

Consultation on revised Statement of Licensing Policy 2021-2026

Licensing Committee – 16th November 2021

Report of: Executive Head of Communities

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

To consider and approve for consultation the proposed draft Statement of Licensing Policy 2021-2026 in relation to exercising functions under the Licensing Act 2003.

This report supports the Council's priority of: Creating a thriving economy whilst protecting the local environment

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Recommendation to Committee:

That the Committee notes contents of this report and approves the attached draft Statement of Licensing Policy 2021-2026 for consultation.

Reason for recommendation:

The Council is required to prepare and publish a licensing policy at least every 5 years. Before determining the policy the Council is required to consult widely on the revised Policy. Comments are invited from the Licensing Committee on the current draft policy so that a version approved by the Committee may be consulted on.

Introduction and background

- 1.1. As the Licensing Authority under the Licensing Act 2003 ('the Act') the Council is required to prepare and publish a licensing policy at least every 5 years. The Council is also required to keep the policy under review and update it as appropriate.
- 1.2. The Council's current Statement of Licensing Policy commenced on 1 January 2015 and was for the period 2015-2020. Acknowledging that the life of the policy has already been exceeded it has been reviewed and updated. A draft of the updated Statement of Policy and appendixes is attached. Whilst all sections of the Statement of Policy have been reviewed and updated, the key proposed changes to the Statement of Policy can be summarised as follows:
 - To reflect changes in legislation - For example the Immigration Act 2016, and the Policing and Crime Act 2017.
 - Adding 'Council aspiration and vision for the place' (section 7) and ensuring the entire Policy supports the Council's Strategic Plan.
 - To consider the implications of Coronavirus (section 8).
 - Reference to the shared Tandridge & MVDC Licensing Service added (section 12).
 - To improve the information for applicants on the expectations for the risk assessments they should undertake prior to making application (e.g. section 20).
 - To add a policy on Alcohol Delivery Sales (section 22).
 - To add a policy on 'Music entertainment at alcohol on-licensed premises' (section 25) as consequence of the Live Music Act 2012.
- 1.3. As part of this review the Council has had regard to the Revised [Guidance issued under section 182 of the Licensing Act 2003](#) published in April 2018.
- 1.4. Before determining the policy, the Council is required to consult widely on the revised Policy by virtue of section 5 of the Licensing Act 2003. This includes consulting the persons listed in section 5(3) of the Licensing Act 2003 as given below:
 - a) The Chief Officer of Police for the Council's area
 - b) The Fire Authority
 - c) Persons/bodies representative of local holders of premises licences
 - d) Persons/bodies representative of local holders of club premises certificates

- e) Persons/bodies representative of local holders of personal licences
- f) Persons/bodies representative of business and residents in the area.

The Council may also use its discretion to consult other people or organisations as it considers appropriate.

- 1.5. In advance of the consultation comments are invited from the Licensing Committee on the current draft policy. The start of consultation will be subject to the outcome of this Licensing Committee. It is possible the Licensing Committee may require non-fundamental changes to the draft policy prior to the consultation. In order to avoid the delay of holding a further Committee to consider any revisions, it is proposed that any revised wording be approved by the Chair and Vice Chair of the Licensing Committee prior to the start of the consultation.
- 1.6. The results of the consultation and an updated draft Policy will be brought back to the Licensing Committee in early 2022 so it may be recommended for approval by Full Council.

Consultation

- 2.1. Appendix Two of the amended Statement of Policy sets out how the proposed consultation will take place.
- 2.2. It is planned to commence consultation on the draft policy on 3rd December 2021. The consultation will last for a period of twelve weeks.
- 2.3. As part of the consultation all Ward Councillors will be contacted to give them an opportunity to comment.
- 2.4. Consultees will have access to the draft Statement of Licensing Policy through the Council's website.
- 2.5. The Communications Team have also been briefed and are ready to notify the public of the consultation through social media channels throughout the consultation period.

Key implications

Comments of the Chief Finance Officer

- 3.1. The only resource implications, in addition to officer time, arising from this consultation will be postage and stationery costs which could be in the region of £100-£200. However, the costs can be funded from within the existing 2021/22 budget for Environmental Health and Licensing.

Comments of the Head of Legal Services

- 4.1. The Licensing Act requires each licensing authority to prepare and publish a Statement of Licensing Policy. The policy statement sets out how the authority intends to approach its licensing responsibilities and in particular how it intends to promote the four licensing objectives. This policy has to be renewed every five years and be subject to a full consultation process.
- 4.2. The current Statement of Licensing Policy has expired and therefore the revised Statement of Licensing Policy, needs to be approved at Full Council so that it can begin its statutory consultation.
- 4.3. The Policy has been reviewed to ensure consistency with the latest changes in legislation, regulations and guidance issued by the Secretary of State. The Council may depart from its Policy when it considers it appropriate to do so.
- 4.4. The Licensing Committee will need to consider the results of the revised Statement of Licensing Policy consultation and, in light of any comments from the Committee, recommend to Full Council that it adopts the final revised Statement of Licensing Policy.
- 4.5. Section 5(4) of the 2003 Act sets out who the Council is required to consult with. A list of such consultees is set out in paragraph 1.4.
- 4.6. As to consultation, the Council must also comply with its common law duty which imposes a general duty of procedural fairness when exercising functions which affect the interests of individuals. This requires:
 - that the consultation be at a time when proposals are still at a formative stage and the proposals are still;
 - the Council must give sufficient reasons for any proposal to permit intelligent consideration and response; and
 - adequate time must be given for consideration and responseThe proposed timetable for the consultation timetable allows for these requirements to be met.
- 4.7. The Committee must have regard to all relevant legislation and all consultation responses must be conscientiously considered when forming the Statement of Licensing Policy in order to minimise the risk of any legal challenge.

Risk Implications

- 5.1. The Council's Statement of Policy is overdue for review, and the Council will be at an increased risk of legal challenge if a properly consulted and adopted Statement of Licensing Policy is delayed further.
- 5.2. The licensing of the sale of alcohol, entertainment and late night refreshment can have a fundamental impact on how the District's communities develop, live, work and relax. The absence of an up to date policy may lead to inappropriate decisions being made in relation to licence applications.
- 5.3. A review of the Statement of Licensing Policy is an opportunity to improve the chances of businesses and residents moving to an area, to encourage tourism, and boost the local economy.

Equality

- 6.1 In its consideration of this report and its recommendations, the Council must have due regard to Public Sector Equality Duty and the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty)
- 6.2 The draft Statement of Policy includes a section on the Promotion of Equality. It is not considered that an Equalities Impact Assessment is required for the review of the Policy or the associated consultation.

Climate change

- 7.1. There are no significant environmental / sustainability implications associated with this report.

Annex

Annex 'A' - Draft revised Statement of Policy (that includes seven appendixes, listed within that document)

Background papers

None