

Public Document Pack

Southend-on-Sea Borough Council

Legal & Democratic Services

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24 June 2019

Dear Councillor

CABINET - TUESDAY, 25TH JUNE, 2019

Please find enclosed, for consideration at the next meeting of the Cabinet taking place on Tuesday, 25th June, 2019, the following report(s) that were unavailable when the agenda was printed.

Agenda No Item

15. **Review of Statement of Licensing Policy**

Report of Deputy Chief Executive (Place)

16. **Recruitment of Special Constables**

Report of Deputy Chief Executive (Place)

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Southend-on-Sea Borough Council

Report of Deputy Chief Executive (Place)

to
Cabinet
on
25th June 2019

Report prepared by: Adam Penn,
Regulatory Services Manager

Licensing Act 2003 – Review of Statement of Licensing Policy

Relevant Scrutiny Committee(s)
Executive Councillor: Councillor Terry
Part 1 (Public Agenda Item) / Part 2

1. Purpose of Report

- 1.1 To set out the legal obligations on the Council, acting as Licensing Authority, and the timetable for the review of the Licensing Policy.
- 1.2 To set out a draft revised Policy Statement, as the basis for formal consultation. (This is contained in Appendix 1).

2. Recommendations

- 2.1 **That Cabinet endorses the draft revised Policy document, enabling consultation to commence.**

3. Background

- 3.1 Each Licensing Authority must, in respect of each five year period:
 - a) Determine its policy with respect to the exercise of its licensing functions; and
 - b) Publish a statement of that Policy (A "Licensing Statement") before the beginning of the period.
- 3.2 The Council's Statement of Policy under the Act was approved in December 2014, and came into force on 7th January 2015. It is thus imperative that the Council undertakes the review process and publishes its Statement of Policy before the beginning of 2020.
- 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.
- 3.4 In the event a new policy is adopted 'mid-term' a new 5 year period commences.
- 3.5 Before determining the Policy for each five year period, the Licensing Authority must consult:

- a) The Chief Officer of Police for the Licensing Authority's area;
 - b) The Fire Authority for that area;
 - c) The Director of Public Health for the Licensing Authority's area;
 - d) Such persons as the Licensing Authority considers to be representative of the holders of Premises Licences, Club Premises Certificates and Personal Licences issued by the Authority, and
 - e) Such other persons as the Licensing Authority considers to be representative of businesses and residents in its area.
- 3.6 The existing Policy Document utilises a format developed by Essex Licensing Officers, in an effort to promote consistency across the county.
- 3.7 Licensing authorities are required to have regard to the statutory guidance produced by The Home Office under Section 182 of the Act, and this forms the foundation of each Local Authority Licensing Policy Document. The contents of the guidance have been taken into account in preparing this report, and in setting out the proposed amendments to the Council's Policy Document.
- 3.8 Proposed Changes

The following additions have been made to the draft policy

- a) New paragraph emphasising the role of planning as a responsible authority. (section 1.6)
- b) Reference to the Council's 'Tackling Harmful Behaviours Strategy'
- c) Enhanced list of factors for applicants to consider when they are addressing the 'Licensing Objective' of 'The prevention of Crime and Disorder' (10.2). This will better enable the Licensing Authority to consider the impact that the venue will have on the local area, in a similar way to consideration of Cumulative Impact. However, as there is currently no Cumulative Impact element to the Policy, in each case it would be incumbent on the person making the representation to provide relevant evidence of Cumulative Impact.
- d) Strengthening of the expectations on Licensee's in respect of potential nuisance or disorder caused by the operation of their business or the location it is in. (10.4-10.7). This is in direct response to issues being experienced at particular venues and will enable the Licensing Authority to take appropriate formal action in response to concerns of local residents.
- e) New section on external area's attached to licensed premises highlighting control measures available to licensees. (12.6) This is in direct response to increased complaint levels from residents living close to licensed premises, particularly pubs and bars and will enable the Licensing Authority to take appropriate formal action in response to concerns of local residents.
- f) New paragraph on gaming machines in pubs. (13.9) the Gambling commission test purchased 100 pubs nationally in 2018. 88 of them allowed an underage person to play the machines without challenge.
- g) New section outlining police and local authority powers and the procedure when premises are associated with serious crime. (18.5-18-14).
- h) New section guiding applicants towards the 'MySouthend' app.

4. Other Options

There are no other options. Failure to fully consult on the draft policy, or publish the final policy by 7th January 2020, would put the Council in breach of its statutory duty under the Act.

5. Reasons for Recommendations

To enable The Council to comply with its statutory duty to publish a timely Statement of Policy in accordance with the provisions of Section 5 of The Licensing Act 2003

6. Corporate Implications

6.1 Contribution to the Southend 2050 Road Map

The Council's ambition of 'Safe and Well' is supported by the 'licensing objectives' of the Act. The development of a licensing policy establishes how the council will determine applications therefore supporting the 'Opportunity and Prosperity' ambition.

The Licensing Policy is a delivery mechanism for the Harmful Behaviours Strategy which is a key outcome for 'Safe and Well'.

6.2 Financial Implications

The annual licence fees, set by Central Government, form part of the overall budget for the Council.

6.3 Legal Implications

Failure to fully consult on the draft policy, or publish the final policy by 7th January 2020, would put the Council in breach of its statutory duty under the Act.

