

## **SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Licensing Committee

12 June 2013

**AUTHOR/S:** Director of Health and Environmental Services /  
Head of Service, Environmental Health and Licensing

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### **REVIEW OF THE LICENSING (2003 ACT) POLICY**

#### **Purpose**

1. To seek approval of the draft Licensing Policy statement, as attached at **APPENDIX A** for consultation purposes, as South Cambridgeshire's formal Statement of Licensing Policy and in line with the requirements of S.5 of the Licensing Act 2003.
2. This is a key decision because it is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards. It was first published in the Council's 23 April 2013 Forward Plan.

#### **Recommendation**

3. That the Licensing Committee recommends to the Environmental Services Portfolio Holder to accept the draft Licensing Policy as attached at Appendix A, in order to commence a consultation process.

#### **Reasons for Recommendations**

4. Failure to adopt a revised policy will result in the Council failing in its statutory duties under the Licensing Act 2003.
5. It is a statutory requirement to have a Licensing Act policy in place, failure to do so may result in a judicial review.

#### **Background**

6. South Cambridgeshire District Council originally introduced a Statement of Licensing Policy, which became effective on 7 February 2005. The Policy was reviewed in 2010 and became effective in January 2011. The Policy can remain in place for no more than a five-year period, in accordance with wording under Section.5 of the Licensing Act 2003.
7. The review of a statement of Licensing Policy is a requirement under Section.5 of the Licensing Act 2003 and without a policy the Council may be subject to judicial review for failing in its responsibility to carry out a statutory duty. In preparing the draft Statement of Licensing Policy, officers have given full regard to both the changes introduced in the Act itself, via the Live Music Act 2012 and the Police & Social Responsibility Act 2011, and the revised guidelines issued In April and October 2012 by the Department of Culture Media and Sports, resulting in the need to review the policy before the five year deadline.

8. The Policy will remain a document that continually develops to reflect the changing nature of the alcohol and entertainments industry, Government initiatives and the needs of local businesses and residents alike.

### Considerations

9. Careful consideration has been given to revised guidance issued by Central Government and due to the large amount of changes required a proposed finalised draft policy has been prepared.
10. A document highlighting the changes made to the current policy is also attached as **APPENDIX B**.
11. In order to proceed with the final policy within the timeframe required, the policy will be forwarded in the following manner:
- A Licensing Committee will be held in late October to consider and recommend to the Environmental Services Portfolio Holder any amendments to the draft policy as a result of the consultation process.
  - The Portfolio Holder will make a recommendation to Council at its meeting on 28 November 2013 to approve and adopt the policy. The policy will then form the basis of any decision taken in respect of applications or enforcement under the Licensing Act 2003 by officers or any Committee or Sub-committee involved in licensing decisions.
  - The statement of Licensing Policy will be reviewed in full at 3-yearly intervals as required under Section.5 of the Act, unless otherwise stated by Central Government, but will be open to review at any time during that period should it prove necessary to do so.

### Implications

12. The Licensing Committee or the Environmental Services Portfolio Holder may approve, amend or reject the draft Statement of Licensing Policy for consultation purposes.

13. Financial	Consultation costs within existing budget
Legal	Failure to review the policy may lead the Council to a Judicial review for failing in its responsibility to carry out a statutory duty
Staffing	None arising from this report
Risk Management	The consequences of failing to implement the new licensing regime could be extensive and could result in adverse publicity, loss of reputation and legal action against the Council
Equality and Diversity	The consultation process will comply with the Council's Equal Opportunities Policy
Equality Impact Assessment completed	Yes
Climate Change	N/A

## **Consultations**

14. As part of the consultation process Officers will consult with a broad range of people including:
  - Police
  - Fire Authority
  - Trading Standards
  - Social Services
  - Environmental Health
  - Planning
  - Health & Safety
  - Local representative for Health
  - All Premises Licence holders
  - Parish Councils
  - Any other persons identified as representing business and residents in the area
15. The consultation document will also be available for general comment via the Council's website and at reception.

## **Consultation with Children and Young People**

16. Social Services will be consulted in respect of the Licensing Objective of preventing harm to children.

## **Effect on Strategic Aims**

17. Consultation will take place for a twelve-week period allowing relevant parties to raise any issues regarding the revised policy for consideration by the authority.
18. The revised policy advises readers that the concerns of relevant parties will be taken into consideration in line with the Licensing Act objectives when making decisions regarding premise applications within South Cambridgeshire.
19. All applications will be considered on their individual merits and consideration will be given to any relevant Government guidance issued in respect of the Licensing Act 2003.
20. A sub-committee of the Licensing Committee will determine applications where any relevant representations have been made against applications.

## **Conclusions / Summary**

21. Under Section 5 of the Licensing Act 2003 a Licensing Authority must have a Statement of Licensing Policy in place, any such policy will remain in force for a maximum of five years unless otherwise stated by Central Government or if deemed necessary by the Licensing Authority.
22. As part of the review process it is essential to consult as widely as possible to ensure that the views of a wide range of persons have been considered and reflected as appropriate in any final policy.

23. Failure to adopt a policy may result in a Judicial review for failing to carry out a statutory duty.

**Background Papers:** the following background papers were used in the preparation of this report:

S.182 Guidance issued by DCMS (April 2013)  
Licensing Act 2003  
South Cambridgeshire Statement of Licensing Policy

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