

Body: Licensing Act Committee

Date: 12th December 2007

Subject: Licensing Policy Statement - Review

Report Of: Licensing Manager

Ward(s) All

Purpose To seek Committee approval in respect of the revised Council Licensing Policy Statement, prior to consideration by Full Council in January 2008.

Recommendation: The Committee is recommended to:

- (1) Note, endorse and approve the proposed changes to the Council's Licensing Policy Statement, which will form the basis of the Council's approach to licensing matters under the Licensing Act 2003 for the next three years, unless reviewed in the interim.
- (2) Delegate any further revisions prior to presentation to Full Council in January 2008 to the Chair of the Licensing Act Committee and the Councils Licensing Manager.

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1.0 Introduction

- 1.1 The introduction of the Licensing Act 2003 marked the end of several historical licensing regimes and transferred the responsibility for the administration of the Licensing process from the Police and Magistrates Court to Local Authorities, who became the new Licensing Authority.
- 1.2 The Act authorises the use of any premises for any of the following licensable activities:-
- 1. The sale by retail of alcohol;
 - 2. The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
 - 3. The provision of regulated entertainment; and
 - 4. The provision of late night refreshment.
- 1.3 In addition, there are further requirements to licence certain individuals involved in the sale of alcohol.

2.0 The Licensing Policy Statement

- 2.1 The first duty placed on the Local Authority as the new Licensing Authority under the Licensing Act 2003, was to prepare and consult on a written Licensing Policy Statement, detailing the Council's approach to matters under the Act.
- 2.2 The first Licensing Policy Statement document was formally adopted by Full Council and published in February 2005. A copy of the current Policy can be found at Appendix 1 and at www.eastbourne.gov.uk/licensing.
- 2.3 The Licensing Policy Statement sets out Eastbourne Borough Council's approach to matters governed by the Licensing Act 2003. This Policy must be kept under review, consulted upon and be re-published every 3 years.
- 2.4 The Full Licensing Policy was recently reviewed following a request from Sussex Police who sought the inclusion of a Cumulative Impact Policy in a specified area of Eastbourne. The body of evidence presented by Sussex Police was presented under the prevention of crime and disorder objective and identified that the cumulative effect of a number of licensed premises in a specified area was having a negative impact on the promotion of the Licensing Objectives.
- 2.5 In July 2007, Full Council adopted a Cumulative Impact Policy within specified streets within the Borough, forming the cumulative impact "zone. " This Policy now forms part of the current Licensing Policy Statement.

3.0 Review of Existing Policy

- 3.1 The current Licensing Policy Statement has been in existence since February 2005, with the Cumulative Impact Policy incorporated into the main body of the Policy in July 2007. In line with Government guidance, the Policy must be reviewed regularly and re-published at least every 3 years.
- 3.2 In order to ensure that the Policy is kept up to date, an extensive consultation exercise was undertaken over an 8 week period, from 7th September 2007 – 2nd November 2007. This process was designed to assess the currency and appropriateness of the Council's existing Licensing Policy Statement.
- 3.3 Those consulted included statutory and voluntary partners, established local groups and the public. Feedback was also sought from those referred to in the Licensing Act 2003 as "Responsible Authorities," businesses involved in the licensed trade, and a range of other "interested parties," including all licensed premises in the Borough, Personal Licence holders, and other national groups. Furthermore, unsolicited feedback was invited via both the Licensing and Consultation sections of the Council's website at www.eastbourne.gov.uk/licensing and www.eastbourne.gov.uk/consultation.
- 3.4 Appendix 2 provides an overview of those consulted, and Appendix 3 shows a copy of the correspondence sent to those consulted, including a questionnaire.
- 3.5 In order to assist individuals and organisations in offering feedback, the Full Licensing Committee are asked to note that a questionnaire was appended to the correspondence to assist the feedback process. It proved to be a helpful mechanism, albeit it was not intended that parties should feel constrained by it.

4.0 Outcome Of Consultation

- 4.1 The consultation period, scheduled for 7th September – 2nd November 2007 resulted in the following feedback.

Sussex Police

Inspector Nick Porter responded on behalf of Eastbourne Police, and explored a range of mechanisms designed to strengthen measures to promote the Licensing Objectives, including the extension of Licensing Liaison Groups, introduction of Business Improvement Districts and Alcohol Disorder Zones, and improved transport links particularly late at night. A copy of the feedback is included in Appendix 4.

The feedback also underlines the effectiveness of the current Cumulative Impact Policy, and seeks for it to be extended to include additional roads, for example, Lismore Road, Trinity Trees, Cornfield Road and Langley Road. At the time of writing this report, clarification and a body of evidence is being prepared and analysed to support this proposal.

Further, the Police recommend information is included in the Policy relating to advice, guidance, a glossary of terms and a "Pool of Conditions," to assist applicants, those seeking to make representations and the Licensing Committee as part of the wider licensing process.

