

- BODY:** Licensing Act Committee
- DATE:** 11<sup>th</sup> October 2010
- SUBJECT:** Council Statement of Licensing Policy 2011 -2013, Licensing Act 2003, setting out the Council's approach for the next 3 years.
- REPORT OF:** Karen Plympton, Licensing Manager
- Ward(s):** All
- Purpose:** Interim update to the Full Committee regarding public consultation and feedback on the draft Statement Of Licensing Policy for the period 2011 – 2013. This Policy sets out the Council's approach to matters under the Licensing Act 2003 for the next 3 years.
- Contact:** Karen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937  
E-mail address [karen.plympton@eastbourne.gov.uk](mailto:karen.plympton@eastbourne.gov.uk)
- Recommendations:**
- (i) Members are invited to note the feedback so far in relation to the draft Statement of Licensing Policy 2011 – 2013
  - (ii) Delegate further revisions to the Policy to the Chair of the Licensing Committee, Senior Head of Development and Environment and Cabinet Portfolio Holder prior to consideration by Cabinet and Full Council.
  - (iii) Note the revised timetable for consultation, review and implementation.

## **1.0 Background**

- 1.1 From 7<sup>th</sup> February 2005, the Licensing Act 2003 transferred liquor licensing functions from the Licensing Justices sitting within the Magistrates Court to Eastbourne Borough Council, which became the Licensing Authority. The Licensing Act 2003 came into force on 24<sup>th</sup> November 2005 and provided a more flexible licensing regime.
- 1.2 As the Licensing Authority, in accordance with Schedule 5 of the Licensing Act 2003, Eastbourne Borough Council must prepare, consult and publish its Statement of Licensing Policy.
- 1.3 The purpose of the Statement is to promote the Licensing Objectives. It sets out the general approach taken by the Authority when considering and determining applications under the Licensing Act 2003. The Licensing Objectives are:
- The prevention of crime and disorder;
  - Public safety;

- The prevention of public nuisance;
- The protection of children from harm.

1.4 The Licensing Authority must carry out its functions with a view to promoting the Licensing Objectives. Regard must also be had to Section 182 Guidance, issued in January 2010 to Local Authorities by the Secretary of State, Department For Culture, Media and Sport. Where the Licensing Authority decides to deviate from this Guidance, it must have justifiable reasons for doing so.

1.5 The Statement of Licensing Policy provides guidance to applicants, Responsible Authorities, those making representations (objections) and other “interested parties,” including businesses and residents, of the matters it will consider when determining applications under the Licensing Act 2003.

1.6 The scope of a Licensing Policy Statement covers the following:

- Retail sales of alcohol;
- The supply of alcohol by or on behalf of a Club or to the order of a member of the Club;
- The provision of regulated entertainment;
- The provision of late night refreshment (hot food);

## **2.0 Consultation**

2.1 At its last meeting on the 19<sup>th</sup> July 2010, the Licensing Committee agreed to release the draft Statement of Licensing Policy for public consultation. Consultation commenced at 12 noon on 27<sup>th</sup> August 2010 and concludes at 12 noon on 19<sup>th</sup> November 2010.

2.2 A range of organisations and individuals have been directly consulted about the proposals, including:

- Sussex Police;
- Ward Councillors;
- All personal and premises licence holders;
- Neighbourhood Panels and Residents Groups;
- Licensed premises in the Borough;
- Current operators of sex establishments;
- Hospitality and Trade associations.

2.3 The draft Policy is placed on the Council’s website in 2 locations to maximise accessibility, [www.eastbourne.gov.uk/licensing](http://www.eastbourne.gov.uk/licensing) and [www.eastbourne.gov.uk/consultation](http://www.eastbourne.gov.uk/consultation)

2.4 In addition, views and feedback regarding the draft policy statement are being sought via the Borough Council’s pages on Facebook and Twitter. These are social networking sites, particularly popular with the 18–35 age range.

2.5 Early monitoring of these social networking sites has shown that more responses are elicited where direct questions are asked about the draft Policy, for example, “Question of the day -Do you want more licensed premises in Eastbourne?”

