

ITEM 7 Licensing Act 2003 – Statement of Licensing Policy

Report of the Head of Legal and Democratic (Portfolio: Corporate)

Recommended:

- 1. That the revised Statement of Licensing Policy published for consultation in June 2015 be recommended for approval by Council, subject to the revisions set out in this report and,**
- 2. That the policy be effective for a five year period commencing 7 January 2016 subject to the policy being kept under review and the Council making such revisions to it at such times as it considers appropriate.**

Recommendation to Council.

SUMMARY:

- The Council published its original Statement of Licensing Policy in January 2005 and further revised Policies in January 2008 and 2011 setting out how it would deal with its responsibilities under the Licensing Act 2003.
- The Policy must be reviewed and republished every five years and a draft revised Policy was published for consultation in June 2015.
- The consultation attracted no major comments.

1 Introduction

- 1.1 Prior to the commencement of the Licensing Act 2003 the Council had to publish and approve a Statement of Licensing Policy setting out the principles to be taken into account by the Council when determining applications for licences under the Act. The Act requires the Council to review and publish its Policy every three years in consultation with the community, the licensed trade, local businesses and organisations such as the Police and Fire Service.

2 Background

- 2.1 Local authorities being the licensing authorities under the Act are required to review their policy statements every three years. The original Policy came into effect in January 2005. A further revised Policy was published in January 2008 and then again in January 2011. That Policy has to be fully reviewed and republished by no later than 7 January 2016. A revised draft policy was prepared and consulted upon from June to September 2015.

3 Corporate Objectives and Priorities

- 3.1 The adoption of a Statement of Licensing Principles is a statutory requirement which does not directly relate to the Council's corporate aims.

4 Consultations/Communications

- 4.1 A revised Policy document was sent to all Borough Councillors, Heads of Service, Hampshire Constabulary, Hampshire Fire and Rescue Service, Hampshire County Council Trading Standards Service, breweries, pub companies, trade organisations and licensing lawyers. Consultees had until 4 September 2015 to submit any comments.
- 4.2 Only two substantive replies were received. That from Hampshire Constabulary stressed the need to continue and where possible enhance existing partnership working as a means of effectively dealing with issues relating to the night time economy, events and festivals. It also commented that based upon current information there was no justification for introducing measures such as a cumulative impact areas and early morning alcohol restriction orders. None of the comments raised by the police require a revision to the policy.
- 4.3 The only other substantive reply was received from Poppleston Allen solicitors who represent a number of national retailers, breweries and pub companies. Their reply is attached as Annex 1 to this report. The matters raised by Poppleston Allen are all appropriate and the policy has been amended to take account of their comments. In relation to their comment about Policy C2 Noise from Regulated Entertainment, although the policy includes the word inaudible this would not be used in any condition attached to a licence. Rather the wording expresses in the policy the aim in some cases for equivalence to that outcome, either using objective assessment means or else for example restricting the times etc. of some forms of entertainment likely to breach that aim.

5 Revisions

- 5.1 The revised Policy is largely unaltered from the current version and a draft is attached as Annex 2 to this report. All of the changes within the policy, including those suggested by Poppleston Allen, seek to reflect changes to the legislation, reflect current guidance and provide clarification and simplification.

6 Resource Implications

- 6.1 There are no direct resource implications as a result of this report.

7 Legal Implications

- 7.1 Licensing functions are not executive functions and accordingly the approval of the Licensing Policy is a function that must be undertaken by the full Council. Once approved, the Policy is effective for five years but there is nothing to prevent the Council from reviewing the Policy during this period, should this become necessary.

8 Equality Issues

- 8.1 There are no direct issues as a result of this report. However, in determining applications the Council as Licensing Authority has to guard against imposing any condition(s) on a licence which applies to a wide group of people, but would in fact have an indirect discriminatory impact upon particular groups.

9 Other Issues

- 9.1 Community Safety – there are no direct issues as a result of this report. It is important to mention that in developing the Licensing Policy, the Council has been guided by the four licensing objectives contained within the Act, one of which is the prevention of crime and disorder.
- 9.2 Environmental Health/Sustainability Issues – none specific.
- 9.3 Property Issues – none.
- 9.4 Wards/Communities Affected – the whole Borough.

10 Conclusion

- 10.1 The Council is legally required to consult upon its Licensing Policy. The lack of any substantive responses to the consultation would indicate that there is general satisfaction with the proposed Policy. Should, after its adoption, the Council consider it appropriate to review the Policy then the facility to do so is available.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Draft revised Statement of Licensing Policy for consultation published June 2015			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	2		
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Report to:	Licensing Committee	Date:	5 November 2015