

## **REPORT TO EXECUTIVE COMMITTEE AND COUNCIL**

**Date of Meeting: 17 MARCH 2015 / 21 APRIL 2015**

**Report of: Assistant Director Environment**

**Title: Responses to the consultation relating to the Licensing Act 2003 Statement of Licensing Policy**

### **Is this a Key Decision?**

Yes

\* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

### **Is this an Executive or Council Function?**

#### **Council Function**

#### **1. What is the report about?**

1.1 Exeter City Council's current Statement of Licensing policy was written in 2010 and came into effect in January 2011. There is a legal requirement to review such policy statements every five years. The current policy must be reviewed by 2016, a consultation commenced in September 2014 and concluded on the 12 December 2014. It is the responses to the consultation that is the subject of this report.

#### **2. Recommendations:**

- 2.1 That Executive supports the revised Licensing Act 2003 Statement of Licensing Policy
- 2.2 That Council formally adopts revised Licensing Act 2003 Statement of Licensing Policy

#### **3. Reasons for the recommendation:**

- 3.1 The Licensing Authority must determine and publish a statement of Licensing Policy in order to determine applications for the grant of new licenses and variations to existing licenses. For this reason the current policy must be adopted as Policy by the Council. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each five-year period.
- 3.2 In order to be sure that the Policy is adopted it will need to be considered by the Executive Committee on the 17 March 2015 and by Council on the 21 April 2015.

#### **4. What are the resource implications including non financial resources.**

- 4.1 The legislative changes and proposed changes to policy do not give rise to any additional resource implications or have any revenue impact.
- 4.2 There are no reductions, restructuring and/or redundancy implications as the key changes identified in this report do not give rise to any additional resource requirements as changes are to existing processes. However, in delivering the changed requirements there may be some training implications for existing staff.

#### **5. Section 151 Officer comments:**

- 5.1 There are no financial implications to the Council in adopting this revised policy.

## **6. What are the legal aspects?**

- 6.1 Section 5 of the Licensing Act 2003, the Council as Licensing Authority is duty bound to adopt such Statement of Licensing Policy. As with all policies produced by the Council, it is necessary for it to be reasonable and workable in order to avoid any legal challenge by third parties. Failure to adopt a policy in the prescribed timescale may lead to challenges that would be very difficult to defend.

## **7. Monitoring Officer's comments:**

- 7.1 This report raises no issues for the Monitoring Officer.

## **8. Report details:**

- 8.1 Section 5 of the Licensing Act 2003 ("the LA03") formally required that the Licensing Authority had to prepare and publish a statement of its licensing policy ("the Policy") every three years and that changes made to the LA03 by the Police Reform and Social Responsibility Act 2011 in April 2012 extended this period to every five years.
- 8.2 The Statement of Licensing Policy now incorporates the vast majority of the outcomes of the member working groups that took place between October 2013 and March 2014 which were outlined in a report to the Licensing Committee on 23 May 2014.
- 8.3 The proposed Licensing Policy addresses the council's desire to promote a vibrant night time economy with a rich mix of entertainment and activity which is welcoming, clean and safe and that accommodates a wide range of tastes of a diverse population. Officers, the Police and other partnership organisations are concerned with regard to the proliferation of licensed premises concentrated in particular areas and the impact they may have in any given neighbourhood.
- 8.4 Part of the consultation sought whether a review of the Cumulative Impact Policy is needed so that its impact is clearer and more accessible to both applicants and responsible authorities. To address this matter the police have submitted documents that support the continuation of the special policy in the area that has been identified previously.

## **9. How does the decision contribute to the Council's Corporate Plan?**

- 9.1 Formulating a licensing policy that recognises the key outcomes of the Members working groups will contribute to a healthy and safe city, and lend support to a robust, business friendly night-time economy.

## **10. What risks are there and how can they be reduced?**

- 10.1 There are risks that a poorly drafted policy that is neither proportionate nor reasonable, or is inadequately consulted upon, may give rise to legal challenge. These risks have been minimised by ensuring appropriate consultation has taken place.
- 10.2 The responses have been accepted where they add to the policy. Those responses that may give rise to challenge have been rejected primarily because the proposals are not legal. Due regard been given to the reasonableness and proportionality of policy tools.

**11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**

11.1 Formulating a licensing policy that recognises the key aims of the council, responsible authorities and other stakeholders should make a positive impact on creating a vibrant city to live, work and visit.

**12. Are there any other options?**

12.1 The current policy must be reviewed and an updated policy statement produced by 2016.

**Assistant Director Environment**

**Local Government (Access to Information) Act 1972 (as amended)**

**Background papers used in compiling this report:-**

The Licensing Act 2003.

The Police Reform and Social Responsibility Act 2011.

SI No. 1129 (C.38) / 2012 *The Police Reform and Social Responsibility Act 2011 (Commencement No. 5) Order 2012*.

Guidance issued under Section 182 of the Licensing Act 2003.

Report to Licensing & Regulatory Committee, 28th May 2012 – *Changes to the Licensing Act 2003*.

Existing Statement of Licensing Policy.

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