

**BODY:** Cabinet

**DATE:** 23<sup>rd</sup> October 2013

**SUBJECT:** Council Statement of Licensing Policy 2014 -2019 and Cumulative Impact Policy. Licensing Act 2003, setting out the Council's approach for the next 5 years.

**REPORT OF:** Jay Virgo, Senior Specialist Advisor

**Ward(s):** All

**Purpose:** To provide an update to Cabinet regarding public consultation and feedback on the Draft Statement Of Licensing Policy (including revised Cumulative Impact Policy) for the period 2014 – 2019. This Policy sets out the Council's approach to matters under the Licensing Act 2003 for the next 5 years.

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**Recommendations:** (i) Members are invited to note the response to the consultation on the draft Statement of Licensing Policy 2014 – 2019 and the proposed timetable leading up to the policy coming into force on 1<sup>st</sup> January 2014.  
(ii) Members are asked to comment upon the draft Statement of Licensing Policy 2014-2019 prior to final consideration and approval by Full Council.

## **1.0 Background**

- 1.1 From 7<sup>th</sup> 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 24<sup>th</sup> 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. As noted in the council's constitution, the Licensing Act 2003 requires that the policy is approved by Full Council.
- 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 June 2013 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 Local Authorities, of matters to be considered when determining applications under the Licensing Act 2003. It also assists applicants, Responsible Authorities, and all those making representations (objections) in conjunction with the decision making process.
- 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;

## **2.0 Consultation**

- 2.1 Public consultation of the Draft Licensing Act Policy Statement took place between the 27<sup>th</sup> June 2013 and the 19<sup>th</sup> September 2013 in accordance for the requirements for a 12 week consultation.
- 2.2 A range of organisations and individuals have been directly consulted about the proposals, including:
- Responsible Authorities;
  - Ward Councillors;
  - All Premises Licence and Club Premises Certificate holders in the Borough;
  - Neighbourhood Panels and Residents Groups;
  - Hospitality and Trade associations.
  - Various forums of Representative Groups
- 2.3 The Draft Policy was posted on the Council's website:
- <http://www.eastbourne.gov.uk/about-the-council/consultations/licensing-policy/> and [www.eastbourne.gov.uk/council/consultations/licensing-policy/](http://www.eastbourne.gov.uk/council/consultations/licensing-policy/)
- A copy of the Draft Licensing Policy Statement is included in **Appendix 1**.
- 2.4 Site Notices were also placed at the Town Hall, the Council Offices and the Public Library on Grove Road.
- 2.5 All premises licence holders and club premises were sent correspondence informing them of the consultation was sent on 27<sup>th</sup> June 2013.

2.6 Following a request from the Chair of the Town Centre Panel, Mr Virgo presented the draft policy to the Town Centre Panel on the 25<sup>th</sup> July 2013.

### **3.0 Overview of feedback**

3.1 The Authority received 2 responses to the Draft Licensing Policy Statement.

3.2 A copy of the feedback is included at **Appendix 2**, however a summary appears below:

#### Town Centre Manager

I am sure you are aware of the increasing opportunity, through both new and existing planning regulation changes, for the major supermarket chains to increase their high street presence, i.e. Tesco in Grove Road and Sainsbury's proposals in Old Town.

I would be concerned that the cumulative impact policy on alcohol sales for the town centre is robust enough to determine future applications in the light of likely increases in planning applications.

#### Town Centre Neighbourhood Panel Chair

On behalf of the Town Centre Neighbourhood Panel I am writing to give our views on the proposed Statement of Licensing Policy. The Panel fully supports the proposed policy and is particularly appreciative of the provisions of the Cumulative Impact Policy. We know from experience the value of these policies and value highly the provisions to address the licensing objectives and the application of the Cumulative Impact Policy to improve the quality of life for Town Centre residents.

### **4.0 Timetable For Implementation**

4.1 The table below demonstrates the timetable for implementation to replace the previous Licensing Act Policy Statement.

4.2

<b>Procedure</b>	<b>Dates</b>
Public consultation	Public Consultation 27 <sup>th</sup> June 2013 - 19 <sup>th</sup> September 2013
Full Licensing Act Committee:  - Results of consultation - Revise as appropriate - Delegate any further revisions prior to approval by Full Council to the Senior Head of Infrastructure in consultation with the Chair of the Licensing Act Committee and the relevant Cabinet Portfolio Holder	7 <sup>th</sup> October 2013

Seek Cabinet Comments	23 <sup>rd</sup> October 2013
Seek Full Council Approval	20 <sup>th</sup> November 2013
Publication of Policy	November 2013
Policy in force	1 <sup>st</sup> January 2014

## **5.0 Links to The Strategic Vision**

5.1 The Licensing Authority will continue to work in partnership with business, interested parties, local residents and stakeholders to effectively maintain the objectives of the Licensing Act 2003.

5.2 The Corporate Plan 2010-2015 (refreshed in 2013) sets out the Council's priority themes and aims for the authority.

This is can be found via:

<http://www.eastbourne.gov.uk/EasysiteWeb/getresource.axd?AssetID=215854&type=full&servicetype=Inline>

5.3 The Statement of Licensing Policy is instrumental in delivering the aims of the Corporate Plan.

## **6.0 Recommendations**

6.1 Members are recommended to agree the recommendations above:

## **7.0 Financial & Resource Implications**

7.1 The cost of administering the Licensing Service is met through licence fees.

## **8.0 Human Rights**

8.1 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.

8.2 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, June 2013
- Licensing Act 2003