

## Statement of Licensing Policy – Licensing Act 2003

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### 1. Summary

- 1.1** The Licensing Act 2003 ('the Act') 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 for 2019 to 2024 upon which the Council proposes to consult and introduces premises licence application guidance that will support applicants to meet the principal requirements of the policy.

### 2. Recommendations

- 2.1** That the revised Licensing Act 2003 Proposed Statement of Licensing Policy 2019 to 2024 as agreed by the Committee and set out in **Appendix 1** be approved for consultation.
- 2.2** That the 'Premises Licence Applications – Completing the Operating Schedule and Plan of the Premises Guidance' as agreed by the Committee and set out in **Appendix 2** be approved for consultation.

## REPORT

### 3. Risk Assessment and Opportunities Appraisal

- 3.1** The preparation and publishing of the statement of licensing policy is a legal requirement under the Act. There is no requirement to prepare and publish supporting guidance and as such it is proposed that the guidance set out at **Appendix 2** will sit outside the policy to allow this to be regularly updated by officers to reflect current best practice.
- 3.2** If the Council fails to prepare and publish the statement of licensing policy 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 licensing 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 those functions.
- 3.3** There are no direct legal consequences for failing to provide supporting guidance; however, the proposed guidance aims to assist applicants and existing licence holders to meet the requirements of the policy and reduce the burden on the Licensing Service and other Responsible Authorities.
- 3.4** An Equality and Social Inclusion Impact Assessment (ESIIA) is being prepared and will be made available to the Committee following the conclusion of the consultation process.
- 3.5** There is no anticipated environmental impact associated with the recommendation in this report.
- 3.6** The recommendations are not at variance with the Human Rights Act 1998 and are unlikely to result in any adverse Human Rights Act implications. The recommendations are in line with relevant legal procedures prescribed by the Act and with guidance issued by the Home Office.

- 3.7** The Act requires the Council to consult on the proposed policy and this is the basis of the recommendation set out at paragraph 2.1 above. The Act sets out the parties with whom the Council must consult. These are listed in the extract from the Act at **Appendix 3**. 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.
- 3.8** Whilst there is no specific legal requirement in the Act to consult on the supporting guidance, because the guidance and the policy are inextricably linked, it is proposed to consult on the guidance at the same time as undertaking the policy consultation to ensure all stakeholders are fully aware of the policy and practical approach that the Council intends to adopt over the next five years.
- 3.9** The consultation process will have regard to the current government consultation principles including providing for a ten week period from 25 June 2018 to 2 September 2018 to receive responses. The outcome of the consultation will inform the revision of the policy and the Committee will have the opportunity to consider this at a future meeting.

#### **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 licensing policy. These costs are recovered through the statutory licensing fees.

#### **5. Background**

- 5.1** The Council has ultimate responsibility for determining the Council's statement of licensing policy and this cannot be undertaken by the Strategic Licensing Committee or Cabinet.
- 5.2** There are no defined legal procedures that must be adhered to by the Council prior to the statement of licensing policy taking effect; other than to ensure the

statement of licensing 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 licensing policy, the Council will be required to undertake the next formal consultation process under the Act during 2023 with the aim of a revised statement of licensing policy being effective from 1 April 2024.

### **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 – April 2018

Shropshire Council Statement of Licensing Policy 2014 - 2019

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

Councillor Joyce Barrow - Portfolio Holder for Communities, Waste & Regulatory Services.

### **Local Member**

The report has county wide application

### **Appendices**

**Appendix 1** : Licensing Act 2003 Proposed Statement of Licensing Policy 2019 to 2024 (Consultation Copy has been sent to Members electronically and is available with the agenda on the Council's website)

**Appendix 2** : Premises Licence Applications – Completing the Operating Schedule and Plan of the Premises Guidance

**Appendix 3** : Extract from Section 5 of the Licensing Act 2003 (2003 Chapter 17)