

COUNCIL

22 NOVEMBER 2022

REFERENCE FROM THE LICENSING & REGISTRATION COMMITTEE

A.8 ADOPTION OF THE COUNCIL'S NEW STATEMENT OF LICENSING POLICY

(Report prepared by Michael Cook and Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To request that Full Council agrees and adopt the Council's new Statement of Licensing Policy.

EXECUTIVE SUMMARY

- The Council is required to determine its Statement of Licensing Policy every five years in accordance with 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.
- The Council last adopted a Statement of Licensing Policy in 2016 for the period 2016-2021. As such, and in order to comply with its legal duty under the aforementioned Section 5, the Council is seeking to adopt a new Statement as soon as practicable.
- The review and renewal of the Statement has been subject to the required public consultation and a final draft of the Statement was scrutinised and agreed by the Licensing and Registration Committee at its meeting held on 3 November 2022.
- The Statement must be adopted by Full Council on the recommendation from the Licensing and Registration Committee and then published on the Council's web site and by way of a public notice in a local newspaper.

RECOMMENDATION(S)

It is recommended that:

- (a) The Council's new Statement of Licensing Policy, as set out as an Appendix to this report, is agreed and adopted;
- (b) The Council's new Statement of Licensing Policy is published via the Council's web-site and by way of a public notice in the local newspaper; and
- (c) The Council's new Statement of Licensing Policy will come into force once approved and adopted by Full Council.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Our People

- Remain a low crime area and reduce the fear of crime

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 will be met from 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.

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.

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 has been 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; and
- foster good relations between people who share a protected characteristic and people who do not.

AREA/WARDS AFFECTED

All

CONSULTATION

The draft new statement of policy was agreed by the Licensing and Registration Committee at its meeting held on 21 July 2022 for public consultation. The consultation encompassed and engaged a large and diverse range of statutory consultees as follows:-

*“(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.”*

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 aforementioned statutory consultation, the Licensing and Registration Committee, at its meeting held on 3 November 2022, considered the responses received and resolved to submit a proposed new Statement of Licensing Policy to this meeting of the Full Council for adoption.

The proposed Statement of Licensing Policy sets 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 proposed Statement of Licensing Policy attached as an Appendix 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.

BACKGROUND PAPERS FOR THE DECISION

Published Reports for, and Minutes of, the Licensing & Registration Committee meetings held on 21 July and 3 November 2022.

APPENDICES

A8 APPENDIX - **Final proposed new Statement of Licensing Policy**