

## LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY

Council - 25 February 2020

Report of Chief Officer Planning & Regulatory Services

Status: For approval

Also considered by: Licensing Committee - 7 January 2020

Key Decision: No

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### Executive Summary:

The Council is required by law to publish a statement of licensing principles at least every five years under the Licensing Act 2003 and accompanying Guidance issued by the Home Office.

The purpose of the policy is to define how the Council's responsibilities under the Act are going to be exercised and administered by the Council acting as the Licensing Authority. Sevenoaks's existing Statement of Licensing Policy 2015-2020 runs until the end of March 2020 therefore a new Statement of Licensing Policy for the District is required from 1 April 2020.

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**This report supports the Key Aim of sustainable economy.**

**Portfolio Holder** Cllr. Margot McArthur

**Contact Officer** Michael Moss, Ext. 7364

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**Recommendation to Licensing Committee** To agree the 'Statement of Licensing Principles 2020-2025 (attached as **Appendix A** to this report) be recommended to the Council as revised Policy to come into effect from 1 April 2020.

### Recommendation to Council

That the 'Statement of Licensing Principles 2020-2025' as revised Policy be adopted as from 1 April 2020.

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**Reason for recommendation:** Under Section 5 of the Licensing Act 2003 the Licensing Authority must have a Statement of Licensing Policy. The last Policy was reviewed in 2015 and will expire on 31 March 2020.

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy which will be brought before the Committee in January 2020.

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## Introduction and background

- 1 The Licensing Act 2003 requires the Council, acting as the Licensing Authority (LA) under the Act, to determine and publish a Statement of Licensing Policy (SLP) at least once every five years. Sevenoaks current SLP runs from 01/04/2015 - 31/03/2020. A new SLP for the District is therefore required, to be published and applicable from 1 April 2020 onwards.
- 2 The Statement of Licensing Policy 2020-2025 can be reviewed and updated at any time during the life of the document. The Council keeps the SLP under constant review and, from time to time, may commission research to inform changes to policy.
- 3 The SLP sets out how licensed premises are likely to be permitted to operate and the document covers the following:
  - a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications and enforcement complaints;
  - b) How the Council will assess the suitability of licensed drivers, vehicles and Operators
  - c) The LA's approach to regulation & expected standards; and
  - d) The scheme of delegation.
- 4 The scheme of delegation for Licensing will be reviewed at a local level during the life of the new SLP and updated to reflect any resulting changes in line with the relevant legislative requirements.
- 5 The four licensing objectives under the Licensing Act 2003 are:
  - The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm
- 6 Each objective has equal weight under the legislation.
- 7 The Licensing Authority must carry out its functions with a view to promoting the licensing objectives.
- 8 The SLP applies to new licence applications and applications to vary existing licences (e.g. where an increase in hours is requested). It also applies to existing licences that are brought to review (e.g. where public nuisance is being caused). The new document also confirms the expectations on existing licence holders, such as the requirement to pay annual fees and wider responsibilities such as those set out within the

Immigration Act 2016.

- 9 The SLP, along with current national guidance issued by the Home Secretary issued from time to time and the primary legislation as set out in the Licensing Act 2003 ('the Act'), forms the basis on which licensing decisions are made by the Council acting as the LA and how licensed premises are likely to be permitted to operate.
- 10 The purpose of the SLP is to outline the approach that Sevenoaks will take to implementing the Licensing Act 2003 locally and to provide guidance for applicants, residents and Responsible Authorities under the Act.
- 11 'Responsible Authorities' include Kent Police, Kent Fire & Rescue Service, the Council's Health & Safety, Planning and Environmental Protection Teams, Children's Safeguarding, Public Health and Trading Standards.
- 12 As at the beginning of December 2019, x premises licences are held within Sevenoaks District - this includes bars, pubs, clubs, off-licences, restaurants and private members' clubs.
- 13 Activities regulated under the Licensing Act 2003 include:
  - The retail sale of alcohol;
  - The supply of alcohol to members of private clubs;
  - The supply of hot food/ or hot drinks between 11pm and 5am; and
  - The provision of regulated entertainment to the public, or club members or with a view to profit, such as:
    - Film exhibitions;
    - Performance of plays;
    - Indoor sporting events;
    - Boxing or wrestling entertainment;
    - Playing of recorded music; and
    - Dance performances.
- 14 In terms of 'regulated entertainment' exceptions apply under the Act - e.g. for film exhibitions, no licence is required between 8am and 11pm, where the number of people in an audience is fewer than 500. However, venues serving alcohol alongside theatre performances would still need a licence.
- 15 The SLP document does not cover any activity that is outside the scope of the Licensing Act 2003. In addition, the document does not seek to set out operational activities or plans for all work planned or undertaken which relates to the Licensing Act 2003, nor to capture all the wider work being undertaken or planned around alcohol in the District.

