

**Appendix 3**

**Meeting: LICENSING COMMITTEE**

Date: 3 June 2013

**LICENSING ACT 2003 – LICENSING POLICY REVIEW**

(Environmental Health & Licensing)

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**1 PURPOSE**

1.1 To seek approval to the proposed changes to the current Licensing Policy, last approved by Council on the 8 December 2010; the Licensing Act 2003 and to consider arrangements the public consultation of the policy.

**2 RECOMMENDATIONS**

- 2.1 That, subject to any amendments recommended by the Committee, officers undertake a public consultation exercise on the proposed Licensing Policy (Licensing Act 2003).
- 2.2 That the proposed policy is consulted upon for an eight week period, commencing on 17 June 2013 and concluding on 12 August 2013, the results of which to be reported to the Licensing Committee.

**3 BACKGROUND**

- 3.1 The Council last conducted a review of its licensing policy in 2010.
- 3.2 It should also be noted that the Home Office further revised the statutory s.182 Guidance issued under the Licensing Act 2003 (the Act) and the latest revised guidance was issued in October 2012.
- 3.3 It is proposed to carry out consultation between the 17<sup>th</sup> June – 12<sup>th</sup> August 2013, following which a further report will be submitted detailing any responses received and seeking the Licensing Committee's recommendation to Full Council to approve the revised policy, subject to any agreed revisions arising from the consultation responses.
- 3.4 A revised draft of the Licensing Act 2003 policy has been produced for the Committee's approval and is attached at Appendix 1 to this report.

## **4 DISCUSSION**

### **4.1 General Principals**

4.1.1 The Licensing Act 2003 first came into affect on the 22<sup>nd</sup> November 2005. This saw the ability to apply for and be granted, licenses in relation to alcohol transferred from the Magistrates' Courts to local authorities. Since its inception, the Licensing Authority has reviewed their licensing 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 section 182 of the Licensing Act 2003 (October 2012), and notes supplied from the Local Government Association (LGA).

4.1.3 The previously approved scheme of delegations is included in the attached draft policy document at appendix 1 and has been updated to reflect the points within the LGA guidance and template for this policy review.

4.1.4 The Licensing Act 2003 requires that the following parties are consulted 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 personal licences;
- Persons/bodies representative of business and residents in the borough.

4.1.5 All of the consultees will be notified in writing of the consultation period, copies of the draft Licensing Policy will be made available to any of the consultees or any other person requesting a copy of our consultation document upon request. Details of the consultation and the draft policy will also be placed on the Stevenage Borough Council website.

4.1.6 This will be in line with recommendations from the Cabinet Office published on the 17 July 2012.

4.1.7 The Licensing Authority must ensure that it publishes their Licensing Policy by the 7<sup>th</sup> January 2014.

### **4.2 Other Amendments**

4.2.1 The draft policy includes suggested changes and inclusions to the current policy to include wording amendments, and new inclusions for the areas of the Act as follows:

4.2.2 An executive summary;

4.2.3 An edit of the purpose and scope of the licensing policy;

4.2.4 A reordering of some sections throughout the policy so as to incorporate the additional provisions;

- 4.2.5 Avoidance of duplicity with other statutory and regulatory regimes;
- 4.2.6 Reference to arrangements for partnership workings;
- 4.2.7 New insertion as to the Live Music Act;
- 4.2.8 New insertion as to the Licensing Authority being a Responsible Authority;
- 4.2.9 New insertion as to Health being a Responsible Authority;
- 4.2.10 Audience capacity and implications for regulated entertainment as a result of the Live Music Act 2012 coming into affect;
- 4.2.11 Provisions as to Early Morning Restriction Orders (EMROs);
- 4.2.12 Provisions as to the Late Night Levy (LNL);
- 4.2.13 Provisions as to the licensing objective, Protection of Children from Harm;
- 4.2.14 Provisions and regard to the regulators compliance code and matters concerning enforcement;
- 4.2.15 Provisions and guidance for reviews of licenses;
- 4.2.16 Provisions as to the suspension of licenses following non-payment of the annual fee;
- 4.2.17 Provisions as to temporary event notices (TENS), in particular the new provisions as to late TENS.
- 4.2.18 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;
- 4.2.19 Administration of and delegation of functions under the Licensing Act 2003.
- 4.3 A full comparative table of the above changes can be found at appendix 2 to this report.

## **5. IMPLICATIONS**

### **5.1 Financial Implications**

- 5.1.1 As most of the applications are dealt with administratively, there is not expected to be a large increase in workload.

### **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<sup>th</sup> January 2014.
- 5.2.2 The Licensing Authority is bound by the provisions of the Act, the statutory guidance issued by the Secretary of State and its own Statement of 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 would cause considerable difficulty to businesses and residents alike. The production of this Licensing Policy must therefore be undertaken effectively to ensure that it is re-published no later than the 7<sup>th</sup> January 2014, as it is to take effect from this date.

## **BACKGROUND DOCUMENTS**

- Licensing Act 2003
- Home Office s.182 Guidance
- Stevenage Borough Council's Licensing Act 2003 Licensing Policy 2011-2014
- Home Office summary of s.182 changes April-October 2012
- Local Government (Miscellaneous Provisions) Act 1982, schedule 3 – Adoption of provisions by Full Council (23 February 2011) (with affect 1<sup>st</sup> April 2011)
- Local Government Association (LGA) Best Practice framework for the review of licensing policy statements (October 2012)

## **APPENDICES**

- Appendix 1 Draft - Stevenage Borough Council licensing policy (2014-2019)
- Appendix 2 Summary table of comparative changes to licensing policy (2014-2019)