6.4 People Implications

No people implications

6.5 Property Implications

No property implications

6.6 Consultation

Following consideration by Cabinet, it will be necessary to commence full public consultation on the draft. The consultation period will be 6 weeks, followed by assessment of responses and formulation of a final report and final policy document revision. These documents would need to progress through Cabinet in November and to Council in December 2019. (See section 3.5 above).

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. An equalities assessment will be undertaken to take account of responses to the consultation process.

6.8 Risk Assessment

Failure to fully consult on the draft policy, or publish the final policy by 7th January 2020, would put the Council in breach of its statutory duty under the Act. Reducing our ability to fully deliver Harmful Reduction Strategy.

6.9 Value for Money

The annual licence fees, set by Central Government, form part of the overall budget for the Council.

6.10 Community Safety Implications

The control of crime and disorder and the prevention of public nuisance are key elements in the effective administration of the legislation.

6.11 Environmental Impact

None

7. **Background Papers**

The Licensing Act 2003 and associated Regulations
The Home Office Guidance to Licensing Authorities, April 2018 edition.

8. **Appendices**

Appendix 1 -Statement of Licensing Policy – Draft Revision.



LICENSING ACT 2003 LICENSING POLICY 2020 – 2024

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1.0 PRELIMINARY MATTERS

1.1 This Statement of Licensing Policy sets out the principles by which Southend-on-Sea Borough Council intends to discharge its functions as the Licensing Authority under the Licensing Act 2003 (referred to in this document as 'the Act')

1.2 The Licensing Authority is responsible for the consideration of applications for the grant of premises licences, club premises certificates, personal licences and processing temporary event notices in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. References in the text to licensed premises should be taken to include club premises, unless the context otherwise requires.

1.3 The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing Committees are not bound by the decisions made by a Planning Committee and vice versa.

1.4 There is no legal basis for a Licensing Authority to refuse a licence because the relevant premises does not have planning permission or where there are conditions on the planning permission of a premise.

1.5 The Licensing Authority liaises with the Planning Authority to ensure they are aware of all new and varied premises licence and club premises certificate applications. This is achieved via a weekly email. This procedure is in addition to the statutory requirement for all applicants to provide a copy of their application to the Planning Authority.

1.6 Applicants are advised that the Planning Authority is a Responsible Authority under the 2003 Act and is able to make representations against all applications on planning grounds relating to, inter alia, public nuisance, and thereby make representations regarding opening and closing hours, and in respect of any of the 4 overriding objectives of the Licensing Act 2003.

1.7 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different to the licensing hours granted, the earlier closing time must be observed. Premises operating in breach of their planning permission would be liable to enforcement action from the planning department even in circumstances where the licensing permission allowed a later terminal hour.

2.0 DESCRIPTION OF THE BOROUGH

2.1 The Borough of Southend-on-Sea is a densely populated area and has numerous licensed venues and fast food outlets. In many cases, those premises are situated near to residential areas.

2.2 There is a large range and scale of entertainment/alcohol establishments in the town. The development of South Essex College and the University of Essex is having an impact upon the existing infra-structure and town centre facilities.

2.3 The seafront, particularly the central area with its mix of public houses, entertainment establishments, amusement facilities and late-night fast food outlets, is an area drawing large numbers of visitors.

3.0 STATEMENT OF LICENSING POLICY

3.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising its functions under the Act.

3.2 This policy must be reviewed and published every 5 years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The new policy must then be published.

3.3 This Policy takes effect on 31st January 2015 ~~2015~~ 2020 and replaces the Policy previously in force.

4.0 CONSULTATION

4.1 In producing this Policy, the Licensing Authority carried out an extensive consultation programme between ??? and ???

4.2 The Act requires that the following parties are consulted by the Licensing Authority:-

- (a) the chief officer of police for the licensing authority's area,
- (b) the fire authority for that area,
- (c) the director of public health for the licensing authority's area,
- (d) such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority,
- (e) such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority,
- (f) such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority, and
- (g) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

4.3 In addition, the Licensing Authority chose to consult additional local groups and individuals namely:

- Responsible Authorities under the Act
- Other elements of local government
- Organisations, including faith groups and voluntary organisations, and the Citizens' Advice Bureau;
- Groups which have an influence on the night time economy.

5.0 APPROVAL OF POLICY

5.1 This policy was approved at a meeting of the full Council on **???** 2019 and was published via its website simultaneously. Copies are available on request.

6.0 EXCHANGE OF INFORMATION

6.1 The Licensing Authority is under a duty to protect the public funds it administers, and to this end may use for the prevention and detection of fraud the information provided by applicants. It may also share this information for these purposes with other bodies responsible for auditing or administering public funds.

6.2 In accordance with the provisions of the Crime and Disorder Act 1998, The Licensing Authority may exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime.

7.0 PUBLIC REGISTER

7.1 The Licensing Authority keeps a public register which may be inspected at the offices of the Licensing Authority on Mondays to Fridays (except bank and public holidays) between 10am and 4.00pm. Regulations prescribe what information should be kept in the register. Alternatively the register can be viewed online on www.southend.gov.uk

7.2 The Licensing Authority publish details of applications on the Councils website www.southend.gov.uk

8.0 COMPLIANCE and ENFORCEMENT

8.1 In exercising its functions with regard to the inspection of premises and to the institution of criminal proceedings for offences committed under the Act, or the calling of a licence review, the Licensing Authority will follow best practice. This requires that actions should be-

- Proportionate - intervention will only take place when necessary. Remedies shall be appropriate to the risk posed and costs identified and minimised.

