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# Statement of Licensing Policy

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<b>Committee considering report:</b>	Licensing Committee on 19 November 2018 Council on 6 December 2018
<b>Portfolio Member:</b>	Councillor Marcus Franks
<b>Report Author:</b>	Charlie Fletcher, Acting Principal Licensing Officer
<b>Forward Plan Ref:</b>	C3431

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## 1. Purpose of the Report

- 1.1 West Berkshire District Council's Statement of Licensing Policy ('SLP') under the Licensing Act 2003 must undergo a review and be re-published by 11<sup>th</sup> December 2018.
- 1.2 The purpose of this report is to bring the revised SLP, following consultation, to the Licensing Committee for comment prior to approval by Council on 6 December 2018.

## 2. Recommendation

- 2.1 That the Committee, subject to any further comments, approves the revised SLP at Annex E, to go forward to Council on 6 December 2018.
- 2.2 The Committee should note that, subject to any amendments, in advance of the SLP being presented to Full Council on December 6<sup>th</sup> 2018, the Head of Legal in consultation with Head of Public Protection and Culture will ensure the revised SLP is consistent with the Council's Scheme of Delegation.

## 3. Implications

- 3.1 **Financial:** There are no new financial implications arising from this review of the SLP. The fees with respect to licences are set by law. Recent years have seen a decline in licensing income as the numbers of licensed premises has reduced particularly in respect of public houses. This decline in income has been highlighted through the budget setting process.
- 3.2 **Policy:** The Licensing Act 2003 requires the Council to formulate, consult and publish an SLP every 5 years. The Policy itself is developed around the four 'licensing objectives' i.e. prevention of crime and disorder, public safety, prevention of children from harm and prevention of public nuisance. This is a key policy aimed at protecting the community and individuals from harm.
- 3.3 **Personnel:** There are no specific personnel implications arising from this report.
- 3.4 **Legal:** It is a legal requirement for the Council to consider, adopt and publish a SLP every five years. This was last considered in December 2013. Prior to consideration by

Council the statement has to be subject to wider consultation. This process has taken place and the consultation responses are set out in Appendix D to this report. The policy has been drafted to take account of the prevailing legislative framework governing such matters as equalities and human rights. The main changes to the SLP are set out in the supporting information appended to this report.

3.5 **Risk Management:** There are no specific risk matters arising from the adoption of this SLP. A risk would arise should the Council fail in its statutory duty to consider, adopt and publish a current SLP. This risk would increase the longer the Council remained outside of the approved document timescales, the next opportunity to approve this would be in March 2019 at the next Full Council meeting. This risk is considered medium to low at this stage.

3.6 **Property:** None

3.7 **Other:** None

#### 4. Other options considered

4.1 There were no other options considered. This SLP has been subject to consultation with interested parties and the wider public.

## Executive Summary

### 5. Introduction / Background

- 5.1 Section 5 of the Licensing Act 2003 ('the Act') requires the licensing authority to prepare and publish a SLP every five years.
- 5.2 The SLP outlines the general approach of the licensing authority when making licensing decisions under the Act and can be reviewed and revised by the authority at any time.
- 5.3 In so doing the SLP considers how the Council seeks to address the four 'licensing objectives' namely the prevention of crime and disorder, public safety, prevention of children from harm and prevention of public nuisance.
- 5.4 It should be noted that as part of the wider Public Protection Partnership (PPP) this policy has been drafted in consultation with colleagues across Bracknell and Wokingham. It is a stated objective of the PPP to reduce duplication and derive efficiency from economies of scale. There may be occasion where terminology is used to describe processes which vary from authority to authority.
- 5.5 The Committee should note that feedback from Corporate Board included comments relevant to the Council's Scheme of Delegation and its relationship with the revised SLP. The primary aim is to ensure there is no risk of inconsistency when officers, Sub-Committees or Full Committees make decisions. This specific matter will be resolved in preparation for the final approval at Full Council on December 6<sup>th</sup> 2018 and will ensure there is no risk of the Council operating without a fully endorsed and approved SLP.

### 6. Proposals

- 6.1 That the Council, subject to any further comments from Licensing Committee, approves the revised SLP at Annex E.

