

- BODY:** Licensing Act Committee
- DATE:** 19 July 2010
- SUBJECT:** Council Statement of Licensing Policy 2011 -2013, Licensing Act 2003
- REPORT OF:** Kareen Plympton, Licensing Manager
- Ward(s):** All
- Purpose:** To consider the Council's draft Statement Of Licensing Policy for the period 2011 – 2013 prior to its release for public consultation. This Policy sets out the Council's approach to matters under the Licensing Act 2003
- Contact:** Kareen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937
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- Recommendations:** (i) Members are invited to comment upon the draft Statement of Licensing Policy as included in Appendix 1 of this Report.
(ii) Note the proposed timetable for consultation, review and implementation.
(iii) Agree its release for public consultation.

1.0 Background

- 1.1 From 7th 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 24th 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 Policy Review

- 2.1 The first Statement of Licensing Policy was published in January 2005. The second version was published in January 2008, and expires in December 2010. During the latest three year period, the Policy has been kept under review, and revised in accordance with statutory guidance.
- 2.2 Members are asked to consider the latest draft version of the Statement of Licensing Policy, scheduled to cover the period 2011 – 2013. The proposed timetable is as follows:

Stage	To be Completed by
Full Licensing Committee to : <ul style="list-style-type: none"> - Consider report and content of the draft Statement of Licensing Policy for the period 2011 -2013 - Subject to revisions by Members, agree for it to be released for public consultation 	19 th July 2010
Public consultation	Public Consultation July - October 2010
Full Licensing Committee: <ul style="list-style-type: none"> - To consider results of consultation and make recommendations - Delegate any further revisions to Chair of Licensing Committee, Portfolio Holder and Senior Head of Service prior to consideration by Cabinet 	October 2010
Seek Cabinet Approval	20 th October 2010
Seek Annual Council Approval	17 th November 2010
Publication of Policy	January 2011

3.0 Key Changes to the Statement of Licensing Policy

- 3.1 The current Statement of Licensing Policy 2008 -2011 can be found at www.eastbourne.gov.uk/licensing.
- 3.2 The draft Statement of Licensing Policy for the period 2011 – 2013 is included at Appendix 1.
- 3.3 The Policy has been revised to reflect changes in legislation, statutory guidance and local practice. Members will note that the sections hi-lighted in bold represent revisions to the 2008 -2011 Statement Of Licensing Policy .In many instances, this has stemmed from a desire to ensure that the report is written in plain English, and is accessible to everyone.
- 3.4 Members may wish to consider in more detail the following areas of the Policy. This is where items have been inserted and/or significant changes have been made. These include:
- Executive summary
 - Role of Licensing Authority
 - Avoidance of duplication with other regulatory regimes
 - Cumulative Impact
 - Trading Hours
 - Mandatory Licensing Conditions and irresponsible drinks promotions
 - Operating Schedules
 - Entertainment of an adult/sexual nature
 - Problem premises
 - Reviews and the power of Ward Councillors to now seek a review of a premises licence
 - The Appeals process
- 3.5 Following Legal advice, the “Pool of Licensing Conditions” has been removed from the Appendix list and the following has been included/ revised:
- Latest Cumulative Impact Policy, with supporting statistics
 - Useful websites

4.0 Consultation

- 4.1 The Licensing Authority must consult various interested parties before it determines its latest Statement of Licensing Policy. It is proposed that the consultation period will run from July 2010 – October 2010 for a minimum of 12 weeks.
- 4.2 A wide range of persons throughout the Borough will be consulted including:
- Sussex Police;
 - Fire and Rescue Service;
 - Such persons as the Licensing Authority considers to be representative of personal licence holders, premises licence holders and club premises certificates issued by the Authority;
 - Such other persons as the Licensing Authority considers to be representative of businesses and residents in the area;
 - Ward Councillors.

4.3 Details of the consultation will also be posted on the Council's website at www.eastbourne.gov.uk/consultation.

6.0 Community Safety and Links To Strategic Vision

6.1 The Statement of Licensing Policy ensures transparency and openness as well as setting out the matters it will consider when determining applications under the Licensing Act 2003.

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

6.3 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;

6.4 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:

- (i) Members are invited to comment upon the draft Statement of Licensing Policy as included in Appendix 1 of this Report.
- (ii) Note the proposed timetable for consultation, review and implementation.
- (iii) Agree its release for public consultation

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;

To inspect or obtain a copy of the above documents please refer to the contact officer, or visit www.eastbourne.gov.uk/housing.