- Accountability - the Licensing Authority shall ensure it is able to justify its decisions and be subject to public scrutiny
- Consistent - rules and standards shall be joined up and implemented fairly.
- Transparent - enforcement shall be open and regulations kept simple and user friendly.
- Targeted - enforcement shall be focused on the problems and minimise side effects.

8.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and will adopt a risk based inspection programme.

8.3 The main enforcement and compliance role of the Licensing Authority is to ensure compliance with the licences and permissions it authorises. Where appropriate we may conduct joint inspections of licensed premises, or premises which may need a licence, in conjunction with other enforcing authorities.

8.4 Where appropriate complaints will be investigated in accordance with the stepped approach outlined in the Regulatory Services Enforcement Policy. In the first instance we encourage complaints to be raised directly with the licensee or business concerned.

8.5 The Licensing Authority will keep itself informed of developments as regards the work of the ~~Better Regulation Executive~~ **Department for Business, Energy and Industrial Strategy** in its consideration of the regulatory functions of Local Authorities.

8.6 The Licensing Authority will take account of the outcomes and ambitions of The Council's 'Tackling Harmful Behaviours Strategy' where appropriate.

~~8.6~~ **8.7** The Licensing Authority's enforcement/compliance protocols are available on request, as are details of the risk-based approach to inspection.

9.0 INTRODUCTION TO THE ACT

9.1 In exercising its functions under the Act, the Licensing Authority must have regard to and promote the 4 licensing objectives namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

9.2 Applicants are advised to consider providing evidence that suitable and sufficient control measures, as detailed in their operating schedule, will be implemented and maintained relevant to the nature and mode of operation of their premises and events

9.3 The Licensing Authority has certain expectations in respect of applicants and the operating schedules they produce. It is for applicants to decide on the extent of measures to be set out in their operating schedules but when assessing applications the Licensing Authority must be satisfied that the measures proposed aim to achieve the licensing objectives, as far as is possible.

9.4 Duplication with other regulatory regimes should be avoided. In particular, applicants should have regard to the fact that the Local Authority's licensing function will be discharged separately from its functions as the local planning authority. Normally, applications for premises licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

9.5 This policy covers a wide variety of premises and activities and for this reason it cannot detail all the factors which influence the achievement of the licensing objectives, nor can it detail all the control measures which may be appropriate.

9.6 Where valid representations are made the Licensing Authority will make objective judgments as to whether conditions need to be attached to a licence, certificate or permission in order to secure the achievement of the licensing objectives. Any such condition will focus primarily on the direct impact of the activities taking place on the premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters within the direct control of individual licensees.

9.7 Licensing law is not the primary mechanism for the general control of individuals once they are away from licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, reasonable steps should be taken to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises; for example, on the pavement, or in a smoking area.

Other mechanisms may be utilised to tackle unruly or unlawful behaviour of patrons when beyond the vicinity of the premises. These include:-

- measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and departments of the local authority.
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences late at night, street cleaning and litter patrols

- powers to designate parts of the local authority area as places where alcohol may not be consumed publicly
- police enforcement of the general law concerning disorder and anti-social behaviour
- the confiscation of alcohol from adults and children in designated areas
- police powers to close down licensed premises for a specific period of time.
- the power of the police or interested parties to seek a review of the licence.
- other local initiatives which similarly address such problems.

9.8 The Licensing Authority recognises the cultural, social and business importance that premises and events requiring a licence can provide and the diversity of activities which are provided by licence holders. Proper account will be taken of the need to encourage a broad range of entertainments.

9.9 The Licensing Committee will receive reports, where appropriate, on the needs of the local tourist economy and the cultural strategy for the area so as to ensure these are reflected in its considerations.

9.10 The Licensing Committee will be kept apprised of the employment situation in the area and the need for new investment and employment where appropriate.

9.11 The Licensing Authority is under a legal obligation to have due regard (section 149, Equality Act 2010) to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity and to foster good relations between persons with different protected characteristics.

Those protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation

9.12 The impact of this policy on the requirements of the Equality Act will be monitored through the Council's equality and diversity scheme.

9.13 When considering applications the Licensing Authority will have regard to the Act and the licensing objectives, this policy, statutory guidance, and all supporting regulations.

10.0 PREVENTION OF CRIME and DISORDER

10.1 Section 17 of the Crime and Disorder Act 1998 imposes a duty on the Local Authority when carrying out its various functions to do all it reasonably can to prevent crime and disorder in its area.

10.2 When addressing the issue of crime and disorder the applicant is advised to demonstrate in the operating schedule that those factors which impact on crime and disorder have been considered. These may include:

- Underage drinking
- Drunkenness on premises and elsewhere
- Drugs misuse
- Violent behaviour
- Anti-social behaviour
- **Control of their patrons while on the premises and as they arrive and depart**
- **Crime statistics in the locale**
- **The nature of the local area**

10.3 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities, and not all the measures will necessarily be relevant to a particular application.

