

REPORT TO LICENSING COMMITTEE

Date of Meeting : 13 May 2014

Report of: Assistant Director Environment

Title: Policy Review of the impact of the Licensing Act 2003 within Exeter

Is this a Key Decision?

No – policy is not being approved at this stage

Is this an Executive or Council Function?

No - policy is not being approved at this stage

1. What is the report about?

Exeter City Council's current Statement of Licensing policy was written in 2010 and came into effect in January 2011. There is a legal requirement to review such policy statements every five years. The current policy must be reviewed by 2016, so it is relevant to commence preliminary work at this stage. The Licensing Committee is one of the consultees.

2. Recommendations:

1. Officers to draft a revision of Licensing Policy addressing the key areas and considerations developed by the Licensing Committee Members working groups. The timetable for revision will be as follows:

22 July 2014	Draft revision of policy to Licensing Committee for note
01 September 2014	Proposed revision of Licensing Act Policy to be circulated for consultation.
30 November 2014	Consultation period ends
3 February 2015	Licensing Act Policy (amended as necessary) to Licensing Committee with recommendation for approval to Full Council.
17 March 2015	Licensing Policy to Executive Committee
21 April 2015	Licensing Policy to Full Council for approval

2. The new Licensing Policy shall recognise the key aims and considerations developed by the Licensing Committee Members working groups, as appear in Section 8 of this report and Appendices 1 to 4.

3. Reasons for the recommendation:

The Licensing Authority must determine and publish a statement of Licensing Policy. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each five-year period.

Before determining such a policy section 5(3) of the Licensing Act 2003 places a statutory duty on the Authority to consult. Where revisions are made the authority must publish a statement of the revisions or the revised licensing statement.

The Members working groups examined different aspects of licensing, and it is therefore prudent to recognise the findings of the groups in any revision of policy.

4. What are the resource implications including non financial resources.

The legislative changes and proposed changes to policy do not give rise to any additional resource implications or have any revenue impact.

There are no reductions, restructuring and/or redundancy implications as the key changes identified in this report do not give rise to any additional resource requirements as changes are to existing processes. However, in delivering to the changed requirements there may be some training implications for existing staff.

To date fees have been set by the government and have not increased since November 2005. The Home Office is expected to consult in early 2014 on changes to allow local authorities to set fees at a level that will reflect full cost recovery. Since April 2013 it has been possible to suspend licences when annual fees have not been paid.

5. Section 151 Officer comments:

There are no financial implications within the report that require consideration.

6. What are the legal aspects?

Section 5 of the Licensing Act 2003, the Council as Licensing Authority is duty bound to adopt such Statement of Licensing Policy. As with all policies produced by the Council, it is necessary for it to be reasonable, proportionate and workable in order to avoid any legal challenge by third parties.

7. Monitoring Officer's comments:

There are no implications within the report that require consideration.

8. Report details

Members of the Licensing Committee together with the Portfolio Holder for Environment, Health and Wellbeing, and supported by officers, formed four working groups and examined the following aspects of the broader licensing agenda:

- Night-time economy
- Voluntary tools
- Standard conditions
- Regulatory tools

The groups met between October 2013 and January 2014, with some Members participating in a late-night city centre survey of different licensed premises in December, as well as a number attending a presentation by Best Bar None organised by the Voluntary Tools working group.

The key findings from the groups are summarised below and expanded upon in Appendices 1 to 4:

- Committee's desire to promote a vibrant night time economy with a rich mix of entertainment and activity that is welcoming, clean, safe and that accommodating of the wide range of tastes of a diverse population.
- In response to concern over segmentation caused by concentrations of similar licensed premises that cater in the main for a particular customer type (e.g. young adult male clientele), a wish to see a wider offering to attract a more diverse demography, with a more dispersed spread of premises in the city centre.
- A wish to see a café culture positively engendered.
- Establishment of a pragmatic, proportionate and enforceable Pool of Conditions that can be commonly used by the licensing committee, responsible authorities and applicants.
- To establish a Best Bar None scheme within the city.
- To work towards Purple Flag status for the city
- Review of the Cumulative Impact Policy to make its impact clearer and more accessible to both applicants and responsible authorities.
- To consider the need to establish Public Spaces Protection Orders which replace the Designated Public Place Orders (DPPO).

9. How does the decision contribute to the Council's Corporate Plan?

Formulating a licensing policy that recognises the key outcomes of the Members working groups will contribute to a healthy and safe city, and lend support to a robust, business friendly night-time economy.

