

	<b>REPORT TO CABINET TO BE HELD ON 17 APRIL 2018</b>	
	<b>Key Decision</b>	<b>YES</b>
	<b>Forward Plan Ref No</b>	
<b>Corporate Priority: Meets all Corporate Priorities</b>	<b>Cabinet Portfolio Holder</b>	<b>Cllr Bill Chatt</b>

## **REPORT OF: THE DIRECTOR (LD) – 18/72**

**WARDS AFFECTED: “All”**

**SUBJECT: REVIEW OF COUNCIL’S STATEMENT OF LICENSING POLICY – LICENSING ACT 2003**

### **RECOMMENDATIONS:**

That Cabinet:

- a) Approve the Council’s revised draft Licensing Policy attached as an Appendix to this report prior to going out to formal public consultation.
- b) Note the forthcoming changes in relation to the review periods for the Statement of Licensing Policy and Cumulative Impact Policy, and agree in principle to separating these two documents.

### **REASON FOR RECOMMENDATION (S):**

In accordance with the Licensing Act 2003 the Licensing Authority is required to publish a statement of policy every successive five year period. The Policy is now due to be revised to cover the next period: November 2018 to November 2023.

### **HIGHLIGHTED RISKS:**

Failure to update the Policy will result in an outdated Policy that does not reflect changes to relevant legislation, associated guidance and local circumstances.

## **1. INTRODUCTION**

- 1.1 Section 5 of the Licensing Act 2003 (“the Act”) requires all Licensing Authorities to prepare and publish a Statement of Principles in the form of the Licensing Policy (“the Policy”) that it proposes to apply in exercising its functions under the Act during the five year period to which the Policy applies.
- 1.2 The Council’s Policy has been revised on a number of occasions since 2005 and it is now time to revise this Policy to cover the next five-year period: November 2018 to November 2023.
- 1.3 Officers have carried out a comprehensive review of the Policy. This report details the outcomes of the review, asks Cabinet to consider and comment on the draft revised Policy at Appendix 1 and agree a public consultation on the Policy.

## **2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN**

- 2.1 This report supports all four of the Council’s corporate objectives.

## **3. BACKGROUND AND ISSUES**

- 3.1 The Council has powers under the 2003 Act to regulate the sale of alcohol, the provision of regulated entertainment and late night refreshment in licensed premises. The Council uses these powers when making decisions on licensing applications based on the four statutory licensing objectives, Home Office guidance issued under section 182 of the Act (the Guidance) and the Council’s adopted Statement of Licensing Policy (the Policy). The four licensing objectives are the prevention of crime and disorder, public safety, protection of children from harm and prevention of public nuisance
- 3.2 The Council is required to publish a Statement of Licensing Policy, which sets its general approach to how it will regulate licensing activities. The Policy seeks to balance the right of a person to make an application for a premises licence, against the right of any person to object to an application or to seek a review of an existing licence. An effective balance will help businesses to develop successfully whilst providing assurance to the public.
- 3.3 The Council must determine and publish its Policy every five years, however during each five-year period, the Council must keep its Policy under review and make revisions, as it considers appropriate.

## **4. CONSULTATION**

- 4.1 The Act requires the Council to keep its Policy under review and make revisions, as it considers appropriate. If it makes revisions, the Council must consult on any changes before determining and publishing an amended Policy.

- 4.2 The Policy was considered by the Council's Licensing Committee on 12 March 2018 who recommended the Policy be approved for public consultation subject to the addition of Parish Councils as a consultee.
- 4.3 Officers propose a three-month consultation period from 1 May to 31 July 2018.

## **5. ASSESSMENT**

- 5.1 The Policy is the primary document for setting out the Council's local approach to regulation. Officers have assessed the existing Policy and concluded that it would be appropriate to make a number of minor revisions to incorporate changes in legislation and associated guidance; whilst also changing the layout and style of the Policy to make it easier to read and understand.
- 5.2 A key change however relates to cumulative impact assessments and associated Policies. Cumulative Impact Policies (CIPs) have in previous years formed part of this Policy, however Section 141 of the Policing and Crime Act 2017 is due to amend the 2003 Act to place CIPs on a statutory footing. In addition a requirement will be placed on licensing authorities to review the evidence on which such policies are based at least every three years, rather than the current five years. This will mean that the requirement to review this Policy will remain at five years, while the requirement to review CIPs will be three years.
- 5.3 As a consequence of these forthcoming changes, it is proposed that the policies be separated, thereby allowing each to be reviewed independent of one another as necessary. If Cabinet agree to separate the policies this will trigger a review of the existing CIPs in respect of Scarborough and Whitby Town Centres. Following the review a report will be presented to Members outlining the key findings of the review together with any proposed amendments to the CIPs.
- 5.4 A number of minor changes have been made to the draft Policy at Appendix 1 to make the document more accessible whilst continuing to comply with the Act and Guidance. For this reason a direct comparison between the Policies is not possible but the key differences are set out in the summary of changes at Appendix 2.

## **6. IMPLICATIONS**

### **Policy**

- 6.1 This report does recommend changes to the Policy pending formal consultation.

### **Legal**

- 6.2 It is a statutory requirement for the Council to review this Policy every successive five year period.

### **Financial Implications**

- 6.3 The costs involved in undertaking the review have been met from existing budgets.

### **Equality and Diversity**

- 6.4 There are no implications.

### **Crime and Disorder**

- 6.5 Under s17 of the Crime and Disorder Act 1998 the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.

## **7. ACTION PLAN**

- 7.1 If Cabinet approve the revised draft Policy it is proposed that formal consultation takes place over a three-month period from 1 May to 31 July 2018.
- 7.2 Following consultation a further report will be submitted setting out any proposed amendments, if any, as a result of consultation comments.



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### **Background Papers:**

Current Licensing Policy

Licensing Act 2003

Policing and Crime Act 2017

Home Office Revised guidance issued under section 182 of the Licensing Act 2003

## Risk Matrix

<b>Risk Ref</b>	<b>Date</b>	<b>Risk</b>	<b>Consequences</b>	<b>Mitigation</b>	<b>Current Risk Score</b>	<b>Target Score</b>	<b>Service Unit Manager/ Responsible Officer</b>	<b>Action Plan</b>
1	24/02/2018	Legal challenge or appeal against Policy if not revised.	Legal costs against the Council.	Timely revision of the Policy following public and statutory consultation	B2	A1	Jonathan Bramley	None

**Glossary of Terms**

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

***Risk Scoring***

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

Likelihood:

- A = Very Low
- B = Not Likely
- C = Likely
- D = Very Likely
- E = Almost Certain**

Impact

- 1 = Low
- 2 = Minor
- 3 = Medium
- 4 = Major
- 5 = Disaster**