

DUDLEY METROPOLITAN BOROUGH

6TH DECEMBER 2004

REPORT OF THE LICENSING AND SAFETY COMMITTEE

LICENSING POLICY

1.0. PURPOSE

- 1.1. To give consideration to the recommendations made by the Licensing and Safety Committee on the 22<sup>nd</sup> November, 2004 that the Licensing Policy be approved.

2.0. BACKGROUND

- 2.1. The Licensing Act 2003 came into force on the 10th July 2003. This Act makes provision for the Council to take full responsibility for the sale and supply of alcohol, the provision of entertainment and the provision of late night refreshment. The legislation creates a transitional period from the 7<sup>th</sup> February, 2005 to November, 2005, during which time all existing Justices Licence holders will have to apply to the Council for new types of licences known as Premises Licences, Club Premises Certificates and Personal Licences. These licences will not come into force until the second appointed day (likely November, 2005). The current responsibilities of the Licensing and Safety Committee in relation to matters such as Public Entertainment

Licences, Theatres and Cinemas will continue throughout the transitional phase of the new legislation until the second appointed day when the new licensing regime commences.

2.2. The Licensing Act, 2003 requires the Council to prepare and publish a statement of its Licensing Policy every three years.

2.3. The Policy must be published before the Council carries out any function in respect of individual applications made under the terms of the 2003 Act and the commencement date for the policy is the 7<sup>th</sup> January, 2005.

2.4. On the 7th September 2004 the Liquor Licensing Working Group discussed and agreed an initial draft Policy document.

2.5. In accordance with the requirements of Licensing Act, 2003 the Licensing Section consulted in respect of this Policy with the following:-

(a) Chief Officer of Police.

(b) The Fire Authority.

(c) Persons/bodies representative of local holders of current Justices on and off licences.

(d) Persons/bodies representatives of local holders of Club Registration Certificates.

(e) Persons/bodies representatives of businesses and residents in the area.

In addition, the Licensing Section has consulted extensively with other organisations to obtain a wide range of views on the draft Policy document.

2.6. On the 22nd November, 2004 the Licensing and Safety Committee considered both the comments received from the consultees and the consequent draft amendments made to the draft Licensing Policy as a result of the consultation exercise. The Committee resolved that approval of the Licensing Policy should be recommended to the Council. A copy of the Licensing Policy is attached to this report at Appendix 1, together with a copy of a table showing comments from consultees at Appendix 2.

2.7. The Licensing Act, 2003 provides for the establishment of a Licensing Committee of at least ten, but not more than fifteen members of the Authority.

- 2.8. The Council resolved on the 24th June 2004 that six extra members should be appointed to the Licensing and Safety Committee bringing the membership to fifteen. These fifteen members will be divided into five Sub-Committees of three members each.
- 2.9. This legislation requires the Council to hold a hearing before a Sub-Committee of three members of the Licensing and Safety Committee if there are representations in respect of any application for variation of a Premises Licence, Club Premises Certificate or grant of a Personal Licence, from a relevant authority such as the Police or an interested party. It is expected that the volume of business for the Licensing Sub-Committees during the transitional phase (February to November 2005) is likely to require the Sub-Committees to meet for three full days per week.
- 2.10. The Licensing Section of Legal and Democratic Services will receive applications under the Licensing Act 2003 from February 2005. These applications will be determined within strict time limits but, as indicated, will remain dormant until November 2005. Simultaneously, the Licensing Section will still be determining applications under existing legislation, including public entertainments cinemas and theatre licences.
- 2.11. Some licensing matters under both the existing legislation and the new legislation will need to be referred to and determined by

members, but the legal requirements in terms of proportionality for the constitution of the Licensing and Safety Committee are different. The rules of proportionality do not apply to matters determined under the Licensing Act, 2003 whereas these requirements apply to all other matters dealt with by the Licensing & Safety Committee.

- 2.12. To allow the five Sub-Committees of the Licensing and Safety Committee to deal with matters that fall outside the Licensing Act, 2003, the proportionality requirement of Section 15 of the Local Government & Housing Act, 1989 will need to be waived. This will avoid the need for the Licensing and Safety Committee to have to meet separately and in addition to the Licensing Sub-Committees between February 2005 and November 2005.

### 3.0 PROPOSAL

- 3.1. That the Council approve the Licensing Policy recommended by the Licensing & Safety Committee.
- 3.2. That the proportionality requirements of Section 15 of the Local Government & Housing Act, 1989 not apply to the sub-committees of the Licensing and Safety Committee to enable them to deal with all licensing business requiring member determination from February, 2005 onwards.

#### 4.0 FINANCE

- 4.1. There are no financial implications arising from the Licensing Policy. However, licensing fees will be prescribed by the Government nationally and the full implications of the Government's draft fee proposals are currently being evaluated.

#### 5.0 LAW

- 5.1. The law relating to Liquor Licensing is governed by the Licensing Act 2003.
- 5.2. The law relating to theatres is governed by the Theatres Act, 1968.
- 5.3. The law relating to public entertainments is governed by the Local Government (Miscellaneous Provisions) Act, 1982.
- 5.4. The law relating to cinemas is the Cinemas Act, 1985.
- 5.5. The law relating to the requirement for proportionality is governed by Section 15 of the Local Government and Housing Act 1989 and Regulation 20 of the Local Government (Committees and Political Groups) Regulations 1990. Section 17 of the Local Government and Housing Act 1989 provides that the Council can waive the

requirement for proportionality, provided that no member of the authority votes against the proposal.

6.0 EQUAL OPPORTUNITIES

6.1. This report complies with the Council's policy on equal opportunities.

7.0 RECOMMENDATION

7.1. That the Council approve the Licensing Policy and agree not to apply the proportionality requirement of Section 15 of the Local Government & Housing Act, 1989 in respect of the Sub-Committees of the Licensing & Safety Committee with effect from February, 2005.

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COUNCILLOR J. RYDER

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