

EAST HERTS COUNCIL

LICENSING COMMITTEE – 11 JULY 2013

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

12. DRAFT REVISED STATEMENT OF LICENSING POLICY.

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To present to members a draft revised Statement of Licensing Policy under the Licensing Act 2003.

<u>RECOMMENDATION FOR LICENSING COMMITTEE:</u> that
(A) The report be received.

1.0 Background

1.1 Section 5 of the Licensing Act requires the Licensing Authority to determine its Licensing Policy and publish every 5 years the Statement of Licensing Policy that sets out the principles it applies in exercising its functions under the Licensing Act 2003. The Statement must be published before the Licensing Authority carries out any licensing functions under the 2003 Act. The Act also requires that the Statement of Licensing Policy is kept under review, and appropriate revisions are made.

1.2 The current policy was determined in February 2011 for a period of 3 years (section 5 has since been amended to 5 years), and must be re-determined at Full Council by 31 January 2014.

1.3 Since publication of the current Statement of Licensing Policy, there have been a number of changes in legislation, and these have been reflected in amended guidance issued by the Secretary of State under section 182 of the Licensing Act. Copies of the guidance and a summary of the changes were presented to Licensing Committee on 14 March 2013.

2.0 Report

- 2.1 The draft revised Statement takes account of the following changes to legislation;
 - 2.1.1 Changes to limitations on Temporary Event Notices; Notice Givers may now serve x TENs in a calendar year, or x if they are a Personal Alcohol Licence Holder. Each TEN may last for up to 168 hours (1 Week). Each premises may have up to 21 days each year when licensable activities are authorised by a TEN.
 - 2.1.2 In addition to the Police, the Environmental Health Service may now object to TENs, and both Responsible Authorities may make their objections on the grounds of any of the Licensing Objectives.
 - 2.1.3 A limited number of TENs may be served late, on up to 5 working days notice. Late TENs may be rejected without appeal on receipt of an objection notice from either the police, or the Environmental Health Service, on the grounds of any of the Licensing Objectives.
 - 2.1.4 The Licensing Authority is now a Responsible Authority under the Act, and may of its own volition make representations on applications, and may make applications for Review, of Premises Licences and Club Premises Certificates.
 - 2.1.5 The evidential standard for accepting a representation for a proposal to alter the Operating Schedule has changed. Changing the operating schedule allows the licence to be altered by removing activities and the hours at which these may take place, and allows conditions to be imposed. Where as previously, conditions had to be necessary for the promotion of the licensing objectives, now they only need to be appropriate.
 - 2.1.6 Local Authorities now have powers to implement Early Morning Restriction Orders and impose a Late Night Levy on licensed premises. The arrangements for declaring an Early Morning Restriction Order, and Home Office Guidance on the Late Night Levy, were reported to Licensing Committee on 14 March 2013.
 - 2.1.7 The Live Music Act has made changes to the definition of Regulated Entertainment, to exclude live music from the need for a licence in some circumstances. The changes made by the Live Music Act were reported to Licensing Committee on 1 November 2012.

- 2.1.8 Persuasive case law has re-stated the requirements that applications for Review must comply with all formalities, and Local Authorities have no discretion to overlook or remedy slips, even minor ones.
- 2.1.9 Binding case law has indicated the matters that may be considered on appeal against a Licensing Authority's decision.
- 2.1.10 Following removal of the 'vicinity test' for valid representations, the term 'Interested Parties' is no longer defined, and has been replaced by the term 'other parties'. The removal of the 'vicinity test' means that civic pride is a sufficient reason for an 'other party' to object to an application that does not affect them directly.
- 2.2 A draft revised Statement of Licensing Policy is presented with this report as **Essential Reference Paper 'B'**, with a table of draft changes.
- 2.3 Members are invited to consider the draft revised Statement, and approve or comment.
- 2.4 Members may wish to take this opportunity to consider whether they wish to review the procedures of the Licensing Sub-Committees, and publish the procedure with the policy.
- 2.5 Following amendments proposed by Members, statutory consultation will take place between July and September 2013.
- 2.6 Feedback on Statutory Consultation will be presented to licensing Committee on 14 November 2013, for consideration, further amendment as appropriate, and recommendation of a final draft to Full Council.
- 2.6.1 Full Council will be invited to consider and approve the final draft at Full Council on 29 January 2014, for publication for a five year period, expiring on 31 January 2019.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Draft revised Statement of Licensing Policy 2013

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