

**Meeting** Council  
**Portfolio Area** Communities, Community Safety and Equalities  
**Date** 26<sup>th</sup> February 2025



## LICENSING ACT 2003 – REVIEW OF STATEMENT OF LICENSING POLICY

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### NON-KEY DECISION

#### 1 PURPOSE

- 1.1 To consider and adopt the Council's proposed Statement of Licensing Policy as required under the Licensing Act 2003 (the Act).
- 1.2 To note that the draft Statement of Licensing Policy was considered by the Council's General Purposes Committee at their meeting on 4<sup>th</sup> December 2024, by Cabinet on 15<sup>th</sup> January 2025 and Overview & Scrutiny on 21<sup>st</sup> January 2025.

#### 2 RECOMMENDATIONS

- 2.1 That the Council notes the report and agrees the proposed Stevenage Borough Council Licensing Act Statement of Licensing Policy 2025-2030 (attached at **appendix A**).
- 2.2 That the Council recommends the proposed Stevenage Borough Council Statement of Licensing Policy be adopted.
- 2.3 That the Council agrees that Licensing Officers, the Licensing Manager and the Head of Environmental Health and Licensing, in their capacity as 'The

Licensing Authority', are approved to act on behalf of the Council as a Responsible Authority as prescribed in the Licensing Act 2003 (13.4 & 69.4).

- 2.4 That the Council notes that sections 6.3.1 and 16.6.5 of the draft policy have been amended accordingly to remove any wording which conflicts with the above proposed recommendation.
- 2.5 That the Council note if the decision is made to agree for the Licensing Authority to act as a Responsible Authority, amendments to the Council's Constitution may be required, specifically Part 3 – Responsibility for Functions.

### **3 BACKGROUND**

- 3.1 The Council is the licensing authority for the purposes of the Act and consequently is under a duty to prepare a Statement of Licensing Policy that it proposes to apply in exercising its functions under the Act.
- 3.2 The Statement of Licensing Policy sets out the general approach the Council will take when carrying out its regulatory role under the Act and promoting the four licensing objectives:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 3.3 Each objective is of equal importance. There are no other statutory licensing objectives, therefore the promotion of the four objectives is a paramount consideration at all times.
- 3.4 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:
  - protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
  - giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
  - recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;

- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

- 3.5 Licensing authorities are responsible for administering the Act and this function is delegated to the council's General Purposes Committee. The Committee is responsible for considering and proposing the authority's licensing policy through developing a statement of licensing policy prior to its approval by the licensing authority (Full Council), and for taking decisions on specific licence applications or issues.
- 3.6 Statutory guidance for licensing authorities is issued by the Secretary of State under Section 182 of the Act, often referred to as 'Section 182 guidance'. Licensing authorities have a duty to have regard to this guidance and it should be adhered to unless there is good reason to depart from it. The Section 182 guidance is a comprehensive and useful tool describing the discharge of functions under the Act, including processes for hearings, and is updated periodically.
- 3.7 In shaping a policy, the licensing authority must have regard to the Section 182 guidance as well as giving appropriate weight to the views of the local community. Whilst there is a certain amount of flexibility in setting an approach to making licensing decisions, this cannot be inconsistent with the provisions in the Act. The statement cannot create new requirements for applicants outside of the Act, or override the right of anyone to make an application under the Act, make representations or seek a review of a licence.
- 3.8 The policy takes on additional significance in the event that an applicant challenges or appeals the Council's decision on a specific application. At this point the Magistrates court will adopt the licensing authority's policy as if it were its own.
- 3.9 The Policy seeks to strike a balance between the interests of licence holders, applicants and residents in the promotion of the licensing objectives defined by the Act. Additionally, it outlines the licensing authority's expectations of licence holders in promoting the licensing objectives, whilst advising on the licensing authority's obligations under the Act, including its interpretation of the Act and/or Statutory Guidance where necessary. The Statement is designed to offer appropriate protection for residents and a streamlined approach to regulation that eases unnecessary burdens on businesses.

- 3.10 The current Statement was adopted by full Council in February 2020 and must now be reviewed and, where necessary, revised.

### **Proposed changes**

- 3.11 A limited number of additions and amendments to the extant Statement of Licensing Policy were consulted upon, to reflect the most recent Section 182 Guidance. In all respects however the format of the new policy reflects that of its predecessor and is in line with Local Government Association guidance.
- 3.12 The draft policy can be found at Appendix A; all significant additions or variations from the 2020—2025 policy have been listed in the version history on page 47 of the draft policy document. There are no changes to the intent or direction in the proposed 2025-2030 policy, which sets out how the Council seeks to regulate alcohol and entertainment activities under its control and provide a framework for consistent decision making.
- 3.13 . In summary the principal proposed changes are as follows:
- The format of the policy has been amended in line with the corporate structure as recommended by the Council’s Cooperate Policy & Performance Manager
  - All typographical errors in the previous 2020-2025 Policy have been addressed and any changes to the names of projects and services referenced in this policy have also been amended
  - Contact details for the Council’s Licensing team have been updated throughout the 2020-2025 policy document. References made to ‘Challenge 21’ have been amended to ‘Challenge 25’
  - The pool of model premises licence conditions mentioned in section 6.11.13 of the draft policy document have been revised and updated. See **Appendix E**.
  - Amendments made in regard to audience size in section 6.2.2 of the draft policy document following Legislative changes to the Live Music Act 2012 which deregulates amplified live and recorded music.

