

Wiltshire Council

Licensing Committee

8 September 2014

Statement of Licensing Policy

Summary

This report describes the consultation results following the public consultation of the draft licensing policy. This report highlights the revised and changes that have been made since the previous version considered by the Licensing committee on 28 April 2014.

Proposal(s)

It is recommended:

That the Licensing Committee notes the amendments made in the statement of Licensing Policy update and commends the Statement of Licensing Policy (final draft) under the Licensing Act 2003 to the Council for approval at its meeting on 21 October 2014.

Reason for Proposal

The Council must review its Licensing Policy every five (previously every three) years. The Policy is due for review and must be consulted on and ratified by full Council prior to it coming into force. Following any proposed amendments by this Committee a final draft version of the Licensing Policy will required to be submitted to Full Council on 21 October 2014.

Maggie Rae
Corporate Director

Wiltshire Council

Licensing Committee

8 September 2014

Statement of Licensing Policy

Purpose of Report

1. To ask the Licensing Committee to note the consultation undertaken and subsequent amendments made to the Council's draft Licensing Policy (in relation to the Licensing Act 2003).
2. That the Licensing Committee commends the Statement of Licensing Policy under the Licensing Act 2003 to the Council for approval at its meeting on 21 October 2014.

Relevance to the Council's Business Plan

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

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 ensure that the licensing objectives are met.

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. A report of 28 April 2014 sought Members support of 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. The report advises Members of the consultation that has taken place and outlines the comments received and drafts made on the Council's draft Licensing Policy.

Consultation

10. Consultation period: - 9 May 2014 – 31 July 2014
11. List of Consultees included:-
 - All Wiltshire Council Councillors
 - All relevant departments of Wiltshire Council
 - Police and Crime Commissioner
 - Chief Constable of Wiltshire
 - All Town and Parish Councils
 - South Western Ambulance Service
 - Wessex Chamber of Commerce
 - Salisbury District Chamber of Commerce
 - Federation of Small Businesses
 - Pub Watch scheme members
 - Purple Flag members (Salisbury)
 - British Beer and Pub Association
 - Campaign for Real Ale
 - Wiltshire Fire & Rescue Service
 - Federation of Convenience stores Limited
 - The Association of Licensed Multiple Retailers
 - British Inn keepers Association
 - Community First (village Hall Advisers)
 - Independent Street Art Network
 - Arts Council of England
 - The Musicians Union
 - Jazz Services Limited
 - Equity
 - Poppleston Allen, Licensing Solicitors
 - The Environmental Agency
 - Hard copies were made available at the libraries
 - The draft policy was advertised and available to download from the Councils website.

12. All statutory consultees have received a full copy of the draft Licensing Policy and notification of the draft Policy was given to all Council Members, parish and town councils and all libraries. Further, all relevant premises and specific bodies requesting information have been advised of the draft Licensing Policy and its availability. Finally, a copy of the draft Licensing Policy was also available on Wiltshire Councils Website.
13. The Licensing Policy is a draft 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 draft 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.
14. There were 23 responses' received from the public consultation, 10 Wiltshire Councillors responded to the member's survey and 5 emailed comments were received direct to the Licensing Team. Most responses were in support of the new draft policy, several pointed out grammatical errors or suggested re-wording and a number of village halls had questions relating to Temporary events notices or fees. See attached Appendix 1 for the thematic responses to consultation. Appendix 2 contains a summary of the councillor responses.

Safeguarding Implications

15. 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

16. 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. 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

17. 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

18. 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

19. 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

20. 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

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

Financial Implications

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

Legal Implications

23. 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 view of consultees taken into account in the revised draft.
24. 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.

Conclusions

25. The adoption of a revised Statement of Licensing Policy by December 2014 is a statutory requirement.

Proposal

26. To ask members to note the consultation undertaken and subsequent amendments made to the Council's draft Licensing Policy (in relation to the Licensing Act 2003).
27. That the Licensing Committee commends the Statement of Licensing Policy, as attached as an Appendix to this report, under the Licensing Act 2003 to the Council for approval at its meeting on 21 October 2014.

