

**Meeting: EXECUTIVE**

**Council Agenda  
Item:**

**12**

Portfolio Area: Safer and Stronger Communities

**Date: 4 NOVEMBER 2013**

## **LICENSING ACT 2003 – LICENSING POLICY REVIEW**

### NON-KEY DECISION

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#### **1. PURPOSE**

- 1.1 To seek approval for the proposed changes to the current licensing policy, last approved by Council on the 8 December 2010; Licensing Act 2003.

#### **2. RECOMMENDATIONS**

- 2.1. That the proposed Stevenage Borough Council Licensing Policy, as shown at Appendix A, which has been drafted in accordance with the Licensing Act 2003, be noted and recommended to Council for approval.

#### **3. BACKGROUND**

- 3.1. The Council last conducted a review of its licensing policy in 2010.
- 3.2. For the purposes of this review, reference was given to Home Office guidance issued in October 2012, further guidance was published in June 2013 after the review had commenced; none of the contents of the reviewed policy contradict the 2013 guidance.
- 3.3. Consultation was carried out on the revised draft of the Licensing Act 2003 policy which is attached at Appendix A to this report, during the 17 June – 12 August 2013. A list of consultees is attached at Appendix B.

#### **4. REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

##### 4.1. General Principles

- 4.1.1. The Licensing Act 2003 first came into effect on the 22 November 2005. This led to the alcohol licence application and approval processes being transferred from the Magistrates' Court to local authorities. Since its inception, the Licensing Authority has reviewed the policy a total of 3 times.

- 4.1.2. Officers have reviewed this, the fourth licensing policy in line with the amended guidance issued under S.182 of the Licensing Act 2003 (October 2012), and notes supplied from the Local Government Association (LGA).
- 4.1.3. The Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011 requires all licensing authorities to advertise and to consult upon its licensing policy every 5 years or sooner if required.
- 4.1.4. The Act requires that the following parties are consulted with by Licensing Authorities:
- The chief officer of Police for the Borough;
  - The fire authority for the Borough;
  - Persons/Bodies representative of local holders of premises licences;
  - Persons/Bodies representative of local holders of club premises certificates;
  - Persons/Bodies representative of local holders of personal licences;
  - Persons/Bodies representative of business' and residents in the Borough.
- 4.1.5. All of the consultees were notified in writing of the consultation period with copies of the draft licensing policy made available to any of the consultees or any other person requesting a copy of the consultation document upon request. Details of the consultation and the draft policy were also placed on the Council's website.
- 4.1.6. The consultation process was in accordance with recommendations from the Cabinet Office as published on the 17 July 2012.
- 4.1.7. The licensing authority must ensure that it publishes their licensing policy by the 7 January 2014.
- 4.1.8. Failure to approve the draft policy and to recommend that this be submitted to Council for adoption could render the Authority unable to fulfil its requirements under the Licensing Act 2003 because we would not have a licensing policy in place by the 7 January 2014.
- 4.1.9. S.122(8) of this Act does state that;
- Any policy determined, and any licensing policy statement published, under section 5(1) of the Licensing Act 2003 in respect of the period of three years beginning with 7 January 2011 is, on and after the commencement of this subsection, to be treated for all purposes as if-
- (a) it had been determined and published under that section (as amended by this section) in respect of the period of five years beginning with the 7 January 2011; and
- (b) it specified the five year period to which it relates.

## 4.2. Other Amendments

4.2.1. The draft policy included suggested changes to the current policy to include working amendments and additions for the areas of the Act as follows:

- a) An executive summary;
- b) An edit of the purpose and scope of the licensing policy;
- c) A re-ordering of some sections throughout the policy so as to incorporate the additional provisions;
- d) Avoidance of duplicity with other statutory and regulatory regimes;
- e) Reference to arrangements for partnership working;
- f) New insertion to cover the Live Music Act 2012;
- g) New insertion as to the Licensing Authority being a responsible authority;
- h) New insertion as to Public Health being a responsible authority;
- i) Audience capacity and implications for regulated entertainment as a result of the Live Music Act 2012 coming into effect;
- j) Provisions as to Early Morning Restriction Orders (EMROs);
- k) Provisions as to the Late Night Levy (LNL);
- l) Provisions as to the licensing objective, Protection of Children from Harm;
- m) Provisions and regard to the regulators compliance code and matters concerning enforcement;
- n) Provisions and guidance for reviews of licences;
- o) Provisions as to the suspension of licences following non-payment of the annual fee;
- q) Provisions as to temporary event notices (TENs), in particular the new provisions for late TENs;
- r) Provisions as to premises wishing to provide entertainment of an adult nature in accordance with schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982;
- s) Administration of and delegation of functions under the Licensing Act 2003.

4.2.2 A full comparative table of the above changes can be found at Appendix C to this report.

## **5. IMPLICATIONS**

### **5.1 Financial Implications**

5.1.1 There are no new financial implications generated from this report, review or policy.

### **5.2 Legal Implications**

5.2.1 The licensing authority has a statutory obligation to produce a licensing policy under the Licensing Act 2003. This must be reviewed at a minimum every five years, and has to be published by 7 January 2014.

5.2.2 The licensing authority is bound by the provision of the Act, the statutory guidance issued by the Secretary of State, and its own licensing policy in administration of the licensing regime and in determining licensing issues. The integrity of the policy therefore has the potential to directly impact upon the authority's determination of applications under the Act.

5.2.3 Unsuccessful implementation of the Act could cause considerable difficulty to businesses and residents alike. The production of the licensing policy must therefore be undertaken effectively to ensure that it is re-published no later than the 7 January 2014, as it is to take effect from this date.

### **5.3 Community Safety Implications**

5.3.1 The Act has a community safety component arising from the licensing objectives. There are currently no local concerns about the impact of licensing safety on community safety and it does not appear within the Council's community safety plan.

### **5.4 Equalities and Diversity Implications**

5.4.1 An Equality Impact Assessment (EqIA) of Environmental Health (including licensing) has been carried out. The EqIA did not identify any adverse or discriminatory impacts on the grounds of age, disability, gender, ethnicity, sexual orientation, religion or beliefs or by way of financial exclusion.

## **BACKGROUND DOCUMENTS**

- BD1 - Licensing Act 2003
- BD2 - S. 182 Guidance
- BD3 - Stevenage Borough Council's Licensing Act 2003 licensing policy 2011-2014
- BD4 - Home Office summary of s.182 changes April-October 2012.
- BD5 - Local Government (Miscellaneous Provisions) Act 1982, schedule 3 – Adoption of provisions by Council (23 February 2011) (with effect 1 April 2011)
- BD6 - Local Government Association (LGA) Best Practice Framework for the Review of Licensing Policy (October 2012)

## **APPENDICES**

Appendix A Draft – Stevenage Borough Council licensing policy (2014-2019)

Appendix B List of consultees

Appendix C Summary table of comparative changes to licensing policy (2014-2019)