

MID SUFFOLK DISTRICT COUNCIL

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| TO: Licensing and Regulatory Committee | REPORT NUMBER: MLR/19/6 |
| FROM: Jessica Fleming – Cabinet Member for Environment | DATE OF MEETING: 7 August 2020 |
| OFFICER: Emma Richbell – Assistant Manager Food, Safety & Licensing Kay Sanders – Licensing Officer | KEY DECISION REF NO. N/A |

LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY STATUTORY FIVE-YEARLY REVISION

1. Purpose of Report

- 1.1 This report refers to policy setting under the Licensing Act 2003. Since November 2005 local licensing authorities have been responsible for functions under the Licensing Act 2003, including issuing of licences and authorisations for licensable activities, premises, clubs, events and individuals.
- 1.2 Section 5 of The Licensing Act 2003 (the Act) requires that each Licensing Authority shall determine and publish a local 'Statement of Licensing Policy' relating to the discharge of its licensing functions under the Act. In 2020 the Authority is due to revisit the statement that has been in effect since January 2016, and this report seeks the approval of a first draft revision in order that a statutory consultation period may then commence on its content.

2. Recommendation

- 2.1 That the draft revision Licensing Act 2003 'Statement of Licensing Policy' document, attached as Appendix A be approved. Further that the relevant officers proceed with the commencement of a period of statutory consultation in accordance with Licensing Act 2003 legislation and regulations.

The Committee is able to resolve this matter.

3. Financial Implications

- 3.1 This is a statutory function. The Licensing Team has to date undertaken the necessary preparatory work within existing resources and by working together with partner authorities. The resource, co-ordination of activity and costs associated with the consultation process will be shared between the two districts and wider wherever viable.
- 3.2 In general terms the legislation aims to secure full cost-recovery of administering Licensing Act 2003 functions through fees payable for licence applications and ongoing maintenance. The fee banding system and fee levels are currently set by Central Government via Regulation (as they have been, unchanged, since 2005).

The previous government had decided in early 2015 to not activate the provisions of the Police Reform and Social Responsibility Act 2011 - section 121 of which would devolve fee setting to local licensing authorities.

4. Risk Management

- 4.1 This report is most closely linked with the Council's Significant Business Risk No. 14 – Councils may be perceived to be untrustworthy and have a poor reputation. Operational risks 2A03 & 2A04 – If licensing functions are not delivered within prescribed framework/local policy/timeframe, then businesses will be impacted, and reputational harm/appeal likelihood will increase incurring financial loss.

| Risk Description | Likelihood | Impact | Mitigation Measures |
|--|--------------|-----------------|---|
| Failure to review, revise and re-consult upon the policy will result in legal challenge to Council decisions under the 2003 Act (including potentially by Judicial Review) | 3 – Probable | 3 – Bad/Serious | Review, revise and re-consult on the Statement of Licensing Policy in accordance with the requirements of the Act, Regulations & Statutory Guidance |

- 4.2 The risks that inherently apply to the Licensing Authority when carrying out its Licensing Act 2003 functions relate to promotion of the licensing objectives, which are:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

5. Consultations

- 5.1 This will be the fifth edition of the Council's 'Statement of Licensing Policy' under the Licensing Act 2003. The Licensing Team has the necessary experience, stakeholder contacts and networking in place to ensure that a wide and balanced consultation takes place. The consultation will take place over a minimum period of four weeks, through various channels/media. A joint notice may also be placed in the local press as part of this engagement process.
- 5.2 The 'Statement of Licensing Policy' document has been developed to be consistent across both Babergh and Mid Suffolk Councils (subject to councillor approval at each authority). There are similar amounts of licensable activity and type across both districts. This development work has also involved working as part of the wider Suffolk Licensing Officers Group.
- 5.3 Adoption of the Licensing Act 2003 'Statement of Licensing Policy' is a function reserved for full Council at both Authorities.

6. Equality Analysis

- 6.1 There are no equality implications arising directly from this report. This is a statutory revision to an existing policy. The Council recognises its obligations under the Equality Act 2010, in the exercise of its licensing functions, and shall have due regard to any comments received during the policy consultation on equality issues.

7. Key Information

- 7.1 The Licensing and Regulatory Committee established under section 6 of the Licensing Act 2003 is responsible for dealing with matters under the Licensing Act 2003. Some of these functions are delegated to a sub-committee or officers, but some functions may not be delegated. These exceptions are matters for full Council and include any consideration of Early Morning Restriction Orders and final approval of the five year 'Statement of Licensing Policy' document.
- 7.2 The 'Statement of Licensing Policy' must contain certain information as required by regulation. The statement must also have regard to Home Office guidance issued under section 182 of the Act by the Secretary of State, and take into account the views expressed in any consultation responses from statutory consultees - including local communities and responsible authorities.
- 7.3 The redrafted statement, attached as Appendix A to this report, contains amendments (as highlighted) from the 2018 published version of the guidance and updated legislation since the last full revision in 2015. The draft revision policy also closer links the Council's licensing functions to its wider strategic priorities, and further recognises the link between promotion of the licensing objectives with wider outcomes sought by the Local Authority. It also intends to be more transparent about the Licensing Authority's expectations in relation to existing and new licensed businesses and operators in the district so as to greater balance growth and business diversification with appropriate controls to promote licensing objectives. During the consultation phase to follow, the draft document will be widely disseminated and open to input from across the organisation as well as identified stakeholders and general public - so that the Statement of Licensing Policy progresses to a more corporately referenced and accessible document.
- 7.4 The Licensing Team has worked closely in partnership with other Suffolk Licensing Authorities to ensure consistency of approach and avoid duplication of efforts across the County. Albeit there will be some minor local variations based on specific local circumstances, licensable activity and individual consultation responses, the common template should ensure that there is generally little variance between neighbouring authorities' approach in the dispensation of functions under the Act. All available legislative and regulatory information and guidance has been taken into account during this preparatory work.
- 7.5 The legislation requires the Licensing Authority to consult widely upon its draft 'Statement of Licensing Policy' document with stakeholders, before finalising and publishing the document in January 2021. The fifth statement shall take effect for a five-year period from 07 January 2021 (although the statement may be revised sooner if necessary).

- 7.6 Once the consultation period has been completed, any responses will be collated and the 'Statement of Licensing Policy' may be revised in the light of representations/comments made. Any revised document will then be brought back before the Licensing Committee for further consideration prior to the document being recommended on to full Council for adoption.
- 7.7 Once the document has been adopted it will be published on the Council website and made widely available, to take effect from 7 January 2021. It will then become a primary point of reference for councillors, officers, applicants and other responsible/interested parties.

8. Appendices

| Title | Location |
|--|----------|
| A. Statement of Licensing Policy - DRAFT | Attached |

9. Background Documents

- 9.1 Licensing Act 2003
- 9.2 Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003