Reason for Proposal

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

Maggie Rae
Corporate Director

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8 August 2014

Background Papers

- Licensing Act 2003
- Secretary of State 182 Guidance
- Police and Social Responsibilities Act 2011

Appendix

1. Thematic responses to consultation
 2. Proposed Statement of Licensing Policy
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APPENDIX 1: Thematic responses to Wiltshire Council Statement of Licensing Consultation June 2014-August 2014

1 Background

- 1.1 The Public consultation on the draft Statement of Licensing policy 2014 took place for three months from 9 May 2014 – 31 July 2014.
- 1.2 The consultation was extensive and included a range of statutory consultees, stakeholders and local communities. (For a full list please see section 9 of the accompanying report). This was in addition to social media and press notices informing the general public.
- 1.3 23 responses were received during the consultation with 5 received directly by email.
- 1.4 All responses were asked for comments on the draft policy and these are presented unabridged below. The responses have been organised into themes and action taken to respond to the comments made.

Theme of comments	Capacity are you responding	Feedback / comments / amendments	Action
Alcohol and Health	Wiltshire Council (Public Health)	Within para 3.3 Public Health (or elsewhere), reference should be made to: <ul style="list-style-type: none"> • NHS guidance on Units of alcohol and recommended drinking levels • Signposting information to services for people with an alcohol problem. We should be aiming to get this information into licensed premises in a more visible way. 	Link to NHS choices added to further information
Alcohol and Health	Wiltshire Council (Public Health)	The policy covers the full range of licensing responsibilities and is much more user friendly and informative than the previous version. Public Health aspects are highlighted and possible opportunities to cover these within licenses are mentioned, which is great.	Positive feedback, no action required.

Theme of comments	Capacity are you responding	Feedback / comments / amendments	Action
Community venues, village halls and the Licensing Act 2003	Other (Village Hall)	Overall I think it is a very fair policy. I ask the Council, when setting relevant fees, to consider the circumstances of Village Halls. These often have a small number (in our case, two or three) fund-raising events per year with a bar and other entertainment such as a band or Rural Arts Wiltshire play; we recognise the need for these events to be regulated, but ask that annual or single-even fees are kept to a minimum so the revenues can be used for heating etc. and maintenance of the buildings.	Current fee levels set by the government within the legislation, recent consultation carried out by the government on locally set fees which may include a number of reductions or exemptions. Results have yet to be published.
Community venues, village halls and the Licensing Act 2003	Member of the public	I understand that for small. one-off events held at our local Village Hall, a temporary licence is required at a cost of £21 per event. This is a ridiculous amount to pay for what are "volunteer" run, occasional events. It is a purely administrative, box-ticking, revenue gathering exercise that serves no useful purpose whatsoever. I suggest that the temporary licence for village halls be abolished.	National policy contained with the legislation, the government has already made one change to the legislation and increased the number of days from 15 to 21. The government are looking at further reforms to the legislation to increase the number attending an event before a notice or licence required.
Community venues, village halls and the Licensing Act 2003	Other	It seems unlikely that anything in the policy would adversely affect a small village hall using a licensed premises on an approximately weekly basis. We therefore have no comments and support the policy as drafted.	No action required
Community venues, village halls and the Licensing Act 2003	Other	I would appreciate clarification on the following :- If a "Village Hall" is granted 12 occasional licences , for which it has to specify the dates of use, then decides to apply to a local public house to provide a bar in the hall, does this count as use of one of the "occasional licenses" ?	Yes, a temporary event notice limit allocation is premises specific regardless of applicant.

