

## Statement of Licensing Policy – Licensing Act 2003

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### 1. Summary

- 1.1 The Licensing Act 2003 requires the Council to prepare and publish a statement of licensing policy with respect to its licensing functions at least every five years. During the five-year period, the policy must be kept under review and the Council may make any revisions to it as it considers appropriate.
- 1.2 This report sets out the proposed statement of licensing policy.

### 2. Recommendations

- 2.1 That the Council agrees, with any necessary amendments, the proposed statement of licensing policy as detailed in **Appendix A** and requests the Head of Public Protection to consult, in accordance with relevant statutory requirements under the Licensing Act 2003, on the proposed policy and to bring the policy back before the Council to enable consideration of any consultation responses prior to the adoption of the policy with effect from 1 April 2014.
- 2.2 That the Council agrees that the parties who will be consulted with about the proposed licensing policy are those referred to in Section 5 (3) of the Licensing Act 2003 (the Act) and where the Act refers to 'such persons as the licensing authority considers to be representative' that the Council delegates to the Head of Public Protection the authority to consult with such persons that he considers appropriate taking into account the guidance issued under Section 182 of the Act.

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### 3. Risk Assessment and Opportunities Appraisal

- 3.1 The preparation and publishing of the statement of licensing policy is a legal requirement under the Licensing Act 2003 (the Act).

- 3.2** If the Council fails to prepare and publish the policy statement the Council may be challenged when exercising its functions under the Act through a number of routes, e.g. service complaints to the Local Government Ombudsman and judicial review. Conversely, by preparing and publishing the statement of policy, the Council is complying with its legal obligation. In addition, the Council provides a defined framework within which to exercise its functions and makes it clear to all stakeholders the manner by which the Council intends to exercise its functions.
- 3.3** An Equalities Impact Needs Assessment has not been undertaken in relation to the proposed policy. This is on the basis that the proposed new policy is substantially based on the present policy that was adopted when Shropshire Council was formed in 2009 and it continues to be in line with requirements of the Act and with guidance issued by the Home Office.
- 3.4** There is no anticipated environmental impact associated with the recommendation in this report.
- 3.5** The recommendation is not at variance with the Human Rights Act 1998 and is unlikely to result in any adverse Human Rights Act implications. The recommendation is in line with relevant legal procedures prescribed by the Act and with guidance issued by the Home Office.
- 3.6** The Act requires the Council to consult and this forms part of the recommendation. The Act sets out the parties with whom the Council must consult. These are listed in the extract from the Act at **Appendix B**. Officers consider that consultation with the parties identified in the Act is sufficient and do not, at this time, consider anyone else to be relevant for the purposes of the consultation. The consultation process will follow best practice guidance, as set out by the Department for Business, Innovation and Skills, including allowing twelve weeks from 29 July 2013 to 20 October 2013 to receive responses to the consultation.

#### **4. Financial Implications**

- 4.1** The financial implications associated with the recommendation are limited to the employee costs associated with undertaking the consultation exercise and any costs of publishing the statement of policy. These costs are fully recoverable through the licensing fees regime.

#### **5. Background**

- 5.1** The Council has responsibility for determining the Council's statement of licensing policy. It is specifically not the responsibility of the Cabinet.
- 5.2** There are no defined legal procedures that must be adhered to by the Council prior to the statement of policy taking effect; other than to ensure the statement of policy is the subject of consultation and is published. The Council may determine the most appropriate means by which to achieve this.

## 6. Additional Information

- 6.1** Unless there are specific reasons for an earlier review and publication of a revised statement of policy, the Council will be required to undertake the next consultation process under the Act during 2018 with the aim of a revised statement of policy being effective from 1 April 2019.

### **List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

The Licensing Act 2003 - 2003 Chapter 17

Local Authorities (Functions and Responsibilities) (England) Regulations 2000 - SI 2000/2853

Home Office Amended Guidance Issued Under Section 182 of the Licensing Act 2003 – October 2012

Shropshire Council Statement of Policy – Licensing Act 2003 – 1 April 2009

### **Cabinet Member (Portfolio Holder)**

Councillor Steve Charmley

### **Local Member**

Not applicable

### **Appendices**

**Appendix A** – Proposed Statement Of Policy – Licensing Act 2003

**Appendix B** - Extract from the Section 5 of the Licensing Act 2003