

Wiltshire Council

Licensing Committee

11 March 2019

Statement of Licensing Policy - Update

Summary

To provide background information concerning the proposed updated Statement of Licensing Policy.

Proposal(s)

It is recommended:

That the Licensing Committee requests officers to carry out a 12 week consultation process on the proposed Statement of Licensing Policy 2019-2024.

Reason for Proposal

In order for the Licensing Authority to discharge its licensing functions it is required to draw up 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.

Tracy Daszkiewicz
Director Public Health and Protection

Wiltshire Council

Licensing Committee

11 March 2019

Statement of Licensing Policy – Update

Purpose of Report

1. Is to provide background information concerning the new proposed Statement of Licensing Policy.
2. To recommend that the Licensing Committee request officers to carry out a full consultation of the updated Statement of Licensing Policy. As attached at Appendix 1. The summary of amendments is attached at Appendix 2.
3. To inform the Licensing Committee that at its meeting in September 2019, the committee will be required to consider recommending the finalised Statement of Licensing Policy to Full Council for consideration.

Relevance to the Council's Business Plan

4. "People in Wiltshire work together to solve problems locally and participate in decisions that affect them".

"People are as protected from harm as possible and feel safe".

Main Considerations for the Council

5. It is a statutory requirement that the Statement of Licensing Policy must be approved by Council as this is not a function that can be delegated to the Licensing Committee.

Background

6. 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

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. There are close links to Wiltshire Alcohol strategy.

7. In order for the Licensing Authority to discharge its licensing functions it is required to draw up 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. In April 2017 the Immigration Act 2016 made substantial changes to the Licensing Act 2003, in summary these were to introduce a “Right to work” test for applicants, provide enforcement powers to the Home Office Immigration team and to include the Home Office Immigration team as a Responsible Authority.
9. In April 2015 the Legislative Reform (Entertainment Licensing) Order 2014 made substantial changes to the Licensing Act 2003, this removed the requirement for many forms of entertainment to be licensed under the Licensing Act 2003.
10. Officers will arrange to carry out an extensive public consultation process over a twelve week period to consider the views of those affected and the public of Wiltshire.

Safeguarding Implications

11. 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.

Environmental and Climate Change Considerations

12. There is minimal environmental impact of these proposals.

Corporate Procurement Implications

13. There are no procurement implications contained within this report.

Equalities Impact of the Proposal

14. 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

15. 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

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

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

17. There are no particular risks identified from any of the proposals.

Financial Implications

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

Legal Implications

The provisions contained within the Licensing Act 2003 are, in the Government's view compatible with the requirements of the Human Rights Act 1998. However whilst it appears that the Licensing Act itself is compatible with the Human Rights Act there remains an obligation on the Council as Licensing Authority itself to act in a way that is also compatible with this Act. The possibility of acting in an incompatible way may arise at various stages such as during the review of premises licenses or drawing up the Statement of Licensing Policy. It is therefore incumbent on the Council to remain vigilant to these possibilities at all times as it discharges its responsibilities (including in its role as a quasi judicial committee for the Council) under the Licensing Act in accordance with the rules of natural justice.

19. The licensing service is a high profile regulatory service important for protecting the public but also for ensuring the development of the leisure industry and economic viability. Fair application of licensing functions is critical for the reputation of the Council and for building trust and confidence in its service provision.

Conclusions

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

Proposal

21. That the Licensing Committee requests Officers to carry out a 12 week consultation process on the proposed Statement of Licensing Policy 2019-2024.
22. The Licensing Committee note that at its meeting in September 2019, the committee will be required to consider commending for approval the finalised Statement of Licensing Policy to Full Council.

Reason for Proposal

23. The Wiltshire Council's Statement of Licensing Policy must be reviewed every five years and be the subject of a full consultation process.

Tracy Daszkiewicz
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Background Papers

- Licensing Act 2003
- Secretary of State 182 Guidance
- The Legislative Reform (Entertainment Reform) Order 2014
- The Police and Crime Act 2017
- Immigration Act 2016
- Psychoactive Substances Act 2016

Appendices

1. Updated Statement of Licensing Policy
2. Summary of changes to 2014-2018 Policy