

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Portfolio Holder - Public Protection

To: South Holland District Council 25th November

(Author: Donna Hall Licensing and Business Support Manager)

Subject Revised Statement of Licensing Policy

Purpose: To consider the proposed draft Statement of Licensing Policy (2021 to 2026)

Recommendation:

1) That the Council consider and approve the proposed Statement of Licensing Policy

1.0 BACKGROUND

1.1 The Council is required to have a “Statement of Licensing Policy” for their area to guide them when considering licence applications and controlling licensed premises.

1.2 The previous policy was approved in December 2015 and took effect in January 2016. The policy is required to be reviewed at least every 5 years.

1.3 The draft policy which is attached at Appendix A, has been fully rewritten from the previous 2016 version, bringing it up to date and presenting it in a better, more user-friendly format. It has been prepared in accordance with the provisions of section 5 of the Licensing Act 2003 and the revised Home Office Guidance made under section 182 of the Act.

1.4 South Holland District Council is responsible for the licensing of all licensable activities under the Licensing Act 2003. These are as follows:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of entertainment to the public or club members or with a view to making profit, including raising money for charity, where the entertainment involves:
 - A theatrical performance
 - Film exhibition
 - Indoor sporting event
 - Boxing or Wrestling
 - Live Music
 - Recorded Music
 - A performance of dance
- The provision of late night refreshment – Supply of hot food and drink from a premises between 23:00 and 05:00

1.5 The policy is concerned with the regulation of these activities on licensed premises, qualifying clubs and at temporary events. It aims to ensure a consistent approach to

licensing in South Holland to assist officers and members in reaching a decision on a particular application or licence.

- 1.6 In addition, the Policy seeks to provide clarity for applicants, 'other persons' (any individual, body or business entitled to make representation to an application under the Act) and Responsible Authorities' to enable them to understand the objectives being promoted and the matters that will be considered when determining licences.
- 1.7 The following points explain how the new draft policy differs from the 2016 adopted Policy:
- The format - the Policy has to explain a large amount of information to a variety of audiences and also has to satisfy the technical and statutory requirements of the Licensing Act. It has therefore been formatted into the new easier to navigate document.
 - The wording - Where possible everyday words have been used rather than technical terminology, especially so for the broad range of consultees the Authority is required to consult with, including those people who should be involved in local decisions but are considered hard to reach. People considered hard to reach are so because of an impairment, language or cultural difference, social expectation, time limits, rural isolation or financial constraint. There is no single list that defines all groups of people we find hard to reach.
 - Part 1, 2 & 3 - are reworked from the original policy and expanded in keeping with modern policy writing and compliance with s.182 guidance. S.182 recommends the policy has clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy.
 - Delegation of Function – NEW s.182 requirement
 - Promotion of Equality – Equality Act 2010 – NEW s.182 requirement
 - Immigration Act 2016 – NEW s.182 requirement
 - Protection of Privacy and Data Protection – NEW s.182 requirement
 - Other Legislation – condensed from 2015 policy into easier read format
 - Part 4 – Promotion of Licensing Objectives

Reworked to so that each objective leads with the principles under which the council will carry out its function and the responsibility it has to do so.

Crime and Disorder – inclusion of the need for staff training and supervision.

Public safety – New first sentence defining public safety.

Nuisance – additional advice for applicants to consult with Environmental Health for advice on safety measures if appropriate. Additional wording to recognise within the Act the authority has the right to refuse an application where conditions do not adequately address issues of the prevention of nuisance.

Protection of Children – reconfigured as original policy had duplication and updated with s.182 guidance to include new categories of harm (moral, psychological and physical). New wording to comply with s.182 requirement that LA's give "considerable weight to representations about child health and the use of health data about the harms of alcohol".
 - Part 5 – General Licensing Principles

Reworked for cohesiveness

Hours – updated - setting out the licensing authority’s approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives.

Conditions – updated with wording about conditions relating to the premises and the focus for conditions will be on direct impact regardless of the persons geographical proximity.

Risk Assessments – s.182 requirement referenced throughout to uphold the licensing objectives

Representations – specific inclusion of S103 Police Reform & Social Responsibility Act 2011 allowing the LA to make its own representations

- Part 6 – Applications

New introductory paragraph referencing a self service approach to making an application, explaining in plain English how to “serve” an application and advising applicants seek advice before making application thereby reducing the burden on the authority.

Premise Licence and Club Certificate – s.182 updates providing targeted advice to applicants and recognising the difference between the two entities.

Regulated Entertainment – s.182 updates – given its own specific heading for clarity and providing advice and signposting for applicants

Operating Schedule – s.182 requirement – as above and setting out what the Licensing Authority expects an operating schedule to be completed with, with regard to the LA03 policy

Designated Premise Supervisor s.182 requirement – as above

Staff Training s.182 requirement - the policy explains the responsibility incumbent on operators to provide the same to the promotion of the licensing objectives

Personal Licences – Expanded section providing guidance and signposting and to support the committee in its decision making where it has no discretion.

- Part 7 Cumulative Impact

Repealed legislation removed and section updated in light of revised s.182 guidance

- Part 8 – Sexual Entertainment Venues

No change

- Part 9 Enforcement, Reviews and Appeals – NEW

This section has been significantly expanded in keeping with s.182 guidance to include specific sub headings on appeals, closure orders, suspension for non-payment of annual fees and reviews.

