

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

3 DECEMBER 2015

REPORT OF CORPORATE
MANAGEMENT TEAM

COUNCIL DECISION

Portfolio: Access, Communities & Community Safety – Lead Cabinet Member – Councillor Steven Nelson

REVIEW OF STATEMENT OF LICENSING POLICY MADE UNDER THE LICENSING ACT 2003

1. Summary

The Authority is required by the Licensing Act 2003 to publish a Statement of Licensing Policy that sets out its guiding principles for making licensing decisions under the Act. The Statement of Licensing Policy needs to be renewed every five years. The current Policy Statement took effect in January 2011 and is due for renewal in January 2016.

2. Recommendations

That Cabinet approve the Licensing Act 2003 Statement of Licensing Policy as presented in **Appendix 1**.

3. Reasons for the Recommendations/Decision(s)

In order to fulfil its statutory duty under the Licensing Act 2003, the Authority is required to publish a Statement of Licensing Policy. The Policy will assist in ensuring that licensing applications and disciplinary decisions are made in an open and transparent matter. This will strengthen the Council's position when dealing with any licensing appeals.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

The Authority is required by the Licensing Act 2003 to publish a Statement of Licensing Policy that sets out its guiding principles for making licensing decisions under the Act. The Statement of Licensing Policy needs to be renewed every five years. The current Policy Statement took effect in January 2011 and is due for renewal in January 2016.

RECOMMENDATIONS

That Members approve the Licensing Act 2003 Statement of Licensing Policy as presented in **Appendix 1**.

DETAIL

1. The Licensing Act 2003 is concerned with regulating the carrying on of licensable activities on licensed premises, at qualifying clubs and at temporary events within the terms of the Act. The licensable activities are:-
 - The sale of alcohol by retail.
 - The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.
 - The provision of regulated entertainment.
 - The provision of late night refreshment (hot food and drink provided at any time between 11.00 p.m. and 5.00 a.m. for consumption on or off the premises).
2. The Authority carries out its function under the Act with a view to promoting the four licensing objectives:-
 - The prevention of crime and disorder.
 - The prevention of public nuisance.
 - The protection of children from harm.
 - Ensuring public safety.
3. Each objective is of equal importance. It is relevant to note that there are no other licensing objectives, therefore these four stated objectives are paramount considerations at all times.
4. In carrying out its duties under the Act the Authority will look to balance the needs of residents, customers and operators and in doing this will be guided by the Act's four licensing objections. The Statement of Licensing Policy provides a local framework for this process and a copy of the revised draft is attached at **Appendix 1**.

5. Following the Licensing Committee meeting on 15 July 2015, consultation on the revised draft was commenced with the publication of a newspaper advert and the draft Policy being placed on the Council's website. Contact was made with a number of interested parties, including all responsible authorities, existing premises licence and club premises certificate holders, trade bodies and associations and community groups and residents associations. In total, only three responses were received.
6. The responses received and the revised draft were considered by the Licensing Committee at their meeting on 20 October 2015, and it was agreed that the revised Policy be passed onto Cabinet and Council for final approval.
7. In summary the main changes to the Policy Statement from the 2011 version are as follows:-

Paragraph(s)	Summary of Changes
-	Addition of a welcome from Cllr Nelson Cabinet Member for Access, Communities and Community Safety.
1 – 2	The inclusion of a vision statement to set down the overarching aims of the Policy.
13 – 16	New section on the role of responsible authorities with particular mention of the role of the Police, Environmental Health, Public Health and the role of the licensing authority itself as a responsible authority.
17 – 20	New section on the links to other policies and strategies and the role the Licensing Act can play in supporting them.
21 – 26	Linked to the support of other policies and strategies is a new section on the relevance of planning legislation.
27 – 38	New section on the impact of alcohol on Stockton-on-Tees and links to Public Health and the Council's Health & Wellbeing Strategy .
39 – 49	New section on the promotion of the licensing objectives, the preparation of the applicant's operating schedule and provision of a pool of conditions.
50 – 51	New section on the crime and disorder objective.
52 – 56	New section on the public nuisance objective.
57 – 64	New section on the protection of children from harm objective and mention of the links to child sexual exploitation.
65 – 72	New section on the public safety objective.
97 -99	New section relating to events on Council land and the role of the ISAG.
100 – 108	New section on street cafes and external areas linking to the Council's guidance on street cafes.
109 – 114	New section on designated premises supervisors and requirements as to their availability.

117 – 118	New section on irresponsible drinks promotions and controls to encourage the responsible consumption of alcohol.
126	New section on alcohol deliveries and minimum procedures for their operation.
127 - 134	New section on licensing hours to provide a framework for the sale of alcohol and the operation of late night takeaways, especially in residential areas.
137 – 140	New section on takeaway food premises with the presumption that it would normally be inappropriate to grant a licence allowing them to sell alcohol.
143 – 148	New section outlining the minor variation process.
163 – 169	Updated section on cumulative impact.
-	Updated Appendix 1 on additional factors to take into consideration.
-	New Appendix 2 with easy to understand table showing the delegation of licensing functions.

FINANCIAL IMPLICATIONS

8. There are no new financial implications arising from this report.

LEGAL IMPLICATIONS

9. The Authority is required by law to review its Statement of Licensing Policy every five years. The Policy will assist in ensuring that licensing applications and disciplinary decisions are made in an open and transparent matter. This will strengthen the Council's position when dealing with any licensing appeals. Any person aggrieved by the requirements of the Policy has a legal right of challenge by way of Judicial Review.

RISK ASSESSMENT

10. The implementation of the Statement of Licensing Policy is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

COUNCIL PLAN THEMES

Environment and Housing

11. Steps to promote the licensing objectives, especially the prevention of public nuisance, will have a positive effect on the environment in which people live.

Safer Communities

12. Community safety is one of the cornerstones of the Licensing Act 2003, especially through the prevention of crime and disorder objective. The administration and enforcement of the Act should assist in reducing crime and disorder.

Children and Young People

13. The welfare of young children, particularly with regard to their access to sources of alcohol, is one of key elements of the Act when considering the protection of children from harm objectives.

Health and Wellbeing

14. Although Health and Wellbeing is not currently a licensing objective under the Act, Public Health as a responsible authority can, where appropriate, provide evidence in support of the promotion of the licensing objectives, especially in reviewing concerns around alcohol harm and misuse.

EQUALITIES IMPACT ASSESSMENT

15. This report is not subject to an Equality Impact Assessment because an assessment was carried out at the time of the last policy review and it has been judged to have a positive impact. No remedial actions are required.

CONSULTATION INCLUDING WARD/COUNCILLORS

16. Consultation on the revised Policy was commenced in July 2015, a newspaper advert was published and the draft Policy was placed on the Council website. Contact was made with a number of interested parties, including all responsible authorities, existing premises licence and club premises certificate holders, trade bodies and associations and community groups and residents associations. Members of the Licensing Committee have also considered the draft Policy.

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Background Papers:	No
Ward(s) and Ward Councillors:	Not ward related