Theme of comments	Capacity are you responding	Feedback / comments / amendments	Action
Editorial changes and comments	Wiltshire Council Also received by email:	Apologies that many of these points are very pedantic! 2.2 line 3, p10, 'premises' is a plural noun – therefore it should read '...in the location of a premises.' 2.4 line 3 para 2 should be 'an SIA licence', not 'a SIA licence'. 2.4 para 3, refers to stewards at events involving children 'If they were employed to undertake duties involving children then the applicant should consider whether a relevant criminal record office basic disclosure check is appropriate.' This refers to the 'criminal record office' (?) and is prescriptive, so it may be preferable to state 'the applicant should consider whether the relevant level of disclosure check is appropriate.' 3.1 line 2, p 13: 'However, the use of surveillance cameras should only be used if it is necessary and proportionate...' would be better to replace with 'However, surveillance cameras should only be used if necessary and proportionate...'. 3.1 bullet point 1, p 13: 'must in particular have regard to the Information Commissioner's Office's Code of Practice on CCTV.' would be better to replace with 'must have particular regard to the Code of Practice on CCTV published by the Information Commissioner's Office.' 3.1 bullet point 4, p14 'demonstrate integrity in doing and can be held to account.' replace with 'demonstrate integrity in doing so and can be held to account.' 3.2 p14 'This will reduce the risk of anti-social behaviour occurring both on and away from the premises after customers have departed.' Could be replaced with 'This will reduce the risk of anti-social behaviour occurring both when customers are on the premises and after they have departed.' 3.3 p14 in relation to the heading 'Alcohol harm reduction', in the first paragraph it reads as if alcohol-related problems relate mainly/exclusively to town centre safety. There is probably a far wider hidden social and public health issues relating to alcohol that is consumed at home and the impact it has on domestic abuse. There is also a public protection issue of underage sales of alcohol. These either need to be acknowledged and the role of Licensing in tackling them cross-referenced, or the heading could simply be changed to 'Town	Appropriate amendments made

Theme of comments	Capacity are you responding	Feedback / comments / amendments	Action
		<p>Centre Safety'. 3.5 p 15, It would assist the lay person to understand this section better if there is an explanation of where occupancy limits are set and under what circumstances. 3.6 p15 'Applicants should have this available at the request of licensing authority or any other responsible authority. ' It is not clear whether this refers to the policy or the action plan. 5 p20 the definitions of young person in para 1 and bullet point 5 are not consistent. 5 p20, first paragraph after the bullet points introduces new concepts of 'mixed use' and 'exclusively or primarily used' without providing any context to the background of these terms. Therefore could be confusing to the lay person. 5.2 p22 first paragraph – will licensing sub-committee or its delegated officers view films that are exempt from BBFC classification? Eg educational or sports films? 6.0 para 4 p23, there is a space at the beginning of the paragraph 6.1 p23 title should be 'club premises' 6.1 p23 last line 'the licensing authority will have regard to the Section 182' should read 'the licensing authority will have regard to Section 182 Guidance of The Act'. 6.4 p25 The title refers to '(TENS)' without actually defining what the acronym stands for (either in the title, the following paragraphs or glossary). 6.5 p26, 1st paragraph 'The licensing authority and all other statutory consultees, should be given at the earliest opportunity, notice of such major events to discuss operating schedules with the organiser, prior to a formal application being submitted.' I would prefer for the policy to explicitly state that this is the event organiser's responsibility: 'It is the responsibility of the event organiser to provide the licensing authority and all other statutory consultees at the earliest opportunity, notice of such major events. This will enable discussion about operating schedules prior to a formal application being submitted.' 6.5 p26 2nd paragraph 'The licensing authority recommends they are given at least six months' notice to allow for a sufficient lead in time.' It is preferable for this to be 'The licensing authority requires at least six months' notice to allow for a sufficient lead-in time.' 6.5 p26 final paragraph</p>	

