

Wiltshire Council

Full Council

26 November 2019

Licensing Act 2003 - Statement of Licensing Policy 2019 – 2024

Summary

This report describes the work undertaken to develop a revised statement of licensing policy (2019-2024) for Wiltshire Council.

Following the Licensing Committee's consideration of the revised licensing policy on 2 September 2019, the committee approved the policy and referred it on to Council for approval. The minutes of that meeting are available [here](#).

Proposal

It is recommended:

That Council approves the Statement of Licensing Policy (2019 -2024) (Appendix 1) under Licensing Act 2003.

Reason for Proposal

The Council must review its Licensing Policy every five years. The Policy is due for review and must be consulted on and approved by full Council prior to it being published and coming into force.

Alistair Cunningham OBE

Executive Director, Growth, Investment and Place

Licensing Act 2003 - Statement of Licensing Policy

Purpose of Report

1. The Council must review its Licensing Policy every five years. The Policy is due for review and must be consulted on and approved by full Council prior to being published and coming into force. Following amendments considered by the Licensing Committee on 2 September 2019 a final draft version of the Licensing Policy is submitted to Full Council for approval.

Relevance to the Council's Business Plan

2. "People are protected from harm as possible and feel safe"
3. "People in Wiltshire work together to solve problems locally and participate in decisions that affect them".

Main Considerations for the Council

4. It is a statutory requirement that, at least every five years, the Council, as Licensing Authority must produce a Statement of Licensing Policy. This policy must be approved by Council as this is not a function that can be delegated to the Licensing Committee.

Background

5. Wiltshire Council is the Licensing Authority, and is required to discharge its responsibilities under the Act with a view to promoting four licensing objectives, namely:
 - The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance, and
 - The protection of children from harm.
6. The Licensing Act 2003 was designed to be light touch legislation covering a number of "licensable activities". Such activities are defined within the Act and broadly relate to the sale of alcohol, provision of regulated entertainment and provision of late-night refreshment. This Policy provides the local implementation framework and outlines how the Licensing Authority fulfils the Licensing Act 2003 and ensures that the licensing objectives are met.
7. In order for the Licensing Authority to discharge its licensing functions it is required to draw up and publish a Licensing Policy or Statement of Licensing Policy under the Licensing Act. This policy is to be reviewed every five years and be the subject of a full consultation process.

8. A report of 11 March 2019 sought the Licensing Committee's support for the draft Licensing Policy for consultation. Section 7 of the Act provides that functions in relation to the five-year Licensing Policy cannot be delegated but must be approved by full Council.
9. There were 17 responses received from the public consultation. Generally, comments received related to updates in legislation. Suggestions were made with regards to information that could be included in the policy, for example an explanation on the use of "shadow licences" and the information expected to be found on plans accompanying a premises licence application. There were several comments regarding the relationship between planning and licensing and how it would be appreciated if these worked more closely together. The planning authority is a statutory consultee for all new applications and variations; however, there is an expectation by respondents that these should work hand in hand as opposed to being two separate pieces of legislation. Comments were also made with regards to the style and language of the policy and requested that it was more robust as opposed to permissive. Respondents would like more detail on enforcement action to be taken by the licensing authority to ensure licence holders are upholding the licensing objectives.
10. Subsequent amendments were made to the Council's draft Licensing Policy before being considered by the Licensing Committee on 2 September 2019. At that meeting the committee approved the revised policy and referred it on to Council for approval, the minutes of that meeting are available [here](#).
11. The Licensing Policy is a document setting out the Council's proposals to ensure a balanced approach towards the licensing of premises which sell/supply alcohol or provide regulated forms of entertainment. The revised Policy has been based on the requirements of the Act and includes changes as a result of either new or amended legislation, regulations or guidance issued by the Secretary of State.

Safeguarding Implications

12. One of the key objectives of the Licensing Act 2003 is 'The Protection of Children from Harm'. Wiltshire Council's Child Protection Team are a Responsible Authority under the Licensing Act 2003. In this capacity they are required to ensure that decisions about licensing are taken with due regard to the need to safeguard and promote the welfare of children.

Public Health Implications

13. The inclusion of the health service as a responsible authority under the Licensing Act 2003, which occurred in 2012, enables health bodies to have a say in alcohol licensing. As a responsible authority Public Health receives all new and variation applications and has opportunity to comment under the licensing objectives" The

Licensing and Public Health teams work together within the council to ensure that the health impacts of alcohol licensing are considered.

Environmental and Climate Change Considerations

14. There is minimal environmental impact of these proposals. Successful application of the licensing functions should reduce the impact of licensable activities on local communities i.e. noise and public disorder

Equalities Impact of the Proposal

15. The impact of these proposals is assessed as 'low' against the Council statutory responsibilities. There are potential implications with respect to human rights.

Risk Assessment

16. Licensing is a statutory undertaking. Should the proposals in this report not be adopted it would leave Wiltshire Council in a position of being unable to undertake its statutory responsibilities and functions under the Act.

Risks that may arise if the proposed decision and related work is not taken

17. Criticism of the Council and compromise the reputation of the Wiltshire Council.

Financial Implications

18. There are no additional financial implications of the proposals contained within this report.

Legal Implications

19. Under the Licensing Act 2003, the Council is required determine its policy with respect to the exercise of its licensing functions and to publish a statement of that policy. This must be done for each five-year period and the current policy is due to expire at the end of this year. The Council must, therefore, now adopt a new policy. The Licensing Act requires the Council to specifically consult various organisations before adopting a new policy, in addition to more general consultation. This consultation has taken place and the views of consultees considered in the revised draft.
20. The Statement of Licensing Policy sets out the approach that the Council will take to the exercise of its licensing functions. The Council is required, by section 4 of the Act, to have regard to its policy, when exercising any of its licensing functions. This includes the determination of applications for new licences and reviews of existing licences.

Conclusions

21. The adoption of a revised Statement of Licensing Policy by December 2019 is a statutory requirement.

Proposal

22. That Council approves the Statement of Licensing Policy (2019 -2024) (Appendix 1) under Licensing Act 2003, to come into effect from November 2019.

Jessica Gibbons

Director of Communities and Neighbourhoods

Report Author: Carla Adkins, Public Protection Officer - Licensing

5 November 2019

Background Papers

Licensing Act 2003

Home Office Guidance: Section 182

Appendix

Statement of Licensing Policy 2019-2024