

Licensing Committee	
Meeting Date	21 January 2021
Report Title	Draft Statement of Licensing Policy under the Licensing Act 2003
Cabinet Member	Councillor Richard Palmer, Cabinet Member for Community
SMT Lead	Nick Vickers, Chief Financial Officer
Head of Service	Della Fackrell, Resilience and Licensing Manager
Lead Officer	Christina Hills, Licensing Officer
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. Members to consider the draft policy for consultation and advise on any relevant amendments 2. Members to note the consultation process as outlined and instruct officers to proceed with the same

1 Purpose of Report and Executive Summary

- 1.1 This report provides Members with information and guidance on a new draft Statement of Licensing Policy under the Licensing Act 2003 which requires Members comments and approval prior to formal public consultation.

2 Background

- 2.1 Section 5 of the Licensing Act 2003 (2003 Act) requires licensing authorities to prepare and publish a statement of its licensing policy every five years. The policy must be published before the licensing authority carries out any licensing functions under the 2003 Act.
- 2.2 The current Statement of Licensing Policy was approved by Full Council on 16 December 2015 and came into effect on 17 December 2015. It consequently expired on 16 December 2020.
- 2.3 The policy was developed in close conjunction with all other licensing authorities and responsible authorities in Kent via the mechanism of the Kent and Medway Regulatory Steering Group and in accordance with the guidance issued under Section 182 of the 2003 Act and to which licensing authorities must have regard
- 2.4 The aim of the county wide approach was two-fold. Firstly, to promote consistency to the benefit of licensees, businesses, residents and to regulatory

services having a Kent-wide remit. Secondly to minimise risk of judicial review of individual policies.

2.5 The current policy has provided a stable but flexible background to the council's consideration of licensing applications and works well in promotion of the four licensing objectives:-

- Prevention of crime and disorder
- Protection of public safety
- Prevention of public nuisance
- Protection of children from harm

This is illustrated by the fact that the policy has not been legally challenged.

3 Proposals

3.1 In drafting the revised Statement of Licensing policy, due regard has been taken to the current Section 182 Guidance. The draft policy is shown as **Appendix I**

3.2 The proposed changes made to the revised Statement of Licensing Policy, as shown in **Appendix II**, are only of a minor or administrative nature to reflect changes in the wording of the statutory guidance or for the sake of greater clarity or accuracy.

3.3 It is proposed that the revised policy will come into effect on 1 April 2021 and remain valid for a period of five years, until 31 December 2026 unless it becomes necessary to make further revisions beforehand following changes to legislation, statutory guidance or local circumstances, for example.

5 Alternative Options

5.1 The Licensing Act 2003 requires that a local authority must have an adopted policy before discharging its functions under the Act. The 2003 Act also specifies that consultation must be undertaken, and any representations taken into account before the Statement of Licensing Policy is adopted and published.

6 Consultation Undertaken or Proposed

6.1 The Act and the Guidance require a consultation process prior to determining the Statement of Licensing Policy. The persons who must be consulted are:

- The chief officer of police for the area;

- The fire and rescue authority for the area;
 - Each local authority's Director of Public Health in England (DPH) of Local Health Board in Wales for an area any part of which is in the licensing authority's area;
 - Persons/bodies representative of local premises licence holders;
 - Persons/bodies representative of local club premises certificate holders;
 - Persons/bodies representative of local personal licence holders; and
 - Persons/bodies representative of businesses in its area
- 6.2 A consultation period of 4 weeks is proposed to run between 25 January 2020 and 19 February 2020. Methods of consultation will be by advertising on the Council's website and notice boards, in local newspapers and by direct email and mail shots. The results of the consultation will then be presented to a future meeting of the Licensing Committee.
- 6.3 All incoming responses will be entered onto a grid for consideration. The Resilience and Licensing Manager, together with licensing officers will conduct an evaluation of each response and give a recommendation as to whether or not to amend the policy statement and, if so, to what extent.
- 6.4 The grid and recommendations will be put before a meeting of the Licensing Committee on 11 March 2020 for consideration and inclusion of any amendments within the policy prior to formal adoption by full Council on 31 March 2020.

7 Implications

Issue	Implications
Corporate Plan	<p>Having an adopted Statement of Licensing Policy under the Licensing Act 2003 satisfies the corporate objectives of:</p> <p>A borough to be proud of: the statement seeks to strike the right balance between promoting and encouraging live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally but not to cause a disturbance.</p> <p>A community to be proud of: by promoting the four licensing objectives in this way the authority is enriching and enhancing the community whilst maintaining its regulatory and enforcement role.</p> <p>A council to be proud of: the statement will support good decision making processes</p>
Financial, Resource and Property	<p>The cost of consultation and publishing an updated policy will be met from within existing budgets. The Statement of Licensing Policy under the Licensing Act 2003 will not place and new financial resource implications on the Council</p>

Legal and Statutory	Section 5 of the Licensing Act 2003 (as amended) requires a licensing authority to prepare and publish a statement of its policy every five years. During the five-year period, the policy must be kept under review
Crime and Disorder	Fulfilling powers and duties under the Licensing Act 2003 is of direct relevance to the Council's obligations under Section 17 of the Crime and Disorder Act 1998 in that the objectives of the Licensing Act 2003 are: a) The prevention of crime and disorder; b) The protection of public safety; c) The prevention of public nuisance; and d) The protection of children from harm
Environmental Sustainability	No implications
Health and Wellbeing	No implications
Risk Management and Health and Safety	The publication of a Statement of Licensing Policy under the Licensing Act 2003 is a statutory requirement and failure to do so by the expiration of the current policy as required may lead to negative publicity and criticism from central government. Close adherence to the mandatory guidance in terms of policy development and consultation will minimise the risk of judicial review at a later date. This risk is further minimised by working in close co-operation with the other licensing authorities within Kent
Equality and Diversity	The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups. There are no implications within the policy that would discriminate against individuals or persons of different groups
Privacy and Data Protection	Normal data protection and privacy rules will apply. Under the 2003 Act the Council is obliged to provide certain information and keep a public register.

7 Appendices

- 7.1 Appendix I – Draft Statement of Licensing Policy 2020 – 2025
Appendix II – Proposed Amendments to Licensing Policy

8 Background Papers

None