Theme of comments	Capacity are you responding	Feedback / comments / amendments	Action
		<p>– ‘Event organisers are encouraged to make contact for advice at the earliest opportunity when planning their community events.’ Does not state who they should contact, so this could be added.</p>	
Editorial changes and comments	Licensee	Document to long / needs to be plain English	The document is of comparable length and content of most of the revised policies currently being consulted on. It is a guidance document and is required to contain the relevant advice and information. Every effort has been made to simplify language and provide graphical representations where possible.
Editorial changes and comments Event organisation	Member of the public	Section 4.5 - we do not need "greater control measures". Please delete. Section 6.5 - the notice period of 6 months is too long for many community events, e.g. an idea may develop after Christmas for an event in the summer. The notice period should be 3 months.	<p>“Greater” amended to “Appropriate”.</p> <p>Six months is the recommended time scale for planning and engaging with the relevant responsible authorities for a reasonable sized event (, ideally most responsible authorities would prefer twelve months.</p>
Licensing and planning development	Music Union	However, in light of the current problems facing Bristol’s long-standing and iconic music venue The Fleece due to a planning application for change of use of the offices immediately opposite to become flats, our primary concern regarding the Policy at present would be regarding 4.4 and perhaps 7.2 – where an existing venue that has historically hosted live music with no previous problems is suddenly and unfairly prejudiced by way of developers building housing adjacent to it. In the event of this happening we would wish to see the onus put onto the developer by way of ensuring that everything is done to minimise or exclude noise issues when	These concerns relate to planning and building control – These comments have been passed to the relevant officers.

Theme of comments	Capacity are you responding	Feedback / comments / amendments	Action
			<p>playing an active role.</p> <p>Poor management is address by licensing officers who support licensed premises to improve. If poor management persists officers robustly tackle these issues as part of the licensing review process.</p>
<p>Public Safety and Crime and Disorder – changes and comments</p>	<p>Wiltshire Police</p>	<p>2.0 prevention of crime and disorder Paragraph 3 reads this will reduce the risk of anti-social behaviour <i>insert and violent crime</i>.</p> <p>3.0 promotion of public safety 3.1 CCTV should this sit under crime and disorder rather than public safety? Additional point – anticipatory judgement - conditions of licence particularly in relation to new licenses. 3.2 repeated in sec 2 page 9.</p> <p>4.0 prevention of public nuisance Paragraph 1 – appropriate steps must be taken or proposed to be taken to prevent noise and disturbance from customers causing nuisance <i>insert and anti-social behaviour</i>.</p> <p>5.0 Protection of children from harm 5.1 paragraph 2 – remove first sentence and replace with – This is a mandatory condition on all licensed premises. Paragraph 3 – insert PASS as a form of identification.</p> <p>6.0 Licensing Process Paragraph 5 why in particular is live music et al considered to carry more weight than the licensing objectives? 6.3 insert in paragraph 3 - consultation with relevant partners welcomed. Time limits of act? amendments to operating schedule made as agreed by the applicant.</p> <p>7.0 Enforcement Paragraph 6 insert consistent lower level pattern of continued</p>	<p>Actioned where appropriate</p>

Theme of comments	Capacity are you responding	Feedback / comments / amendments	Action
		<p>problems.</p> <p>Appendix – Include list of mandatory conditions.</p>	
Public Nuisance	Wiltshire Council (Noise Team)	<ol style="list-style-type: none"> 1. High volume vertical sales: include an explanation in glossary or replace with plain English. 2. Addition to the Public Nuisance section: Marquees at pubs and wedding venues used for live bands are increasingly becoming popular and a problem. They are seen as an easy way to introduce additional capacity at small premises but it has to be recognised that they provide no noise attenuation and are not appropriate in residential areas as operators will be hard pressed to prevent public nuisance whilst achieving customer satisfaction. We will look for controls to be applied in other areas: limiting output of amplifiers, ensuring bands or DJ are accommodated within in the main building rather than outside, limiting duration, and number of events. 3. Addition to Public Nuisance section: Small multiday outdoor music festivals often with camping: Aimed at less than 499 people, these are also becoming a significant source of public nuisance. Organisers are advised to contact PPS at an early stage and are advised to employ event management techniques, similar to larger festivals to avoid public nuisance. This can be by choice of locality, geography, limiting amplifier output, duration, etc 4. Should Public nuisance also mention ASB outside and near venues? 5. First time festival organisers; are strongly recommended to contact PPS at their earliest opportunity to facilitate their applications. 	Amendments carried out where appropriate.

