

Agenda Item No: 9

Report No: 139/12

Report Title: Updating of Lewes District Council's Statement of Licensing Policy.

Report To: Licensing Committee. Date: 28 August 2012

Wards(s) Affected: All

Report By: Director of Planning and Environmental Services.

**Contact Officers: Ian Kedge, Head of Environment & Health,
Ian.Kedge@lewes.gov.uk 01273 484353
Garry Clark, Licensing Officer,
Garry.Clark@lewes.gov.uk 01273 484953**

Purpose of Report:

To consider and approve the amended Statement of Licensing Policy.

Officers' Recommendation:

- That the Licensing Committee considers the Policy changes arising from the licensing provisions contained in the Police Reform & Social Responsibility Act 2011.
- That the Licensing Committee recommends to Council the adoption of the replacement Statement of Licensing Policy for a 5 year period effective from 1 November 2012

1. Reasons for Recommendations:

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

2. Information:

2.1 The Licensing Act 2003 requires the Licensing Authority, Lewes District Council, to have a Statement of Licensing Policy for their area. The first Statement of Licensing Policy was approved by this Council and came into effect on 7 January 2008 and in accordance with the Statutory Guidance issued under Section 182 of the Act the Council was required to consult upon and prepare a Statement of Licensing Policy for a further 3 year period which came into force with effect from 7 January 2011.

2.2 The Statement of Licensing Policy should be regarded as a local framework for decision making when considering licensing applications and the licensing committee and its sub-committees are required to have due regard to this when forming a decision.

- 2.3** Once published the Statement of Licensing Policy should (subject to any further reviews and consultation) be in force for a three year period until 7 January 2014.
- 2.4** However The Police Reform and Social Responsibility Act 2011 which came into effect on 25 April 2012 has made substantial amendments to the Licensing Act 2003 which has required the Licensing Authority to review its current Licensing Policy to take account of these changes.
- 2.5** Once amended in light of these changes the replacement Licensing Policy will run for a period of five years.

3. Changes:

- 3.1** The Police Reform and Social Responsibility Act 2011 has made a number of important changes to the Licensing Act 2003 some of which impact on the Council's current Licensing Policy. A summary of the changes which effect the policy are listed below.
- Licensing authorities as Responsible Authorities.
 - Primary Care Trust as Responsible Authorities.
 - Lowering the evidential threshold on licensing authorities by replacing the word 'necessary' with 'appropriate' where this evidential base is contained in the Licensing Act 2003.
 - The term 'interested parties' replaced by 'any other person'.
 - Removing the vicinity test for licensing representations to allow wider local community involvement.
 - Delegation of functions carried out by the Council's Licensing Committee, Sub-Committee or officers of the Council.
- 3.2** There are also further amendments to our Licensing Policy considered necessary due to the Equality Act 2010, the advice contained within the Statutory Guidance issued under Section 182 of the Licensing Act 2003 and other minor and textual amendments to the policy in light of experience and legal advice since our current policy was published in January 2011.

4. Changes in Detail:

- 4.1** The main changes to the licensing policy have been necessary due to the Governments consultation document published in 2010 called Rebalancing the Licensing Act. This consultation resulted in the Licensing Act amendments contained in the Police Reform & Social Responsibility Act 2011.
- 4.2** The Licensing Authority will become a Responsible Authority for premises and club premises applications and full variation applications and will have the power to make representation and call a review under one or more of the licensing objectives without representation from the police or other responsible authority.

- 4.3** Primary Care Trusts (soon to be replaced as responsible authorities by the primary health function of local authorities) will also join the list of responsible authorities and will be able to make representations regarding licensing applications or apply for a review, even though the licensing objectives have not been revised to include health.
- 4.4** When making decisions on new and existing licences and fulfilling their licensing responsibilities Licensing Authorities are currently required under the Licensing Act 2003 to demonstrate that these decisions are necessary for the promotion of the licensing objectives in their local area. The wording has been amended to lower the evidential threshold which licensing authorities must meet when making licensing decisions by requiring that they make decisions that are appropriate rather than necessary for the promotion of the licensing objectives.
- 4.5** Under current legislation licensing authorities use their discretion to set the 'vicinity' in their licensing area. This means that local residents living in the 'vicinity' can make a representation to the licensing authorities as an interested party. Local residents who live outside the 'vicinity' of licensed premises will be unable to make a representation as an interested party even if they may be able to justify that they are affected by those licensed premises.
- 4.6** To reduce any uncertainty amongst residents or other persons as to whether or not they are in the 'vicinity' of a premises, and therefore whether they are able to make relevant representations the requirement to show 'vicinity' has been removed. This means that any person, body or business will be able to make a relevant representation in relation to a premises, regardless of their geographic proximity.
- 4.7** The delegation of functions on matters to be dealt with by the full Committee, Sub Committee or Officers of the Council has been amended to include the following:
- The determination of an objection to a temporary event notice (Environmental Health can now object to a temporary event notice as well as the police).
 - The determination of an application to vary the premises licence at community premises to include alternative licence condition, (no requirement for a designated premises supervisor).
 - The decision whether to consult other responsible authorities on minor variation application.
 - The decision to make a representation on behalf of the Licensing Authority.
- 4.8** The Licensing Policy has been amended at the Introduction where it was considered necessary to include a sentence qualifying the licensing functions within the policy and also to add a new paragraph regarding the Councils duties under the Equality Act 2010. In conclusion it has also been updated and amended at various points within the document concerning where necessary advice contained within the latest amended guidance issued under Section 182 of the Licensing Act 2003 reflecting the changes brought about by the Police Reform and Social Responsibility Act 2012 and other minor and textual amendments regarding integration of strategies, smoking and details of responsible authorities.

4.9 The amended Statement of Licensing Policy is attached as an appendix to this report and illustrates in bold italic text the recommended changes to the policy document. (Appendix 1)

5. Consultation:

5.1 The scope of consultation is provided for in the Statutory Guidance we have consulted accordingly with the other responsible authorities the licensing trade, the legal profession and public interested groups, and published the policy for consultation on Lewes District Council web page for the public, residents and businesses to make comments

5.2 We have also placed a public notice in the Sussex Express dated 13 July 2012 and the notice as published is attached (Appendix 2).

5.3 The consultation period of 28 days commenced on the 13 July 2012 and was concluded on 10 August 2012.

5.4 We have received no responses to the formal consultation from any of the consultees or the public during the relevant period.

6. Timetable:

Having completed the period of public consultation and further to any decision of the Licensing Committee the following timetable remains to be completed to allow for the implementation of the new Statement of Licensing Policy.

Consideration by Licensing Committee. August 2012

Consideration by Council. 17 October 2012

Policy adopted and effective for 5 year period. 1 November 2012

7. Financial Appraisal:

There are no additional financial implications to this report.

8. Environmental Implications:

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

9. Risk Management:

The following risks will arise if the recommendations are not implemented. The Council's Licensing Policy would not reflect the law changes to enable the Licensing Authority to carry out its statutory functions under the Licensing Act 2003. No new risks arise if the recommendations are implemented.

10. Equalities Implications:

I have completed the Equalities Implications questionnaire and there are no significant effects as a result of these recommendations

11. Appendices:

Appendix 1 Amended Statement of Licensing Policy.
Appendix 2 Public Notice.