

Agenda Item No: 7

Report No: 119/07

Report Title: Review of Lewes District Council Statement of Licensing Policy

Report To: Licensing Committee **Date:** 26 June 2007

Lead Councillor: Councillor E N Collict

Wards(s) Affected: All

Report By: Director of Planning and Environmental Services

Contact Officers: Mark Wiltshire (Environmental Health Manager)
Garry Clark (Licensing Officer)

Purpose of Report:

To consider and approve the draft Statement of Licensing Policy for public consultation.

Officers' Recommendations:

1. That the Licensing Committee considers the draft Statement Licensing Policy (appendix 2) and agree upon its content;
 2. That the Licensing Committee agrees the method and time scale for public consultation; and
 3. That the Licensing Committee agrees to receive any comments arising from the public consultation exercise of the draft Statement of Licensing Policy.
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1. Reasons for Recommendations

To comply with the provisions of the Licensing Act 2003 (the Act), to enable the proper discharge of the Council's responsibilities for the regulation of alcohol sales, public entertainment and late night refreshment in the District,

2. Information

- 2.1. The Licensing Act 2003 requires the Licensing Authority (for the purpose of this report, the Lewes District Council) to prepare for a three year period a Statement of Licensing Policy for their area.

- 2.2. The first Statement of Licensing Policy was approved by this Council and came into effect on the 7 January 2005 (Appendix 1).
- 2.3. As required by the legislation, and in accordance with the guidance issued by the Secretary of State under section 182 of the Act, the Council is required to consult upon, and prepare a Statement of Licensing Policy for a further three year period. In accordance with the statutory time requirement, the revised policy must be in force with effect from the 7 January 2008.
- 2.4. A revised version of the Guidance to be issued by the Secretary of State has been produced by the Department of Culture Media and Sport in consultation with a wide range of stakeholders including Local Authorities, the Police, and industry and interest groups. We anticipate the Guidance will be formally issued in July 2007.
- 2.5. The Statement of Licensing Policy should be regarded as a local framework for decision making when considering applications for Licence or Variation to Licence, as the Licensing Committee and its Sub-Committees are required to have due regard to this when forming a decision.
- 2.6. Once published the Statement of Licensing Policy shall (subject to any further reviews and consultation) be in force for a further period of three years (i.e. to January 2011).

3. Changes

- 3.1. Having regard to the draft Guidance, and our experiences as a Licensing Authority over the previous two years, we have considered the need to change, amend or vary the existing Licensing Policy Statement.
- 3.2. We have not received any legal challenge to our existing Policy Statement, nor have we received any adverse comments from the Licensing Trade or Legal Profession in regards our Policy, there are therefore no drivers for change arising from these experiences.
- 3.3. A draft Statement of Licensing Policy (Appendix 2) is attached to this report, and illustrates in *italic* text the amendments proposed for consultation. Paragraphs 3.4 to 3.11 of this report summarise these proposed changes.

- 3.4. It is proposed to change the wording of principle 2, and the associated supporting explanations (at paragraph 5.2 of the draft Statement of Licensing Policy). The existing statement states that “the Council supports the use of longer opening hours as a means of reducing the number of people leaving licensed premises at the same time”. In revising the Statement, it is considered appropriate and necessary to change the emphasis and presumption to the use of longer opening hours. It is therefore proposed to reword principle 2 to read “the Council acknowledges that longer opening hours can help to ensure that the number of people leaving licensed premises at the same time is reduced”.
- 3.5. In order to provide clarity to this matter, it is proposed to make it explicit that there is no presumption in favour of lengthening licensing hours. It is therefore proposed to include a new paragraph to the Statement at 5.2.3 of the draft Policy which states “However, there is no general presumption in favour of lengthening licensing hours. The four licensing objectives will be paramount considerations at all times and each case judged on its individual merits”.
- 3.6. Finally, in respect of principle 2 some further balance in respect of the determinants applied to an application are proposed at paragraph 5.2.5 of the draft Policy that states “.....and the rights of local residents to peace and quiet”.
- 3.7. In order to correct a mistake within the existing statement, in respect of shops, stores and supermarkets, the clarity is provided on the retail sale of alcohol by the inclusion of the words “when the retail outlet is open for shopping”. Further clarity is also proposed at paragraph 6.2.3 of the draft statement by providing an example of when the Licensing Authority may consider limiting this presumption to permit sales.
- 3.8. As a result of the Health Act 2006, and in order to reflect the legal obligations upon License Holders, a new informative paragraph is proposed for inclusion at paragraph 6.4.3 of the draft statement.
- 3.9. As the Licensing Act also allows for the taking of enforcement action by the Licensing Authority, this is made clear in the rewording proposed in paragraph 6.6.1 and 6.6.2 of the draft statement. This change reflects the move away from multi-agency protocols developed when the Act was initially introduced, which have been superseded by professional guidance.
- 3.10. Finally, as the period for transitional arrangements has passed it is proposed to delete the entire paragraphs that deal with this matter, and to replace these with a new paragraph 7 that deals with review procedures for licenses.

3.11. There are a number of smaller, and non-consequential amendments (e.g. corrections to job titles etc.) that have also been included in the draft statement which are indicated in italics in the document.

4. Timetable

4.1.1 In order to comply with our statutory duty to consult and to publish our Policy for 7 January 2008 it is proposed that the following timescales be agreed to allow for the proper consideration of the draft statement of policy:

Draft policy to Licensing Committee	26 Sept 2007
Period for consultation	July-September
Draft Policy to Licensing Committee (if necessary for any amendment resulting from Consultation)	October
Draft Policy to be adopted by Council ready for publication	4 December
Publication of Policy	7 December
Policy effective from	7 January 2008

4.1.2. The scope and purpose of consultation is provided for in the Secretary of States' guidance to Licensing Authorities. We will therefore be consulting with both the trade, legal advisors and public interest groups. It is also proposed that we provide an on-line consultation method for residents and businesses, allowing a period of at least six weeks for comments to be received.

5. Financial Appraisal

There are no additional financial implications to this report.

6. Environmental Implications

The Environmental Implications Checklist has been completed. Adoption of the new Licensing Policy will have a positive impact on levels of noise pollution within the District.

7. Risk Management

The following risks will arise if the recommendations are not implemented:
The expiry of the Council's Licensing Policy and the concurrent inability to process licence applications.

No new risks will arise if the recommendations are implemented.

8. Background Papers

Current Licensing Policy
Revised Guidance issued under S182 of the Licensing Act 2003.

9. Appendices

Appendix 1 – Statement of Licensing Policy
(approved by Council 7 January 2005)

Appendix 2 – Draft Revised Statement of Licensing Policy