## **3.0 Overview of feedback**

3.1 To date, the Authority has received 7 responses to the draft Licensing Policy

Statement via the Council's on line consultation page, Facebook and Twitter. Feedback has come from the Safer Communities Team at East Sussex County Council, and persons operating a business or living as residents in the Borough.

3.2 A copy of the feedback so far is included at Appendix 1, however a summary appears below.

### **East Sussex County Council Safer Communities Team identifies**

"The Policy needs to take account of the Joint Strategic Needs Assessment in 2009..." and "...further mention needs to be made of some of the findings "

### **General comments from people operating a licensed business or living in the Borough**

- "Get rid of the Cumulative Impact Policy altogether."
- "The lax licensing laws just encourage drunkenness in people who can't handle it, become anti social and disturb others."
- A series of responses were received to the question "Does Eastbourne need more entertainment venues, if so where?"
- "A café environment open for young people (under 18s) in the evening in the Town Centre would be good. It would need to cheap/subsidised rent so that the prices don't need to be too high. It could become a base for different events as well as different community groups."
- "Yes, but grown up ones. There are more than enough pubs and clubs. Would love a Jazz venue or a wine bar or a dinner theatre. Went to the Robert Maplethorpe exhibit at the Towner. Full of people who probably aren't served by any other venues in the Town. Am going back to their Studio 54 exhibition launch party which starts at 8pm and goes on until early morning. Really clever entertainment."
- "There are a number of Jazz venues in the Town, including the Underground Theatre..."

3.3 A further meeting with the Safer Communities Team is planned in late October 2010 to discuss some of its feedback. Some of the matters are already included in the appendix of the draft Policy, or are dealt with under separate guidance and legislation.

3.4 A series of meetings have already been held with Sussex Police regarding the draft Policy, and their final feedback will be incorporated at a later date.

3.5 It is important to note that many of the proposed revisions to the draft Policy Statement, regarding the prevention of crime and disorder and the Cumulative Impact Policy, have already been presented to Members at the last meeting in July 2010. Subsequent feedback relates to minor revisions in relation to terminology and/or changes in operational practice.

3.6 Following a formal request, the Licensing Manager presented an overview of the draft Statement of Licensing Policy 2011-2013 to the Town Centre, Langney and St

Anthony's Neighbourhood Panels. Residents and partners attending these Panels offered their support to the revisions to the draft Policy Statement.

3.7 In addition to directing attendees to the website, hard copies of the questionnaire were left for attendees to complete, since several did not have access to on line facilities, and wanted to offer a fuller response. The Licensing Team are awaiting the return of these questionnaires, and feedback will be incorporated as appropriate. A copy of the questionnaire is included at Appendix 2.

3.8 Work is ongoing with the Council's Legal Team regarding the form and content of the Policy in the advent of evolving Government guidance and legal interpretation. The latest Coalition Government proposals are likely to significantly shape the Statement of Licensing Policy from 2012 onwards, and it will need to be revised.

#### **4.0 Coalition Government's Proposals "Rebalancing the The Licensing Act 2003"**

4.1 Members have already received training in relation to the Coalition Government's proposals, detailed in "Rebalancing the Licensing Act, a consultation on empowering individuals, families and local communities to shape and determine local licensing". These proposals seek to amend the Licensing Act 2003 and if implemented will result in a fundamental shift in the licensing regime. The intention is to place far more emphasis on local accountability and community involvement, and less involvement by Central Government in the decision making process.

4.2 In summary, the proposals are as follows:

- Making the Licensing Authority itself a Responsible Authority, enabling it to initiate licence reviews in its own right, rather than simply facilitating reviews by other Responsible Authorities;
- Reducing the burden of proof required to justify refusing a licence application, or imposing conditions on a licence;
- Placing greater onus on the applicant to prove that the operation of a licensed premises will not undermine the Licensing Objectives or contribute to problems in the area;
- Increasing the scope for "interested parties" from within the local community to become actively involved in licensing processes;
- Making the health authorities 'Responsible Authorities,' and establishing a new 'prevention of health harm' Licensing Objective, so that the ill-health effects of alcohol consumption can be considered when determining licensing policy and applications in the Borough;
- Transferring appeals on the decision of a Sub Committee from the Magistrates Courts back to the Council;
- Enabling licensing authorities to develop and implement policies which stop certain types of premises in specified areas from opening between the hours of 12 midnight and 6 in the morning;
- Simplifying the process for implementing 'cumulative impact policies' by reducing the burden of proof required to demonstrate that they are

necessary in a particular area;

