

Crawley Borough Council

Report to Overview and Scrutiny Commission 4 February 2019

Report to Cabinet 6 February 2019

Review of Statement of Licensing Policy made under the Licensing Act 2003

Report of the Head of Community Services – *HCS/08*

1. Purpose

- 1.1 To appraise Cabinet of the need to review Crawley Borough Council's Statement of Licensing Policy as pertains to Licensing Act 2003.
- 1.2 To inform Cabinet of the response received following a 12 week public consultation period (which concluded on 30th November 2018) on the Review of Crawley Borough Council's Statement of Licensing Policy under the Licensing Act 2003.
- 1.3 To consider, and either accept or reject, the proposed revised Statement of Licensing Policy 2019-2024.
- 1.4 To ask Cabinet to recommend that Full Council adopt the proposed revised Statement of Licensing Policy 2019-2024 – Licensing Act 2003 as set out in Appendix B to Full Council for approval and adoption.

2. Recommendations

- 2.1 To the Overview and Scrutiny Commission:

That the Committee consider the finalised report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 To the Cabinet

- 2.2.1 The Cabinet is recommended to:

- (i) Review the response received following the consultation, and consider if the matters those comments raise are already dealt with in the proposed revised Statement of Licensing Policy 2019-2024 made under the Licensing Act 2003 at Appendix B, or if additional amendment is required, and,
- (ii) Request that Full Council approves and adopts the proposed revised Statement of Licensing Policy 2019-2024 made under the Licensing Act 2003 (Appendix B).

3. Reasons for the Recommendations

- 3.1 To agree and develop the proposed strategy to discharge the Council's role in its capacity of Licensing Authority for the 5 year period 2019–2024.

- 3.3 To ensure our policy and procedures are compliant with guidance regarding consultation good practice, and specific guidance issued under section 182 of the Licensing Act 2003.

4. Background

- 4.1 The current Statement of Licensing Policy ("Policy") was adopted in 2013. It is a legal requirement that the Council publish a policy and it is also an important document in regards to any legal challenge including licence reviews.
- 4.2 The Act is presumptive in nature meaning that unless a reason exists why a licence should not be issued then the Council must issue upon an application being received. There are number of standard conditions that attach to all types of licences granting permission for the sale of alcohol such as a duty for the licence holder to provide free tap water and controls on the size of measures which must be offered. It is nevertheless not possible for the Council to impose non mandatory conditions in contrast to the Town and Country Planning Act 1990 unless agreed by the parties or by way of a hearing. The number of premises that are already licensed for the sale of alcohol in a location is also not a matter that can be considered when assessing an application unless the respective Licensing Authority has a Cumulative Impact Policy (CIP) in place. No CIP's currently exist in Crawley.
- 4.3 The authority to issue licences under the Act is delegated to the Head of Service. Where a review or hearing is required due to a representation having been made a Licensing Sub Committee consisting of three Councillors drawn from suitably trained Members of the main Licensing Committee is convened. The Licensing Act 2003 (Hearings) Regulations 2005 sets out statutory requirements on how these meetings shall be conducted. An applicant for a licence, objector to the grant of a licence or requestor of a review of a licence has a right of appeal against the Council's decision by way of a de novo hearing in the Magistrates' Court. To ensure members are suitably trained all new Councillors elected to the Licensing Committee receive instruction before being asked to participate in any proceedings. In recent times very few matters have needed to go to a Licensing Sub Committee for a decision. This is most likely due to the working relationship Licensing Officers have with our statutory partners such as the police enabling constructive dialogue between applicants and potential objectors.
- 4.4 The proposed revised Policy includes a section on ABV strength of beers and ciders as a result of a project undertaken in conjunction with Crawley and Gatwick Business Watch showing the level of sales of such goods in the Town. This project also lead to the creation of a Know Your Strength scheme operated by local off licences. It is proposed that this is retained in the document and refreshed through another project on the same theme.
- 4.5 The proposed revised Policy sets out the way in which the Council deals with applications made under the Act, enforcement and how we will work with partner agencies to ensure the objectives of the said Act are promoted and upheld namely;
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 4.6 The Council also has an agreed protocol with Sussex Police on which organisation leads in which area of regulation which is referenced within the proposed revised Policy. The Council's General Enforcement Policy is also of relevance in regards to

legal proceedings and it would be necessary to consider this document also, in the event of any enforcement action.

