

Bath & North East Somerset Council		
MEETING	Planning, Transportation and Environment Policy Development & Scrutiny Panel	
DATE:	8 <sup>th</sup> July 2014	
TITLE:	Review of Statement of Licensing Policy	
WARD:	All	
AN OPEN PUBLIC ITEM		

## **1 THE ISSUE**

- 1.1 At the meeting on 16<sup>th</sup> November 2010, Full Council adopted a Statement of Licensing Policy which is required by Section 5 of the Licensing Act 2003 ('the Act'). In accordance with statutory guidance the Policy must be reviewed at least every 5 years. The Council is currently consulting on its revised policy statement and this report presents the proposed revised policy together with a, new accompanying code of best practice. The formal consultation is running between 30<sup>th</sup> April and 30 July 2014.

## **2 RECOMMENDATION**

- 2.1 The Panel note the report and offer any comments regarding the revised Statement of Licensing Policy and Code of Best Practice which can be fed into the formal consultation.

## **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 There are no financial, property or people implications presented by the adoption of this Policy and Code of Best Practice.
- 3.2 All fees charged in respect of licensing will remain on a cost recovery basis.

## **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 Section 5 of the Act requires a licensing authority to prepare and publish a statement of licensing policy every 5 years. Such a policy must be published before a licensing authority carries out any function in respect of individual applications made under the terms of the Act. During the intervening period, the

policy must be kept under review and a licensing authority may make any revisions to it, as it considers appropriate.

4.2 The current Policy which has been in place since January 2011 now needs to be formally reviewed, adopted and published before January 2016. The current Policy will remain valid until that date or such time earlier when it is formally reviewed.

4.3 Before determining its policy for any 5 year period the licensing authority must consult the persons listed in Section 5(3) of the Act. These are:

- The Chief Officer of Police for the area;
- The Fire and Rescue Authority for the area;
- 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 of personal licences;
- Persons/bodies representative of businesses and residents in the area

4.4 The Government has issued Guidance ("the Guidance"), under s.182 of the Act, which states that the authority must have regard to it when making and publishing its policy.

4.5 All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to this Guidance and give appropriate weight to the views of consultees.

4.6 While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.

4.7 Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.

4.8 Statements of policies should make clear that:

- Licensing is about regulating licensable activities on licensed premises by qualifying clubs and temporary events within the terms of the 2003 Act; and
- Conditions attached to various authorisations will be focussed on matters which are within the control of individual licence holders and others with relevant authorisations i.e. the premises and its vicinity.

4.9 A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centre

4.10 A statement of licensing policy should recognise that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

4.11 A copy of the statutory guidance can be found at [www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance](http://www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance)

## 5 THE REPORT

5.1 In light of the recommendations from the Alcohol Scrutiny Day held in 2013 and the review of the Alcohol Harm Reduction Strategy in 2014, the Licensing team has chosen to carry a comprehensive review of the Statement of Licensing Policy, consulting widely with stakeholders throughout B&NES. Consultation has included:

- An online consultation questionnaire via the B&NES Council website [www.bathnes.gov.uk/licensing-consultation](http://www.bathnes.gov.uk/licensing-consultation)
- A letter/email to all licence holders, Responsible Authorities, Councillors, Parish Council, Town Councils providing a copy of the proposed policy and code of best practice seeking comments
- Presentations to the Night Time Economy Group, the Student Community Partnership, the Alcohol Harm Steering Group, Midsomer Norton Community Alcohol Partnership and the Independent Traders Forum
- A stakeholder workshop on 17 July 2014 for all consultees where the policy and code of best practice can be discussed in more detail

5.2 Whilst the policy statement can be restrictive in terms of what can be included, this revision endeavours to be forward focussed and flexible to take account of developments and changes over the forthcoming 5 years. The main changes are:

- A joint forward by the Cabinet Members for both Neighbourhoods and Wellbeing to emphasise the role the Licensing regime has to play in supporting public health
- An appreciation of the link with the Alcohol Harm Reduction Strategy and recognition of how excessive alcohol consumption can lead to poor health and increased burden on local health services
- The importance of the role of the Licensing Team in helping local businesses to thrive through the provision of pre-application advice which can help to promote a successful cultural diversity and local economy
- For the first time, the creation of a Code of Best Practice to sit alongside the policy statement and assist licence holders in achieving best practice in their promotion of the licensing objectives

5.3 As part of this revision, the opportunity is being taken to review the evidence to support the continuation of cumulative impact area which was introduced by the Council in 2007. Data is being collected from the Council's Research and Intelligence Team and also Avon and Somerset Police and their responses will be considered as part of the responses to the formal consultation. This data is also being discussed at events throughout the consultation to seek comments from other stakeholders.

## **6 RATIONALE**

6.1 The revised Statement of Licensing Policy must be adopted according to the Guidance made under the Act and as part of the consultation views are being sought from a wide range of stakeholders, including this Panel.

## **7 OTHER OPTIONS CONSIDERED**

7.1 None

## **8 CONSULTATION**

8.1 Consultation will be through circulation of this report in addition to the consultation already taking place within this review.

## **9 RISK MANAGEMENT**

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

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<b>Background papers</b>	<i>Draft Statement of Licensing Policy</i> <i>Draft Code of Best Practice</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	