and Pencoed introduced in December 2008 and 2009 respectively. Enforcement protocols and management systems for monitoring of licensed premises have also been developed and are described below.
- 4.3 Since the implementation of the new licensing legislation, the licensing authority has issued in the region of 1000 Personal Licences and approximately 550 Premises Licences and Club Premises Certificates. In 2009, the authority also processed approximately 230 Notices to authorise temporary activities in the County Borough ranging from local community events and festivals to extended hours in existing premises.
- 4.4 Significant concerns and trends regarding licensed premises are reported to monthly Responsible Authority Group meetings. Since the last policy review, a Memorandum of Understanding has been signed by the Group Members who include representatives from the South Wales Police, South Wales Fire and Rescue Services, Planning, and Public Protection Departments. The Group's aim is to ensure effective sharing of information and targeting of resources to enable a joint working approach to tackling problem premises in hand with engaging with the licensed trade and promoting best practice.
- 4.5 For example joint enforcement action was undertaken in November 2009 between the Trading Standards and Licensing Sections to deal with hot food takeaways which were opening beyond the permitted hours. Trading Standards officers and the police regularly undertake joint operations to tackle underage sales and a new initiative to deal with proxy sales of alcohol is being trialled in Pencoed.
- 4.6 A new Traffic Light Management System (TLS) is being developed with the Police and other responsible authorities as an early warning system to identify problem premises. This intervention will enable responsible authorities to bring any concerns to the attention of licensed premises and to agree an action plan

to address the concerns. The TLS management system will also promote and recognise best practice and good management of premises.

- 4.7 The current Statement of Licensing Policy sets out the general approach to making licensing decisions and this year, consultees were asked to tell the Council about specific problems in their area or with particular sectors of the licensed trade which were causing concern. Any changes which were necessary to reflect updates to the Licensing Act 2003 were also highlighted within the draft policy document. The following table summarises the major issues raised by consultees:

Body	Paragraph	Recommendation for changes to the policy
South Wales Police	Request to inform stakeholders of the Traffic Light Premises Management System within the policy	Recommended that paragraph 10.2 is updated to incorporate this measure
South Wales Police	Request to re-adopt the cumulative impact policy for Bridgend Town Centre	See below
Child Protection	Confirmation of the body to be designated to advise the licensing authority on the protection of children from harm as The Bridgend Local Safeguarding Children Board (BLSCB)	Recommended to formally nominate the BLSCB in this role at Section 7 of the policy
Newcastle Higher Community Council	At the last PACT meeting some of the residents raised concerns about the amount of smoking on pavements outside public houses in Aberkenfig. Requesting that this matter be drawn to the attention of the premises.	No policy implications. Will be referred to Public Protection for action.
Newcastle Higher Community Council	Requests the Council consider the adoption of a Designated Public Places order for Aberkenfig, specifically The Square	No policy implications. The adoption of a Designated Public Places Order is outside the remit of the Licensing Act 2003 and policy. This matter has been referred to the Community Safety Partnership.
Pyle Community Council	Wish the Council to concentrate on tackling underage drinking, particularly proxy sales of alcohol by adults to young people	Recommended policy is updated at paragraph 9.11 (d) to reflect recent initiatives to tackle proxy sales.

Pencoed Town Council	2.6 Community and Town Councils should be included in the partnership arrangements for developing future licensing policies.	No change to policy required. Town and Community Councils are automatically consulted on policy revisions and invited to contribute.
Maesteg Town Council	Requested that a cumulative impact policy is introduced for Maesteg Town Centre, Maesteg Welfare Park and Garth Welfare Park to address underage drinking and antisocial behaviour	The Town Council has been advised to contact the South Wales Police regarding these initiatives. No policy implications at present.
Bridgend Town Council	Commented that the steps taken in regard of general licensing within the Bridgend Town Centre meet the needs of the current situation and remain supportive of the present regime of control	No policy implications

4.8.1 Proposal in relation to the special policy applying to Bridgend Town Centre

4.8.2 There is provision for the Council to adopt a special policy in respect of areas where the cumulative impact of licensed premises is giving cause for concern. It may only do this on receipt of representations and evidence from the responsible authorities or interested parties such as the public. The South Wales Police has made representations that a cumulative impact policy should continue to apply to Bridgend Town Centre and Council will be required to consider the evidence supplied in respect of crime, disorder and nuisance being experienced before approving the special policy to apply to the period 2011 to 2013.

4.8.3 The special policy relates to the cumulative impact of licensed premises in Wyndham Street, Market Street, and Derwen Road Bridgend and was adopted in December 2005 and further revised in 2008 to include Nolton Street Bridgend.

4.8.4 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations which are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate that the operation of the premises will not add to crime and disorder or public nuisance.

4.8.5 Although the Council may adopt a special policy in respect of a particular area, this must not fetter the discretion of the licensing sub-committees to give proper regard to applications which may be made, for example, for restaurants or

other venues, which may not have an adverse impact on the licensing objectives.

4.9 Other general revisions to Policy

4.9.1 The Statement of Policy was last approved in December 2007 and must be updated to reflect the publication of further legislation and the revision of the statutory guidance to local authorities issued under Section 182 of the Act.

4.9.2 The consultation document incorporates these changes but, aside from the special policy which applies to Bridgend Town Centre, no new policy changes have emerged from the consultation process. The South Wales Police have also asked for some changes to the wording of the policy to make certain aspects of the application process mandatory. However, it is not possible for the licensing authority to insist that applicants provide information above or beyond the statutory requirements and the policy must not lead applicants to believe that their application would be refused if they failed to comply with any local requirements. The policy will reflect changes to the enforcement protocols and management systems to monitor premises which may inform future applications for reviews of premises licences. However, the fundamental principle for dealing with applications for licences and permissions or for dealing with applications to review licences, remains that each case should be dealt with on its merits and having regard to the licensing objectives, relevant representations, and the guidance issued by the Secretary of State.

4.9.3 A draft Statement of Licensing Policy is being prepared for submission to Council and will include the statistical evidence by the South Wales Police in respect of Bridgend Town Centre, together with the proposed legislative and typographical changes referred to above. The latest draft is attached for reference at Appendix A.

5. **Effect upon Policy Framework & Procedure Rules**

The report content has no direct effect upon the Policy Framework and Procedure Rules but is required to effectively implement the authority's responsibilities under the Licensing Act 2003.

6 **Equality Impact Assessment**

6.1 Regard has been given to Section 182 of the statutory guidance issued to accompany the Licensing Act 2003 which requires the policy to reference and highlight the Council's Race Equality Scheme to applicants. The policy also contains a statement having regard to the Section 182 guidance that no conditions of licence will be imposed which duplicate or conflict with the Disability Discrimination Act 1995.

7 **Financial Implications**

7.1 There are no financial implications arising from this report.

8 Recommendation

8.1 That Committee notes the findings of the consultation and the proposed revision to the Council's Statement of Licensing Policy.

P A Jolley
Assistant Chief Executive Legal and Regulatory Services

29 July 2010

Contact Officer: Yvonne Witchell
Licensing and Registration Officer

Telephone: (01656) 643105

E-mail: Yvonne.Witchell@bridgend.gov.uk

Postal Address Civic Offices, Angel Street, Bridgend, CF31 4WB

Background documents

Consultation responses

Reports to Council 15 December 2004, 20 December 2007, 13 August 2008

Guidance to licensing authorities issued under Section 182 of the Licensing Act 2003 by the Department for Culture, Media and Sport available at www.culture.gov.uk