4.7 The Act sets out that the Council as a Licensing Authority when creating or updating its policy it must consult as follows;

- a) The chief officer of police for the licensing authority's area,
- b) The fire and rescue authority for that area,
- c) Local Health Board for an area any part of which is in the licensing authority's area,
- d) Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- e) Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- f) Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- g) Such other persons as the licensing authority considers to be representative of businesses and residents in its area.

4.8 In addition to the statutory partners covered above the following representative groups have also been consulted;

- Crawley and Gatwick Business Watch
- London Gatwick Airport
- British Beer and Pub Association
- Residents via newspaper advert
- Manor Royal BID
- Sussex Enterprise
- Gatwick Diamond Business Group
- All Ward Members
- Neighbouring Local Authorities

4.9 Due the numerous updates that have an impact on this area of law the proposed revised Policy will marginally increase in length by a few pages going up from 33 pages to 36 pages. The text has been kept as simple and concise as possible in redrafting the document to make it as easy to read and understandable as possible.

5. Description of Issue to be resolved

5.1 The Licensing Act 2003 (the Act) requires the Council to have a published policy. The Act principally deals with the licensing of premises who sell alcohol, provide regulated entertainment or late night refreshment.

5.2 The current Policy covers the period 2015 – 2018 so it is necessary to produce an updated version for the 5 year period from 2019 onwards.

5.3 Central Government has a statutory duty to issue guidance under sec. 182 of the Act outlining how Local Authorities shall apply and enforce controls in their area. The proposed revised Policy follows this guidance closely. The proposed revised Policy also has a section dealing with high strength beers and ciders, and how the Council will work to raise awareness with retailers to limit sales through cooperation.

5.4 The Council has a duty to consult with certain named persons/organisations who are considered representative of personal licence and premises licence holders. Historically we have contacted statutory partners and local organisations such as Crawley and Gatwick Business Watch and London Gatwick Airport. The responses to the consultation concerning the proposed revised Policy will be considered and

the final policy will be amended if appropriate prior to a recommendation to full Council via Overview and Scrutiny Committee and Cabinet. The only response received following the consultation on the proposed draft Policy was received from the Public Health Team at West Sussex County Council (this is included as Appendix A). The comments contained in it have been included in the Forward of the proposed revised Policy (Appendix B).

- 5.5 There have been a substantial number of changes to the law concerning this area of regulation since 2013 which have been included in the proposed revised Policy document namely;
- Licence reviews – Changes to expedited proceedings
 - Personal licences and the right to work – CBC now has to check if people have the right to work in the UK
 - Convictions – CBC can now revoke a personal licence if the holder commits a specified offence
 - Additional responsible authorities – CBC is now also a responsible authority in its own right as well as the Home Office
- 5.6 The proposed revised Policy includes amendments to include more local information concerning how the local Business Watch operates and CBC controls in regards to adult entertainment.

6. Information & Analysis Supporting Recommendation

- 6.1 The Council has a statutory duty to produce a Statement of Licencing Policy concerning the Licensing Act 2003 which must be updated at least every 5 years.
- 6.2 The Council is obliged to consult as widely as possible when updating its Statement of Licensing Policy as well as consulting key named stakeholders.
- 6.3 This matter is not Ward specific so all Elected Members have been consulted for their views.
- 6.4 Although the Council is obliged to consult and take account of the views of the respondents it is not legally bound to follow the suggestions.

7. Implications

- 7.1 The Council acting as the Licensing Authority will now be able to revoke Personal Licences.
- 7.2 The Council acting as the Licensing Authority must ensure anybody issued with a Licence has a right to work in the United Kingdom.
- 7.3 There are no expected financial or staffing implications foreseen due to the updated Statement of Licensing policy.

8. Background Papers

[Updated Statement of Licensing Policy Licensing Act 2003](#)
[Section 182 Licensing Act 2003 Guidance](#)