- Enabling licensing authorities to charge a late night levy to help pay for the costs associated with the night time economy such as policing, taxi marshals, and street cleansing;
- Increasing the notification period for a Temporary Event Notice, and allowing interested parties other than the Police the right to object to such an application; allowing the imposition of conditions and; restricting the number of Notices that a particular Personal Licence holder can apply for each year;
- Strengthening powers and sanctions in relation to underage sales;
- Banning 'below cost' sales of alcohol;
- Enabling licensing authorities to increase their fees to reflect the true full cost recovery for the licensing service;
- Allowing licensing authorities to revoke a licence if the annual fee has not been paid;

4.3 It is anticipated that, if adopted, the above proposals will take effect in late 2012. The Statement of Licensing Policy will therefore need to be further revised to reflect any changes.

## 5.0 **Timetable For Implementation**

5.1 There is a slight revision in relation to the consultation and implementation timetable. This was agreed in conjunction with the Chair of Licensing to enable full and meaningful consultation to take place over a 12 week period.

<b>Procedure</b>	<b>To be Completed by</b>
Public consultation	Public Consultation 27 <sup>th</sup> July - 19 <sup>th</sup> November 2010
Full Licensing Committee: <ul style="list-style-type: none"> <li>- To consider interim results of consultation</li> <li>- Delegate any further revisions to Chair of Licensing Committee, Portfolio Holder and Senior Head of Development and Environment prior to consideration by Cabinet</li> </ul>	11 <sup>th</sup> October 2010
Seek Cabinet Approval	15 <sup>th</sup> December 2010
Seek Annual Council Approval	23 <sup>rd</sup> February 2011
Publication of Policy	February 2011
Policy in force	March/April 2011

## **6.0 Links to The Strategic Vision**

6.1 The Licensing Team will continue to work in partnership with enforcement agencies such as Sussex Police, the Council's Health and Environment Team and Trading Standards, to deliver effective enforcement in respect of crime, disorder, anti social behaviour and noise nuisance.

6.2 The Corporate Plan sets out the Council's priority themes and aims by 2010. It aims to promote:

- A prosperous economy offering an 'outstanding seaside destination and gateway to South Downs National Park';
- A wide range of employment;
- A transformed and accessible Town Centre;
- A modern sophisticated town that people want to live in, work & visit with space for businesses to grow;
- More community enforcement activity;

6.3 The Statement of Licensing Policy for the next 3 years plays a key role in delivering these aims.

## **7.0 Recommendations**

7.1 Members are recommended to:

- (iv) To note the feedback so far in relation to the draft Statement of Licensing Policy 2011 – 2013
- (v) Delegate further revisions to the Policy to the Chair of the Licensing Committee, Senior Head of Development and Environment and Cabinet Portfolio Holder prior to consideration by Cabinet and Full Council.
- (vi) Note the revised timetable for consultation, review and implementation.

## **8.0 Financial & Resource Implications**

8.1 The cost of administering the Licensing Service is met through licence fees.

## **9.0 Human Rights**

9.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Committee when taking licensing decisions under the Licensing Act, 2003. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property.

9.2 Article 8 relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose

- Is necessary and proportionate; and
- Is not discriminatory;

### **Background Papers:**

The Background Papers used in compiling this report were as follows:

- Section 182 Guidance issued under the Licensing Act 2003, January 2010
- Licensing Act 2003
- Alcohol and Entertainment Licensing Law, Second Edition, Colin Manchester, Susanna Poppleston & Jeremy Allen;
- Rebalancing the Licensing Act 2003, A Government Proposal To The Reform of the Licensing Act 2003

To inspect or obtain a copy of the above documents please refer to the contact officer, or visit [www.eastbourne.gov.uk/licensing](http://www.eastbourne.gov.uk/licensing)