10. What risks are there and how can they be reduced?

There are risks that a poorly drafted policy, that is neither proportionate nor reasonable, or is inadequately consulted upon, may give rise to legal challenge. These risks can be reduced by ensuring appropriate consultation takes place, and by giving due regard to the reasonableness and proportionality of policy tools.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

Formulating a licensing policy that recognises the key outcomes of the Members working groups will support these themes, and should make a positive impact.

12. Are there any other options?

The current policy must be reviewed and an updated policy statement produced by 2016.

Assistant Director Environment

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

Contact for enquires:

Democratic Services (Committees)

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Appendix 1: Voluntary Tools Working Group Summary of Discussions

Group Membership: Cllr Rosie Denham, Cllr Tim Payne, Cllr Norman Shiel,
Cllr John Winterbottom, Simon Lane (Officer Liaison)

Terms of Reference: To consider the merits of implementing schemes within the city on a voluntary basis that could improve, enhance and engender a more vibrant licensing trade.

Background: The voluntary tools working group has met on three occasions with the last occasion being combined with the rest of the licensing committee to hear a presentation from Best Bar None.

First Meeting – 7 October 2013

SL started the discussion by outlining the remit of the working group and presented the schemes available

Cllr Denham mentioned the recent Police and Crime Commissioner's Action for Change: Alcohol Think Tank 2013, which focused on alcohol related issues. Cllr Denham also mentioned the possibility of looking at Community Alcohol Partnerships (CAP) and the Bailment Scheme set up by Mid Devon District Council.

SL handed out literature on Best Bar None and Purple Flag for members to read through before the next meeting. It was agreed that Denise Dearden from Trading Standards should be invited to the next meeting to talk about the work she was conducting with the licensed trade.

Second Meeting - 31 October 2013

Invited Denise Dearden from Trading Standards to hear about issues faced by Trading Standards and how voluntary tools could assist in achieving a more compliant alcohol industry.

Denise explained that background to her role, the current project she is involved in which is due to conclude in December and mentioned how she was involved in Community Alcohol Partnerships in other local authority areas.

Denise explained a mystery shopping exercise that she had been leading on within the city to ensure that ID was being checked. The project used 18 year olds and the project was focused on being an information gathering exercise as opposed to a tool for enforcement action.

In addition to the purchasing project, 100 surveys had been sent out to retailers asking questions around what ID was accepted, how refusal of sale was dealt with, what training gaps they perceived they have and what voluntary schemes that they would be interested in (such as pub watch or Best Bar None).

Denise also mentioned that Trading Standards had a resource available through SWERCOTS, which her Head of Service was looking into whether it could be distributed to licensed premises at no cost. She said that it would be useful to distribute this as part of a co-ordinated partnership approach.

Members asked a number of questions of Denise regarding her project work and the voluntary scheme answers received. Denise said that the feedback that she was getting was that Best Bar None was being seen as a popular voluntary scheme that businesses were wanting to join.

It was agreed that at the next meeting, SL would try to organise a presentation by Best Bar None.

Third Meeting – 28 January 2014

Presentation from Simon Jackson of Best Bar None. The meeting was opened up to the Licensing Committee, invitees from the licensing industry, public health, police and neighbouring authorities.

Simon went through the idea behind the scheme and gave examples of cities and towns where the scheme had been launched such as Durham, Oldham and Woking.

Those present raised a number of points throughout discussions:

- Consumer habits – the trade goes through cycles with patrons voting with their feet. The licence trade were keen to highlight a typical week for them in the city.

Day of the week	Clientele
Monday to Thursday	Students
Friday	Value for Money
Saturday	Special Occasions

- Questions about how Best Bar None is best achieved – Simon pointed to areas where the scheme had been launched and how they had achieved it, but said that the best method was one where it met the local needs.
- How would the scheme deliver a positive situation to a city centre – working together is key to the success of the scheme. Most notably the scheme must have the backing of the Police, Fire. Licensing and the trade.
- How long will it take from launch to assessment – Simon said realistically there needed to be a 12 month lead in time. It could be done quicker, but that it was better to launch the scheme to a realistic timescale.

Conclusions

The main conclusions from our discussions are that

- Best Bar None will be the most constructive way of engaging with individual licensed premises and improving standards within licensed premises across the city. The LVA are now firmly behind this scheme.
- Purple Flag is a desire aspiration to achieve but involves wider stakeholders than just licensed premises that would have to play their part.
- The 'triple crown' idea whilst it promotes two other existing schemes, seemed to complicate things with the trade so initially should be kept separate but awareness should be raised of the three schemes.
- Local Alcohol Partnership – merit in looking to establish this – however probably best achieve as the co-ordinating committee for both purple flag and Best Bar None.

