

**Committee: Licensing & Environmental Health**

**Agenda Item**

**Date: 20 September 2017**

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**Title: Licensing Act 2003 – Statement of Licensing Policy - Revised**

**Author: Amanda Turner, Licensing Team Leader**

Item for decision:  
yes

## Summary

1. This report is to inform members of the outcome of the constitution of proposed amendments to the Council's licensing Policy.

## Recommendations

2. That members recommend that Full Council adopt the proposed amendment.

## Financial Implications

3. None.

## Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Uttlesford's Draft Statement of Principle Policy document  
Revised Guidance issued under sections 182 of the Licensing Act 2003 (April 2017 version)

## Impact

- 5.

Communication/Consultation	There is a statutory requirement to consult prior to the adoption of a revised Licensing policy.
Community Safety	This is encompassed in the licensing objective of public safety and the protection of children from harm
Equalities	There are no equality issues arising from this report.
Health and Safety	Public safety is one of the licensing objectives promoted by the draft policy

	statement.
Human Rights/Legal Implications	In the event that the Licensing Policy is not consistent with the legislation it is susceptible to challenge by way of judicial review. In the event that the Policy is inconsistent with government guidance and no good reason has been given for departure therefrom the Policy would also be susceptible to such challenge and the Authority would be at greater risk of adverse costs on appeal if the court decided the issue based on government guidance.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

6. The Licensing Act 2003 which has been in force since 2005 requires that the authority produces a Statement of Licensing Policy and reviews it at least every 5 years. The current policy was last reviewed in 2012 and approved by Full Council on 11 December 2012.
7. In accordance with the requirement to keep the Policy under review the Policy has now been updated for the five year period 2017 to 2022. Our Draft Statement of Principle policy document is attached as Appendix 1.
8. In exercising its duties under the Act the Licensing Authority must act in accordance with the general principles of public administration, and under a duty to promote the statutory licensing objectives of preventing crime and disorder: preventing public nuisance: protecting public safety; and protecting children from harm.
9. During the life of the current policy, it has proved satisfactory and there have been no challenges made to any parts of the Policy. This revision contains additional supportive information and is in accordance with the revised guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. It also contains relevant updates brought in by the Deregulation Act 2015, the Immigration Act 2016 and the Police and Crime Act 2017.
10. Following the previous meeting consultation letters/emails were sent to all responsible authorities under the Act, all premises licensed in the district, local businesses, Councillors, and Town & Parish Councils. In addition the consultation was published on the Council's web site.

11. Only 1 response has been received to the draft consultation by a member of a trade association supporting our draft policy. This is attached as appendix 2.

12. We received 3 telephone calls requesting a paper copy of the draft Policy document. None of the Statutory consultees, or premises licence holders consulted on this draft policy responded to the consultation letter.

## Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
The recommended policy is contrary to the government guidance	1. Members have been given extracts of the relevant sections of the updated guidance and will have regard to it	3. There is a risk of judicial review and adverse costs orders on appeals	Members give sound reasons for any provisions of the statement of government guidance and Licensing Policy which they propose should be otherwise that in accordance with government guidance.
The council does not review its licensing policy prior to the next scheduled review	1. The licensing and environmental health committee have previously approved draft Licensing Act policies in a timely manner	3. The council would suffer reputational damage if its policy was seen not to be consistent with the legislation and may be the subject of adverse costs awards on appeal.	Members recommend a revised policy for consultation as soon possible and in the meantime recommend a statement to be published on the Councils website outlining the changes

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.