

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

7 June 2010

Report of Central Services Director

Part 1- Public

Matters for Recommendation to Council

1 LICENSING ACT 2003: REVIEW OF STATEMENT OF LICENSING POLICY

Summary

The purpose of this report is to recommend that the Council adopt, for consultation purposes, a draft revised Statement of Licensing Policy based upon the revised Kent Model and to approve arrangements for a Consultative Forum.

1.1 Introduction

1.1.1 Section 5 of the Licensing Act 2003 required the licensing authority to prepare and publish a statement of its licensing policy every three years. During the three year period, the policy must be kept under review and the licensing authority may make such revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.

1.1.2 The Council's last statement was adopted on 11 December 2007.

1.1.3 Unlike the other documents which form part of the Council's budget and policy framework, which are developed through the Cabinet and the Policy Overview Committee, under the Licensing Act 2003 the development of the policy is a wholly non-executive function. Our timetable for achieving this review is as follows:

| | |
|-------------------|--|
| 7 June 2010 | Licensing and Appeals Committee adopts revised draft statement for consultation purposes |
| 21 September 2010 | Licensing and Appeals Committee considers representations received. |
| 2 November 2010 | Statement approved by Council. |

Statement of Licensing Policy

- 1.1.4 Members have previously agreed the principle of developing a county-wide Model policy statement. The original model was drafted under the auspices of the Kent Licensing Forum which included representatives of all Kent authorities, the police and fire services and representatives from the trade. The Model has now been revised by a working party of the Kent and Medway Regulatory Licensing Steering Group. This Authority was represented on that working party.
- 1.1.5 The review has taken into account changes in legislation since December 2007. The purpose of a policy statement is to set a framework which enables the licensing authority to constrain the excesses of deregulation, whilst remaining flexible enough to deal with innovations in the development of the trade.
- 1.1.6 At the time of writing this report the new coalition Government has announced that a complete review of the Licensing Act 2003 using “evidence based” approach would take place.
- 1.1.7 I set out in **Annex 1** a draft revised Statement of Licensing Policy for this Council. This document is based very closely upon the revised Kent model and major variations on the existing policy are highlighted in italics. This document sets out how the Council is going to administer the Act in controlling the provision of alcohol, entertainment and late night refreshment, based on the four statutory licensing objectives which are: -
- Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from harm.

1.2 Consultation process

- 1.2.1 Before determining its policy, the licensing authority must consult the persons specified in the Act. These are:
- (a) Kent Police and the British Transport Police;
 - (b) Kent and Medway Fire and Rescue Authority;
 - (c) persons/bodies representative of persons who are local holders of premises licences;
 - (d) persons/bodies representative of persons who are local holders of club premises certificates;
 - (e) persons/bodies representative of persons who are local holders of personal licences; and
 - (f) persons/bodies representative of businesses and residents in its area.
- 1.2.2 The views of all these persons/bodies listed should be given appropriate weight when the policy is determined. Our initial canvas of the trade indicates that there are no local representative trade bodies which might be used for consultation purposes and it is recognised by the Government that, in some areas, it may be

difficult to identify persons or bodies representative for all parts of industry affected by the provisions of the 2003 Act, but in those cases licensing authorities must make reasonable efforts to identify the persons or bodies concerned.

- 1.2.3 Beyond the statutory requirements, it is for each licensing authority to decide the full extent of its consultation and for it to decide whether any particular person or body is representative of the group described in the statute. Government guidance is that, when undertaking consultation exercises, licensing authorities should have regard to the cost and time and that consultations should mainly be targeted rather than general.
- 1.2.4 It is, therefore, proposed to use our existing local consultative forum including representatives of those whom we are required to consult. The membership of the forum is set out at **Annex 2**. We have tried as hard as we can to ensure that the membership reflects as many interests as possible, whilst trying to keep it within manageable proportions. However, it may be that in future the membership will need to be adjusted in light of experience.
- 1.2.5 In addition to the Forum, it is our intention to make the draft statement available as widely as possible, including on our website, so that everyone has the maximum opportunity to make comments.

1.3 Legal Implications

- 1.3.1 This adoption and review of the statement of licensing policy under the Act is mandatory for this Council.

1.4 Financial and Value for Money Considerations

- 1.4.1 None.

1.5 Risk Assessment

- 1.5.1 The Council is required to implement this legislation.

1.6 Recommendations

- 1.6.1 Members are **recommended** to:

- 1) adopt the draft Statement of Licensing Policy in **Annex 1** to the report for consultation purposes; and
- 2) agree that consultations may be commenced immediately prior to approval of the draft statement by Council.