

CHESHIRE EAST COUNCIL

COUNCIL

Date of meeting: 24th February 2009

Report of: Borough Solicitor

Title: Licensing Act 2003 – Statement of Licensing Policy

1.0 Purpose of Report

1.1 Licensing Authorities must approve and publish a Statement of Licensing Policy in order to carry out functions relating to the licensing of alcohol and entertainment under the Licensing Act 2003. Where practicable the Council is required to produce its Statement of Licensing Policy by 1st April 2009.

1.2 The purpose of the report is to request Council to approve the Statement of Licensing Policy which is recommended to it by the Licensing Committee following the completion of a statutory consultation exercise

2.0 Decision Required

2.1 Council is requested to approve the Statement of Licensing Policy under the Licensing Act 2003 to take effect on 1st April 2009.

3.0 Financial Implications for Transition Costs

3.1 None

4.0 Financial Implications 2009/10 and beyond

4.1 The Local Government (Structural Changes)(Transitional Arrangements)(No 2) Regulations 2008 provide that the preparation of a statement of principles by the shadow Council will be taken as satisfying the requirements of the Licensing Act 2003 as regards the three year period commencing on 7th January 2011. For this reason the statement is not required to be reviewed again until January 2014.

5.0 Legal Implications

5.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of policy that it proposes to apply in exercising its functions under the Act.

5.2 The Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 provide that, where it is practicable to do so, a statement of principles under the Licensing Act 2003 shall be produced by 1 April 2009.

6.0 Risk Assessment

- 6.1 There would be a risk of legal challenge if the drafting of the Statement of Licensing Policy did not take into account the requirements of the legislation and guidance or if consultation responses received were not taken into consideration prior to approval.

7.0 Background and Options

- 7.1 As Members will be aware, section 5 of the Licensing Act 2003 requires all licensing authorities to prepare and publish a Statement of Licensing Policy which that authority will apply when exercising its functions under the Act during the three year period to which the policy applies.
- 7.2 At its meeting on 17th December 2008 Cabinet resolved to approve the draft policy in order that it may go forward for statutory consultation.
- 7.3 The Act requires that the following persons/bodies must be consulted before any policy is published: the Police, the Fire Authority, local licence holders and/or their representatives and local businesses and residents or their representatives. Copies of the policy were forwarded to Parish and Town Councils together with residents groups and local Pub Watch representatives. A copy of the policy has also been available on the Council's website throughout the consultation period.
- 7.4 At its meeting on 13th February 2009 the Licensing Committee considered the representations received and resolved to recommend to Council the Statement of Licensing Policy in the form attached as Appendix 1.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 The requirement to have a Statement of Licensing Policy in place is, where practicable, a Day One requirement.

9.0 Reasons for Recommendation

- 9.1 The Council is required to produce and publish, every three years a statement of the policy which it proposes to apply when exercising its functions under the Licensing Act 2003; where practicable this is required to be done by 1 April 2009. Council is requested to approve the Statement of Licensing Policy so that it may be formally approved to take effect on 1 April 2009.

For further information:

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Background Documents:

The Licensing Statement of Macclesfield Borough Council

The Licensing Statement of Congleton Borough Council

The Licensing Statement of Policy of Crewe & Nantwich Borough Council dated 28th November 2007

Documents are available for inspection at:

Macclesfield Borough Council – Legal and Democratic Services, Town Hall, Macclesfield

Congleton Borough Council – Community Safety Dept, Westfields, Middlewich Road, Sandbach

Crewe & Nantwich Borough Council – Licensing Section, Municipal Buildings, Earle Street, Crewe