

## **Report to the Licensing Committee**

**6 September 2013**

### **Review of the Council's Policy under the Licensing Act 2003**

#### **1. Summary Statement**

- 1.1 Section 5 of the Licensing Act 2003 (the Act) requires the Council as the Licensing Authority to prepare and publish its own Statement of Licensing Policy as to how it intends to carry out its licensing functions under the Act.
- 1.2 The Council's current Statement of Licensing Policy was approved by the full Council and became effective from January 2011.
- 1.3 The Act requires the Council, in respect of each five year period, to determine its policy with respect to the exercise of its licensing functions, and publish a statement of that policy before the beginning of the period.
- 1.4 The next five year period is not due to begin until January 2016 but there have been a number of legislative changes to the licensing process during the last 18 months so it is considered more appropriate to review the policy now.
- 1.5 Before determining its policy, the Act specifically requires the Council Licensing consult the following:
  - a) the chief officer of police;
  - b) the fire and rescue authority for the area Service;
  - c) representatives of persons holding premises licences, personal licences or club premises certificates;
  - d) representatives of businesses and residents.
- 1.6 In addition to the statutory consultees referred to above, Appendix A to this report sets out a wider list of persons and organisations it is intended to consult as part of the process.
- 1.7 An informal meeting of Licensing Committee members was held on 31<sup>st</sup> July at which certain changes were suggested to the current policy.

- 1.8 Those changes have been incorporated into an amended policy statement which is attached to this report as Appendix B to this report.
- 1.9 The Committee is asked to approve the policy as drafted so that it can be sent out for consultation.
- 1.10 The Committee is also asked to agree the consultation period to run from the end of September to mid-November 2013.
- 1.11 Any changes which may need to be made to the policy following the consultation process will be approved by the Committee at its meeting in November 2013.
- 1.12 A report will be submitted to the full Council meeting on 3 December 2013 for the policy to be approved for the next five years, and to be effective from January 2014 to January 2019.

## **2 Recommendation**

- 2.1 That the draft Statement of Licensing Policy, attached as Appendix B, be approved for consultation, in accordance with the Licensing Act 2003.
- 2.2 That, in relation to the review of the policy, approval be given to a consultation period between the end of September to mid-November 2013.

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### **3. Strategic Resource Implications**

There are no direct strategic resource implications associated with the review, approval, or adoption of the Statement of Licensing Policy itself.

### **4. Legal and Statutory Implications**

- 4.1 Under Section 5 of the Licensing Act 2003, the Council, as the Licensing Authority, must in respect of each five year period determine its policy with respect to the exercise of its licensing functions, and publish a statement of that policy before the beginning of the period.
- 4.2 The current period began in January 2011 and will run until January 2016, unless the policy is reviewed before then.
- 4.3 Before determining its policy for a further five year period, the Council must consult:-
  - (a) the chief officer of police
  - (b) the fire authority
  - (c) such persons as the Council considers to be representative of holders of premises licences
  - (d) such persons as the Council considers to be representative of holders of club premises certificates
  - (e) such persons as the Council considers to be representative of holders of personal licences
  - (f) such other persons as the Council considers to be representative of businesses and residents in its area.
- 4.4 During each five year period, the Council must keep its policy under review and make such revisions to it, at such times, as it considers appropriate.
- 4.5 Where revisions are made, the Council must publish a statement of the revisions or the revised Licensing Statement.

## **5. Implications for the Council's Scorecard Priorities**

5.1 The licensing objectives that must be promoted by the Council as Licensing Authority are:-

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

## **6. Background Details**

6.1 On 24<sup>th</sup> November 2005, the Licensing Act 2003 came into effect. The Act introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshment, administered by the local Licensing Authorities.

6.2 Section 5 of the Act required each Authority to prepare and publish a statement of its licensing policy, setting out how the authority intended to approach its new licensing responsibilities, every five years. Each authority is also required to keep the policy under review during the five year period and make any revisions it considers appropriate.

6.3 The current Statement of Licensing Policy has worked well since its adoption and any amendments suggested have been made to reflect wider changes as a result of revised statutory Guidance and recent legislative changes.

6.4 There are 2 key changes proposed to the current policy:

- a) The Council, as the licensing authority, is now able to make representations to applications and apply for the review of a premises licence in the same way as other responsible authorities. However, the statutory guidance makes it clear that this new power should not normally be used where the opportunity exists for other responsible authorities, such as the police or environmental health, to intervene in their own right. Similarly, the guidance states that the 'licensing' authority is not expected to act as a responsible authority on behalf of other parties such as local residents, local councillors or community groups, all of whom can make representations of their own.

- b) The proposed policy also contains a set of guidelines to be used by the Licensing Panels when determining a review application in respect of premises following an under age sale of alcohol. There have been a number of occasions recently where the Panel has revoked a premises licence, after 3 under age sales, but almost immediately a 'new' application has been made with the result that the premises carries on selling alcohol. The cabinet member for health and wellbeing has written to the Home Office to ask whether the legislation should be changed to prevent this but, in the interim, it is suggested that the policy be amended so that a new application will not normally be granted within 12 months from the date of revocation where the Licensing Panel cannot be satisfied that the new management structure of the premises is not related to the management involved in the licence which has been revoked.

## **Source Documents**

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003