- 16 The Planning and Licensing regimes operate in parallel, with separate legislation governing each policy. Planning considerations are outside the scope of the SLP 2020-2025. In addition, the SLP gives guidance only and each case is considered on a case by case basis under the applicable legislation.

## Proposal and Reasons

- 17 The new draft SLP for the District has been prepared with reference to the current policy, legislative updates, benchmarking against other Borough's policies and the recent consultation. In addition, the format of the current SLP has been updated in order to make the new document easier to read and more accessible.

- 18 The final draft has been produced as a result of the following stages:

- 19 **Stage 1: Production of first draft:** The first draft of the new SLP was produced by undertaking a review of the policy document and benchmarked against our partnership authorities (e.g. Maidstone Borough Council and Tunbridge Wells Borough Council).

- 20 The outcomes from the above and key difference between the current SLP and the Draft were as follows:

- 21 **Format:** Changes were made to the structure and language to improve accessibility and understanding of the positions outlined in the draft document.

- 22 **Legislative updates:** Clarifications were added to address legislative or Section 182 Guidance changes. The SLP now states that all licensed premises are expected to familiarize themselves with and adhere to their responsibilities regarding the prevention of illegal working under the Immigration Act 2016 and all aspects of the Act.

- 23 **Suspensions:** Since April 2013 it has been possible to suspend licences when annual fees have not been paid. A clearer statement on the Policy for licensing fees and the actions taken if these are not paid when due is now in the SLP.

- 24 In addition, the updated draft indicates that applicants may seek the views of the Responsible Authorities before formally submitting an application, and that there may be a charge for this service.

- 25 **Deregulations 2015:** Information relating to the 2015 deregulations of the Licensing Act 2003 have been included under the 'Background' section of the policy, immediately following regulated entertainment.

- 26 **Pre-application advice:** The Council will be introducing the provision

of pre-application advice for Licensing.

- 27 **Stage 2: Production of final draft:** Public Consultation on the draft SLP took place over an 8 week period between 21 October 2019 and 13 December 2019. Where feedback, suggestions and comments were within scope of the Licensing Act 2003 and the SLP, these are presented in summary in **Appendix B**.
- 28 The Public Consultation consisted of a web page on Sevenoaks District Council's website which provided a full version of the draft SLP 2020-2025.
- 29 A notification email was sent to all Responsible Authorities, Sevenoaks District Council elected members, all premises and personal licences holder (issued by Sevenoaks District Council) and any applicant which has submitted a Temporary Event Notice (TEN) in 2019.
- 30 In addition the Council consulted with the following trade representatives:
- Institute of Acoustics
  - Alcohol Concern
  - British Beer & Pub Association
  - Action on Smoking & Health
  - National Pubwatch
  - Magistrates Association
  - Chartered Institute of Environmental Health
  - Sevenoaks District Council's Safety Advisory Group
- 31 During the 8 week public consultation, 5 submission were received.

## Conclusion

- 32 The Councils processes should be transparent and despite there being no legal obligation to adopt a Policy, it would ensure better control over a premises.

## Key Implications

### Financial

There are no specific financial implications resulting from the matters considered in this report, as the minimal cost of consultation and publication in respect of the proposed Council's Statement of Licensing Policy will be met from the running costs of the Licensing Team and Licensing Partnership.

## Legal Implications and Risk Assessment Statement.

The Council's Statement of Licensing Policy is an important factor when determining certain applications under the Licensing Act 2003. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications.

Ensuring that the Policy is up to date and covers relevant areas assist the Council is ensuring a consistency of approach.

## Equality Assessment

Section 149(1) of the Equality Act 2010 requires that, in exercising its functions public sector bodies to have 'due regard' to the need to -

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act;
- Foster good relations between people who share a relevant 'protected characteristic' and those who do not;
- Advance equality of opportunity between people who share a relevant 'protected characteristic' and those who do not.

Assessing the potential impact on equality of proposed decision, changes to policies, procedures and practices is one of the key ways in which the Council can demonstrate that they have had 'due regard'. Assessing impact on equality should be tailored to, and be proportionate to, the decision(s) being made.

Officers have considered the impact of the proposals contained in this report and consider that there would be no, or very limited adverse or disproportionate impact on those who share a protected characteristic. This will be kept under review as part of the Council's ongoing duty.

### **Appendices:**

Appendix A -Statement of Licensing Policy - 2020-2025

Appendix 7B ON WEBSITE ONLY

<https://cds.sevenoaks.gov.uk/documents/s40450/xx%20Licensing%20Policy%20Responses%20Appendix%20B.pdf?J=3>

**Background Papers:**

**Licensing Act 2003**

**Richard Morris**

**Chief Officer Planning & Regulatory Services**