Appendix 2: Licensing Focus Group – Night-time economy

Members: Cllr.s Pearson, Henson, Choules and Laws

1. Purpose

The purpose of the group was to reflect upon the night-time economy in Exeter, how it is and what it should be like, and relate it to how it impacts upon the licensing objectives in terms of licensing policy development:

- the prevention of crime and disorder;
- public safety;
- prevention of public nuisance; and
- the protection of children from harm.

2. Arrangements

The group met on 3 occasions to discuss the night time economy, being joined by John Harvey (City Centre Manager) on the second, and Cllr. Owen on the third. None of the group took part in the late night walk-about held on 20 December 2013, but Cllr. Owen was able to feed back on his experience of the series of visits conducted.

The group also attended a presentation on the discretionary Best Bar None scheme, with outside agencies and trade representatives. The focus of the group was with the city centre, in terms of this being where the night-time economy is concentrated.

3. Findings

The group established the following:

3.1 What should Exeter's night-time economy aim to feel like?

The group recognised the importance of a vibrant night time economy with a rich mix of entertainment and activity. It should be a welcoming, clean, safe and attractive night-time economy that catered for the wide range of tastes of a diverse population. It was felt that currently, there was some way to go to achieve this, although generally the city centre was relatively safe to visit at night.

3.2 Segmentation

It was felt that there was unhelpful segmentation in a number of key areas, which served to undermine the licensing objectives:

- Time** – a distinct separation of activities between early evening, mid evening and late night
- Demography of clientele** – the early evening being more mixed in terms of age and gender than the late night.
- Geographical** - siting of establishments in distinct areas
- Establishments** – distinctly different offerings between establishments

A. Time segmentation

The evening appeared to be segmented in 3 distinct periods:

- Early (6pm – 8:30/9pm)
- Mid (9pm – 11:30)
- Late (midnight to 4am)

In general, different types of premises followed these periods, which dictated the demography of clientele – the late night being dominated by a younger clientele, particularly males. It was the late night period that offered most challenge to the licensing objectives, (and policing). Blurring this segmentation and widening the staying-time for different demography of clientele was seen as beneficial.

B. Demography of clientele segmentation

Generally it appeared that the early evening was more diverse in terms of clientele with families with children visiting the centre, but leaving by mid-evening. Mid-evening had a wider age range, but this later became dominated by a younger 20's age-group in the late evening, with a bias towards young males. It was the late evening clientele that was seen as presenting most challenge to the licensing objectives.

C. Geographical segmentation

In the late night, the main activity was centred around Fore Street and Mary Arches Street, with other focal points being Castle Street and Sidwell Street/Summerland Lane; these focal points being dominated by vertical (clients standing-up) drinking establishments and night clubs (e.g. Walkabout, Chevalier, EX4, Mosaic, and Club Rococco). In between these focal points, there was a virtual desert of other establishments.

The Fore Street/Mary Arches Street focal point was deemed to be the most problematical area in terms of challenge to the licensing objectives – the potential negative role that late night take-away eateries operating beyond the closing times of premises in this immediate area play, such as the Golden Horn and itinerant burger stall, needed to be examined in the policy development.

It was felt that encouraging more establishments, with a different offering (e.g. sit-down drinking/eateries) would help erode this segmentation and encourage a broader mix of clientele, and more footfall. More footfall in the deserted gaps, was seen as helping to reduce the any perception of being unsafe.

D. Establishment segmentation

Generally it was felt that there was an imbalance in the type of premises and the offering that they made. The late night was dominated by vertical drinking establishments and nightclubs, with few alternatives to counter-balance that.

It was felt that fewer vertical drinking establishments would be beneficial, whereas more establishments that offered a fusion of offerings such as food and entertainment as well as drink would be advantageous, (The Old Fire House, The Sorry Head, Bill's and Mama Stones were cited as examples).

In the early and mid-evening, it was felt that the offering should be more attractive to hold city workers in the centre after work, and attract families and a wider age range of people in. Nottingham's 'Life after 5' was cited as an example where such activity could be encouraged. Generally it was felt that premises offering live entertainment (such as the Bike Shed Theatre and Mama Stones) as well as sit-down eateries and cafés (e.g. Bill's, The Old Fire House, Cosy Club, and Artigiano) should be positively engendered. The European café culture model was seen as desirable in this vein.

