

Wiltshire Council

Licensing Committee

2 September 2019

Statement of Licensing Policy

Summary

This report describes the results of the public consultation of the draft Statement of Licensing Policy. This report highlights the changes that have been made since the previous version that was considered by the Licensing Committee on 11 March 2019.

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 15 October 2019.

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 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 is required to be submitted to Full Council on the 15 October 2019.

David Redfern

Director Communities and Neighbourhood Services

Statement of Licensing Policy – Update

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).

That the Licensing Committee commends the Statement of Licensing Policy under the Licensing Act 2003 to the Council for approval at its meeting on 15 October 2019.

Relevance to the Council’s Business Plan

2. “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

3. 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

4. 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. 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.

5. 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.
6. A report of 11 March 2019 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.
7. The report advises Members of the consultation that has taken place and outlines the comments received (Appendix 2) and revisions made on the Council's draft Licensing Policy (Appendix 1).

Consultation

8. Consultation period: - 1 April – 7 August 2019. It is a requirement of the Act that consultation of the statement of licensing policy takes place over a 12 week period. The consultation period was originally 1 April – 24 June 2019, however this was extended twice; first until 7 July 2019 upon request of a licence holder who expressed concern regarding the method of notification and again until 7 August 2019, as it had been noted that Town and Parish Councils had not been directly consulted with.
 - 8.1 List of Consultees included:-
 - Wiltshire Council's Public Health department
 - Wiltshire Council's Public Protection department
 - Wiltshire Police
 - Dorset & Wiltshire Fire and Rescue
 - Wiltshire Council's Child Protection Team
 - Wiltshire Council's Planning department
 - Home Office Immigration Service
 - Pubwatch Groups
 - Town and Parish Councils
 - The draft policy was also advertised and available to download from the Council's website
 - 8.2 All statutory consultees have received a full copy of the draft Licensing Policy and notification of the draft Policy. 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.
 - 8.3 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.

- 8.4 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 in order to ensure licence holders are upholding the licensing objectives.

Full responses can be found in Appendix 2.

Subsequent to the checking of this report, additional comments have been made by Public Health and Children's Safeguarding. These are highlighted in blue in Appendix 1 and referenced at the end of Appendix 2.

Safeguarding Implications

9. 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

10. 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

11. 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.

Corporate Procurement Implications

12. There are no Corporate Procurement implications.

Equalities Impact of the Proposal

13. The impact of these proposals is assessed as 'low' against the Council statutory responsibilities.

Risk Assessment

14. 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

15. 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

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

Financial Implications

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

Legal Implications

18. Under the Licensing Act 2003, the Council is required to 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.
19. 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.

Options Considered

20. To update the Statement of Licensing policy in response to the consultation (see blue highlighted sections in Appendix 1) including any further amendments proposed by members of the Licensing Committee
or;

To continue with draft policy as presented to the Licensing committee on 11 March 2019.

Conclusions

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

Proposal

22. 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).

That the Licensing Committee commends the Statement of Licensing Policy under the Licensing Act 2003 to the Council for approval at its meeting on 15 October 2019.

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.

David Redfern

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Background Papers

- Licensing Act 2003
- Secretary of State Section 182 Guidance

Appendices

1. Proposed Statement of Licensing Policy
 2. Responses to consultation
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