

Date of Meeting 18 November 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## Licensing Act 2003 – To seek approval to adopt a new Licensing Policy 2021-2026

### Report summary:

This report updates the Licensing & Enforcement Committee on the results of the public consultation to the proposed new Licensing Policy

### Recommendation:

#### That the Committee:

1. Note the results of the public consultation undertaken on the Council's proposed Licensing Policy relating to the Licensing Act 2003.
2. Recommend to Council at its meeting on 9 December 2020 that the East Devon Licensing Act 2003 Policy, as attached at Appendix B, be adopted by the Council for the period 7 January 2021 to 6 January 2026

### Reason for recommendation:

It is a legal requirement of the Act for the Council to determine a Licensing Policy to provide a framework for all licence applications regarding the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment. The Policy was last reviewed in 2015. It must be reviewed at least every five years and therefore an amended Policy must be adopted by the 7 January 2021

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### Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

### Financial implications:

If the Policy is not properly adopted by the District Council the Authority will be liable to legal challenge which if successful could entail costs being awarded against the District Council

### Legal implications:

Under the Licensing Act 2003 the Council is required to publish a reviewed and updated statement of licensing policy at least every five years. This has to set out the authority's general approach to licensing applications and the way it carries out its functions in relation to the legislation

**Equalities impact** Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

**Climate change** Low Impact

**Risk:** Choose a risk level; Low

### **Links to background information**

Previous Reports to Licensing & Enforcement Committee September 2020

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

## **Report in full**

### **1 Background**

#### **Background and Proposed Draft Amendments to the Existing Policy**

- 1.1 Under the Licensing Act 2003, it is the responsibility of the Council to develop and publish a Statement of Licensing Policy. The published Policy then provides the framework for all decisions on applications relating to the Licensing Act 2003 and the way the Authority carries out its functions in relation to the legislation.
- 1.2 The Act requires that the Licensing Authority review its Licensing Policy every five years. The Council's present policy will expire on the 6 January 2021 and therefore the Authority is under a duty to have reviewed and published a fresh policy by that date.
- 1.3 The current policy has been kept under review by the Licensing Service over the past five years and a number of changes were necessary to reflect changes and updated legislation and guidance issued over the past five years.
- 1.4 The adopted policy sets out the authority's general approach to licence applications and the way it carries out its functions in relation to the legislation and may only be determined following extensive consultation that was circulated widely to include all Responsible Authorities, Council Members, the business community, Town and Parish Councils, the Community Safety Partnership and leading local and national legal practices.
- 1.5 A more comprehensive list appears at **Appendix A**. The Policy was also published on the Licensing web pages with the invitation to comment online or in writing by post.
- 1.6 The consultation and publication timetable for the Policy is:

3 September 2020	-	Revised policy circulated for consultation
2 November 2020	-	Consultation period ends
18 November 2020	-	Result of consultation reported to L & E Committee
25 November 2020	-	Cabinet
9 December 2020	-	Licensing Policy to full Council for adoption
- 1.7 The main changes to the policy are:

- The Forward section to include section on Cultural Activities and the Council's Health and Wellbeing Strategy
  - Section 3 – Licensing Objectives & Related Legislation. The inclusion of additional legislation over the last five years and removing lists for reasons of duplication.
  - Section 5 – The Licensing Process: 5.1.1 The removal of a 'free' thirty minute consultation previously provided by officers for applicants. Sec 5.5 addition of an in depth description of the Safety Advisory Group. Sec 5.6 inclusion of a new section on Environmental Factors. Sec 5.8.3 clearer expectation regarding internet sales and deliveries.
  - Section 11 – Clearer procedures for Film Classification by the Licensing Authority with a new Procedure added at Appendix C of the policy and an addition to Child Safeguarding reporting.
  - Section 12 – Clearer expectations for managing illegal high and drugs by
  - Section 13 – The removal of details relating to the CCTV standards being available detailed in the pool of conditions.
  - Definitions section to provide clearer information on the Responsible Authorities and to remove lists for reasons of duplication
  - Definitions section to remove list 'Useful Contacts' being out of date, now available through internet searching and to remove lists for reasons of duplication
  - New Appendix A in the document added to provide details of the Devon wide 'pool of conditions' available to applicants
  - New Appendix C in the document added to provide procedures for Film Classifications
- 1.8 The draft Policy takes account of the revised Government Guidance issued under S182 of the Licensing Act 2003 (April 2018).
- 1.9 A copy of the Licensing Act policy appears at **Appendix B**.