Theme of comments	Capacity are you responding	Feedback / comments / amendments	Action
Public Safety and Crime and Disorder – changes and comments	Salisbury Licensee	<p>Ion Track useage. We particularly would welcome regular (quarterly if possible) daytime (Monday morning before cleaning?) mapping to inform management and authorities of potential drug use in public and staff areas. Night time operations extra but also welcome annually at least as a deterrent.</p> <p>General point: We believe that true ‘nightclubs’ or ‘discotheques’ are slightly different to vertical drinking establishments. The majority of our customers are on the dance floor and are dancing 80% of the time. Bars are true vertical drinking establishments where, if there is a dancing area at all, dancing is secondary and drinking is primary and therefore, more alcohol is consumed faster. This may not be relevant at all to the policy but is something that I feel the need to say occasionally!</p>	Use of equipment already incorporated within the policy

APPENDIX 2: Summary of Wiltshire Counsellor Consultation of the Statement of Licensing Policy – Draft

Background

- 1.5 In addition to the public consultation a specific consultation survey was produced for Wiltshire Councillors. This survey, the draft statement of licensing policy and information on the public consultation was provided in an update to members in June 2014.
- 1.6 This was in addition to extensive comments and feedback from the members of the Licensing Committee in preparation for the public consultation.
- 1.7 10 councillors' responses were received during the consultation with none received outside of period.
- 1.8 The respondents are listed below

Councillor Name	Division
Graham Wright	Durrington and Larkhill
Fleur de Rhe-Philipe	Warminster Without
John Knight	Trowbridge Central
Allison Bucknell	Lyneham
Dennis Drewett	Trowbridge Park
Philip Whitehead	Urchfont and the Cannings
Nick Blakemore	Adcroft
Bob Jones	Cricklade
Mark Packard	Chippenham Pewsham
Trevor Carbin	Holt & Staverton

2. Summary of responses

- 2.1 All responses stated that the policy was comprehensive and would promote the licensing objectives. The policy would promote the appropriate balance between aspirations of the licensing trade and the needs and wishes of the local community.
- 2.2 Respondents were unanimous in their belief that the policy would facilitate a sustainable entertainment and hospitality sector in Wiltshire.
- 2.3 The policy was broadly easy to understand and guidance for applicants and licence holders was sufficient.

3. Additional comments

Name	Division	Additional Comment	Action
Fleur de Rhe-Philipe	Warminster Without	Seems to work well at present	
Allison Bucknell	Lyneham	Just wondering if it would be helpful to actually make reference somewhere in Section 5 about the laws relating to children drinking alcohol legally in	Additional information has now been added to the policy document

		pubs/restaurants as there is only one reference to the age of children/young people and people get very confused about what is and is not possible	
Philip Whitehead	Urchfont and the Cannings	<p>Policy should enable activity and events without compromising the licensing objectives.</p> <p>Public Health risk - subtly different from Public Nuisance - eg if someone has a heart attack when a concert is going on in All Cannings will an ambulance get through in time.</p>	<p>This is the policy aim. All events are responsible for the provision of medical provision and is determined on the level of risk. All events are required to have first aid support on site where appropriate. Larger events may require increased levels of health provision dependant on risk. The Event Safety Advisory Group reviews the risk posed by event</p>
Bob Jones	Cricklade	The licensing policy and enforcement should be costed to ensure it is cost neutral to Wiltshire Council ensuring all costs are born by those requiring licences	The Licensing Act 2003 sets national fees. A consultation in spring 2014 was undertaken on locally setting fees - results awaited.