- Effective and responsible management and supervisory control of the premises and associated open areas.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of crime and disorder.
- The keeping of appropriate written training records.
- Adoption of best practice guidance
- Acceptance of 'proof of age' documentation, from time to time recognised by the Licensing Authority.
- Provision of effective CCTV in and around the premises.
- Engagement of door staff. Where door staff are present they must be Security Industry Authority licensed.
- Provision of drinking vessels made from appropriate toughened material.
- The assessment of the use of polycarbonate drinking vessels over toughened ones on certain occasions.
- Proper arrangements to enable the personal licence holder to monitor the activity they have authorised.

10.4 The Licensing Authority expect licensed premises to develop a staff policy and training programme on recognising signs of drunkenness and vulnerability, for example, offering drinking water and tips for refusing customers who appear drunk and discourage company policies that promote bonuses and sales incentives for selling alcohol. The Licensing Authority will expect necessary precautionary processes to restrict drunkenness, e.g. Home Office Licensing Guidance states drinks promotions should not be designed to encourage individuals to drink excessively or rapidly.

10.5 Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. The Committee may consider a suspension of the licence to allow time for new conditions to be enacted.

10.6 It is expected that the Designated Premises Supervisor (DPS) should be able to demonstrate that they have day to day control of the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.

10.7 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

11.0 PUBLIC SAFETY

11.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety.

11.2 Factors which may have an impact on public safety may include:

- the number of people frequenting the premises
- the condition, lay-out and design of the premises
- the nature of the activities to be provided
- customer profile
- the use of special effects such as lasers, pyrotechnics, foam machines and so on.

11.3 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.

- Suitable and sufficient risk assessments.
- Effective and responsible management of premises.
- Provision of a sufficient number of people employed or engaged to secure the safety of all those present.
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of all those present.
- The keeping of appropriate written training records.
- Adoption of best practice guidance.
- Provision of effective CCTV in an around the premises.

- Provision of drinking vessels made from appropriate toughened material.
- The assessment of the use of polycarbonate drinking vessels over toughened ones on certain occasions.
- Implementation of crowd management measures.
- Proper arrangements to enable the personal licence holder to monitor the activity they have authorised.
- The condition, design and layout of the premises, including the means of escape in an emergency.

12.0 PREVENTION OF PUBLIC NUISANCE

12.1 Licensed premises have a significant potential to impact adversely on communities through public nuisance which can arise through their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and businesses from the potential consequence of the operation of licensed premises.

12.2 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise and disturbance, light, odour, litter and anti-social behaviour.

12.3 Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.

- 12.4 Factors which may have an impact on public nuisance may include:
- the location of the premises (including open areas associated with them) and proximity to residential and other noise sensitive premises.
 - the customer profile.
 - the hours of operation.
 - the nature of activities provided.
 - the design and layout of the premises and in particular the use of noise limiting features.
 - the number of people frequenting the premises.
 - the availability of public transport and the availability and location of car parks utilised by patrons.
 - any 'wind down period' between the end of the licensable activities and closure of the premises.
 - the time of last admission.
 - the use of special effects such as lasers, pyrotechnics, and so on.

12.5 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.

- Effective and responsible management and supervisory control of premises and associated open areas, including smoking areas.
- Appropriate instructions, training and supervision of staff.
- The keeping of appropriate written training records.
- Control of operating hours for all, or parts of, the premises, including such matters as deliveries and the operation of machinery.
- Adoption of best practice guidance.
- Installation of acoustic insulation, suitably controlled, sited and silenced ventilation or air conditioning systems and (where appropriate) sound limitation devices.
- Signage displayed at premises requesting that patrons leave quietly
- Management of people (including staff) and traffic (and resulting queues) arriving at and leaving the premises.
- Liaison with transport providers.
- Siting of external lighting, including security lighting.
- Management arrangements for the collection and disposal of litter.
- Proper arrangements to enable the personal licence holder to monitor the activity they have authorised.

12.6 External Areas, Beer Gardens and Smoking Areas

Premises licence holders will be expected to:

- ***Develop a management plan on how to manage smoking on your premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.***
- ***Comply with any planning conditions restricting the use of outdoor areas.***
- ***Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc. have the relevant planning permission.***
- ***Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.***
- ***Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas.***
- ***Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.***
- ***Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.***
- ***Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.***

- *Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters should also be turned off.*
- *Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.*
- *Employ SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.*
- *Ensure door supervisors maintain order outside venues and protect customer safety. The Licensing Authority supports the use of town link Radio and the 'Disc' system, other pager systems and pub watch schemes can be used to provide for rapid police response and alert other venues where customers and staff are endangered.*
- *Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.*
- *Use CCTV to manage outside areas.*

13.0 PROTECTION OF CHILDREN FROM HARM

13.1 Family friendly premises are to be encouraged but the risk of harm to children remains a paramount consideration when applications are determined.

13.2 The protection of children from harm includes their protection from moral, psychological and physical harm.

13.3 In relation to the exhibition of films, or transmission of programmes or videos, this includes protection from exposure to strong language, sexual expletives and violence. The Licensing Authority will expect licensees to implement measures which restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.

13.4 In certain circumstances, children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influence, inappropriate example, the unpredictability of their actions due to their age, and the lack of understanding of danger.

