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**Meeting:** Extraordinary Licensing Committee Meeting  
**Date:** 13<sup>th</sup> January 2010  
**Subject:** The Licensing Act 2003 – Licensing Policy  
**Report of:** Gary Alderson – Director of Sustainable Communities  
**Summary:** The report proposes that following the consultation period the Licensing Committee recommend that Full Council adopt the Licensing Policy, with the amendments indicated.

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**Contact Officer:** Pat Davies, Licensing and Policy Officer  
**Public/Exempt:** Public  
**Wards Affected:** All  
**Function of:** Council

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

Educating, protecting and providing opportunities for children and young people – One of the three licensing objectives is to protect children from harm.  
Managing growth effectively – Legislation allows the Council to restrict the number and location of premises undertaking activities covered by the Act.  
Creating safer communities – The licensing objectives are specific in their requirements to prevent crime and disorder, to protect public safety and to prevent public nuisance.

### **Financial:**

Fees for activities associated with activities covered by the Licensing Act 2003 are statutory and set by the Secretary of state. Statutory fee levels are set to cover the full cost of administering this function.

### **Legal:**

This policy has been set out in line with the guidance relating to the Licensing Act 2003 issued by the Secretary of State Department of Culture, Media and Sport.

### **Risk Management:**

The Council has a statutory duty to adopt a policy in relation to administration of those functions covered by the Licensing Act 2003.

### **Staffing (including Trades Unions):**

There are no implications for staffing.

**Equalities/Human Rights:**

The Council has a legal duty to proactively promote race, gender and disability equality and to tackle discrimination experienced by other vulnerable groups. The Licensing Act 2003 only allows each application to be considered on its own merits taking into account the four licensing objectives. To ensure that issues of accessibility for disabled people are addressed guidance for applicants will actively promote the need for premises to be accessible to all wishing to use them.

**Community Safety:**

The Council has a statutory duty under Section 17 of the Crime and Disorder Act to do all that it reasonably can to reduce crime and disorder in its area. The four licensing objectives are the protection of children from harm, prevention of crime and disorder, promotion of public safety and the prevention of public nuisance, all of which support our statutory duty.

**Sustainability:**

In adopting and implementing the policy Central Bedfordshire Council can ensure a vibrant and thriving leisure industry with safe and well kept premises which people will want to visit.

**RECOMMENDATION(S):****That the Licensing Committee:**

- 1. approves the amendments to the policy as indicated in Recommendations A and B contained within the report;**
- 2. approves the amended policy;**
- 3. recommends that Full Council adopts the policy;**
- 4. That the Assistant Director Community Safety and Public Protection, in consultation with the Portfolio Holder for Safer and Stronger Communities, be given delegated authority to undertake any necessary minor amendments to the policy prior to publication.**

**Background**

1. Central Bedfordshire Council is required to publish a Statement of Licensing Policy by 1 April 2010.
2. The Licensing Act 2003 places general duties on licensing authorities to carry out its functions under the Act. Each licensing authority is required to review and publish its policy in line with statutory dates. The next review is due by the 7<sup>th</sup> January 2011. However, under SI 2008:2867 The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 Part 4, Paragraph 12, Section (8), the requirements of Section 5(1) of the Licensing Act 2003 are treated as satisfied, as regards the three year period beginning with the 7<sup>th</sup> January 2011.

3. The policy must promote the four licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

These are the only matters that can be considered when deciding an application.

### **Statement of Licensing Policy**

4. The draft licensing policy (Appendix A) was sent out for consultation to the responsible authorities and interested parties. The consultation period ran from 16<sup>th</sup> September 2009 to 9<sup>th</sup> December 2009.

5. 4 responses were received 2 were in support of the policy as it stands, and 2 made comments for consideration. These are attached as follows

Appendix B – Sandy Town Council

Appendix C – Bedfordshire Police

Appendix D – Streatley Parish Council

Appendix E – Arlesey Town Council

6. The response to the comments from Sandy Town Council are as follows (where necessary *paragraph references and current Licensing Policy condition are in normal text, comments received are in italics and Officer comments are in bold*)

Draft Policy: Para 2.7 The rules of natural justice are applied at all times

*Sandy Town Council Comment: Para 2.7 – The rules of Natural Justice should be explained in the paragraph.*

**Officer Comment: “fair treatment and fair decisions” to be added in parenthesis after natural justice.**

*Sandy Town Council Comment: This Council believes that in some cases the licence holder may be responsible for incidences of anti-social behaviour away from the premises, for instance, if they served someone with alcohol, who was already drunk.*

**Officer Comment: The sale of alcohol to a person who is drunk is itself an offence under the Act, for which the person who sold the alcohol would be liable to prosecution, but this would not necessarily be the premises Licence Holder. – No change to policy.**

*Sandy Town Council Comment: Para 3.0 – In the sentence “The Licensing Authority will avoid duplication with other statutory regimes and if conditions are already provided for in other legislation” add – “unless they expire before the expiry of the licence”.*

**Officer Comment: Para 3.0 Premises licences do not expire, once granted they remain valid until surrendered, revoked or a variation is applied for. – No change to policy.**

Draft Policy: Para 4.0 Cumulative Impact –

.... If the Licensing Authority receives representations from a responsible authority or interested party, to the effect that a particular area is becoming saturated with premises, creating exceptional problems of disorder and nuisance, the Licensing Authority may take into account cumulative impact when considering the individual merits of any application....

