

FAREHAM

BOROUGH COUNCIL

Report to Licensing and Regulatory Affairs Committee

Date **29 September 2020**

Report of: **Head of Environmental Health**

Subject: **Review of Licensing Policy**

SUMMARY

The Council is required to determine and publish every 5 years a Statement of Licensing Policy in relation to the exercise of its functions under the Licensing Act 2003. The 5-year period to which the current Licensing Policy relates ends in March 2021. The purpose of this report is to bring before the Licensing and Regulatory Affairs Committee the draft reviewed Licensing Policy Consultation Document and to approve it for statutory consultation.

RECOMMENDATION

It is recommended that:

- a) Members' views and comments be considered in determining the current Licensing Policy Consultation Document, attached as Appendix A to the report;
- b) the consultation exercise on the Licensing Policy commence at this meeting and continue for a period of 12 weeks;
- c) a further report on the Licensing Policy, which details outcomes from the consultation process, be presented to the Licensing and Regulatory Affairs Committee at its meeting in January 2021 for further consideration prior to referral to the Executive for comment; and
- d) the final draft Licensing Policy then be recommended to Council for adoption at the meeting scheduled to take place in February 2021.

INTRODUCTION

1. The Licensing Act 2003 took effect on 25 November 2005 and provided a unified system of regulation for the sale of alcohol, the provision of regulated entertainment and late-night refreshment. Most significantly it transferred to the local authority, as part of these new provisions, liquor licensing, which was previously carried out by the Magistrates' Court. The Council is the licensing authority in its area for the discharge of licensing functions under the Licensing Act 2003.
2. Section 5 of the Licensing Act 2003 requires each licensing authority to publish a statement of policy in respect of its licensing functions at the beginning of each five-year period. This policy must be kept under review and such revisions must be made at such times as it considers appropriate.
3. The present five-year period ends in March 2021 and therefore a Licensing Policy for 2021-2026 must be determined and published. Before doing so, consultation must have taken place with prescribed persons and groups. Before determining its policy for a five-year period, a licensing authority must consult:
 - (a) the chief officer of police for the licensing area;
 - (b) the fire authority for that area;
 - (c) such persons as the authority considers to be representative of holders of premises licences issued by that authority;
 - (d) such persons as the authority considers to be representative of holders of club premises certificates issued by that authority;
 - (e) such persons as the authority considers to be representative of holders of personal licences issued by that authority; and
 - (f) Representatives of businesses and residents in its area.

LICENSING POLICY

4. The Licensing Act requires that the Council carries out its various licensing functions so as to promote the following four licensing objectives: -
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
5. In carrying out its licensing functions, a licensing authority must also have regard to:
 - Its statement of Licensing Policy published under section 5 of the Act; and
 - Any guidance issued by the Secretary of State under section 182 of the Act.
6. The Licensing Act requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote these licensing objectives when making decisions on applications made under the Act.

7. Where any revisions are made to the policy, it is also incumbent upon the licensing authority to publish a statement of the revisions or the revised licensing statement.

ORIGINAL POLICY DEVELOPMENT

8. The Head of Environmental Health has reviewed the current Licensing Policy. A Draft Licensing Policy has been prepared for the Committee to consider and approve for the purpose of statutory consultation. There are minimal changes to the Policy, only incorporating updates to the Licensing Act. The Draft Licensing Policy is attached as Appendix A to this report.
9. Section 5 of the Licensing Act 2003 stipulates that once statutory consultation has been undertaken, the approval of the Draft Licensing Policy for publication is not a function that can be discharged by the Licensing Committee. This decision must be made by Full Council.

RISK ASSESSMENT

10. There are no significant risk considerations in relation to this report; however, the Council is required to have a current Licensing Policy in place in order to assist it to meet its statutory obligations under the Act. The Licensing Policy itself is a key document as it details how the authority intends to operate and reflect the licensing objectives. If it makes any decisions which are not in line with the policy, full reasons must be given for that departure.

CONCLUSION

11. The Licensing Act 2003 made provision for the transfer to local authorities (the licensing authority) of the regulation of the sale and supply of alcohol, the provision of entertainment and the provision of late-night refreshment.
12. The general duties of a licensing authority are that it must carry out its functions under the Act with a view to promoting the licensing objectives and, in carrying out its licensing functions, it must also have regard to its licensing statement published under section 5 of the Act and any guidance issued by the Secretary of State under section 182 of the Act.
13. Before determining its policy, however, a licensing authority must consult widely, in particular with those representatives listed and, under section 5 (3) of the Act, with any other person or group which it feels it is necessary to consult.
14. The Committee is invited to approve the Draft Licensing Policy attached as Appendix A for the prescribed consultation.
15. Following consultation, a further report on the Licensing Policy, which details outcomes from the consultation process, will be presented to the Committee at its meeting in January 2021 for recommendation to Full Council for adoption.

Background Papers: None

Enquiries:

For further information on this report please contact Ian Rickman. (Ext 4773)