13.5 Applicants are advised to consider how they can demonstrate in the operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to safeguard children from harm.

13.6 Factors which may have an impact on the safety of children and give particular cause for concern may include:

- where entertainment or services of an adult or sexual nature are commonly provided.
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or premises with a reputation for underage drinking.
- Proxy sales of alcohol to minors (ie adults purchasing for persons who are underage).
- The premises have a known association with illegal drug taking or dealing.

13.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule. However, it is recognised that this policy applies to a wide range of premises and activities and not all the measures will necessarily be relevant to a particular application.

- Effective and responsible management and supervisory control of premises and associated open areas, including smoking areas
- Appropriate instruction, training and supervision of staff
- The keeping of appropriate written training records.
- Adoption of best practice guidance
- Complete exclusion of children, limitations on the hours when children may be present, restrictions from being in certain parts of the premises, or exclusion from certain activities.
- Imposition of requirements for children to be accompanied by an adult.
- Acceptance of 'proof of age' documentation, from time to time recognised by the Licensing Authority.
- Measures to ensure children do not purchase, acquire or consume alcohol.
- Proper arrangement to be made to enable the personal licence holder to monitor the activity they have authorised.

13.8 Conditions which require the admittance of children to any premises cannot be attached to licences or certificates.

13.9 Where a premises provide gaming facilities licenced or permitted under the Gambling Act 2005, the Licensing Authority will expect measures to be in place to prevent children from accessing gaming machines. This should include the appropriate training of staff and the keeping of training records, as well as measures to ensure machines are appropriately monitored by staff. Such measures should be highlighted in the operating schedule.

14.0 ADVICE and GUIDANCE

14.1 Pre-application discussions with the responsible authorities are encouraged to assist applicants in developing their proposals and operating schedules. Officers of the Licensing Authority will endeavour to provide guidance at that stage of the process. Where an officer is representing the Licensing Authority in its role as a Responsible Authority, wherever possible another officer will be designated to process the application and provide applicant guidance.

14.2 Where appropriate to do so, officers of the Licensing Authority will assist applicants to work with others who may make representations with a view to resolve areas of concern. Once an application has been lodged there are statutory timescales imposed on the application and determination process which restrict the opportunity for such discussions, liaison and mediation.

14.3 Contact details are set out Appendix A

14.4 The Licensing Authority is obliged by the Act to grant an application unless relevant representations are received. If there are no relevant representations the application will be dealt with by the Licensing Authority's licensing officers under the scheme of delegation. If there are relevant representations the application will be considered by the Licensing sub-committee at a public hearing.

14.5 Mandatory Conditions are imposed by the Act whether or not the application is opposed.

14.6 In determining applications for garages, (ie forecourt shops) the Licensing Authority must decide whether or not premises are primarily used as a garage and will expect applicants to submit data which establishes the primary use. Where such information is not available (because for example the premises have only just started trading), we may consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following years to ensure the premises are not primarily a garage

15.0 REPRESENTATIONS

15.1 These may be made by either of the following:

(1) Responsible Authorities

A full list of the Responsible Authorities is given in Appendix A

(2) Any other person

Regardless of their geographical location, providing that the representation is not vexatious and frivolous in the opinion of the Licensing Authority.

15.2 Any representations must relate to the named premises and are restricted to the 4 licensing objectives. The Licensing Authority will need to be satisfied there is an evidential link between the representations made, the licensing objectives and the premises in question. Where a representation simply re-lists the licensing objections without stating why it is considered the grant of the application will undermine or fail to promote them, it may be rejected as invalid.

15.3 The Licensing Act 2003 (hearings) Regulations 2005 require the Licensing Authority to provide the applicant with copies of any relevant representations made. **Any person making a representation to an application should bear in mind that their personal data (such as name and address) will be disclosed to the applicant. The Licensing Authority will not edit your letter of representation before it sends it out.**

All letters of representation will be contained in the agenda should the matter proceed to a sub-committee hearing. Such hearings are open to the public and may include the presence of members of the media. Furthermore, personal data may be published in the minutes which are distributed to all parties to the proceedings and available on the Council's website.

16.0 LICENSING COMMITTEE

16.1 The Committee is composed of 15 Councillors. A contested application will be heard by a sub-committee comprising 3 members of the Licensing Committee.

16.2 When considering applications the sub-committee will have regard to this Policy, statutory guidance, the Act and attached regulations and the licensing objectives.

16.3 Each application is considered on its individual merits.

16.4 Should the sub-committee decide to approve the application the mandatory licence conditions must be applied. In addition, the sub-committee will determine whether it is appropriate to attach other conditions to a licence, certificate or permission to secure achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at the premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity of the premises.

16.5 In determining whether a person lives or has business interests sufficiently close to the premises so as to be likely to be affected by the proposed activities, the Licensing Authority will consider factors such as:

- The size of the premises
- The nature of the premises

- The distance of the premises from the location of the residence or business of the person making the representations
- The potential impact of the premises (e.g. the number of customers and routes likely to be taken by its customers)

16.6 Conditions which seek to control the range or nature of activities within the premises, or which are designed to reduce the potential for anti-social behaviour, may be necessary. Such conditions may also seek to directly impact upon the behaviour of customers on, or within the immediate vicinity of, the premises.

