

26 November 2015

Report of	Head of Professional Services	Author	Jon Ruder ☎ 282840
Title	Review of the Statement of Licensing Policy // Results of Consultation		
Wards affected	All		

**This report details the outcome of the consultation exercise undertaken in relation to the statutory review of the Statement of Licensing Policy and Counsel's opinion. It also recommends that the Policy be referred to Council for adoption**

## **1. Decisions Required**

### **1.1 Members are asked to -**

- (i) Consider the results of the consultation exercise undertaken for the five year review of the Statement of Licensing Policy as set out at Appendix 2.
- (ii) Consider the Policy with Counsel's amendments at Appendix 1
- (iii) Agree the draft Policy and propose its adoption to full Council on 10 December 2015.

## **2. Reasons for Decisions**

- 2.1 The Licensing Authority is required by the Licensing Act 2003 to have consulted on a review of its five year Statement of Licensing Policy and have any revisions to that Policy agreed and adopted by the beginning of January 2016.

## **3. Alternative Options**

- 3.1 There is no legal alternative other than to comply with this requirement.

## **4. Matters for consideration**

- 4.1 The consultation process ran between 17 August and 31 October 2015. All premises licence holders were sent a postcard alerting them to the consultation and with a link to the new policy on the website. In addition the responsible authorities and representatives of businesses and residents in the area, town and parish councils and those bodies who received the weekly applications table were consulted.
- 4.2 Comments were received from a number of the responsible authorities relating to the layout and technical information contained within the Policy and amendments have been made where necessary. The responses received from other parties are attached at Appendix 3 and the Licensing Manager's comments on the points raised are set out at Appendix 4. Officers have met with representatives of the Civic Society and are meeting with the owners of The Victoria Inn to discuss both the policy and wider licensing matters.

- 4.3 In view of the lack of responses to the consultation and the fact that no significant amendments were proposed, the decision was taken, in consultation with the Chairman and legal services, to refer the draft Policy direct to Counsel for scrutiny.
- 4.4 Counsel comments that ‘the draft policy is excellent. In particular, rather than regurgitate the law or guidance, it sets out Colchester’s policy. No reader of the policy could fail to understand the standards expected’. He has suggested a few small amendments and that some sections are re-ordered to improve its clarity. These suggestions have all been implemented in the policy appended.

## **5. Strategic Plan References**

- 5.1 The proposed draft review of the Statement of Licensing Policy attempts to strike a difficult but reasonable and proportionate balance between the different and often competing aspirations of licensed businesses and residents. This Policy recognises the importance of widening the choice and appeal of licensed premises and the development of cultural, social and community activities while at the same time offering reasonable and proportionate protections to local residents, visitors and other non-licensed businesses. The policy is in line with the Council’s vision to create a Borough that is vibrant, prosperous, thriving and welcoming.

## **7. Consultation**

- 7.1 The draft revised Policy has been the subject of an extensive consultation process as prescribed by the Licensing Act 2003. A copy of the draft revised Policy will be placed on the Council’s website and will therefore also be available for public scrutiny, although it will not be open to any further public comment or consultation.

## **8. Publicity Considerations**

- 8.1 The revision of the Statement of Licensing Policy was publicised to statutory consultees, responsible authorities, organisations, voluntary groups and interested persons who were all invited to take part in the consultation process. There is no other requirement contained within the Licensing Act 2003 that requires the Licensing Authority to give any wider publicity to this process.
- 8.2 In order to publicise the final adoption and approval of the Statement of Licensing Policy that will be in place for the next five years, the Licensing Authority will seek to promote the publication of the Policy through the local media in early January 2016

## **9. Financial Implications**

- 9.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the Statement of Licensing Policy. However, having sought Counsel’s opinion and agreed to the suggested amendments any such action is highly unlikely to be successful.

## **10. Equality, Diversity and Human Rights Implications**

- 10.1 The draft revised Statement of Licensing Policy has been prepared in accordance with and taken account of, all relevant legislation. There is an Equality Impact Assessment in Place for the Policy.

## **11. Community Safety Implications**

- 11.1 The Licensing Policy is a key component in the Council's strategy to tackle crime and disorder and anti-social behaviour, particularly alcohol related anti-social behaviour and as such it will contribute significantly towards improving overall community safety.

## **12. Health and Safety Implications**

- 12.1 There is no known direct public health and safety issues arising from the adoption of the draft revised Licensing Policy.

## **13. Risk Management Implications**

- 13.1 A flexible yet robust revised Statement of Licensing Policy will continue to provide both the Council and the Licensing Authority with a sound basis for decision making in relation to licensed premises and a secure platform from which to promote the four licensing objectives as outlined in the Licensing Act 2003.
- 13.2 To minimise the potential risks and costs associated with defending the adopted and published version of the Licensing Policy against any legal challenges or actions that may be brought against it, legal opinion/advice has been sought by the Licensing Authority from a Counsel who specialises in licensing matters. It is Counsel's opinion that the draft Statement of Licensing Policy is compliant with the Act and the Guidance and that he has not detected grounds to challenge the Policy.
- 13.3 There is risk to the Council and to the Licensing Authority in their being *ultra vires* in relation to this Licensing Policy and also to the Licensing Act 2003, if the Policy is not adopted and published in January 2016. Failure to do so would mean that the Licensing Authority would be unable to lawfully carry out any function in respect of individual applications made under the terms of the Licensing Act 2003. All necessary steps are however being taken to ensure that the timetable and deadline for the adoption and publication of the revised Statement of Licensing Policy will be met.