

This report will be made public on 16 November 2021



Report Number **A/21/21**

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**To:** Full Council  
**Date:** 24 November 2021  
**Status:** Non-Executive Decision  
**Responsible Officer:** Ewan Green – Director of Place  
**Cabinet Member:** Councillor David Monk – Leader of the Council

**SUBJECT: Licensing Policy Statement 2021-2026**

**SUMMARY:** The Licensing Authority is required to review and publish a Licensing Policy Statement for every successive five year period. A new draft policy statement was prepared following a detailed process of review and consultation and reported to Planning & Licensing Committee on 11 November 2021. The committee have agreed for the new draft policy to be presented to Full Council for approval.

**RECOMMENDATIONS:**

1. To receive and note report A/21/21.
2. To approve the final draft Licensing Policy Statement for the period 2021 to 2026.

## **1 BACKGROUND**

- 1.1 The Licensing Act 2003 requires that the Council (in its role as a Licensing Authority) to review its Licensing Policy Statement every five years. The current Policy has been in force since 2016. A new draft Licensing Policy Statement has been prepared for the next five year period to run from 2021 to 2026.
- 1.2 A full description of the actions taken to review and draft the new policy statement were set out in the report to the Planning & Licensing Committee (24 August 2021). In summary, the Council engaged the Night Time Industries Association (NTIA) to assist in the review of the policy statement and to carry out two stakeholder workshops in May 2021. Feedback from those sessions were incorporated into the draft policy statement, which was then presented to the Planning & Licensing Committee.
- 1.3 The Planning & Licensing Committee agreed that the draft policy statement should be presented for public consultation for the period of nine weeks ending on 27 October 2021 was made available on the website for public comments. The consultation was promoted on the council's social media platforms on three occasions and an article published in Folkestone & Hythe Express. The committee also agreed that the Director of Place to be authorised to approve any minor amendments to the Policy as a result of the consultation. Once the consultation period had ended, the consultation feedback was incorporated into the draft policy and reported back to the Planning & Licensing Committee on 11 November 2021. The draft policy statement attached as Appendix 1 was agreed at that meeting to be presented to Full Council for approval.

## **2 CONSULTATION**

- 2.1 In summary, the following consultations were carried out in preparation of the new draft Licensing Policy Statement.
  - Overview and Scrutiny Committee 30 March 2021 – initial feedback for preparation of the new policy statement.
  - Two Stakeholder Workshops and a meeting with the Folkestone Town Centre Working Group in May 2021. Feedback incorporated into the draft policy statement.
  - Planning & Licensing Committee 24 August 2021 – review of the draft policy statement prior to public consultation.
  - Public Consultation period from 25 August to 27 October 2021.
  - Overview and Scrutiny Committee 7 September – review and feedback on the 'consultation' draft policy statement.
  - Planning & Licensing Committee 11 November 2021 – review of the feedback received during the consultation and the resulting proposed changes.

2.2 A full summary of the consultation responses received at each stage and how these were incorporated within the draft policy statement is set out in the report to Planning & Licensing Committee on 11 November 2021 (attached as Appendix 2). The main topics raised during the consultation stages and the actions taken are summarised below:-

- The new policy statement has been drafted to reflect residents' concerns and wider regeneration goals of the council and it has received positive support:

*'The Draft Statement of Licensing Policy 2021-2026 is acknowledged to be the most comprehensive statement on Licensing Policy the Council have made to date and should command wide support from a large tranche of Folkestone residents. It should help in the regeneration of the District and Folkestone in particular. The policy gives 'clear and detailed instructions about the process and requirements of a successful licence application.'*