- 1.8 A 6 week consultation has been carried out with the public, responsible authorities and licensed businesses. Following the close of the consultation on the 23rd October, all feedback has been considered. Feedback was gratefully received from the following:

Sergeant Enderby, Lincolnshire Police Alcohol licensing Team:

Requested “further measures to tackle street drinking including not selling single cans or bottles of beer, lager and cider, not selling super strength (ABV above 6.5) beer, lager or cider and attaching water proof labels with printed shop names and addresses to cans and bottles of beer, lager and cider (or all alcohol sold) could assist in improving conditions on off sale type licences, be it new, updated, or found needing improvement, within PSPO areas for street drinking, littering and public urination and defecation.

A specific paragraph detailing the importance of CCTV as this promotes all the licensing objectives. Wording similar to ‘CCTV remains one of the most effective measures for reducing crime and disorder. The Licensing Authority expects premises that retail alcohol for consumption on or off the premises will have an effective CCTV system installed that operates in compliance with the requirements of Lincolnshire Police’”

These suggestions provided by the police need to be considered and discussed at the meeting.

Alan Simpson, Community Alcohol Partnerships Advisor:

Requested acknowledgement of the Community Alcohol Partnership in Spalding which has been included in the draft Policy.

Representative of Deeping St Nicholas Village Hall:

Queried application of the section in 6.8 of the policy relating to Temporary Events and raising concerns that the requirements outlined elsewhere in the document would be disproportionate if applied to small events such as a small village fete held once a year. Whilst the Licensing Team will always try to provide a practical and proportionate approach to licensing, we are unable to divert away from the law which is intended to be a light touch approach to temporary events. Further discussion will be had with representatives of this facility to see if concerns can be alleviated.

Dee Bedford, Community Safety and Enforcement Manager SHDC:

Requested updates and clarification in relation the PSPO and Safer Lincolnshire Code of Practice which have been incorporated.

- 1.8 The Policy Development Panel considered the draft policy and consultation feedback on the 4th November 2020. They were supportive of the draft policy and asked that the Committee of the Licensing Authority give full consideration to the police suggestions.
- 1.9 The Committee of the Licensing Authority met on 5th November 2020 and discussed the consultation feedback. The Committee broadly agreed with the principles being suggested by the police, but felt that there was not sufficient time to consult with the trade again before January when the policy must be adopted. They also acknowledged the current COVID restrictions on businesses and felt it was not the right time to introduce this on a mandatory level, but would could consider this next year. To this end, the Committee agreed to implement the police recommendations into section 4.2 of the policy as measures an applicant is expected to **consider** in their operating schedule, to prevent crime and disorder.
- 2.0 On this basis, the Committee agreed to put forward the policy with this amendment, to full Council for approval and adoption.
- 2.0 **OPTIONS**
- 2.1 Approve the attached final version of the policy
- 2.2 Approve the attached final version of the policy with further amendments
- 2.3 Do not approve the proposed policy
- 2.4 Do nothing

3.0 REASONS FOR RECOMMENDATION(S)

- 3.1 The policy is required to be reviewed at least every 5 years and needs to be adopted by January 2021.
- 3.2 A full consultation has been carried out
- 3.3 The recommendation is that an agreed final version of the policy is approved by Council

4.0 EXPECTED BENEFITS

- 4.1 Revising the Licensing Policy Statement enables the Council to remain compliant with its duties under the Licensing Act 2003 and hold a policy that is up to date, transparent and legal. Consultation is important to ensure that the policy reflects the needs and priorities of our businesses, customers and responsible authorities.

5.0 IMPLICATIONS

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

5.1 Carbon Footprint / Environmental Issues

- 5.1.1 Where possible, the consultation has been carried out using digital means such as email, social media and the Council website

5.2 Constitutional & Legal

- 5.2.1 The review of the policy is in line with the Council's Constitution and in accordance with the Licensing Act 2003.

5.3 Corporate Priorities

- 5.3.1 The new draft policy supports all of the Corporate Priorities

5.4 Crime and Disorder

- 5.4.1 The draft policy takes in to account all relevant legal provisions of licensing legislation and is designed to promote all four Licensing Objectives, including the Prevention of Crime and Disorder

5.5 Data Protection

- 5.5.1 A Data Protection Impact Assessment has been carried out to ensure compliance

5.6 Equality and Diversity / Human Rights

- 5.6.1 An Equality Impact Assessment has been carried out to ensure that the consultation process and the draft policy itself upholds the principles of equality and diversity, and does

not discriminate

5.7 **Financial**

5.7.1 The policy does not present any financial implications for the Council

5.8 **Health & Wellbeing**

5.8.1 "Public Health" is not currently a statutory licensing objective; however, the policy does address alcohol related harm. The Director of Public Health is also a responsible authority and consultee for this policy.

5.9 **Safeguarding**

5.9.1 The draft policy promotes the licensing objective of the "Protection of Children from Harm" and the Lincolnshire Safeguarding Children's partnership are a responsible authority and a consultee

5.10 **Stakeholders / Constitution / Timescales**

5.10.1 A list of the stakeholders that have been consulted are listed in Part 2 of the draft policy. A number of other local organisations were also identified and contacted. The consultation period ran for 6 weeks, during which time the draft policy was also posted on the council website.

5.10.2 The policy has been considered at Policy Development Panel on the 4th November

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All

Background papers:-

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Key Decision: N

Exempt Decision: N

This report refers to a Mandatory Service

Appendices attached to this report:

Appendix A Draft Licensing Policy