4. Summary

In summary the development of Licensing Policy and policy tools should support the aim described in Section 3.1 above, whilst seeking to break down the segmentations that currently exist. The Licensing Policy should seek common purpose with discretionary

licensing tools, as well as other strategies and policies that the Council develops or influences.

Appendix 3: Licensing Focus Group - Conditions

Members: Cllr Jill Tippins, Cllr R Newby, Cllr C Dawson, Cllr R Ruffle

The Group established the following:

- The use of appropriate conditions can improve standards of premises in the City.
- While accepting that conditions were very useful it was recognised that for the most part conditions were normally an option available on Review of a premises licence and very few reviews had been called.
- A Pool of Conditions in the Council's Licensing Policy would be helpful to the authority as a whole, applicants considering and making applications and members when making decisions.
- Particular areas which members felt strongly about are:
 - the use of plastic or other safer options to standard drinking glasses,
 - the use of technology to identify troublesome customers between or loitering around premises
 - the control of customers queuing outside of premises
 - the sale of low cost and / or high percentage alcohol from retailers.
 - The congregation of street drinkers in areas just outside the DPPO
- Other areas discussed were the inappropriate advertising of alcohol, the supervision of children's areas at premises, nuisance from smoking zones.

Conclusion

Whilst it was acknowledged there are a number of factors to consider when imposing conditions on licenses, this is regulated by licensing legislation, the Council's Licensing Policy and interaction with the other enforcing authorities.

The Licensing Authority should have a comprehensive Pool of Conditions which can be used either by the applicant by including them within the operating schedule of a licence application or by the Licensing Authority at a review hearing or contested application when considered appropriate for the promotion of the Licensing objectives.

Appendix 4: Licensing Vision Group – Regulatory Tools

Members: Councillor Owen, Councillor Macdonald, Councillor Clark

1. Purpose

The group was tasked with an examination of how the Council's licensing policy might be supported by the various regulatory tools. These included the Early Morning Restriction Order (EMRO) and Late Night Levy (LNL) but also the existing measures of the Cumulative Impact Policy (CIP), the Designated Public Places Order (DPPO) and the St James Dispersal Order. In addition, consideration was given to the use made of the system of reviewing licences and controls on adult entertainment (exempted from the Local Government (Miscellaneous Provisions) Act 1982) under the Licensing Act 2003.

2. Arrangements

The group met on 5 occasions to discuss the licensed economy. At an early stage there was a shared concern about the need to be better informed as to what the real issues were. This led to the group being joined by John Harvey (City Centre Manager) on the second occasion and David Blencowe of dB Production Services Ltd on the fifth. In addition, all three members of the group took part in the late night walk-about held on 20 December 2013.

The group also attended a presentation on the discretionary Best Bar None scheme, with outside agencies and trade representatives. The focus of the group was with the city centre, in terms of this being where the night-time economy is concentrated.

3. Findings

The group established the following:

3.1 EMRO or LNL

There was little support or need identified for either of these measures to be adopted. This conclusion was reached at an early stage and followed external discussions that some group members had been involved in with external agencies. It was noted that there are few licensing authorities nationally who are adopting these measures and there was nothing in the meeting with John Harvey that gave the group cause to reconsider this stance.

3.2 CIP, DPPO and Dispersal Order

Most consideration was given to these measures and the following conclusions reached.

CIP – the existing CIP was considered adequate in terms of area and material impact covered. The CIP could be redrafted to make its impact clearer and more accessible to both applicants for licences and those making

representations about them. It was noted that the CIP was an effective tool which enabled the Council to discourage the licensing of premises that might add to the cumulative impact of alcohol related crime and disorder but also to maintain flexibility to encourage the licensing of premises that would be a positive addition to the city's economy.

DPPO and Dispersal Order – it is proposed that the DPPO should be extended to be contiguous with the area covered by the St James' Dispersal Order

Reviews – it was concluded that the Council could take steps to better inform neighbourhood groups and individuals how they might use the system of reviews. This might be achieved by presentations or information sheets (the Licensing Solicitor offered to assist and it seemed sensible to include an explanation of the CIP within this).

3.3 Other Observations

Various other observations were made although not necessarily relevant to the regulatory tools aspect. From the meeting with David Blencowe it was concluded that it may be helpful when licensing large one off events that an Event Management Plan might be invited to support an application. Also, pre-loading was identified as a significant contribution to alcohol related crime and disorder by John Harvey while David Blencowe's experience of student events was that pre-loading could have the effect of bring events to a close early.

4. Summary

In summary no need for the introduction of other statutory tools was identified but there is a need to enhance the DPPO and to clarify aspect of the CIP and its workings.