
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 21 December 2004.
- 1.2 It proposes changes to the original policy with suggested wording, where appropriate, and seeks Members approval for publication.

2 INTRODUCTION

- 2.1 Section 5 (4) of the Licensing Act 2003 requires the Council to keep its licensing policy under review and to make such revisions to it at such times as the Council thinks necessary.
- 2.2 Prior to making any changes 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 have to publish either a new statement of licensing policy or a statement of the revisions.

3 BACKGROUND

- 3.1 The approved 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 Officer's Forum.
- 3.2 The Essex model took account of the Statutory Guidance issued under section 182 of the Licensing Act 2003 and, to large extent, used the same or paraphrased language from the guidance.
- 3.3 Rochford's first statement of licensing policy, published in January 2005, had been amended from the original 'Essex' draft to take account of responses received to the consultation process on the draft policy, prior to consideration by Full Council.
- 3.4 The licensed trade sought judicial review of Canterbury City Council's statement of licensing policy, which had been broadly based upon the 'Essex' model. The finding of the judicial review was that the policy was overly prescriptive in regard to the requirements made of applicants in submitting their applications for premises licences and club premises certificates.
- 3.5 In light of that judicial review, approval was sought of the Licensing Committee on 6 December 2005 to consult on proposed amendments to our statement on the amended terminology shown at Appendix A.
- 3.6 The Licensing Committee approved consultation to take place between 1 January and 31 March 2006.

- 3.7 A revised statement of licensing policy containing a clear explanation of the purpose of the review and the differences between the existing and proposed policies was published and distributed to the Responsible Authorities (under the Licensing Act 2003) and to local libraries and council offices. Attention was drawn to the review process via the Council's website.
- 3.8 For ease in reference the approved consultation policy is attached at Appendix B. It should be noted that amendments to original text appear with a line scored through, and any replacement text appears in italics and underlined.
- 3.9 There were no formal responses to the consultation.

4 RISK IMPLICATIONS

- 4.1 If areas of the policy that gave rise to judicial review remain unchanged, there is a risk of future legal challenge and costs being awarded against the Council.
- 4.2 As the Licensing Committee are bound to make their determinations of contested licence applications in accordance with the Licensing Act 2003, Statutory Guidance and the statement of licensing policy, there is also a potential for determinations made upon a flawed policy to be subject of judicial review or appeal.

5 RECOMMENDATION

- 5.1 It is proposed that the Council **RESOLVES**
To approve the proposed amendments to the Statement of Licensing Policy.

G Woolhouse

Head of Housing, Health & Community Care

Background Papers: -

None

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APPENDIX A

Page No.	Paragraph no.	Line no.	Proposed Text
5	1.3	1 - 3	Delete 1 st sentence.
5	1.3	3 - 5	Replace 2 nd sentence with ' In this policy, bold type refers to matters that the Licensing Authority considers to be of particular importance for applicant's to consider in preparing an application.'
5	1.6	All	Replace with 'Applicants should consider what measures are required to be implemented and maintained in respect of each of the four licensing objectives that are relevant to the individual style and characteristics of their premises, the types of licensable activities and events proposed to be carried out in them. Where appropriate, applicants should consider whether or not any additional measures are required in respect of occasional or specific events that it is intended or are likely to attract larger audiences.'
8	Insert new 1.28		'Regulations to the Licensing Act 2003 require that where applications and notices are given electronically, they must also be given the application in writing, i.e. in manuscript form with a signature.'
9	1.28	3 – 5	Delete all from 'However' to end of paragraph
9	1.30 & 1.31		Transitional Period & Grandfather Rights - Delete all, no longer relevant
9	1.35	2	Insert '(and who can make them) between 'Representations' and 'Reviews'
10	1.39	1	Delete 'therefore'
10	1.40	4	Change 'presentations' to 'representations'

10	1.40	All	Change type font to bold.
10	1.39 & 1.40	All	Move to before existing 1.37 and 1.38
13	1.58	1	Delete 'Essex Police and/or Essex County Fire and Rescue Service'
13	1.59	2	Insert after 'licence' with ' or club premises certificate, based upon one or more of the licensing objectives not being met'
15	2.6	1	Replace 'expects' with 'suggests' and 'would' with 'should'
15	2.8	1 & 2	Replace 'must' with 'should' and 'that are planned' with 'that are considered necessary'
16	2.12	All	Replace with 'The Licensing Authority suggests that the issue of occupancy capacity be considered and addressed, where necessary, within an applicant's operating schedule.'
16	2.15	3	Delete all after 'planned' and insert 'applicants must take such measures as they consider appropriate to ensure the capacity of the premises is not exceeded.'
17	3.4	All	Replace all with 'When preparing an application for grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting crime and disorder, having regard to their particular type of premises and/or activities proposed. Where an applicant identifies such issues, they should include such steps as are considered appropriate to deal with them within the operating schedule.'
17	3.5	1	Replace all before the 1 st bullet point with 'Examples of some of the issues that impact on crime and disorder are: -'
19	4.2	All	Replace all with 'When preparing an application for grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting

			public safety (including fire safety), having regard to their particular type of premises and/or activities proposed. Where an applicant identifies such issues, they should include such steps as are considered appropriate to deal with them within the operating schedule.'
19	4.3	1	Replace all before the 1 st bullet point with 'Examples of some of the issues that impact on public safety are: -'
21	5.5	All	Replace with "When preparing an application for grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting public nuisance, having regard to their particular type of premises and/or activities proposed. Where an applicant identifies such issues, they should include such steps as are considered appropriate to deal with them within the operating schedule.'
21	5.6	1	Replace all before the 1 st bullet point with 'Examples of some of the issues that impact on public nuisance are: -'
23	6.5	All	Replace with "When preparing an application for grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting safeguarding children from harm, having regard to their particular type of premises and/or activities proposed. Where an applicant identifies such issues, they should include such steps as are considered appropriate to deal with them within the operating schedule.'
23	6.6	3	Delete all between sentence beginning 'Applicants' and 1 st bullet point and insert 'Examples of some of the issues that impact on protecting children from harm are: -'
25	6.10	All	Replace with "In the case of film exhibitions, applicants should consider appropriate measures that may be implemented for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification, or exceptionally those made by the Licensing Authority and, where appropriate, such measures should be included within the operating schedule.'