

# Review of the Council's Statement of Licensing Policy

## Licensing Committee – 7<sup>th</sup> September 2022

Report of: Executive Head of Communities

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

---

### Executive summary:

A Statement of Licensing Policy sets out how licensable activities will be regulated and how licensing functions will be exercised in the licensing authority's area, as well as expectations of licence holders and operators. The Council is required to prepare and publish a Statement of Licensing Policy at least every 5 years and the District Council Statement of Policy requires review.

On 16<sup>th</sup> November 2021, the Committee approved a draft Statement of Licensing Policy 2021-2026 to be consulted on, subject to the Senior Licensing Officer amending the wording as specified at that meeting.

The wording was amended as requested, and the draft Statement of Policy was widely shared for public consultation for the 12 weeks between 3<sup>rd</sup> December 2021 and 25<sup>th</sup> February 2022. Consultation responses have been received and, where appropriate, the draft policy has been updated in light of them.

The Committee is requested to consider and, subject to any comments, amendments or additions, **recommend** to Council the adoption of the revised Statement of Licensing Policy attached at Annex A.

---

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

**Contact Officer** Aneurin Hughes, Senior Licensing Officer

[Aneurin.Hughes@molevalley.gov.uk](mailto:Aneurin.Hughes@molevalley.gov.uk)

[AHughes1@Tandridge.gov.uk](mailto:AHughes1@Tandridge.gov.uk)

01306-8793651

---

## **Recommendation to Committee:**

The Committee is requested to consider and, subject to any comments, amendments or additions, **recommend** to Council the adoption of the revised Statement of Licensing Policy attached at Annex A.

**The Licensing Committee has the authority to determine the recommendation.**

**Council has the final decision making authority.**

---

## **Reason for recommendation:**

To carry out its functions under the Licensing Act 2003, the Licensing Authority of the Council must have regard to its Statement of Licensing Policy and any guidance issued by the Secretary of State.

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 were invited from the Licensing Committee on the draft policy and a version approved by the Committee that was consulted on. The consultation has now finished and the Statement of Licensing Policy now needs to be adopted.

---

## **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<sup>st</sup> January 2015 and was for the period 2015-2020. Acknowledging that the life of the policy has already been exceeded, Officers have undertaken a review and proposed several revisions..
- 1.3. On the 16<sup>th</sup> November 2021, the Committee approved a draft Statement of Licensing Policy ('the Policy') to be consulted on, subject to the Senior Licensing Officer amending the wording as specified at that meeting and included in the minutes.
- 1.4. The wording was amended as requested, and the draft Policy was widely shared for public consultation for the 12 weeks between 3<sup>rd</sup> December 2021 and 25<sup>th</sup> February 2022.
- 1.5. Consultation responses have been received and where appropriate the Policy at Annex A has been amended.

- 1.6. The revised Policy shown at Annex A is highlighted in the relevant areas to show both the changes resulting from the comments of the Committee on 16<sup>th</sup> November 2021, as well as those resulting from the consultation. The changes made are as follows: -
- Adding 'When holding events with an anticipated larger capacity, provide a parking management plan, independently or within the event management plan detailing the risk of increased traffic, congestion and parking in the vicinity of the event and how it will be mitigated' to the risk assessment criteria at 20.2.3.
  - Adding 'Measures to take account of expected and potential impacts on outdoor events by the weather' to the risk assessment criteria at 20.2.3.
  - Adding 'Via the Parish Council Clerk' to paragraph 32.1
- 1.7. The Committee is requested to consider and, subject to any further comments, amendments or additions, **recommend** to Council the adoption of the revised Statement of Licensing Policy attached at Annex A.
- 1.8. The consultation responses are attached at Annex B. These will not be published in the revised Policy, however a summary of the responses and outcomes to the consultation is included in Appendix 2 of the revised Policy.

## **Key implications**

### **Comments of the Chief Finance Officer**

- 2.1 There are no financial issues arising as a direct result of this report.

### **Comments of the Head of Legal Services**

- 3.1 The Licensing Act 2003 ('the 2003 Act') established a single integrated system for licensing premises that are used for alcohol, entertainment and late night refreshment. Under this legislation, each local authority is known as the 'licensing authority' and is responsible for licensing alcohol, entertainment and late night refreshment in its geographical area.

3.2 The Council is a Licensing Authority and section 5(1) of the 2003 Act requires it, in respect of each 5 year period, to determine its policy with respect to the exercise of its licensing functions, and to publish a statement of that policy before the beginning of the period. The Council's current Statement of Licensing Policy was for the period 2014 to 2019, and although it was revised in January 2016, is overdue for review. It would be unlawful for the Council to fail to comply with the mandatory requirement. 3.2 When preparing its licensing policy, the Council is required to have regard to the following:

- Promoting the 4 licensing objectives, namely:
  - (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm;
- Statutory guidance issued by the Secretary of State; and
- The 2003 Act.

The revised policy has been drafted taking these into account.

3.3 During the term of the current policy, the Council has been required to keep its policy under review and make such revisions to it, at such times, as it considers appropriate. It is noted that since the last revision of the policy there have been several revisions to the guidance and regulations, and these have therefore been incorporated in the draft revised Statement of Licensing Policy to be determined.

3.4 Section 5(3) of the 2003 Act sets out who the Council is required to consult with. Appendix 2 of the draft Statement of Licensing Policy sets out that the consultation was carried out in accordance with the statutory requirements.

3.5 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
- that adequate time must be given for consideration and response

The timetable for the consultation allowed for these requirements to be met.

- 3.6 Pursuant to the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the determination of the Statement of the Policy under section 5 of the Licensing Act 2003 cannot be a function of the Committee. Consistent with this requirement, the Council's Constitution also makes the approval of the Policy a matter to be determined by Full Council. Once adopted the Council must have regard to the Policy in carrying out its licensing functions under the Act, in addition to having regard to the Secretary of State's Guidance which is issued from time to time under Section 182 of the Act.

### **Risk Implications**

- 4.1 The Council's Policy is overdue for review, and the Council will be at an increased risk of legal challenge if adoption of a revised Statement of Licensing Policy is delayed.
- 4.2 The licensing of the sale of alcohol, entertainment and late night refreshment can have a fundamental impact on how our 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.
- 4.3 A review of the 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**

- 5.1 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)
- 5.2 The draft 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**

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

**Annexes**

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

Annex 'B' - Responses received during the 12-week consultation process

**Background papers**

None