- **Licensing Forum** – The new policy statement proposed that FHDC will establish a Licensing Forum in order to improve stakeholder engagement. It will meet twice a year and be open to licensed operators from a range of businesses, Licensing Team, Police, Resident Associations and Councillors. This proposal was well received.
- **Operating Plans** - We have introduced a requirement for more robust Operating Plans to consider community impact and to include the requirement for a Transport and Dispersal Policy and a Harassment Policy in new applications.
- **Recommended Hours** - Recommended operating hours for different types of premises are included (see 3.3. Licensing Policy Statement). The opening times are a guideline for what we would expect for the District, however, applicants can apply for any hours and legally every application must be considered on its own merit under the Licensing Act 2003. Premises with mixed use can apply for any hours they wish but must show how they plan to mitigate any potential noise nuisance or crime and disorder. For example, the council will expect to see a more robust Operating Schedule for a café that wants to open until 2am and have live music.
- **Cumulative Impact Assessment** - We will not proceed with a Cumulative Impact Assessment (CIA) at this time as any assessment carried out would be distorted by the lack of night time trading during the pandemic lockdowns. We will reconsider the need for a CIA when businesses are able to achieve a sustained level of normal trading patterns.
- **Early Morning Restriction Order** - With regards to requests to introduce an Early Morning Restriction Order, we do not currently have any areas that have such high levels of crime and disorder and/or public nuisance that would justify closing all existing businesses in an area, contrary to

their granted premises licence. If it is felt that a particular premises is the cause of anti-social behaviour then this should be addressed on an individual basis.

- **Enforcement** – We were asked how the new policy statement would be enforced. The council has increased the size of its Licensing Team and frequency of its licensing enforcement visits (including evenings and weekends). This is improving relationships with licence holders and giving early warning signals as to where additional training or support needs to be given to improve their management of a premises. The council shares intelligence with the police and undertakes joint working at weekends as often as possible.

### 3 NEXT STEPS

- 3.1 Subject to approval by Full Council, the final draft policy will be published and implemented.

### 4 RISK MANAGEMENT ISSUES

- 4.1 The risk management issues are summarised as below.

Perceived risk	Seriousness	Likelihood	Preventative action
The new policy statement does not reflect current regulations and statutory guidance.	High	Low	<ul style="list-style-type: none"> <li>• The new policy is developed from the current policy and incorporates the Licensing Objectives as set out in the Licensing Act 2003.</li> <li>• Consultants engaged to review the policy and update to reflect latest guidance and best practice.</li> </ul>
The new policy statement does not incorporate stakeholder and resident views.	High	Low	<ul style="list-style-type: none"> <li>• Stakeholder workshops to develop the draft policy statement.</li> <li>• Reports and feedback from Overview &amp; Scrutiny Committee and Planning &amp;</li> </ul>

			<p>Licensing Committee.</p> <ul style="list-style-type: none"> <li>Public consultation on the draft policy statement.</li> </ul>
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## 5. IMPLICATIONS

### 5.1 Legal Officer's Comments (NM)

The Council must review and publish a revised Licensing Policy Statement before the expiry of the current 5-year period, by virtue of sub-section 5(1) of the Licensing Act 2003. It would be unlawful for the Licensing Authority to fail to comply with that mandatory requirement and leave it open to legal challenge. If the revised document referred to within this report is approved at this meeting then the Council, as Licensing Authority, has fulfilled its statutory duties.

### 5.2 Finance Officer's Comments (TM)

There are no financial implications arising from this report.

### 5.3 Diversities and Equalities Implications (GE)

There are no diversity and equality implications arising from this report.

### 5.4 Communications Implications (JW)

Subject to the agreement of Full Council the new policy would be publicised externally using the council's usual communications channels.

### 5.5 Crime and Disorder Implications (SO)

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.

## 6. APPENDICES

- Appendix 1 – Folkestone & Hythe District Council – Draft Licensing Policy Statement 2021-2026
- Appendix 2 – Report to the Planning & Licensing Committee 11 November 2021

## 7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

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**Background documents:**

The following published documents have been relied upon in the preparation of the report:

Licensing Act 2003

Deregulation Act 2015 – March 2015

Revised Guidance issued under section 182 of the Licensing Act 2003 – April 2018