

COUNCIL

23 FEBRUARY 2023

STATEMENT OF LICENSING POLICY 2023 – 2028

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Summary

To present Members with the consultation responses received in respect of the draft revised Statement of Licensing Policy under the Licensing Act 2003. Implementation is subject to approval by Full Council.

The report was considered by the Licensing and Safety Committee on 7 February 2023 and its comments are set out at section 4 of the report.

1. Budget and policy framework

1.1. The Licensing and Safety Committee's terms of reference state that the Licensing and Safety Committee will make recommendations to Council for approval of a number of licensing policies.

2. Background

2.1. In its role as the Licensing Authority under the Licensing Act 2003, the Council has a duty to prepare, and keep under review, its Statement of Licensing Policy. This sets out how the authority approaches its responsibilities under the Act.

2.2. Section 5 of the Licensing Act 2003 (The Act) states that every 5 years a Licensing Authority must:

- Determine its policy with respect to the exercise of its licensing functions; and
- Publish a statement of that policy before the beginning of that period.

2.3. Underpinning that obligation are the four licensing objectives, which are:

- The prevention of crime and disorder;
- Public safety;

- The prevention of public nuisance; and
 - The protection of the children from harm.
- 2.4. Equal weight is given to all four licensing objectives and the policy must seek to secure the promotion of these objectives throughout the licensing process.
 - 2.5. The current policy was approved by Council in April 2018 and came into effect on 1 May 2018. It will consequently expire on 31 April 2023.
 - 2.6. On 11 November 2022, the Licensing and Safety Committee authorised officers to place the draft policy, with Appendices 4, 5 and 6 removed to be stand alone documents, on the Council's website, advertise and consult with all relevant interested parties.
 - 2.7. The consultation commenced on 14 November 2022 and closed six weeks later on 6 January 2023.
 - 2.8. At the commencement of the consultation officers sent either emails or letters to all consultees as requested. They also ensured a notice and the draft policy were displayed on the Council's website for the duration of the 6 weeks.
 - 2.9. During the above mentioned period officers received only one response from a Premises Licence Holder, who had no comment to make on the changes to the Statement of Licensing Policy.
 - 2.10. It was therefore deemed that no amendments were required to the draft policy, prior to consideration by Full Council for approval and publication.

3. Advice and analysis

- 3.1. The benefits of approving the draft new policy are that the Licensing Authority will continue to secure a foundation on which to determine applications in a way that clearly promote the licensing objectives, protects residents and allows the vision for the Council to be achieved through a clear, fair and robust licensing process underpinned by the policy.
- 3.2. The Statement of Licensing Policy must be published before the Authority carries out any function in respect of individual applications and notices made under the terms of The Act.

4. Licensing and Safety Committee

- 4.1. The Licensing and Safety Committee considered the report at its meeting on 7 February 2023 and its comments are set out below:
- 4.2. **Discussion:**

The Committee considered a report on the consultation responses received in respect of the draft revised Statement of Licensing Policy under the Licensing Act 2003.

4.3. The Licensing Manager advised that an 8-week consultation had been undertaken, during which one response was received from a Premises Licence Holder, who had no comment to make on the proposed changes to the policy.

4.4. **Decision:**

1. The Committee acknowledged that no comments had been received requiring any further amendment to the draft policy document.
2. The Committee recommended the draft Statement of Licensing Policy 2023-2028, as attached at Appendix A to the report, to Full Council for approval.

5. Risk management

5.1. The publication of a Statement of Licensing Policy under the Licensing Act 2003 is a statutory requirement and failure to do so by the expiration of the current policy as required may lead to negative publicity and criticism from central government. Close adherence to the mandatory guidance in terms of policy development and consultation will minimise the risk of judicial review at a later date. This risk is further minimised by working in close co-operation with the other licensing authorities within Kent.

6. Financial implications

6.1. There are no direct financial implications for Medway Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.

7. Legal implications

7.1. The Authority's Statement of Licensing Policy provides the framework on which the Licensing Service under the Licensing Act 2003 is administered. This policy is not only important in setting out the licensing authority's approach to the Licensing Act; it will also be considered and referred to by the Magistrates' Court on appeal. The Magistrates' Court may decide to depart from the policy if they have good reason for doing so.

7.2. The Magistrates' Court may also decide that an appealed decision of the Authority was not reflective of the policy and that no good reason was given by the authority to depart from the policy when making that decision. In that case the appealed decision may be referred back to the local Authority to reconsider in line with its policy.

8. Recommendation

- 8.1. It is recommended that the Council approves the draft Statement of Licensing Policy 2023-2028, as attached at Appendix A.

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Appendices

Appendix A – Draft Statement of Licensing Policy

Background papers

None