16.7 The Licensing Authority will avoid attaching conditions which duplicate other regulatory regimes wherever possible.

16.8 A list of which matters will be dealt with at committee and those which are delegated to licensing officers can be found at appendix B

17.0 APPEALS

17.1 An appeal may be made to the Magistrates' Court against a decision of the Licensing Authority. The appeal must be made within 21 days of being notified of the decision to be appealed against.

The following may appeal:

- The applicant
- A Responsible Authority or any person who made relevant representations
- In the case of a review, the holder of the licence or certificate being reviewed

18.0 REVIEWS

18.1 A responsible authority or any person may ask the Licensing Authority to review a premises licence because of a matter arising at the premises in connection with any of the 4 licensing objectives.

18.2 The Licensing Authority will not normally engage its role as a Responsible Authority by calling reviews on behalf of other persons, such as local residents or community groups. These individuals and groups are entitled to do so in their own right where there are sufficient grounds.

18.3 Where Responsible Authorities have concerns about problems identified at a premises, the Licensing Authority considers it to be good practice for them to give licence holders early warning of their concerns and the need for

improvement. Where possible and/or appropriate it would be expected that advice and guidance in addressing the issue(s) should be given.

18.4 The Licensing Authority draws the attention of Responsible Authorities to the Home office publication, "The Practical Guide for Preventing And Dealing with Alcohol Related Problems - What You Need To Know".

Summary Reviews (Violent Crime Reduction Act 2006)

18.5 Where premises are associated with serious crime or serious disorder a senior police officer (Superintendent or above) may apply for a summary review of a premises licence.

18.6 If a summary review is applied for, the Licensing Authority must consider the application within 48 hours (time that is not on a working day is disregarded) and determine what interim steps to take, if any, of those listed below:

- the modification of the conditions of the premises licence;***
- the exclusion of the sale of alcohol by retail from the scope of the licence;***
- the removal of the designated premises supervisor from the licence;***
- the suspension of the licence.***

18.7 Although the law allows the decision to be determined in the absence of the premises licence holder, the Licensing Authority will endeavour to always notify the licence holder of the application having been made and of the time, date and place that it will be determined, in order to afford the licence holder or representative the opportunity to attend.

18.8 Where the Licensing Authority decide to take any of the interim steps, its decision has immediate effect and an immediate notice of the decision must be given to the licence holder.

18.9 Where the licence holder makes representation in respect of the decision, the Licensing Authority must hold a hearing within 48 hours (time that is not on a working day is disregarded) of receipt of the representations and, unless they are withdrawn, consider those representations and any made by the police; consider whether the interim steps are necessary for the promotion of the licensing objectives; determine whether to withdraw or modify the steps taken.

18.10 The Licensing Authority must also hold a full review hearing within 28 days.

Closure of Premises

18.11 Under the Anti-Social Behaviour, Crime and Policing Act 2014, Closure Notices can be issued by the police or local authority for 24 hours (and up to 72 hours where necessary) when satisfied there are reasonable grounds:

- **that the use of particular premises has resulted or is likely soon to result in nuisance to members of the public; or**
- **that there has been or is likely soon to be disorder near those premises associated with the use of those premises.**

18.12 Closure Orders up to a period of three months can be sought from a Magistrates Court by police and local authorities once a Closure Notice has been issued. The court may make a Closure Order if it is satisfied:

- **that a person has engaged, or is likely to engage, in disorderly, offensive or criminal behavior on the premises; or**
- **that the use of the premises has resulted, or is likely to result, in serious nuisance to members of the public; or**
- **that there has been, or is likely to be, disorder near those premises associated with the use of the premises;**
- **and that the order is necessary to prevent the behavior, nuisance or disorder from continuing, recurring or occurring.**

18.13 Breach of a notice or order is a criminal offence and carries the following sentences upon summary conviction

- **Notice: Up to three months in prison.**
- **Order: Up to six months in prison.**
- **Both: Up to an unlimited fine for residential and non-residential premises.**

18.14 Who Can Appeal?

- **Any person who the closure notice was served on.**
- **Any person who had not been served the closure notice but has an interest in the premises.**
- **The Council (where closure order was not made and they issued the notice).**
- **The police (where closure order was not made and they issued the notice).**

19.0 SUSPENSION OF LICENCES FOR NON-PAYMENT OF THE ANNUAL FEE

19.1 The Licensing Authority is under a duty to suspend Premises Licences and Club Premises Certificates where the Licensee has failed to pay the annual fee within a prescribed period. Licences which are suspended shall cease to have effect during the suspension period. ~~Furthermore a licence cannot be transferred during said period.~~

20.0 ELECTRONIC APPLICATIONS

20.1 In keeping with the Council's policy on the introduction of e-Government, the Licensing Authority consents to applications and other notices being given electronically where the Act and regulations allow.

