

**SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Licensing Committee      **DATE:** 16<sup>th</sup> January 2014

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**WARD(S):** ALL

**PART I**

**FOR DECISION**

**LICENSING ACT 2003: REVIEW OF STATEMENT OF LICENSING POLICY**

1. **Purpose of Report**

To advise members on the results of the consultation on the review of the Council's Statement of Licensing Policy for the Licensing Act 2003 and to recommend for approval the revised Statement of Licensing Policy for the period 2014 -2019.

2. **Recommendation(s)/Proposed Action**

The Committee is requested to recommend to Council that the draft revised Statement of Licensing Policy 2014-2019 be adopted as the Council's Licensing Policy.

3. **Community Strategy Priorities-**

- **Being Safe, Feeling Safe**
- **A Cleaner, Greener place to Live, Work and Play**
- **Prosperity for All**

4. **Other Implications**

(a) **Financial**

There are no financial implications of the proposed action.

(b) **Risk Management**

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
From section 2 above	The Licensing Act 2003 requires that the Licensing Authority have in place a policy document to adhere to in order to carry out its functions under the Licensing Act 2003	Licensing functions cannot be carried out without a policy document in place

(c) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Part 1 and 11 of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to a peaceful enjoyment of his or her possessions including the possession of a licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal by law.

The Licensing Act 2003 requires the Council, as the licensing authority, to prepare and publish a statement of its licensing policy every 5 years. In determining its policy, the Council is exercising a licensing function and as such must have regard to the Guidance issued by the Secretary of State under section 182 of the 2003 Act. It must also give appropriate weight to the views of those persons/bodies which it is required to consult before determining its policy. Although the Guidance represents best practice, it is not binding on the Council. As long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. In this event they will need to give full reasons for their decisions, which must be consistent with the objectives of the 2003 Act.

The Council is required to have regard to the statement of licensing policy and make decisions in accordance with it. Licensing authorities may depart from their policy if the individual circumstances of any case merit such a decision in the interests of promoting the licensing objectives. In this event it is important that full reasons are given for departing from the published statement of licensing policy.

Members should note that the 2003 Act imposes a duty on the Council, as the licensing authority, to carry out its functions under the Act with a view to promoting the four licensing objectives. Each of these objectives is of paramount and equal importance.

Members should note that the statement of licensing policy must not be inconsistent with the provisions of the 2003 Act and must not override the right/s of any individual as provided for in that Act. Nor must the statement of licensing policy be inconsistent with obligations placed on the Council under any other legislation, including human rights legislation. Members should also note that the Council has a duty under Section 17 of the Crime and Disorder Act 1998, when carrying out its functions as a licensing authority under the 2003 Act, to do all it reasonably can to prevent crime and disorder within the Borough.

Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, decisions relating to licensing matters are not the responsibility of an authority's executive. The 2003 Act provides that whilst the majority of the functions of the licensing authority, are to be taken or carried out by its licensing committee, decisions relating to the statement of licensing policy cannot be delegated in such a way. The decision on whether to adopt the statement of licensing policy must therefore be taken by Full Council.

(d) Equalities Impact Assessment

There are no negative impacts of opportunity for any equality target group or for any reasons. The Government carried out an Equality Impact Assessment on the introduction of the Act and with new legislation making amendments to the Act, which found that there is no unintended or disproportionate impact.

**5. Supporting Information**

5.1 The Licensing Act 2003 introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshment, administered by a local licensing authority.

5.2 The Act requires each licensing authority to prepare and publish a statement of licensing policy. The policy statement sets out how the authority intends to approach its licensing responsibilities and in particular how it intends to promote the four Licensing Objectives.

5.3 Each authority is required to keep its statement of policy under review and make any revisions it considers appropriate. Previously the statutory requirement under the Act was for the Local Authority to review the Statement of Licensing Policy every 3 years. However the Police Reform and Social Responsibility Act 2011 amended the 2003 Act as follows:

- a) The period for which full revisions are to be made is now 5 years
- b) It must be kept under review during that period
- c) If a revision is conducted during the 5 years period, it will not require a further review until 5 years after the date of the publication of the revised Policy.

5.4 The current policy approved in 2010, took effect in January 2011 to cover the period up to 2016.

5.5 However, since the last revision there has been a number of changes through the implementation of wide ranging reforms to the Licensing Act 2003. Namely, The Police Reform and Social Responsibility Act 2011, The Live Music Act 2012, amendments to Schedule 3 Local Government (Miscellaneous Provisions Act 1982), as amended by Section 27 Policing and Crime Act 2009 and The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, which de-regulated aspects of Regulated Entertainment.

5.6 As a result of all the changes the Council have had to bring forward a review of its Statement of Licensing Policy to ensure it was up to date. The draft revised policy, which is attached at **Appendix A**, reflects the necessary changes and amendments.

5.7 The revised draft Policy was subject to public consultation, which started on the 31<sup>st</sup> August 2013 and finished on the 30<sup>th</sup> September 2013. The Council are required to follow a prescribed process and a list of the consultees is attached at **Appendix B**.

5.8 A summary of some of the main changes and additions to the revised Policy document are attached at **Appendix D**.

- 5.9 Although a number of requests were made for copies of the revised draft policy, there has been very little response to the consultation, as it is generally realised that the discretion of the Council in reviewing the Policy is very limited as the Licensing Act 2003, the Regulations under the Act and the Government Guidance closely prescribe how licensing authorities carry out the licensing functions.
- 5.10 Only one response has been received to the consultation which is attached at **Appendix C**. This response does not impact upon the revised policy document, as Licensing Authorities are under a duty to consult as widely as possible which includes where necessary with, 'cultural organisations' and also religious establishments.

## **6. Comments of Other Committees**

None.

## **7. Conclusion**

The statement of policy is revised throughout so as to ensure consistency with the latest changes in legislation, guidance and case law and to reflect current best practice. Following the public consultation the revised draft Statement of Licensing Policy is now ready to be recommended for adoption to take effect from 29<sup>th</sup> January 2014.

## **8. Appendices Attached**

- 'A' - Revised draft Statement of Licensing Policy
- 'B' - List of consultees
- 'C' - Response to consultation
- 'D' - Summary of main changes and additions

## **9. Background Papers**

- '1' - Licensing Act 2003
- '2' - Secretary of States Guidance issued under Section 182 of the Licensing Act 2003 (Revised June 2013).