
REVIEW OF STATEMENT OF LICENSING POLICY

1 SUMMARY

- 1.1 This report details proposed amendments to the Council's Statement of Licensing Policy that was approved on 27 April 2006.
- 1.2 It proposes changes to the policy with suggested wording, where appropriate, and seeks Members' approval before the necessary public consultation.

2 INTRODUCTION

- 2.1 Section 5 (1) of the Licensing Act 2003 requires the Council to determine and publish its policy with respect to the exercise of its licensing functions for each subsequent 3-year period beginning on 7 February 2005.
- 2.2 The Council must carry out a consultative process to include the police and fire authorities, holders of premises licences, club premises certificates and personal licences and representatives of businesses and residents in the area.
- 2.3 Following any changes being made the Council has to publish either a new statement of licensing policy or a statement of the revisions.

3 BACKGROUND

- 3.1 The original policy of this Council, consistent with the majority of other Essex Local Authorities, was derived from the model developed and agreed by the Essex Joint Licensing Officers' Forum.
- 3.2 The Council reviewed its policy during 2005 following a judicial review finding that Canterbury City Council's policy (that had been closely based upon the 'Essex model') was too prescriptive.
- 3.3 It should also be noted that the Department for Culture, Media and Sport (DCMS) revised the Statutory Guidance issued under the Act and has since embarked upon further consultation on a further revised edition.
- 3.4 Once the Committee have approved a draft document, consultation will be undertaken between July and September 2007. Subsequently, a further report will be submitted detailing any responses received and seeking the Committee's approval to refer the policy statement to Council for adoption.
- 3.5 A revised draft of the policy has been produced, at Appendix A. Deletions to the original Policy are clearly shown.

4 SIGNIFICANT CHANGES

- 4.1 The foreword has been updated to take account of the current position with regard to licences issued.

- 4.2 New paragraphs have been inserted or old paragraphs amended in response to revised Guidance. They include new sections in respect of interested parties, applications for new or varied licences, representations and reviews and authorising supplies of alcohol.
- 4.3 The change in interpretation particularly affects Ward and Parish Councillors and others making representations and the proposed changes aim to achieve consistency with similar provisions contained within the Council's Statement of Licensing Principles under the Gambling Act.
- 4.4 Those paragraphs are: -
- Applications for licences - paragraphs 1.24 - 1.25, 1.29 – 1.34
- Interested parties and representations - paragraphs 1.39 – 1.46, 1.49 – 1.51
- Reviews - paragraphs 1.78 – 1.83
- Authorising supplies of alcohol - paragraph 3.8

5 RISK IMPLICATIONS

- 5.1 There is a statutory obligation for the Statement of Licensing Policy to be reviewed and published for each 3-year period. Failure to do so could result in the policy being challenged.
- 5.2 If successfully challenged on the content of the Policy, the Council's reputation would be harmed.
- 5.3 The Licensing Authority is bound by the provisions of the Act, the statutory guidance issued by the Secretary of State and its own Statement of Licensing Policy in its administration of the licensing regime and in determining licensing issues. The integrity of the policy therefore has the potential to directly impact upon the Authority's determination of applications under the Act.

6 LEGAL IMPLICATIONS

- 6.1 There may be a potential for decisions made in determining licensing applications to become the subject of judicial review or appeal if the Statement of Licensing Policy is not credible and is subject to legal challenge.

7 RESOURCE IMPLICATIONS

- 7.1 There are no financial or other resource implications arising from this report.

8 RECOMMENDATION

- 8.1 It is proposed that the Committee **RESOLVES**

- (1) That the revised 'Statement of Licensing Policy' is approved for consultation, subject to such amendments as maybe considered necessary.
- (2) That a further report be submitted to this Committee detailing the consultation responses received.

Richard Evans

Head of Environmental Services

Background Papers: -

None

For further information please contact Kevin Doyland on: -

Tel: - 01702 318036

E-mail: - kevin.doyland@rochford.gov.uk

If you would like this report in large print, braille or another language please contact 01702 546366.