

## **Cabinet**

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**Date of Meeting:** 10 September 2019

**Report Title:** Revised Statement of Licensing Policy

**Portfolio Holder:** Cllr Mick Warren - Communities

**Senior Officer:** Frank Jordan, Executive Director Place

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### **1. 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 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.

### **2. Recommendations**

- 2.1. That Cabinet
  - 2.1.1. Notes the changes to the draft revised Statement of Licensing Policy as set out in appendix 1 to the report.
  - 2.1.2. Recommends the draft revised Statement of Licensing Policy to Council for adoption.

### **3. 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.
- 3.2. As part of the revision a number of changes have been proposed, including:

- 3.2.1. Updated references to other policies or procedures (e.g. Statutory Guidance issued in April 2018; Reducing Alcohol Harm in Cheshire East: Position Statement and Forward Plan; and decisions in relation to the Late Night Levy and Early Morning Restriction Orders);
- 3.2.2. Removal of out of date information;
- 3.2.3. An additional appendix explaining deregulation of entertainment;
- 3.2.4. An additional appendix setting out sample conditions; and
- 3.2.5. An additional appendix providing a matrix of area specific hours.

#### **4. Other Options Considered**

- 4.1. 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.

#### **5. Background**

- 5.1. As set out above, 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.
- 5.2. The draft statement, a copy of which is attached as Appendix 1, incorporates some minor amendments (set out in Appendix 2). Whilst a number of new appendices (appendices 4, 5 and 6) have been added, in essence the policy remains substantially the same as previous iterations.
- 5.3. 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.
- 5.4. The policy must reflect that the Council is required to discharge its responsibilities under the Act with a view to promoting the four licensing objectives:
  - 5.4.1. The prevention of crime and disorder
  - 5.4.2. Public safety
  - 5.4.3. The prevention of public nuisance
  - 5.4.4. The protection of children from harm
- 5.5. 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.

- 5.6. 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.
- 5.7. The draft statement of principles was considered by the Licensing Committee on the 4<sup>th</sup> March 2019. The Committee considered the content of the policy and resolved that it was appropriate for it to be referred to Cabinet for consideration and to Council for adoption.
- 5.8. Additionally, the draft revised policy was subject to consultation between 8<sup>th</sup> March 2019 and 19<sup>th</sup> April 2019. These requirements included consulting those stakeholders identified in paragraph 6.1.3 . Additionally, the Licensing Team consulted every elected Member of Cheshire East Council by email.
- 5.9. A number of consultation responses have been received. These have been tabulated at appendix 3 together with Officer comments.
- 5.10. Prior to formal consultation the Licensing Team also pre-consulted the stakeholders identified as Responsible Authorities in the Licensing Act 2003. This allowed the Team to identify and incorporate any suggested improvements and changes.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. In accordance with Section 5 of the Licensing Act 2003 the Licensing Authority is required to determine and publish a Statement of Licensing Policy.
- 6.1.2. 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).
- 6.1.3. In order to comply with statutory requirements, the following agencies must be consulted:
  - 6.1.3.1. Cheshire Constabulary
  - 6.1.3.2. North West Fire and Rescue Service
  - 6.1.3.3. Planning Services

- 6.1.3.4. Trading Standards (Weights and Measures Inspector)
- 6.1.3.5. Environmental Health
- 6.1.3.6. Public Health
- 6.1.3.7. Cheshire East Safeguarding Children Partnership
- 6.1.3.8. Health and Safety
- 6.1.3.9. Representatives of the local licensing trade
- 6.1.3.10. Representatives of local businesses and residents

## **6.2. Finance Implications**

6.2.1. 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.

6.2.2. 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.

## **6.3. Policy Implications**

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

## **6.4. Equality Implications**

6.4.1. 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.'

6.4.2. An Equality Impact Assessment has been carried out as part of this process.

## **6.5. Human Resources Implications**

6.5.1. There are no human resource implications

## **6.6. Risk Management Implications**

6.6.1. 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.

#### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

#### **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people. However, the policy does reference how safeguarding and prevention of exploitation will be considered when determining applications or reviewing licences.

#### **6.9. Public Health Implications**

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

#### **6.10. Climate Change Implications**

6.10.1 There are no direct implications for climate change

### **7. Ward Members Affected**

7.1. The Statement of Licensing Policy is a Borough wide policy and therefore has the potential to impact on all wards.

### **8. Consultation & Engagement**

8.1. The statement is subject to a statutory consultation process set out within the legislation.

### **9. Access to Information**

9.1. The changes made to the Statement during the revision have been logged and are attached at appendix 2 for ease of reference.

### **10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

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