East Sussex Fire and Rescue Service

Eastbourne Station Manager, George O'Reilly and Danny Sherman, Licensing Officer have responded on behalf of East Sussex Fire and Rescue Service. This feedback focuses on the Public Safety Licensing Objective and details the implementation of the Regulatory Reform (Fire Safety) Order 2005, and the steps that must be undertaken by a Responsible Person in addressing fire safety issues, to ensure that any protective and preventative measures are taken against fire to ensure the safety of any "relevant person."

Feedback also identifies the importance of the appropriate location of childcare facilities in relation to exit routes. A copy of the feedback is included at Appendix 5.

Crime Disorder Reduction Partnership Co-ordinator

Bob Gough provided feedback as the Crime Disorder Reduction Partnership Co-ordinator for the Council, centring on crime, disorder and anti social behaviour issues. He is supportive of the maintenance and extension of the current Cumulative Impact Policy, as well as a range of other measures to assist in the management of the town. A copy of the feedback is included at Appendix 6.

Environmental Health Pollution Team

Julie Hickling, Team Leader, and Richard Fenton, Assistant Environmental Health Officer gave feedback on behalf of the Council's Pollution Team under the prevention of public nuisance licensing objective. Feedback centres on boosting existing advice in relation to the prevention of noise, nuisance and disturbance, as well as a "pool of licensing conditions." This feedback has been incorporated into the draft Policy at Appendix 7.

Respondents to the Questionnaire & other feedback (Includes Councillors, Eastbourne Association of Voluntary Services, officers, businesses and members of the public)

Largely, the feedback via the questionnaire has been supportive of the current Licensing Policy Statement, although there appears to be concern about increased levels of drunkenness, disorder and the associated fear of crime. Generally, the feedback supports the use of improved controls in respect of the number, hours of operation and location of licensed premises, coupled with measures to manage associated noise, nuisance and disturbance. Feedback identified additional issues relating to noise, litter and related issues since the advent of the Smokefree legislation, implemented on the 1st July 2007.

Action Medical Research also offered feedback, although this centres upon a range of things, including the impact the Licensing Act 2003 has had on charities, associated bureaucracy, fees and charges.

5.0 Revised Licensing Policy Statement

- 5.1 Where appropriate, any feedback received has been incorporated into the revised draft Licensing Policy Statement, and sets out the Council's approach to dealing with matters on the Licensing Act 2003, effective unless revised in the intervening period, for the next 3 years.
- 5.2 In addition to the feedback received via the consultation process, the draft Policy has been revised by the Licensing Manager to include and incorporate the following:
- ❖ Several recommendations detailed in the revised Section 182 Guidance issued by the Department of Media, Culture and Sport in June 2007 in relation to the Licensing Act 2003. This can be found at www.dcms.gov.uk.
 - ❖ A section on scoping of the Policy and local features of Eastbourne
 - ❖ A glossary of terms and "Pool of Licensing Conditions."
 - ❖ Details on the decision making process and delegation of functions
 - ❖ Further information regarding the promotion of the licensing objectives, the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm
 - ❖ Further information on the range of steps taken to assist in the management of areas and licensed premises, including Action Plans, Reviews and Partnership working.
 - ❖ Information on the implications of Smokefree legislation.
 - ❖ Changes to layout to aid understanding and accessibility of the Policy.
- 5.3 All of the proposed changes are identified in bold italics, and form part of the draft Licensing Policy Statement. It is important to note that the Cumulative Impact Policy area remains the same as that approved by Full Council in July 2007. At the time of writing this report, supporting evidence and information is

awaited with regard to the proposals to extend and revise the Cumulative Impact Policy. This will then be consulted upon further, and the matter presented back to Cabinet and Full Council in early 2008.

- 5.4 The draft Licensing Policy Statement is presented to the Licensing Act Committee for consideration prior to it being placed before Cabinet on the 12th December 2007. Full Council will further consider the Policy at its meeting in January 2008. A copy of the draft Policy is included at Appendix 7.

6.0 Financial Implications

- 6.1 The cost of the licensing regime governed by the Licensing Act 2003, is recovered by way of licence fees, which are set by Central Government.

7.0 Human Rights Act 1998-Implications

- 7.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Committee when taking licensing decisions.
- 7.2 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. Article 8 - which 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.

8.0 Recommendations

- 8.1 The Licensing Act Committee is recommended to:
- (1) Note, endorse and approve the proposed changes to the Council's Licensing Policy Statement, which will form the basis of the Council's approach to licensing matters under the Licensing Act 2003 for the next three years, unless reviewed in the interim.
 - (2) Delegate any further revisions prior to presentation to Full Council in January 2008 to the Chair of the Licensing Committee and the Council's Licensing Manager.

9.0 Background Papers

- Eastbourne Borough Council Licensing Policy Statement
- Section 182 Guidance (Revised) Licensing Act 2003
- Department of Culture, Media and Sport Website
- Health Act 2006 – Smokefree

To inspect or obtain copies of background papers please refer to the contact officer listed above.