

Title of Report:	Licensing Act 2003
Report to be considered by:	Council
Date of Meeting:	12 December 2013
Forward Plan Ref:	C2766

Purpose of Report: To consider the Council's Licensing Policy Statement as required under the Licensing Act 2003 Part 2. 5. (1) (a) (b).

Recommended Action: To agree to the adoption of the Licensing Policy.

Reason for decision to be taken: The Licensing Act 2003 Part 2.5. (1) (a) (b) requires that the Council approve and adopt a Licensing Policy Statement no later than December 2013. Introduction of new legislation.

Other options considered: None

Key background documentation:

- The Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003
- DCMS Guidance
- Home Office Guidance

The proposals contained in this report will help to achieve the following Council Strategy priorities:

- CSP1 – Caring for and protecting the vulnerable**
- CSP2 – Promoting a vibrant district**

The proposals will also help achieve the following Council Strategy principle:

- CSP7 - Empowering people and communities**

The proposals contained in this report will help to achieve the above Council Strategy priorities and principle by:

CSP1 - There are elements of the policy which aim to recognise vulnerable groups and ensure that they are protected from the impacts of excessive alcohol consumption.

CSP2 - There are elements of this policy which aim to encourage good business practices and ensure that there is reliable decision making when considering regulated entertainment.

CSP7 - The policy will protect the rights of the local community through their ability to keep the licensing trade accountable for their actions using representations.

Portfolio Member Details	
Name & Telephone No.:	Councillor Dominic Boeck - Tel (07956) 546506
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Date Portfolio Member agreed report:	26 September 2013

Contact Officer Details	
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Implications

Policy:	The policy once adopted will be the document by which licensing decisions must be considered and no other.
Financial:	None
Personnel:	None
Legal/Procurement:	This proposal accords with the requirements of the Licensing Act 2003
Property:	None
Risk Management:	None

Is this item relevant to equality?	Please tick relevant boxes		Yes	No
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to an area with known inequalities?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>	<input type="checkbox"/>

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input checked="" type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input checked="" type="checkbox"/>
Report is to note only		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 The Licensing Act 2003 requires that the Council formulate a Licensing Policy Statement and review the policy every 3 years.
- 1.2 The Licensing Authority must ensure that its policy is kept up to date and review as necessary if major changes occur within any 3 year period.
- 1.3 The current policy is due to expire in December 2013. During 2013, changes in legislation have affected the policy and as such, have been added to the draft policy document attached at Appendix A. The Policy has been reformatted and some text, which was considered as extraneous, has been removed. Legislative changes are outlined at 2.1 of the Executive Report.

2. Equalities Impact Assessment Outcomes

- 2.1 This item is not relevant to equality.

3. Conclusion

- 3.1 Officers do not believe there are any changes that should concern the Council and that the adoption of this policy should not present any risk or financial impact on the authority.
- 3.2 The Committee should agree to the adoption of the policy.
- 3.3 The policy has been consulted upon in accordance with the guidance provided by the Act.

Executive Report

1. Introduction

- 1.1 Section 5 of the Licensing Act 2003, as amended (“the 2003 Act”) requires a Licensing Authority to produce a Statement of Licensing Policy in respect of each five year period starting with the first appointed day 7th February 2005.
- 1.2 The statement of licensing policy and the guidance to the Act are the documents which the Licensing Committee and the Licensing Sub Committees must have due regard to, in making decisions regarding applications for licences, variations to licences and dealing with representations made against licences and which are subsequently reviewed.
- 1.3 Licensing Authorities were previously required to publish and review licensing policy statements every three years. This requirement was changed from three years to five years by amendments to the 2003 Act brought about by the Police Reform and Social Responsibility Act 2011 for any policies adopted after January 2011. Thus the policy will be valid for a period of 5 years unless legislative changes require a further revision within that time.
- 1.4 The Council adopted its first Licensing Policy Statement in December 2004 and was subsequently reviewed and re-adopted in 2007 and 2010. As the Council’s most recent policy was adopted prior to January 2011, it is required to be reviewed at this time.

2. Proposals

- 2.1 The draft policy attached at Appendix A has been consulted upon and changes required by new legislation have been added.

(1) The amendments proposed to the policy are:

- (a) The Live Music Act 2012 has exempted live music from the requirement to be licensed in certain circumstances and the policy has been amended to reflect this.
- (b) In addition, the Police Reform and Social Responsibility Act 2011 made amendments to the 2003 Act, the main amendments are summarised below and the policy has been amended to reflect this.
 - (i) Introduced Licensing Authorities and Primary Care Trusts/Local Health Boards as responsible authorities;
 - (ii) Removed the vicinity test in relation to the submission of relevant representations;
 - (iii) reduced the evidential burden on licensing authorities by changing the term necessary, used throughout the 2003 Act, to the term appropriate;
 - (iv) introduced the concept of late temporary event notices, extended those who can object to temporary event notices to include Environmental Health (in addition to the Police) and

extended the grounds upon which objections can be made to include all of the licensing objectives;

2.2 The Police Reform and Social Responsibility Act 2011 also introduced powers relating to Early Morning Restriction Orders and the Late Night Levy. These provisions are outlined in the Policy.

Appendices

Appendix A - Draft Licensing Policy Version 2

Consultees

Local Stakeholders: N/A

Officers Consulted: Julia Waymouth - Principal Licensing Officer, Paul Anstey - Joint Service Delivery Manager, Emilia Matheou - Licensing Officer, Corporate Board

Trade Union: None