### 7. Conclusion

- 7.1 There is a mandatory duty on the Council to publish an updated SLP and the substantive policy objectives being proposed are considered to be in the best interests of the Council and the trade. A public consultation has also informed this process.
- 7.2 The updated SLP is also seen as being broadly consistent with our PPP partners' objectives and whilst there may be some localised deviations they are only minor in nature, enabling the Council to benefit from economies of scale and resilience.

### 8. Appendices

- 8.1 Appendix A – Data Protection Impact Assessment
- 8.2 Appendix B – Equalities Impact Assessment
- 8.3 Appendix C – Supporting Information
- 8.4 Appendix D – Consultation responses received

8.5 Appendix E – Revised Statement of Licensing Policy

## Appendix A

### Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via [dp@westberks.gov.uk](mailto:dp@westberks.gov.uk)

Directorate:	Public Protection and Culture
Service:	Public Protection Partnership
Team:	Licensing
Lead Officer:	Julia O'Brien
Title of Project/System:	Revision of Statement of Licensing Policy
Date of Assessment:	5 October 2018

### Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
<p><b>Will you be processing SENSITIVE or “special category” personal data?</b></p> <p>Note – sensitive personal data is described as “<i>data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation</i>”</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Will you be processing data on a large scale?</b></p> <p>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Will your project or system have a “social media” dimension?</b></p> <p>Note – will it have an interactive element which allows users to communicate directly with one another?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Will any decisions be automated?</b></p> <p>Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Will your project/system involve CCTV or monitoring of an area accessible to the public?</b></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Will you be using the data you collect to match or cross-reference against another existing set of data?</b></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Will you be using any novel, or technologically advanced systems or processes?</b></p> <p>Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.

## Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; this includes the need to:**
    - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
    - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

<b>What is the proposed decision that you are asking the Executive to make:</b>	Approve updated Statement of Licensing Policy
<b>Summary of relevant legislation:</b>	Licensing Act 2003
<b>Does the proposed decision conflict with any of the Council's key strategy priorities?</b>	No
<b>Name of assessor:</b>	Charlie Fletcher
<b>Date of assessment:</b>	5 October 2018

Is this a:		Is this:	
<b>Policy</b>	<b>Yes</b>	<b>New or proposed</b>	<b>No</b>
<b>Strategy</b>	<b>No</b>	<b>Already exists and is being reviewed</b>	<b>Yes</b>
<b>Function</b>	<b>No</b>	<b>Is changing</b>	<b>Yes</b>
<b>Service</b>	<b>No</b>		

<b>1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?</b>	
<b>Aims:</b>	To publish a revised Statement of Licensing Policy
<b>Objectives:</b>	Transparency of how the Council deals with matters under the Licensing Act 2003
<b>Outcomes:</b>	Greater understanding in the trade and other interested bodies
<b>Benefits:</b>	Reduction in negative impacts associated with licensing

<b>2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.</b> (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
<b>Group Affected</b>	<b>What might be the effect?</b>	<b>Information to support this</b>
Age	No impact	
Disability	No impact	
Gender	No impact	

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Reassignment		
Marriage and Civil Partnership	No impact	
Pregnancy and Maternity	No impact	
Race	No impact	
Religion or Belief	No impact	
Sex	No impact	
Sexual Orientation	No impact	
<b>Further Comments relating to the item:</b>		
No further comments		

<b>3 Result</b>	
<b>Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?</b>	<b>No</b>
<b>Please provide an explanation for your answer:</b> No evident contribution on inequality	
<b>Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?</b>	<b>No</b>
<b>Please provide an explanation for your answer:</b> No evidence the revised Statement will have an adverse impact.	

**If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.**

**If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).**

<b>4 Identify next steps as appropriate:</b>	
<b>Stage Two required</b>	
<b>Owner of Stage Two assessment:</b>	
<b>Timescale for Stage Two assessment:</b>	

**Name: Charlie Fletcher**

**Date: 5 October 2018**

**Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) ([rachel.craggs@westberks.gov.uk](mailto:rachel.craggs@westberks.gov.uk)), for publication on the WBC website.**