

Southend-on-Sea Borough Council

Report of Deputy Chief Executive (Place)

to
Cabinet
on
25th June 2019

Report prepared by: Adam Penn,
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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.