



FULL COUNCIL

Wednesday, 22 November 2023

Subject	REVIEW OF THE COUNCIL'S STATEMENT OF LICENSING POLICY
Report by	Councillor Jan Candy, Cabinet Member with responsibility for Community Health
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Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

To report to Full Council the outcome of the recent consultation on the draft revised Statement of Licensing Policy and to seek adoption of the Policy so that it can be published in January 2024.

Options:

1. To adopt the revised 6th edition of the Statement of Licensing Policy.
2. To not adopt the revised 6th edition of the Statement of Licensing Policy.

Recommendation/s:

That Full Council:

1. Adopts the revised Licensing Act 2003 Statement of Licensing Policy for publication and implementation on 31 January 2024.
2. Delegates to the Head of Legal and Democratic Services the authority to make any minor changes required to the Statement of Licensing Policy as a result of legislative updates, typographical errors or to address formatting issues.

Corporate Impact Assessment

Governance:

Licensing is a Council function exercised by Licensing Committee and Licensing Sub-Committees. The Council is required by section 5(1) of the Licensing Act 2003 to publish a statement of Licensing Policy every 5 years.

ESC policies and strategies that directly apply to the proposal:

Statement of Licensing Policy

Strategic Plan

Environmental:

The Council uses the Statement of Licensing Policy to promote the licensing objectives, which include public safety and prevention of public nuisance, by promoting these objectives the policy is helping to improve the living environment for the residents of East Suffolk.

Equalities and Diversity:

When formulating and approving this policy, the Council must have regard to the Equality Act 2010.

Financial:

The proposed Statement of Licensing Policy does not have a direct financial impact upon the Council.

Human Resources:

Compliance with the proposed statement of Licensing Policy requires monitoring by the Council's licensing team which will have Human Resource requirements.

ICT:

No impact

Legal:

The Council is required by section 5(1) of the Licensing Act 2003 to publish a statement of Licensing Policy every 5 years

Before determining its policy for a 5 year period, the Council must consult:

- (a) the chief officer of police for the Council's area,
- (b) the fire and rescue authority for that area,
- (c) Local Health Board for an area any part of which is in the Council's area,
- (d) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
- (e) such persons as the Council considers to be representative of holders of premises licences issued by that authority,
- (f) such persons as the Council considers to be representative of holders of club premises certificates issued by that authority,
- (g) such persons as the Council considers to be representative of holders of personal licences issued by that authority, and
- (h) such other persons as the Council considers to be representative of businesses and residents in its area.

During each 5 year period, a licensing authority must keep its policy in respect of that period under review and make such revisions to it, at such times, as it considers appropriate.

Risk:

If the Council does not produce a Statement of Licensing Policy then it will be in breach of its legal obligations under Section 5 of the Licensing Act 2003. This could lead to claims against the Council caused by its failure to publish a Licensing Policy which could result in the Council being required to pay substantial costs.

External Consultees:

The draft revised Statement of Licensing Policy, approved at the meeting of Licensing Committee on 17 July 2023, was sent out for consultation between 25 July 2023 and 28 August

	<p>2023.</p> <p>The external consultees were:</p> <p>Responsible Authorities (as required by the Licensing Act 2003)</p> <p>Town and Parish Councils</p> <p>Premises Licence holders</p> <p>Personal Licence holders</p> <p>Club Premises Certificate holders</p> <p>Members of the public via the Council's website</p>
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Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>

XXX	Governance		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>
How does this proposal support the priorities selected?			
<p>1.1 Licensing plays an important role in the themes in the Council’s Strategic Plan of growing our economy and enabling our communities. The Statement of Licensing Policy gives clear guidance on licensing matters to applicants, licensees and the public; promoting economic growth for local businesses whilst enabling the community to make constructive representations should the need arise.</p>			

Background and Justification for Recommendation

1 Background facts	
1.1	The Licensing Act 2003 requires each local authority to publish a Statement of Licensing Policy and review it every five years, or sooner if required. This Statement must establish the principles to be applied when determining applications under the Act, such as applications for the sale/supply of alcohol, regulated entertainment and the provision of late night refreshment.
1.2	The Act specifies that in drafting and implementing the Policy, it must promote the four licensing objectives. These are: <ul style="list-style-type: none"> ● The prevention of crime and disorder. ● Public safety. ● The prevention of public nuisance. ● The protection of children from harm.
1.3	Home Office Guidance issued under section 182 of the Licensing Act 2003 (the “Guidance”) provides local authorities with direction on the discharge of their functions under the Act. Licensing Authorities must have regard to the Act and the Guidance when preparing its Policy.
1.4	The Council first published its Statement of Licensing Policy in January 2005. This sets out the decision-making principles when licensing premises for alcohol, regulated entertainment and late night refreshment. Until 2011 the prescribed period for reviewing the policy was every 3 years. In 2011 this period changed to every 5 years. The next policy due to be published in January 2024, will be the Council’s 6 th edition.