The methods by which the Licensing Authority will accept electronic applications and notices is:-

- **via the 'MySouthend' app on the council website**
www.southend.gov.uk
- **by email on licact2003@southend.gov.uk**

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Appendix A

Contact details for the Licensing Authority and Responsible Authorities

All correspondence for the Licensing Authority should be addressed to:

The Licensing Authority
Southend-on-Sea Borough Council
Civic Centre (Floor 13)
Victoria Avenue, Southend-on-Sea
Essex SS2 6ZG

Telephone: 01702 215005
Email: licact2003@southend.gov.uk

The Responsible Authorities are:

a) The Chief Officer of Police
Essex Police Licensing Unit
PO Box 12306
Police Station
Newland Street, Witham, CM8 2AS

Telephone: 101 ext 452035
E:mail licensing.applications@essex.pnn.police.uk

b) The Fire Authority

The Divisional Commander
Essex County Fire and Rescue Service
Southend and Rochford Community Command
Sutton Road (Rear of Fire Station)
Southend-on-Sea
Essex SS2 5PX

Telephone: 01702 614433

c) The Health and Safety Enforcing Authority

Either (in respect of premises subject to Local Authority Enforcement)

The Food Safety Team
Public Protection (Floor 13)
Southend-on-Sea Borough Council
Civic Centre, Victoria Avenue
Southend-on-Sea SS2 6ZG

Telephone: 01702 215005
E:mail environmentalhealth@southend.gov.uk

or (in respect of premises subject to enforcement by the Health and Safety Executive)

The Health and Safety Executive
Wren House
Hedgerows Business Park
Colchester Road
Chelmsford
Essex CM2 5PF Telephone: 01245 706200

d) The Local Planning Authority

The Development Control Section
Department of Place
Southend-on-Sea Borough Council
Civic Centre, Victoria Avenue

Southend-on-Sea SS2 6ZG

Telephone: 01702 215327

e) The Local Authority with functions related to prevention of risk of pollution of the environment:-

The Environmental Protection Team
Public Protection Division (Floor 13)
Southend-on-Sea Borough Council
Civic Centre, Victoria Avenue
Southend-on-Sea SS2 6ZG

Telephone: 01702 215005

E:mail environmentalhealth@southend.gov.uk

f) The body recognised by the Licensing Authority as being responsible for matters in relation to the protection of children from harm, and as being competent to advise on such matters:-

The Department of Children & Learning
PO Box 6
Southend-on-Sea Borough Council
Civic Centre
Victoria Avenue
Southend-on-Sea
Essex SS2 6ZG

Telephone: 01702 215000

g) The Weights and Measures Authority

The Trading Standards Team
Public Protection Division (Floor 13)
Southend-on-Sea Borough Council
Civic Centre, Victoria Avenue

Southend-on-Sea SS2 6ZG

Telephone: 01702 215005

E:mail tradingstandards@southend.gov.uk

h) In relation to vessels only, the Navigation Authority having functions in relation to the waters where the vessel is usually moored or berthed. For this purpose, correspondence should be sent to:

The Navigation Authority
Port of London Authority
London River House
Royal Pier Road
Gravesend
DA12 2BG

Telephone: 01474 562200

i) The Public Health Authority

The Director of Public Health
Southend-on-Sea Borough Council
Civic Centre (floor 6)
Victoria Avenue, Southend-on-Sea
Essex SS2 6ZG

j) The Licensing Authority in its role as a Responsible Authority

The Licensing Authority
Southend-on-Sea Borough Council
Civic Centre (Floor 13)
Victoria Avenue, Southend-on-Sea
Essex SS2 6ZG

Telephone: 01702 215005

Email: licact2003@southend.gov.uk

Applicants are not expected to submit a duplicate copy of their applications for the consideration of the Licensing Authority in its role as a responsible authority (unless the plan is bigger than A3). The copy submitted for administration of the application will be forwarded electronically.

Any further enquiries or assistance can be obtained from the Licensing Authority on the telephone number given above. These addresses were correct at the time of going to press but are subject to change without notice. Any change made will not form part of a review of the Council's Statement of Licensing Policy

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Appendix B

The Licensing Committee is responsible for making Licensing (Act) decisions and the scheme of delegation is as follows:

Matter to be dealt with	Full committee	Sub-committee	Officers
Application for a personal licence		If a police objection is received	If no objection made
Application for premises licence or club premises certificate		If a relevant representation made	If no relevant representation made
Application for a provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence or club premises certificate		If a relevant representation made	If no relevant representation made
Application for a minor variation of a premises licence or club premises certificate			All cases
Application to vary designated premises supervisor		If a police objection is received	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection is received	All other cases
Application to review premises licence or club premises certificate		All cases	
Decision on whether a representation is irrelevant, frivolous or vexatious			All cases
Determination of a police objection to a temporary event notice		All cases	

Matter to be dealt with	Full committee	Sub-committee	Officers
Application for interim authority		If a police objection is received	All other cases
Decision on whether a representation is irrelevant, frivolous, vexatious etc.			All cases
Removal of the requirement for a Designated Premises Supervisor (DPS) and Personal Licence at Community Premises		If a police objection is received	All other cases

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Southend-on-Sea Borough Council

Report of Deputy Chief Executive (Place)

to
Executive Briefing
on
11 June

Report prepared by: Carl Robinson – Director of Public
Protection

Recruitment of Special Constables

Relevant Scrutiny Committee(s) Executive Councillor: Councillor Terry

1. Purpose of Report

- 1.1 To inform Members of the process to be undertaken to recruit 34 Special Constables to provide additional support and visibility across all Wards in Southend.