### **Consultation**

- 3.14 Before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:
- the chief officer of police for the area;
  - the fire and rescue authority for the area;

- each local authority's Director of Public Health in England (DPH)14 or Local Health Board in Wales for an area any part of which is in the licensing authority's area,
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders; and persons/bodies representative of businesses and residents in its area

3.15 The views of all these persons or bodies should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of the industry affected by the provisions of the Act, but licensing authorities must make reasonable efforts to do so.

3.16 To comply with this requirement, the licensing authority published the draft Policy on a dedicated webpage on the Council's website and social media pages including Facebook, Twitter and Instagram with a link to the draft policy document, details of the consultation period and an explanation of how to make a representation. The web page was available between 23<sup>rd</sup> October and 20<sup>th</sup> November 2024 and the social media posts went out on 19<sup>th</sup> November for the remainder of the consultation period. A public Notice was also displayed on the outside window at Daneshill House and in the Comet newspaper dated 31st October 2024. A consolidated list of persons/bodies who were consulted on the draft policy document are at **Appendix B**.

3.17 As a result of the consultation exercise, two responses were received from the Portman Group and the Local Planning Authority and are attached at **Appendix C**.

3.18 **The Portman Group** – They operate on behalf of the alcohol industry and have a code of Practice on the naming, packaging and Promotion of Alcoholic Drinks which seeks to ensure that drinks sold on licensed premises are packaged and promoted in a socially responsible manner. Complaints about a product's packaging or point of sale advertising which fail the code are considered by an independent complaints panel and the panel's decision published online. Retailer alert bulletins are sent out to notify retailers of decisions made, to ask retailers to remove/not replenish stock of such a product. In their response they ask that the Council consider following other local authorities by adding some text into the policy concerning their regulatory work regarding the Code of Practice for licence holders and encourage retailers in the area to abide by retailer Alert Bulletins to remove irresponsible products and promotions. They would also like the Council to consider imposing conditions on premises licences, where evidence of

irresponsible alcohol promotion is found, requesting licence holders to comply with the Portman Group's Retailer Alert Bulletins.

- 3.19 **The Local Planning Authority** – Have proposed amendments to paragraph 3.5 of the draft policy so that it reads 'The Council's planning policies are set out in its local Plan. Central Government policy and guidance in the form of...' the statement also makes reference to 'Executive' which needs to be replaced with 'Cabinet' as the Executive Committee was replaced with Cabinet which took effect from June 2024.
- 3.20 All consultation responses and comments have been carefully reviewed. Recommendations from the Local Planning Authority to amend the wording in paragraph 3.5 has been addressed on version 2 of the draft policy statement attached at Appendix A, and all references made to the 'Executive' have been replaced with 'Cabinet'
- 3.21 The Portman Groups recommendation to add some text into the policy concerning their regulatory work and their code of practice has been included in section 6.14 of version 2 of the draft policy document and includes a sentence stating that the Council will encourage retailers in the area to sign up to and abide by Portman Groups Retailer Alert Bulletins to remove irresponsible products and promotions.
- 3.22 The proposal to impose conditions on premises licences, where evidence of irresponsible alcohol promotion is found, requesting licence holders to comply with the Portman Groups Retailer Alert Bulletins has not been included in version 2 of the draft policy statement. This condition is difficult to enforce, the Portman Group do not have any statutory powers and the packaging and promotion of such products is the responsibility of the companies which produce them. I have liaised with the Herts and Beds Licensing Group and none of its members which include our neighbouring Local Authorities impose such conditions.

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

- 4.1 Section 5 of the Licensing Act 2003 requires licensing authorities to publish a statement of licensing policy every five years in accordance with prescribed requirements. The adoption of the statement of licensing policy is a non-executive function by virtue of the Act and Statutory Guidance and is reserved for Full Council
- 4.2 The only alternative option would be to adopt a policy that differs in content and/or extent from the document proposed here. An alternative policy has not been considered as the one proposed achieves an effective balance between ensuring the promotion of the licensing objectives and avoiding being overly prescriptive or prohibitive to applicants and licence holders.

