

Southend-on-Sea Borough Council

Agenda
Item No.

15

Report of Corporate Director of Place
to
Cabinet
on
11th November 2014

Report prepared by: Adam Penn,
Team Leader, Regulatory Services.

Licensing Act 2003 – Review of Statement of Licensing Policy
Executive Councillor: Councillor Assenheim
A Part 1 Agenda Item

1. Purpose of Report

- 1.1 To describe the recent formal consultation process and review the responses received.
- 1.2 To set out a proposed final revision for the Statement of Licensing Policy. **(Appendix 1).**

2. Recommendation

- 2.1 That the Cabinet agree the Statement of Licensing Policy set out in Appendix 1 to this report and recommend to Council that it be adopted.**

3. Background

- 3.1 On 1st July 2014, the Cabinet considered a report which set out a draft of the revised Statement of Licensing Policy, as the basis for a formal consultation process.
- 3.2 The Council's current Statement of Policy under the Act was approved on 16th December 2010, and came into force on 7th January 2011. It can last for a maximum of 5 years but can be reviewed at any time. It is imperative that the Council undertakes the review process and publishes its Statement of Policy before the beginning of 2016.
- 3.3 The Act requires that the Policy is kept under constant review and amended before the statutory period ends where significant change is identified. As the Act has been changed a number of times during the life of the current Policy it has been decided that a review after 4 years is necessary.
- 3.4 In the event a new Policy is adopted 'mid-term' a new 5 year period commences.
- 3.5 Formal consultation commenced on 9th July 2010, with a request that responses be received by 5th October 2014. The consultation exercise involved in the following elements:-

- a) The despatch of an explanatory letter to all known licensed premises and registered clubs, advising of the review and the availability of the draft document.
- b) An explanatory letter and copy of the draft revision was sent to the statutory "responsible authorities", and to relevant services within the Council. The Crime and Disorder Partnership Executive were specifically notified and Clubwatch were also notified with a copy of the draft to going to every member of this organisation. Additionally a sample of the higher profile licensed venue owners were sent a copy.
- c) Officers met individually with the responsible authorities where requested
- d) A letter was sent to known residents' and tenants' groups within the Town, and also to certain legal firms known to act regularly for licensed premises locally. In addition every known residents association was invited to a public forum to discuss the Policy.
- e) Approximately 500 individuals and organisations were invited to comment. As well as those listed above, including , local representative groups such as business and resident Focus Groups, Faith Groups, Equality Groups and other voluntary organisations, the Citizens Advice Bureau, and organisations which have an influence on the night time economy.
- f) The same material, with a link to the draft review document, was placed on the Council's website. There were 64 visits to this page during consultation. There were at least two other business orientated websites where links to the consultation were posted.
- g) Officer presentations to specific groups, including Southend Club Watch, and the Pubwatches for Leigh and Shoebury.
- h) Continuing response to enquiries, and requests for copies of the draft revision.
- i) A presentation to Southend Youth Council
- j) The business regulation team posted an item on their twitter account and 're-tweeted' updates. An article also appeared in their newsletter (distributed to over 1000 businesses)
- k) The issuing of a press release at the start of and during the course of the consultation process. Press coverage included an article in the Echo newspaper on 24th July 2014, and BBC Essex covered the consultation in a morning current events show.
- l) An informal, round-up presentation to the Licensing Committee, prior to finalising this report.
- m) There were 12 additional requests for a copy of the draft policy

3.6 8 written responses have been received, which compares to 21 written responses to the original Policy Consultation in 2004, 12 in 2007 and 25 in 2010. The table at **Appendix 2** shows the key points of the respondents, the majority of which were specific to policy items whilst others were broader in their approach.

3.7 The representation from the Police supported the policy and suggested some minor additions and amendments which were taken on-board.