2. Recommendations

- 2.1 That Members note the process to be undertaken for recruitment of Special Constables for Southend.
- 2.2 That officers continue to liaise with Essex Police to develop a suitable model of recruitment of Special Constables for Southend.

3. Background

- 3.1 Investigating the potential to recruit 34 Special Constables now, is part of the current 10 point plan of the Conservative Administration.
- 3.2 **Current pool of Special Constables** – Essex Police operate an open running recruitment drive for those interested in becoming special constables. In Southend, there is a pool of approximately 40 Special Constables who are based at Southend Police station. Their role is to support mainstream policing across the Borough, both dealing with local community issues and responding to 999 calls and emergencies.
- 3.3 Essex Police (via local police senior management) deploy the Southend contingent based on demand and need/priority, and availability of officer time – as they are volunteers and unpaid. Essex Police will largely guarantee that these officers work in the Wards of Southend and not be deployed outside of the Borough. External Borough deployment would only happen in the event of a

significant emergency. Generally, the Special Constables work Friday and Saturday evenings, and support key events where footfall is high.

- 3.4** In addition to the Police pool, Leigh Town Council have been involved in recruiting volunteers recently. Unfortunately, having had 6 volunteers initially, none have yet completed the recruitment process, and only one volunteer is still engaged in the assessment process.
- 3.5** **Process to recruit** – this is a Police led and owned process managed by Essex Police Recruitment Division. Recruitment is recognised as being rather drawn out, in that in the first instance, there is a robust vetting procedure that can take up to 6 months plus to complete, an Assessment Centre requirement and then a 6 month period of training. Following those stages the new recruit is then on probation for a two year period and can only work on their own following successful completion of their probationary period.
- 3.6** The current countywide commentary on the recruitment process is that many drop out or don't attend the assessment centres and therefore actual final appointment is nowhere the near the numbers that initially applied. The experience of Leigh Town Council is an example of this.
- 3.7** **Opportunities to strengthen the recruitment drive** – Although there are processes in place for recruitment, Essex Police have indicated they would be happy to explore further opportunities to strengthen its Special Constable recruitment campaign in Southend and their aim has been to double its Special Constabulary by 2020. This may result in a bespoke arrangement for Southend.
- 3.8** **Funding** – funding of Special Constables is a long term investment.

£34,000 has been proposed to support the introduction of 34 Special Constables to Southend. The total cost for training each Special Constable to enable them to work in the community is approx. £3,000, so a potential total of £102,000.

Therefore if it was Members intention to support the full training cost of 34 Special Constables, there would be a shortfall of approx. £68,000.

Potential funding options include:

- 3.8.1** Commit a further budget of approx. £68,000 to support the full cost of training for 34 Special Constables. Any volunteers would then enter the Police Recruitment process.
- 3.8.2** An opportunity exists within the recruitment process for local businesses to employ Special Constables, allowing them time off to undertake their training / duties.
- 3.8.3** Utilise the £34,000 for a designated promotion campaign to encourage more local residents to apply for the Special Constable role via local media and communication outlets. Any volunteers would then enter the Police Recruitment process.

- 3.8.4** Utilise the £34,000 for a more specific campaign that could be tailored to attract local residents who may wish to solely work in local community policing - and not undertake other duties of the Special Constables remit. These officers could then be assigned to the Community Safety Hub at the police station – which is the centre of community policing for Southend, within which the Council’s Community Safety Unit are based and are deployed from.
- 3.8.5** Provide £34,000 to Essex Police to utilise as part of the costs of current Special Constables recruitment process, to help target additional Special Constables for Southend.
- 3.8.6** It must be noted that Special Constables operate across the whole of a District Policing area, however, with investment from local councils for example, there is an opportunity for a partnership approach to deliver more dedicated policing to specific areas that could not be achieved within the existing operating model, potentially creating a more bespoke arrangement.

4. Other Options

See 3.8 above for options

5. Reasons for Recommendations

Options provided for Members to discuss and to provide guidance to officers in how to progress this piece of work.

6. Corporate Implications

6.1 Contribution to Council’s Vision & Corporate Priorities

Southend 2050 Ambitions:

Safe & Well – 1. People in all parts of the borough feel safe and secure at all times;

Active & Involved - 4. A range of initiatives to help communities come together to enhance their own neighbourhood;

Pride & Joy - 1. There is a tangible sense of pride in the place and local people are actively and knowledgeably, talking up Southend.

6.2 Financial Implications

Linked to £34k funded by the Council or further amounts that Members may wish to allocate.

6.3 Legal Implications

Linked to the remit that Special Constables would have within the Borough / authorisation to undertake enforcement. Following successful training, there is a probation period of 24 months where Special Constables can only operate by accompanying a Police Officer. Following that period, they can work independently. The remit of the Special Constables is not directly dictated by the Council, but by Essex Police.

6.4 People Implications

Linked to the Southend 2050 Ambitions above at 6.1.

6.5 Property Implications

None.

6.6 Consultation

TBA.

6.7 Equalities and Diversity Implications

TBA.

6.8 Risk Assessment

TBA.

6.9 Value for Money

Options provided above for discussion and potential value for money.

6.10 Community Safety Implications

Linked to supporting the wider Community Safety agenda and support to the partners including Council's Community Safety team and Police.

6.11 Environmental Impact

None.

7. Background Papers

None.

8. Appendices

None.