

# CHESHIRE EAST COUNCIL

## Corporate Scrutiny Committee

---

<b>Date of Meeting:</b>	10 <sup>th</sup> September 2013
<b>Report of:</b>	Miss K Evans – Licensing Team Leader
<b>Subject/Title:</b>	Statement of Licensing Policy Review
<b>Portfolio Holder:</b>	Cllr Les Gilbert - Communities and Regulatory Services Portfolio Holder

---

### **1.0 Report Summary**

- 1.1 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.
- 1.2 The Council is required to review its existing statement of principles and publish the revised version by no later than 31<sup>st</sup> January 2014. In preparing a revised statement the Council must undertake a consultation exercise with those stakeholders identified by the legislation.

### **2.0 Decision Requested**

- 2.1 That the Committee considers the content of the draft revised policy set out at appendix 1.

### **3.0 Reasons for Recommendations**

- 3.1 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.

### **4.0 Wards Affected**

- 4.1 All

### **5.0 Local Ward Members**

- 5.1 All

### **6.0 Policy Implications**

- 6.1 None identified

### **7.0 Financial Implications**

- 7.1 The Licensing Authority was required to consult on the revised policy and this required a number of letters being sent to license holders and other consultees.

## **8.0 Legal Implications**

- 8.1 In accordance with Section 5 of the Licensing Act 2003 the Licensing Authority is required to determine and publish a Statement of Licensing Policy.
- 8.2 The statement of policy forms part of the Council's Policy Framework. As such, the final decision to approve a statement of principles or a revision of the statement 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).
- 8.3 In order to comply with statutory requirements, the following agencies must be consulted:
- Cheshire Constabulary
  - North West Fire and Rescue Service
  - Planning Services
  - Trading Standards (Weights and Measures Inspector)
  - Environmental Health
  - Local Safe Guarding Children Board
  - Health and Safety
  - Representatives of the local licensing trade
  - Representatives of local businesses and residents

## **9.0 Risk Management**

- 9.1 Should the Council not adopt a reviewed Statement of Licensing Policy within the required timeframe, all decisions made may be open to challenge.
- 9.2 Giving appropriate weight and consideration to any consultation responses received will mitigate the risk of a successful challenge of the final policy.

## **10.0 Background and Options**

- 10.1 The first Statement of Licensing Policy approved by this Council came into effect in January 2009.
- 10.2 When exercising the functions of the Licensing Act 2003 the Licensing Authority must promote the statutory licensing objectives:

- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 10.3 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.
- 10.4 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.
- 10.5 In accordance with the statutory timescales the revised policy must be in place to take effect from January 2014. When the Statement of Licensing Policy has been confirmed and published, subject to any further reviews and necessary consultation, it shall remain in force for a further period of five years (i.e. to January 2019).
- 10.6 It is proposed that the following timescales be applied to allow for the proper consideration of the draft statement of policy:
- Approved for consultation by relevant Cabinet Member
  - Period for consultation – 6 weeks
  - Licensing Committee – 16<sup>th</sup> July 2013
  - Corporate Scrutiny – 10<sup>th</sup> September 2013
  - **End of Consultation**
  - Licensing Committee – 4<sup>th</sup> October 2013
  - Confirmed by Cabinet – 11<sup>th</sup> November 2013
  - To be adopted by Council – 12<sup>th</sup> December 2013
  - Publication of Policy in January 2014
  - Policy effective from January 2014
- 10.7 Members should note that the consultation period has commenced following a decision of the Communities and Regulatory Services Portfolio Holder on the 15<sup>th</sup> July 2013. Consequently, a letter has been sent to the consultees and the Policy placed in the consultation pages on the Council's website.
- 10.8 The content of the Policy was also considered by the Members of the Council's Licensing Committee on the 16<sup>th</sup> July 2013.
- 10.9 The changes made to the currently policy include:

- i. Providing updated and additional information on how the Licensing Authority will promote the Licensing Objectives
- ii. Taking into consideration recent changes in legislation. Such as the Live Music Act 2012, Late Night Levy, and Early Morning Restriction Orders.

10.10 The Council's Policy for the period January 2009 to January 2014 is attached at appendix 2 for information.

10.11 The outcome of the consultation exercise and any proposals to amend the content of the Policy will follow the path laid out in 10.6.

### **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Kim Evans

Designation: Licensing Team Leader

Tel No: 0300 123 5015

Email: [kim.evans@cheshireeast.gov.uk](mailto:kim.evans@cheshireeast.gov.uk)