
REVIEW AND ADOPTION OF THE STATEMENT OF LICENSING POLICY

To: **Council – 3rd December 2015**

Main Portfolio Area: **Community Services**

By: **Philip Bensted, Regulatory Services Manager**

Classification: **Unrestricted**

Ward: **Not applicable**

Summary: The review and adoption of the Thanet Statement of Licensing Policy

For Decision

1.0 Introduction and Background

- 1.1 The 2003 Licensing Act brought together in one statute the regulation of the use of premises for licensable activities; the supply of alcohol, provision of regulated entertainment and late night refreshment. Magistrates' Courts ceased to have responsibility for alcohol licences and Local Authorities issued all licences from November 2005. Local Authorities were required to have a statement of licensing policy in place by January 2005. Full Council approved the Thanet statement of licensing policy in December 2004.
- 1.2 The 2003 Act also requires a licensing authority to prepare and publish a statement of its licensing policy every five years. Full Council approved the last statement of licensing policy in December 2010. The new statement of licensing policy should be in place by the 7th January 2016. The policy must be published before the authority carries out any licensing function in relation to applications made under the Act. Functions under the Act can be delegated to a Licensing Committee. However, the statement of licensing policy cannot be delegated and must be considered and approved by Full Council.
- 1.3 Revised Guidance was last issued by the Home Office in March 2015 to Local Authorities. Under the Act, Licensing Authorities must promote the four licensing objectives - the prevention of crime and disorder, public safety, public nuisance and the protection of children from harm. Local Authorities must have regard to the Guidance when making and publishing its policy.
- 1.4 Before the licensing authority determines its policy for the five year period there must be consultation. The views of all persons/bodies should be given appropriate weight when the policy is determined.

2.0 The Current Situation

- 2.1 Currently there are 614 Premises licences/Club Premises certificates in force. Since 2005 over 2000 personal licences have been granted to individuals to allow them to sell alcohol. 21 Licensing Sub-Committee hearings were arranged from April 2014 to March 2015. There were three appeals to the Magistrates' Court during the same period. One was dismissed by the Court, with the Council being awarded costs. The other two were withdrawn by the applicants prior to the Court hearings.

- 2.2 Whilst Licensing is a statutory duty of the Council, it is also a service contributing to the corporate objectives. The licensed trade is an important component of the local economy, employing significant numbers of people and meeting customer expectations of visitors and residents alike. An effective licensing policy and Service also contributes to community safety and reinforces joint working with key partners, including the Police.
- 2.3 The draft policy is appended at Annex 1. Revisions made to the draft policy were dealt with in a covering letter dated the 29th June 2015 which is at Annex 2. This letter, together with a copy of the draft policy, was sent to all consultees. Consultation commenced on the 1st July and ran for twelve weeks until the 23rd September 2015. Copies of the draft Policy were sent to the Police, Kent Fire and Rescue and other responsible bodies under the Act. In addition, copies were sent to all parties who made representations to previous licensing consultations and other persons. The draft policy has also been available on the TDC web-site during the consultation period.
- 2.4 Four replies have been received from consultees during the consultation period, Two responsible bodies advised of changes of address, these have been changed in the policy. Broadstairs and St Peter's Town Council sought clarification on the process for considering applications which has been provided. Canterbury City Council responded by confirming that they had no representations to make on the policy.
- 2.5 Statements of licensing policy may set out a general approach to the making of Licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. It must not undermine the right of any individual to apply under the Act for a variety of permissions and to have any such applications considered on its merits.
- 2.6 Guidance states that licensing is about regulating the carrying on of licensable activities on licensed premises and that conditions attached will be focused on matters which are within the control of individual licensees. Matters will centre on the premises and the vicinity of those premises.
- 2.7 The Guidance highlights numerous other matters and Organisations that should be included in the policy. Statements of licensing policy should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible. This has been done.

3.0 Options

- 3.1 To adopt the Thanet statement of licensing policy with the revisions at Annex 2 and the changes of address at 2.4 above.
- 3.2 To adopt the Thanet statement of licensing policy with some amendments to Annex 2 and the changes of address at 2.4 above.
- 3.3. To reject the Thanet statement of licensing policy and require Officers to produce a further draft.

4.0 Corporate Implications

4.1 Financial and VAT

- 4.1.1 None at present. Should the Policy be rejected further consideration would have to take place with cost implications.

4.2 Legal

- 4.2.1 Regulations under the Act state that local authorities should have their Policy in place by 7th January 2016.
- 4.2.2 Local Authorities are advised that it is good practice to consult widely. This may not always be necessary or appropriate where revisions proposed are merely updates.
- 4.2.3 Legal challenges may be made where consultation does not comply with the Act, or Policy does not follow the Guidance issued by the Home Office.

4.3 Corporate

- 4.3.1 The Policy takes into account the Human Rights Act 1998 and the Equalities Act 2010.
- 4.3.2 All parts of the Authority that has relevant expertise have had the opportunity to give advice on the Policy.
- 4.3.3 To be able to carry out its functions under the Act Full Council will have to approve a Statement of licensing policy by 7th January 2016.

4.4 Equity and Equalities

- 4.4.1 The consultation process sought to engage with a number of organisations who represent the interests of a range of groups. No adverse impact has been identified as a result of the consultation process.

5.0 Recommendation

- 5.1 To adopt the Thanet statement of licensing policy using paragraph 3.1 of this Report.

6.0 Decision Making Process

- 6.1 If Council adopt the statement of licensing policy it will come into force on the 7th January 2016.

Future Meeting if applicable: N/A	Date:
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Reporting to:	<i>Penny Button, Head of Neighbourhood Services</i>

Annex List

Annex 1	Draft Policy document
Annex 2	Covering letter with revisions

Background Papers

Title	Details of where to access copy
<i>Guidance issued by the Home Office under the 2003 Licensing Act</i>	<i>The Home Office web-site</i>

Corporate Consultation Undertaken

Finance	<i>Matt Sanham, Corporate Finance Manager</i>
Legal	<i>Colin Evans, Assistant Litigation Solicitor</i>
Communications	<i>Hannah Thorpe, PR & Publicity Manager</i>