*Sandy Town Council Comment: Para 4.0 – In the sentence “.....creating exceptional problems of disorder and nuisance, the Licensing Authority may take into account.....” Remove the word “exceptional” and replace the word “may” with “shall.”*

**Officer Comment: Para 4.0 “exceptional” to be removed. As each application is to be treated on its merits, it may not be appropriate or justifiable to consider cumulative impact, therefore the residual wording of this paragraph to remain as current.**

Draft Policy: Para 5.4. Applicants must also advertise their application in the prescribed manner to ensure that all interested parties are aware of the application and are able to make representations if they so wish

An interested party is defined in the Act as:

- A person living in the vicinity of the premises in question
- A body representing persons living in that vicinity (e.g. a resident association, town or parish council)
- A person involved in a business in the vicinity of the premises in question

A body representing persons involved in such businesses (e.g. a trade association)

*Sandy Town Council Comment: Para 5.4 In all cases Town Councils and Ward Members should be notified with full details of licence applications.*

**Officer Comment: Para 5.4 Ward members and Town Councils are informed of applications and are welcome to contact the licensing team for any further details that are required – No change to policy.**

Draft Policy: Para 5.6 - When determining applications the Licensing Authority will have regard to the Guidance issued by the Department of Culture, Media and Sport (DCMS). In particular account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority’s consideration will be balanced against the wider benefits to the community.

*Sandy Town Council Comment: Para 5.6 – Should film be added to the list of cultural activities mentioned. In the sentence “.....the Licensing Authority’s consideration will be balanced against the wider benefits....., remove “balanced” and replace with “weighed”.*

**Officer Comment: Para 5.6 Wording taken from DCMS guidance to local authorities 13.70 – No change to policy.**

Draft Policy: Para 5.7 - The Licensing Authority may depart from the guidance and this policy where it is deemed appropriate in order to promote one or all of the licensing objectives. In these circumstances, reasons for the decision will be provided.

*Sandy Town Council Comment: Para 5.7 – “.....reasons for the decision will be provided.” Replace will with “must” or “shall”.*

**Officer Comment: Para 5.7 - No change to wording required.**

*Sandy Town Council Comment: Para 5.8 – An officer’s decision on whether a complaint is irrelevant, vexatious etc should be liable to review.*

**Officer Comment: Para 5.8 There is no facility under the Act for such a review. – No change to policy.**

*Sandy Town Council Comment: Para 7.1 – Add “offensive weapons” to the list of items applicants should consider how to deal with.*

*Para 7.3 – Add “obstruction or double parking” to the list of items that could cause a public nuisance.*

**Officer Comment: Para 7.1 and 7.3 These items are both police matters and not within the remit of the Licensing Act – No change to policy.**

7.

**Recommendation A:**

**Para 2.7 to be amended to read:**

**The rules of Natural Justice (fair treatment and fair decisions) are applied at all times**

**Para 4.0 Cumulative Impact to be amended:**

**If the Licensing Authority receives representations from a responsible authority or interested party, to the effect that a particular area is becoming saturated with premises, creating problems of disorder and nuisance, the Licensing Authority may take into account cumulative impact when considering the individual merits of any application....**

8. Response to comments from Bedfordshire Police

The Police Licensing Officers for the area, being statutory consultees were given the opportunity to comment on the licensing policy, along with Central Bedfordshire Councils Community Safety Liaison Officer. The Licensing Policy was discussed at a meeting of the Central Bedfordshire Operational Delivery Group (ODG), where both parties attended and the following comments were received:

*'The overriding comment that the ODG meeting wish to raise is the absence in the policy of reference to reducing crime and disorder in the licensing process, particularly alcohol related licenses. This also extends to anti-social behaviour legislation where the local authority has a statutory obligation to consider and plan to reduce. The effect of alcohol related licenses are shown to have a significant impact on the community and are also considered to have a remit beyond their immediate premises and curtilage. Therefore, the Licensing Policy should show that Licensees have some responsibility for relevant issues in the vicinity of their premises and also the behaviour linked to consumption of their customers. Consequently the Licensing Authority should consider these issues in any application and seek to redress through the appropriate imposition of conditions.'*

Whilst acknowledging the concerns of the Central Bedfordshire ODG, the licensing policy indicates at para 7.1 the requirement for applicants to indicate how they intend to deal with the Prevention of Crime and Disorder objective. These measures are to be considered on a case by case basis appropriate to the nature of the premises, where appropriate in consultation with the Police Licensing Officer and the Local Authority Enforcement Officer.

9. **Recommendation B: In order to re-affirm the requirements under the Act it is proposed that paragraph 7.1 be amended to include the following.**

**"Licensees and certificate holders should take reasonable steps to prevent the occurrence or crime and disorder immediately outside their premises, for example on the pavement, in a beer garden or in a smoking shelter, where and to the extent that these matters are within their control".**

### Conclusion and Next Steps

10. In order for Central Bedfordshire Council to publish its Licensing Policy on 1<sup>st</sup> April 2010, the policy must be approved and released for publication by 4<sup>th</sup> March 2010.
11. Members are asked to consider the policy and proposed amendments and approve the draft to full Council for adoption.
12. Members recommendations will be put before a meeting of the Full Council on 25<sup>th</sup> February 2010.

**Appendices:**

Appendix A – Draft Licensing Policy

Appendix B – Consultation response received from Sandy Town Council

Appendix C – Consultation response received from Bedfordshire Police Operational Delivery Group.

Appendix D – Consultation response received from Streatley Parish Council

Appendix E – Consultation response received from Arlesey Town Council.

**Background Papers:** N/A

**Location of papers:** The Council Offices, Dunstable