4.3 The draft Statement of Licensing policy was considered by the Council's General Purposes Committee at their meeting on 4<sup>th</sup> December 2024. The following comments and amendments to the proposed Statement of Licensing Policy were made by Members:

- That Licensing Officers, the Licensing Manager and the Head of Environmental Health and Licensing, in their capacity as 'The Licensing Authority', are approved to act on behalf of the Council as a Responsible Authority as prescribed in the Licensing Act 2003. (13.4 & 69.4)
- That sections 6.3.1 and 16.6.5 of the policy be amended accordingly and remove any wording which conflicts with the above proposed recommendation.

4.4 The wording in section 6.3.1 has been amended from: 'Licensing authorities themselves are included within the prescribed list of responsible authorities under the Act'.

To: 'Licensing authorities themselves are included within the prescribed list of responsible authorities under the Act. The Licensing Authority will determine when it considers it appropriate to act in its capacity as a responsible authority in the initiating of a licence review and to make representations with regards to licence applications. When acting as a Responsible Authority the Licensing Authority will, as far as is reasonably practicable, operate in accordance with the Home Office Guidance to Licensing Authorities, in that there will be clear and identifiable separation of responsibilities. The function of initiating a licence review or making representations regarding licence applications will primarily lie with the Licensing Manager, the Head of Environmental Health and Licensing or an appropriately authorised Licensing Officer within the Council's Licensing Team'.

4.5 The wording section 6.16.5 has been amended from: 'The Licensing Authority in its duties recognises that it cannot itself initiate any review application. The role of the Licensing Authority will be solely to administer the process, and to determine the application by way of a hearing, at which time evidence to support the review can be given'.

To: 'The Licensing Authority will determine when it considers it appropriate to act in its capacity as a responsible authority in the initiating of a licence review. When acting as a responsible authority the Licensing Authority will, as far as is reasonably practicable, operate in accordance with the Home Office Guidance to Licensing Authorities, in that there will be clear and identifiable separation of responsibilities. The function of initiating a licence review will primarily lie with the Licensing Manager, the Head of Environmental Health and Licensing or an appropriately authorised Licensing Officer within the Council's Licensing Team'.

- 4.6 The benefits of the Licensing Team to be granted the delegation to act on behalf of the Licensing Authority as a Responsible Authority will allow the team to make representations with regards to licensing applications which are received, or if they deem it appropriate, initiate or support another responsible authority, in a review of a premises licence. This will provide more enforcement powers in respect of premises which the Licensing Authority grant Licences to, specifically those that are in breach of their licence and fail to uphold the four licensing objectives.
- 4.7 The General Purposes Committee resolved:
- That the proposed Stevenage Borough Council draft Statement of Licensing Policy 2025-2030 including amendments, attached at Appendix A in the report, be supported.
  - That the Cabinet be requested to agree the Stevenage Borough Council draft Statement of Licensing Policy for onward recommendation to Council.
- 4.8 The draft Statement of Licensing policy including amendments was considered by Cabinet on 15<sup>th</sup> January 2025
- 4.9 Cabinet resolved:
- That the proposed Stevenage Borough Council draft Statement of Licensing Policy 2025-2030 including amendments proposed by the General Purposes Committee, attached at Appendix A in the report, be supported, and note that amendments to the Council's Constitution may be required.
  - That the Council agree and adopt the Stevenage Borough Council proposed Statement of Licensing Policy including amendments.

## **5 IMPLICATIONS**

### **Financial Implications**

Fees under the Licensing Act have been fixed in regulations since 2005. Premises and club premises licence fees are based on the rateable value of the premises. Whilst fees were intended to provide full cost-recovery, it is considered that this is not the case since operational costs have increased but the fees have remained unchanged since 2005.

### **Legal Implications**

- 5.1 The Licensing Authority has a statutory duty to produce a Statement of Policy under the Licensing Act 2003. Inadequate implementation of the Act would result in lack of clarity and direction for businesses and residents.

### **Equalities and Diversity Implications**

- 5.2 An Equalities Impact Assessment was carried out in November 2024 No significant impacts were identified to any individuals or businesses. A copy of



the Equalities Impact Assessment can be found at Appendix 11.4 of the draft policy document.

### **Community Safety Implications**

- 5.3 The Act has a community safety implication arising from the licensing objectives. There are currently no local concerns regarding the impact of Licensable activities on community safety, and it does not appear within the Council's community safety plan.

## **BACKGROUND DOCUMENTS**

- BD1 Licensing Act 2003
- BD2 Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2023)
- BD3 Licensing Act 2003 Statement of Policy 2020-25

## **APPENDICES**

- A Licensing Act 2003 draft Statement of Policy V2
- B Consolidated list of consultees
- C1 Consultation response from the Portman Group
- C2 Consultation response from The Local Planning Authority
- D1 Consultation letter
- D2 Public Notice
- D3 Newspaper Notice
- D4 Social Media Post
- E Stevenage pool of model premises licence conditions