## **2. Results of consultation**

- 2.1. The Consultation exercise for the licensing policy has been wide spread under the list of consultees provided and although a number of changes were made within the draft policy that was presented to this Committee, very few responses were subsequently received during the consultation. Those that were received did not provide any representations or proposals to amend the policy and for this reason, there has been no further requirement to revise the draft policy that was approved for the consultation.
- 2.2. During the previous meeting of this committee, points were raised for consideration regarding the licensing policy which are addressed by the Licensing Manager in the following points.
- 2.3. *Could more consideration be given to the public health impacts of the Licensing policy?***

In response, officers subsequently engaged with Public Health Devon clarifying appropriate contact details and to provide a reminder that they are one of the 'responsible authorities' consulted for all new licensed premises.

There is a strategic priority led by Public Health Devon for reducing harm from alcohol with the Safer Devon Partnership continuing to tackle 'problem drinking' and harm from drugs. Plans were underway earlier this year to hold an 'Alcohol Clear event for Devon' being hosted but then cancelled by Public Health Devon due to Covid-19. The aim of the Alcohol Clear initiative is to provide a partnership framework to help identify and inform priorities that make an impact to reduce harm from alcohol. This Council is linked in and involved through Community Partnership with work continuing to develop this initiative in the year ahead.

**2.4. *Would like to see research carried out to see the effect of lockdown on the late night trade of the lockdown and how much was saved by the police and other agencies during this period.***

Licensing officers communicate through the Devon Licensing Group attended by licensing staff from each Council and also representatives from police licensing. This point was raised at the meeting held in September and although there was acknowledgement of the reduced demands on policing during the period from March to July, it is anticipated that any clear data or statistics will be provided by the annual Home Office statistical return that is due in the spring of 2021 and this committee will be kept informed.

**2.5. *Designated Premises Supervisors should be held responsible for tidying any litter produced by their customers outside their premises.***

The existing and proposed licensing policies outline this authority will have regard to wider considerations affecting the residential population and the amenity of an area with littering being one of those factors. Applicants for licences will be required to demonstrate the measures they have in place to manage litter.

Furthermore, the new pool of licensing conditions that are included in the proposed policy include a specific reference for dealing with litter under section 19 and also with section 24 specifically detailing conditions for litter and waste.

**2.6. *Some of the problems caused in late night premises were customers consuming alcohol bought in supermarkets prior to going out.***

The prevalence of “pre-loading” or “pre-drinking” amongst young people in the UK (consuming off-sale alcohol in private settings before visiting licensed premises) has been documented in several studies nationally although the present licensing restriction for pubs to close at 10pm and then fully under lock down 2.0 has reduced this practice temporarily.

The hospitality industry, policing and licensing authorities are alive to the challenges this activity presents and studies suggest that nationally developed strategies are more likely to be effective in reducing the alcohol quantities that young people pre-drink.

### **3. Conclusions**

- 3.1 The lack of specific responses to the proposed Licensing Policy for East Devon seems to demonstrate general acceptance of it by businesses, bodies and public alike. The comments received for the policy do not seek or propose changes being made (**Appendix C**).
- 3.2 The Licensing Authority must adopt the policy prior to the 6 January 2021 in order to exercise its powers under the Act. Once the Council has approved its Licensing Policy it will be published and will be available through the Council’s website.
- 3.3 Existing licence holders and holders of club registration certificates will be up dated and advised that a copy is available on the Council’s website or alternatively they can request a copy to be sent to them.