

OPEN

Licensing Committee

10 June 2024

Revised Statement of Licensing Policy

Report of: Peter Skates – Acting Executive Director, Place

Ward(s) Affected: All Wards

Purpose of Report

- 1 To comply with the provisions of the Licensing Act 2003 and to enable the proper discharge of the Council's responsibilities for the regulation of alcohol sales, regulated entertainment and late-night refreshment, the Council must adopt a revised Statement of Licensing Policy

Executive Summary

- 2 The Licensing Act 2003 requires that Licensing Authorities prepare and publish a statement of policy that they propose to apply when exercising their functions under the Act during the five-year period to which the statement applies.
- 3 The Council is required to review its existing statement of policy and publish a revised version. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders identified within the Licensing Act 2003.

RECOMMENDATIONS

The Licensing Committee is recommended to:

1. Consider the content of the draft revised policy set out at appendix 1 (with a log of changes made at appendix 2) prior to its consideration at Corporate Policy Committee.

Background

- 4 The Licensing Act 2003 requires Licensing Authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act.
- 5 The draft statement, a copy of which is attached as Appendix 1, incorporates some amendments (set out in Appendix 2). In essence the policy remains substantially the same as previous iterations.
- 6 Some of the key additions include sample conditions to help licence holder comply with Martyn's Law (forthcoming requirements around their preparedness for, and protection from, a terrorist attack), a guide to organisers of large outdoor events prepared by the Environmental Protection Team, and updated references for external guidance documents.
- 7 The Statement of Licensing Policy is the policy document that the Licensing Act Sub-Committee will use when determining contested applications under the Licensing Act 2003. Consequently, it needs to adequately guide applicants, objectors, Licensing Authority Officers, and Committee Members.
- 8 The policy must reflect that the Council is required to discharge its responsibilities under the Act with a view to promoting the three licensing objectives:
 - i. The prevention of crime and disorder
 - ii. Public safety
 - iii. The prevention of public nuisance
 - iv. The protection of children from harm
- 9 The Statement of Licensing Policy establishes a local framework for decision-making when considering applications for relevant permissions, or variations to existing terms and conditions. The Policy is of significant importance as the Licensing Committee and Sub-Committee are required to have due regard to it when determining an opposed application. It is therefore paramount that the policy sets out how the objectives will be promoted. Any matters not relevant to the promotion of the licensing objectives must be disregarded.
- 10 In addition to having regard to the Statement of Licensing Policy, the Licensing Authority must also have regard to the statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003. The current version of which was issued in December 2023.

- 11 The Licensing Team have not received any comments, either positive or negative, on the current policy. Similarly, the Council has not been subject to judicial challenge on the content of the policy.

Consultation and Engagement

- 12 The statement is subject to a statutory consultation process set out within the legislation.
- 13 In addition to formal consultation, the Licensing Team also invited all the Responsible Authorities to a meeting on the 8th November 2023 to discuss, as a group of professional officers and consultees, any improvements or changes we thought would benefit the revised statement. Those changes were incorporated in the final draft that went out for the consultation required by the legislation.
- 14 The specific stakeholders that must be included in the consultation are:

Consultee	Consultation Method
The chief officer of police for the licensing authority's area	Consultation document sent to the Police Licensing Officer who is delegated to deal with licensing matters. Officer also invited to a pre-consultation meeting held on 8 th November 2023.
The fire and rescue authority for that area	Consultation document sent to the response authority contact details for CFRS. Officers also invited to a pre-consultation meeting held on 8 th November 2023.
Each Local Health Board for an area any part of which is in the licensing authority's area	Consultation document sent to the NHS Trusts
Each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area	Consultation document sent to the officer from the Council's Public Health Team that deals with licensing matters.

	Officer also invited to a pre-consultation meeting held on 8 th November 2023.
Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority	Emails were sent to licensing holders with an up to date email address
Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority	Emails were sent to certificate holders with an up to date email address
Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority	Emails were sent to those personal licence holders who are also the designated premises supervisors at a premises within Cheshire East.
Such other persons as the licensing authority considers to be representative of businesses and residents in its area	<p>The consultation document was sent to all the Town and Parish Council's within the Borough and to all Cheshire East Members.</p> <p>The consultation document was also shared with the local Chambers of Commerce, those responsible for Business Improvement Districts, and the Council's Economic Development Team.</p>

Reasons for Recommendations

- 15 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 refreshment.

Other Options Considered

- 16 No other options have been considered. The Council is required by section 5 of the Licensing Act 2003 to adopt a Statement of Licensing

Policy. The route for adopting this document is set out both in legislation and by virtue of the requirements in the Council's Constitution.

Option	Impact	Risk
Do nothing	The Licensing Authority would not be complying with its statutory obligations	All decisions made may be subject to challenge or Judicial Review

Implications and Comments

Monitoring Officer/Legal

- 17 In accordance with Section 5 of the Licensing Act 2003 the Licensing Authority is required to determine and publish a Statement of Licensing Policy.
- 18 The statement of policy forms part of the Council's Policy Framework. As such, the final decision to approve or revise the policy rests with full Council. In addition, in developing a revised statement of policy, the authority must comply with its Budget and Policy Framework Procedure Rules (as set out within the Constitution).

Section 151 Officer/Finance

- 19 There are no direct financial implications in relation to the decision requested. However, preparation and consultation of the revised Statement of Licensing Policy has been funded from existing licensing budgets.
- 20 The Licensing Team does generate income through the fees attached to applications. These fees are set by Government and the Council has no discretion to amend them. Accordingly, the approval of the draft revised Statement will not affect the level of income generated or the fees charged.
- 21 It should be noted that Licensing Act 2003 fees have remained the same since 2005. Therefore, while costs of providing the service have increased each year, the fees have remained the same for nearly 20 years.

Policy

- 22 The Council is required to revise and adopt a Statement of Licensing Policy every five years.

An open and enabling organisation	A council which empowers and cares about people	A thriving and sustainable place
Ensure that there is transparency in all aspects of council decision making	Work together with residents and partners to support people and communities to be strong and resilient	A great place for people to live, work and visit
	Ensure that there is transparency in all aspects of council decision making	Welcoming, safe and clean neighbourhoods
		Thriving urban and rural economies with opportunities for all

Equality, Diversity and Inclusion

- 23 Consideration has been given to the application of the 'public sector equality duty' (in accordance with section 149 Equality Act 2010) to the recommendation. The decision requested is likely to have a neutral effect in terms of its impact on those individuals with 'protected characteristics'.

Human Resources

- 24 There are no human resource implications.

Risk Management

- 25 It should be noted that the Licensing Act 2003 requires the Licensing Authority to have a Statement of Licensing Policy. However, there is no penalty that could be applied if the Licensing Authority did not adopt a Statement. Notwithstanding, any decisions taken where a policy was not in place could be subject to Judicial Review.

Rural Communities

- 26 There are no direct implications for rural communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 27 There are no direct implications for children and young people. However, the policy does reference how safeguarding and prevention of

exploitation may be relevant considerations when determining applications or reviewing licences.

Public Health

28 There are no direct implications for public health. However, Public Health is a statutory consultee and has influenced the revision of policy.

Climate Change

29 There are no direct implications for climate change.

Access to Information	
Contact Officer:	Kim Evans – Licensing Team Leader licensing@cheshireeast.gov.uk
Appendices:	Appendix 1 – Draft Revised Statement of Licensing Policy Appendix 2 – Log of Changes Made
Background Papers:	Statutory Guidance issued by the Home Office Licensing Act 2003