1.5	<p>The only substantive difference between the 5th and 6th edition of the Licensing Policy is the addition of paragraph 24, which provides additional protection to the public in relation to ancillary delivery of alcohol/late night refreshment.</p> <p>Paragraph 24 requires that all deliveries only occur during the operating hours of the licensed premises and makes it clear that the licence holder is responsible for ensuring that age verification safeguards are in place and adhered to and also for ensuring that no public nuisance occurs during the delivery.</p> <p>The requirements of Paragraph 24 are reproduced in full below:</p> <p>“24 Ancillary Delivery of Alcohol and/or Late Night Refreshment 24.1 Applications for premises that intend to sell alcohol and/or late-night refreshment for delivery to customers at a residential or workplace address, which is ancillary to the main use of the premises, will generally be granted subject to not being contrary to other policies within this Statement of Licensing Policy and that it meets the criteria below:</p> <ul style="list-style-type: none"> • The hours when delivery will take place is within the relevant operating hours for that premises use • The delivery of alcohol and/or late-night refreshment to customers at their residential address or workplace will be ancillary to the main premises use <p>That the applicant will:</p> <ul style="list-style-type: none"> • implement their own age verification procedures for the sale and supply of alcohol for their delivery staff and ensure that they receive regular training in the company’s age verification procedures, or • ensure that any third party, to which they have contracted the delivery of alcohol and/or food has sufficient age verification procedures in place for the sale of alcohol and has regular training for its delivery personnel on their age verification procedures. <p>That the applicant will:</p> <ul style="list-style-type: none"> • implement their own procedures and provide mitigation to reduce the risk that their delivery service and delivery personnel will create public nuisance either at the premises where the delivery originates and at the delivery destination, or • ensure that any third party, to which they have contracted their delivery service to have sufficient procedures and mitigation in place to ensure that their delivery personnel do not create public nuisance either at the premises where the delivery originates and at the delivery destination. <p>Applications that do not meet the above criteria will be considered on their own merits, subject to other relevant information within this statement.”</p>
1.6	<p>On 17 July 2023, the Licensing Committee resolved to carry out a consultation regarding the proposed draft 6th edition of the Statement of Licensing Policy.</p>
1.7	<p>The consultation ran between 25 July and 28 August 2023. Responsible Authorities, Town and Parish Council’s, Personal, Premises, and Club Certificate</p>

	<p>licence holders and members of the public via the Council’s website, were consulted. Three consultation responses were received.</p> <p>A response was received from Public Health which proposed some additional wording to be included in the Policy namely:</p> <p>Page 5. Paragraph 1.5 to be ‘reduce alcohol misuse by individuals and reduce public harms from excessive alcohol consumption which can lead to short and long term injury or harm’</p> <p>Page 9, paragraph 5.1. additional bullet point ‘an increase in opportunities for excessive alcohol consumption by individuals leading to an increased risk of ill health or harm in themselves or to others’</p> <p>A response was received from the Council’s Environmental Health department which pointed out an error with the information included in a particular sentence in section 18.4 of the policy which stated that the relevant Responsible Authorities could only object on the basis of the ‘Crime and Disorder’ licensing objective, when in fact they could object on the basis of any licensing objective .</p> <p>A response received from Felixstowe Town Council suggested that ‘it would be helpful to view a document that showed how it has been amended from its predecessor’.</p>
1.8	<p>The feedback received from Environmental Health has been addressed.</p> <p>The revised wording is:</p> <p>“18.4 Where the Suffolk Constabulary or Environmental Health have issued an objection notice, to a standard TEN, the Licensing Authority will normally consider this at a hearing (unless the objection notice is withdrawn before the hearing date). Hearings will be held in accordance with the procedure outlined in section 9 above. The system of permitted temporary activities gives the police and Environmental Health Authorities the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.</p> <p>The additional wording suggested by Public Health was included.</p> <p>In relation to the response from Felixstowe Town Council the Council will endeavour to produce a tracked change version of any future or revised Statement of Licensing Policy for consultation purposes. The final approved publish Statement of Licensing Policy will not include tracked changes.</p>
1.9	<p>On 16 October 2023, the Licensing Committee approved the inclusion of the additional wording from Public Health. Revised Statement of Licensing Policy Appendix A</p>

2 Current position	
2.1	East Suffolk carried out its last consultation and review in 2018. The current Statement of Licensing Policy was published in January 2019 and covers the period January 2019 to January 2024.
2.2	The current Statement of Licensing Policy is due for a review and the new document must be published in January 2024.

3 How to address current situation	
3.1	To ensure East Suffolk Council meets the requirements of the Licensing Act 2003, it must publish its revised Statement of Licensing Policy in January 2024.
3.2	Full Council is asked to adopt the revised Statement of Licensing Policy for publication and implementation on 31 January 2024.

4 Reason/s for recommendation	
4.1	The Licensing Act 2003 required all Local Authorities to adopt a Statement of Licensing Policy and to update this policy periodically following a consultation procedure.
4.2	The current Statement of Licensing Policy is due for a review and the new document must be published in January 2024.

Appendices

Appendices:	
Appendix A	Revised Statement of Licensing Policy

Background reference papers:		
Date	Type	Available From
17 July 2023	Licensing Committee agenda and papers	CMIS > Meetings
16 October 2023	Licensing Committee agenda and papers	CMIS > Meetings