

LICENSING COMMITTEE – 26 AUGUST 2015

STATEMENT OF LICENSING POLICY

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)



Hinckley & Bosworth
Borough Council

A Borough to be proud of

WARDS AFFECTED: [ALL WARDS]

1. PURPOSE OF REPORT

- 1.1 This report seeks approval for the Council's Statement of Licensing Policy 2015, which has been consulted upon.
- 1.2 The Council's current Policy Statement took effect from 7 January 2011 and this will be our fourth edition which must be published before the 7th January 2016.

2. RECOMMENDATION

- 2.1 It is recommended that Members approve the Licensing Policy for adoption by the Council.

3. BACKGROUND TO THE REPORT

- 3.1 In its role as the licensing authority under the Licensing Act 2003 the Council has a duty to prepare, and keep under review its Statement of Licensing Policy. This sets out how the authority approaches its responsibilities under the Act. There has been a range of legislative and other changes that have prompted a review of this policy, which must be publicly consulted upon before it can be adopted.

- 3.2. Section 5 of the Licensing Act 2003 (the Act) states that –

5 (1) each Licensing Authority must in respect of each 5 year period

(a) determine its policy with respect to the exercise of its licensing functions and;

(b) publish a statement of that policy before the beginning of that period.

- 3.3 Underpinning that obligation are the four Licensing Objectives which are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

- 3.4 Equal weight is given to all four licensing objectives and the policy must seek to secure the promotion of those licensing objectives throughout the licensing process.

- 3.5 The existing policy has been reviewed in regard to its application, suitability and effectiveness since the implementation of the Act in 2003. The current policy had

worked reasonably well in the past and had provided a basis for the consideration and determination of less contentious applications.

- 3.6 Since the current policy was approved there has been a range of amendments to the Licensing Act 2003 including Early Morning Alcohol Restriction Orders (EMROs) which allow Licensing Authorities to set an end time for the sale of alcohol between midnight and 6am at all or specific locations within the borough. The new Police Reform and Social Responsibility Act 2011 implemented some new initiatives such as the Late Night Levy (LNL). This allows Licensing Authorities to charge an additional levy to all alcohol licensed premises who wish to open after midnight with 70% of that income which is collected by the Licensing Authority going to the police authority to spend as they wish. As detailed at sections 13 and 14 of the policy there is currently no evidence to support the implementation of either of these schemes in the Borough. These amendments were reported to the Licensing Committee on 28 February 2012.
- 3.7 Also the Live Music Act 2012 and the Licensing Regulatory Reform Order 2013 has resulted in the deregulation of some elements of live music and other regulated entertainment up to 11pm. We await the details of further deregulation of Schedule 1 of the Licensing Act 2003 in 2015 in respect of regulated entertainment and introduction of setting fees locally rather than centrally.
- 3.8 The policy in its current format does not reflect the Licensing Authority's approach to the new initiatives or legislative changes for example the new Temporary Events processes or relaxation of the DPS requirement in community premises. It therefore provides limited direction to support decisions on contentious applications heard by a licensing sub-committee relevant to the aforementioned changes.
- 3.9 The policy should provide greater clarity to applicants and other parties to enhance the application process, to create efficiencies and manage and demonstrate expectations. It should ensure that applicants have a clear understanding of the impacts of their licensed business or proposed activities on others and what they must do to enhance the positive impacts and mitigate any detrimental impacts through their operating schedules and self-imposed licence conditions.
- 3.10 The Licensing Authority must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 when drafting its policy. The latest version has been referred to during the drafting of this policy.

SUMMARY

- 3.11 Improved advice to the licensed businesses and the public to improve knowledge and understanding of the Act and the options available to businesses and residents in relation to applications for licences.
- 3.12 Recognising the introduction of the Live Music Act 2012 and how this can promote an increase in live music venues whilst at the same time maintaining a balance to protect residents.
- 3.13 Detailing the Authority's stance on the Late Night Levy (LNL), Early Morning Alcohol Restriction Orders (EMRO's) and Cumulative Impact whilst allowing flexibility in that approach should those matters need consideration for implementation in the future.

- 3.14 Clarity on the application process for all licence types including the Authority's approach to suspension of licences/certificates for non payment of annual fees.
- 3.15 Clarity on the Authority's stance in relation to applications to remove a Designated Premises Supervisor (DPS) from community premises licensed for alcohol sales to allow the sales to be authorised by a management committee. This is to ensure that alcohol sales are responsibly managed in community premises following a relaxation of the requirement to have a DPS.
- 3.16 Clarity and advice on the role, purpose and requirements for clear licence conditions to promote all of the licensing objectives. This will ensure licensees better understand the restrictions on their licences. It will aid residents affected by licensed premises activities to identify and report if breaches and to allow for effective enforcement by the Licensing Authority to ensure promotion of the licensing objectives.
- 3.17 Changes to the process for submitting temporary event Notices (TENS) and the inclusion of Environmental Health as a statutory consultee to improve the knowledge of persons submitting TENS and the authority's expectations of them to promote the Licensing objectives at their temporary event. Changes in the law in relation to Community Ancillary Notices (CAN).
- 3.18 Clarity on the rules around the provision of adult entertainment including exempt sexual entertainment and the relationship between the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982. This is to ensure that exempt entertainment (under the LG (MP) Act 1982) is properly regulated under the LA2003 where licences permit it. Also updated text under the Protection of Children from harm and information to raise awareness of child sexual exploitation.
- 3.19 The Cumulative Impact Policy has been reviewed to now not include the area of the new Crescent development.

4. FINANCIAL IMPLICATIONS [AG]

- 4.1 None arising directly from this report.

5. LEGAL IMPLICATIONS [MR]

- 5.1 Set out in the report.

6. CORPORATE PLAN IMPLICATIONS [RP]

- 6.1 Will help improve public safety, protect children from harm and prevent public nuisance and crime and disorder within the Borough and thereby contribute towards the Council aims of creating a safe vibrant place to work and live.

7. CONSULTATION [MB]

7.1 The Act sets out a list of statutory consultees and also makes provision for other persons/bodies to be consulted as necessary and as requested.

The statutory consultees are:-

- The chief officer of police for the Licensing Authority's area,
- The fire and rescue authority,
- The local authority's Director of Public Health.
- Persons/bodies representative of premises licence holders.
- Persons/bodies representative of club premises certificate holders.
- Persons/bodies representative of personal licence holders.
- Persons/bodies representative of businesses and residents in its area.

7.2 All statutory consultees have been consulted along with all Parish Councils and Ward Members. The draft Policy was also published on the Council website. Four responses were received.

8. RISK IMPLICATIONS

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Reputation, Legal, Regulatory	Procedures have been put in place to ensure that the Statement of Licensing Policy is reviewed and subsequently published.	Mark Brymer

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS [RP]

9.1 The Licensing Act 2003 will have equal impact on all areas of the Borough.

9.2 An Equality Impact Assessment has been undertaken and can be viewed on the Councils website.

10. CORPORATE IMPLICATIONS

10.1 Community Safety Implications [SS] A robust policy will support and have a positive impact on supporting the reduction of alcohol related crime, disorder and anti-social behaviour in the Borough.

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: Home Office Guidance to Local Authorities
 The Licensing Act 2003

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