

LICENSING AND REGISTRATION COMMITTEE

21 JULY 2022

REPORT OF THE DEPUTY CHIEF EXECUTIVE

A.2 REVIEW OF THE COUNCIL'S LICENSING ACT 2003 STATEMENT OF LICENSING POLICY

(report prepared by Michael Cook & Keith Simmons)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The Committee is formally requested to authorise a commencement of a review of the Council's Statement of Licensing Policy made under Section 5 of the Licensing Act 2003; with a view to a new Statement being adopted by this Licensing Authority. As part of the proposed review, the Committee would be invited to consider all representations received during a consultation with stakeholders on a revised Statement of Licensing Policy and to recommend a proposed new Statement to Council. The proposed timetable for the review would see the consultation phase concluded in sufficient time for representations to be submitted to this Committee's, now scheduled, meeting on 31 August; and a proposed new Statement of Licensing Policy being considered by Council at its meeting on 20 September 2022. In this regard, an initial draft revision of the Council's Statement of Licensing Policy is set out at Appendix A to this report and the Committee is invited to consider the draft and determine whether to utilise it for consultation with all relevant stakeholders.

The last time the Council approved a Statement of Licensing Policy was in 2016 (Council Minute 103 from the 9 February 2016 meeting refers). Each Statement shall apply for a period of five years and that period normally expires on 6 January (2021 in the most recent instance). In view of the position, where the five year period to which the 2016 Statement has expired, it is vital that all necessary steps are taken to adopt a valid new Statement without delay. The Licensing Authority may determine to apply a five year period to any new Statement of Licensing Policy and thereby any new Statement would not expire on 6 January 2026.

EXECUTIVE SUMMARY

The Council is required to determine its Statement of Licensing Policy every five years in accordance with the Section 5 of the Licensing Act 2003 (as amended by the Police Reform and Social Responsibility Act 2011 and by the Policing and Crime Act 2017). The Licensing Act 2003 states that a Council's Statement of Licensing Policy will set out the Council's policy with respect to the exercise of its licensing functions within the 2003 Act. Before determining its Statement of Licensing Policy, the Licensing Authority must consult with those set out in the 2003 Act. The commencement of the review referenced in this report is intended to include the consultation required by the 2003 Act. The adoption of a new Statement of Licensing Policy is a Full Council function and, accordingly, this Committee will be invited to submit a proposed new Statement to Full Council for consideration and, hopefully, approval. It is proposed that the review be undertaken to enable the consultation referred to in this report to be concluded prior to the Committee's (now scheduled) meeting on 31 August 2021; and for that Committee to consider any representations and determine any new proposed Statement to be submitted to Council on 20 September 2022.

RECOMMENDATION(S)

It is recommended that the Committee:

- a) Notes that the five year period to which the Authority's Statement of Licensing Policy (adopted in 2016) expired on 6 January 2021;
- b) Authorises the Council's Licensing Manager to take all the required steps set out in the Licensing Act 2003 to enable the Committee at its (now scheduled) meeting on 31 August 2022 to consider the representations from consultees on a new Statement of Licensing Policy and submit a proposed new Statement for consideration by Council on 20 September 2022; and
- c) Authorises, if satisfied, the use of the draft Statement of Licensing Policy 2022-2027 set out at Appendix A to this report for the purposes of consultation with consultees.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Licensing Act 2003 provides, at its core, a regime that is intended to have as its objectives:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

The Authority is required to have regard to these objectives in undertaking its role under the Licensing Act 2003.

In undertaking its role, the Authority will also positively contribute to the achievement of the ambition in the Council's Corporate Plan 2020-24 to 'Deliver High Quality Services', 'Build Sustainable Communities for the Future', have 'Strong Finances and Governance', support a 'Growing and Inclusive Economy' and provide 'Community Leadership through Partnerships'.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The cost of administration in terms of production, consultation and publication of the Council's Statement of Licensing Policy can be met within the current service budget.

