

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Phil Adams - Executive Public Protection Manager

To: Committee of the Licensing Authority – 26 November 2015

Author: Tiffany Bentley – Interim Licensing & Business Support Manager

Subject: Revised Statement of Licensing Policy (Licensing Act 2003)

Purpose: Consideration of draft revised Statement of Licensing Policy and refer the final approved Policy to Full Council for adoption

Recommendation:

- 1) That in order for South Holland District Council as the licensing authority to discharge its statutory duties under the Licensing Act 2003, the Licensing Committee and then Full Council approve the revised Statement of Licensing Policy.

1.0 BACKGROUND

- 1.1 On 24th November 2005, South Holland District Council became the Licensing Authority under the provisions of the Licensing Act 2003 for the retail sale of alcohol, the supply of alcohol by or on behalf of a club, the provision of regulated entertainment and the provision of late night refreshment within the South Holland district.
- 1.2 Section 5 of the Licensing Act 2003 requires South Holland District Council, as a Licensing Authority, to prepare and publish a statement of its Licensing Policy at least every five years. This policy must also be kept under review and the Licensing Authority may make such revisions to it as it considers appropriate. The current Statement of Licensing Policy came into force on 7th January 2011 and is attached at Appendix A.
- 1.3 In order to comply with the legislative requirements the current Statement of Licensing Policy must be reviewed, revised and published by 7th January 2016. The Interim Licensing & Business Support Manager has completed a review of the current statement of Licensing Policy which had not been amended since 7th January 2011. The revised draft does not change alter the approach to making decisions from that which is already in place. The revision takes into account various legislative changes which have occurred since the previous revision. The proposed draft revised Statement of Licensing Policy is attached at Appendix B.
- 1.4 The revised statement of Licensing Policy seeks to provide guidance to applicants and other persons on the general approach that South Holland District Council will take in terms of determining all licences under the Licensing Act 2003 with the overriding aim of promoting the four licensing objectives;
 - The prevention of crime and disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm
- 1.5 As part of this process the draft revised statement must be consulted on before its adoption by Council. Section 5(3) of the Licensing Act 2003 prescribes a list of those persons that

the licensing authority must consult with. Those are:

- a) the Chief Constable for Lincolnshire Police;
- b) the Lincolnshire Fire and Rescue Service;
- c) persons/bodies representative of local holders of premises licences;
- d) persons/bodies representative of local holders of club premises certificates;
- e) persons/bodies representative of local holders of personal licences;
- f) persons/bodies representative of businesses and residents in the area; and
- g) Director of Public Health, Lincolnshire County Council.

Beyond these statutory requirements it is for each licensing authority to decide the full extent of its consultations and whether any particular person or body is representative of the group described in the statute.

- 1.6 The draft revised Statement of Licensing Policy was under consultation from 5th October 2015 to 1st November 2015 after approval from the Chair of the Licensing Committee. The consultation was carried out in accordance with the Licensing Act 2003, using email where possible and a list of those consulted is attached at Appendix C.
- 1.7 The draft statement was also placed on the Council's website. No responses were received.
- 1.8 In addition, members are asked to note that in October 2015 the Home Office issued guidance on the deregulation of the licensable activity of late night refreshment. Regulations were also released allowing licensing authorities to exempt supplies of late night refreshment on / from premises in a designated area, on / from premises of a designated description or during a designated period. The regulations came into force on 5th November 2015. Links to the regulations and guidance can be found in the Background Papers section of this report.
- 1.9 A decision to make an exemption for late night refreshment is one that would require inclusion in the statement of Licensing Policy and be subject to the statutory consultation process. To clarify, this has not been consulted upon due to the timescale of the release of the regulations and guidance. If members are minded to have such a special policy it would need separate consideration and consultation. Any decision to deregulate late night refreshment must be based on the promotion of the licensing objectives.

2.0 **OPTIONS**

- 2.1 The options for the Licensing Committee are limited as the process is legislative and dictated by the Licensing Act 2003. The Council has no discretion as to making the statement of Licensing Policy, although there is some discretion as to the content of the statement.
- 2.2 The Licensing Committee may:-
 - i) consider the draft revised statement of Licensing Policy and approve it; and
 - ii) refer the statement of Licensing Policy to Full Council for adoption or
 - iii) do nothing
- 2.3 Members are also asked to note the developments in relation to late night refreshment deregulation and to consider if further work in this area is necessary.

3.0 REASONS FOR RECOMMENDATION(S)

3.1 To ensure South Holland District Council acting as the Licensing Authority can discharge its statutory duties under the Licensing Act 2003.

4.0 EXPECTED BENEFITS

4.1 Statutory compliance

5.0 IMPLICATIONS

5.1 Carbon Footprint / Environmental Issues

5.1.1 It is the opinion of the Report Author that there are no implications.

5.2 Constitution & Legal

5.2.1 If the Authority does not produce a revised statement of policy and related procedures within the statutory timescale, there is a risk that the Authority will not be in a position to process applications, leaving the Authority open to challenge by persons wishing to make such applications. Furthermore, the Authority will also have failed to comply with its legal obligations under the Act and could face challenge.

5.3 Contracts

5.3.1 It is the opinion of the Report Author that there are no implications.

5.4 Corporate Priorities

5.4.1 It is the opinion of the Report Author that there are no implications.

5.5 Crime and Disorder

5.5.1 Lincolnshire Police were consulted as Responsible Authorities under the Licensing Act 2003 but made no comment on the report.

5.6 Equality and Diversity / Human Rights

5.6.1 These are considered within the report.

5.7 Financial

5.7.1 It is the opinion of the Report Author that there are no implications.

5.8 Health & Wellbeing

5.8.1 It is the opinion of the Report Author that there are no implications.

5.9 Risk Management

5.2.2 If the Authority does not produce a revised statement of policy and related procedures within the statutory timescale, there is a risk that the Authority will not be in a position to

process applications, leaving the Authority open to challenge by persons wishing to make such applications. Furthermore, the Authority will also have failed to comply with its legal obligations under the Act and could face challenge.

5.10 **Safeguarding**

5.10.1 It is the opinion of the Report Author that there are no implications.

5.11 **Staffing**

5.11.1 It is the opinion of the Report Author that there are no implications.

5.12 **Stakeholders / Consultation / Timescales**

5.12.1 It is the opinion of the Report Author that there are no implications.

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All.

7.0 **ACRONYMS**

7.1 None

Background papers:-

The Licensing Act 2003 (Late Night Refreshment) Regulations 2015:

www.legislation.gov.uk/ukxi/2015/1781/pdfs/ukxi_20151781_en.pdf

Home Office Guidance on the licensing of late night refreshment:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/464869/Guidance_on_the_licensing_of_late_night_refreshment.pdf

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Key Decision: No

Exempt Decision: No

This report refers to a Mandatory Service

Appendices attached to this report:

Appendix A Current Licensing Policy
Appendix B Draft revised Licensing Policy
Appendix C List of consultees