3.8 The round-up presentation was given to the Licensing Committee on 16th September 2014. The committee examined the proposed Policy section by section and a number of points were clarified by the licensing officer. It was resolved that the Policy should be recommended for approval at Cabinet and

Council in its present form with a rewording to section 14.6. At the time of this consultation 3 responses had been received.

- 3.9 All responses have been acknowledged and carefully assessed. Where that analysis indicates the need for changes to the original draft Policy, such changes have been incorporated in the document now put forward for approval. These changes are outlined in the final column of **Appendix 2** and detailed in column 3.

4. Other Options

- 4.1 Should the Council fail to approve a final Statement of Policy, it will be in breach of its statutory duty under Section 5 of The Licensing Act 2003.

- 4.2 The deadline for publication of the Policy is 7th January 2016.

- 4.3 The only other option is to continue with the current Policy until 2016. However this policy is significantly dated, hence the reason why we reviewed it after four years rather than wait until the end of the five year period of that policy.

5. Reasons for Recommendations

- 5.1 To enable the Council to comply with its statutory duty under Section 5 of The Licensing Act 2003.

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

A Statement of Licensing Policy is instrumental in the effective assessment of applications, and in setting a framework for the proper conduct of approved premises. It is thus supportive of the Council's vision. Further, the licensing objective of preventing crime and disorder is central to the Council's critical priority of improving community safety and reducing anti-social behaviour.

6.2 Financial Implications

The annual licence fees form part of the overall budget for the Council; however fee levels are set by central Government and do not form part of this Policy; there is currently a move by The Home Office to allow locally set fees on a cost recovery only basis.

6.3 Legal Implications

The revision of the Statement of Policy is a requirement of the Licensing Act 2003. As such the Statement of Policy is open to challenge by Judicial Review in the High Court and unless the licensing authority can produce satisfactory evidence to support the contents of the Statement of Policy the court may make an order resulting in its amendment. The costs of a contested application could be payable by the Council.

6.4 People Implications

No people implications.

6.5 Property Implications

No property implications.

6.6 Consultation

The consultation arrangements are set out in the Act itself, and are covered in the statutory guidance to licensing authorities. Consultation procedures were undertaken in accordance with these requirements and are outlined in section 3 of this report.

6.7 Equalities and Diversity Implications

The Policy document has been drawn up in accordance with the requirements of the legislation, and the detailed measures contained in the statutory guidance to licensing authorities. There is limited scope for change, and the document is felt to be broadly neutral in its equalities impact. Overall, the effect of control of licence premises is supportive of the concerns in respect of vulnerable groups

6.8 Risk Assessment

There are two main risks identified:-

- a. The current Policy has been dated by changes to the Licensing Act 2003. Failing to review and update it would potentially be a breach of Section 5(4) of the Act and may leave the Council open to legal challenge
- b. Failure to fully consult on the draft Policy, or publish the final Policy by 7th January 2016, would put the Council in breach of its statutory duty under the Act

6.9 Value for Money

The annual licence fees, set by Central Government, form part of the overall budget for the Council; there is currently a move by The Home Office to allow locally set fees on a cost recovery only basis.

6.10 Community Safety Implications

The 'Licensing Objectives' of control of 'prevention of crime and disorder' and 'prevention of public nuisance' are key elements in the effective administration of the legislation. There is a dedicated section of the Policy in respect to the 'protection of children from harm' and this section strongly promotes measures linked to this objective. The Act does not have a specific objective for the protection of vulnerable persons and as such the authority is prevented from addressing this matter directly, however this theme cuts across a number of the other objectives.

6.11 Environmental Impact

None.

7. Background Papers

7.1 Licensing Act 2003.

7.2 Statutory Guidance to Local Authorities issued under Section 182 of the Licensing Act (latest issue June 2014).

7.3 Responses to the public consultation exercise.

8. Appendices

Appendix 1 - Statement of Licensing Policy – Proposed Final Version of Revised Document.

Appendix 2 - Table showing key points of consultation responses.