Risk

The Council's must review its Statement of Licensing Policy and have it adopted and published. The fact that the five year period of the 2016 Statement of Licensing Policy has expired is a significant risk to the Council as, by implication, it has not met its duty to determine a new Policy prior to (6 January) 2021. It therefore undermines the general duty of the Council in Section 4 of the 2003 Act which requires the Authority (in carrying

out its licensing functions) to have regard to its Statement of Licensing Policy. Accordingly, the steps set out in the report seek to now remedy the position as swiftly as possible. In addition, measures will be put in place with an aim of preventing a repetition of the position in five years time.

LEGAL

The Council is required to determine its Statement of Licensing Policy every five years in accordance with Schedule 5 of the Licensing Act 2003 and, before determining its Statement the Authority must consult -

- (a) the chief officer of police for the authority's area,
- (b) the fire and rescue authority for that area,
- (ba) each Local Health Board for an area any part of which is in the authority's area,
- (bb) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the authority's area,
- (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

By implication, the Council must consider fully any representations received from those consulted before determining its next Statement of Licensing Policy. Following determination, the Council must publish its Statement.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

CRIME AND DISORDER

As set out earlier, two of the four licensing objectives under the Licensing Act 2003 are the Prevention of Crime and Disorder and the Prevention of Public Nuisance. The Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area. The Council's Statement of Licensing Policy will be prepared with the intention to positively promote the four licensing objectives as a whole including the prevention of crime and disorder and the prevention of public nuisance in the District.

EQUALITY AND DIVERSITY

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act)
- advance equality of opportunity between people who share a relevant characteristic and people who do not

- foster good relations between people who share a protected characteristic and people who do not

AREA/WARDS AFFECTED

All

CONSULTATION

In addition to those the Authority must consult (referenced earlier in this report) all Members of Tendring District Council and all Town and Parish Council in the District will be invited to submit representations. To the extent to which any Responsible Authorities are not required to be consulted by the Authority, they will (nevertheless) be consulted.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Schedule 5 (3) of the Licensing Act 2003 requires the Authority to prepare and consult on its Statement of Licensing Policy every five years and to publish this Policy.

The Policy will inform and guide applicants, licence holders and other interested parties such as Responsible Authorities, businesses, residents and Members on how Tendring District Council (as the Licensing Authority under the Licensing Act 2003) expects to administer applications submitted during the five years that the Policy is in force and how the Authority intends to promote the Licensing Objectives through its Policy.

Since the 2016 Statement of Licensing Policy was determined there have been a number of amendments to the statutory Section 182 (of the Licensing Act 2003) Guidance issued by the Secretary of State.

CURRENT POSITION

Following the statutory consultation, this Committee, at its (now scheduled) meeting on 31 August 2022, will be invited to consider the responses received and to consider submitting a proposed new Statement of Licensing Policy to Council on 20 September 2022.

The Statement of Licensing Policy will set out the principles that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications for licences and notices made under the Act for the subsequent five years and how it will expect compliance with the policy to be met by applicants, premises licence, club certificate and those who provide regulated activities under temporary event notices (and also how such compliance will be managed by the Licensing Authority).

The draft Statement of Licensing Policy at Appendix A represents the 2016 Statement suitably updated in line with all current legislation and Government guidance to Local Authorities. The changes shown are therefore predominantly administrative in nature and do not alter in any significant or substantial way the approach set out in the 2016 Statement.

The timetable shown below is submitted to the Committee by way of further information on the review of the Statement of Licensing Policy and proposed in this report.

Key Event	Intended Outcome
Licensing & Registration Committee 21 July 2022	Committee review and agree proposed draft of Licensing policy for statutory and public consultation.
Public Consultation via website, public notice and communication with consultees.	28 day consultation ending 18 August 2022.
Licensing & Registration Committee 31 August 2022	Committee review outcome of consultation and agree final proposed content of statement and recommend it to Council .
Full Council - 20 September 2022	Full Council considers the recommendation to adopt the revised statement.
Policy to be published on Council's web site following adoption by Full Council.	Policy published on website.
Public Notice of adoption to be published in local newspaper following Full Council adoption.	Public Notice published in newspaper.
Commencement of new policy	Policy runs from 2022 to 2027 (with any future administrative amendments as required by legislation).

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

APPENDIX 1 – Working Draft of a new Statement of Licensing Policy 2022-2027