
Statement of Licensing Policy – Review and Consultation

Committee considering report:	Council
Date of Committee:	Council 30 November 2023
Portfolio Member:	Councillor Lee Dillon
Date Portfolio Member agreed report:	19 October 2023
Report Author(s):	Moira Fraser / Sean Murphy
Forward Plan Ref:	C4253

1 Purpose of the Report

- 1.1 To consider the comments received during the consultation on the Statement of Licensing Policy and any ensuing modifications that have been made to the draft policy prior to adopting it with or without further modifications.

2 Recommendations

The Council to:

- 2.1 **CONSIDER** the consultation responses.
- 2.2 **RESOLVE** to adopt the policy with or without modification and that it comes into effect on the 01 December 2023.
- 2.3 **RESOLVE** to delegate authority to the Service Lead (Public Protection) and the Monitoring Officer, in consultation with Chairman and Vice Chairman of the Licensing Committee to make any minor amendments to the policy arising from legislative changes and changes to the S182 guidance.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	<p>There are no financial implications arising from the review of the Statement of Licensing Policy. All costs associated with the consultation have been met from within existing budgets.</p> <p>The fees with respect to these licences are set by law. Recent years have seen a decline in licensing income as the numbers</p>

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	<p>of licensed premises has reduced. This decline in income has been highlighted through the budget setting process for the Public Protection Partnership and is regularly reviewed at the Joint Public Protection Committee.</p>
Human Resource:	<p>There are no specific personnel implications arising from this report.</p>
Legal:	<p>West Berkshire Council is required to prepare and publish a Statement of Licensing Policy (SLP) every five years in accordance with section 5 of the Licensing Act 2003 ('the Act'). The SLP outlines the general approach of the Licensing Authority when making licensing decisions under the Act and its policy with respect to the exercise of its licensing functions. Section 5 (4) of the Act provides that during each five year period a licensing authority must keep its policy under review and make such revisions to it, at such times, as it considers appropriate.</p> <p>The current SLP was previously agreed by full Council on the 6th December 2018. To comply with the five year period set out within section 5 of the Licensing Act 2003, this document must be reviewed, consulted on, revised and re-published by the 5th December 2023.</p> <p>Section 5 (3) of the Act sets out the statutory requirements in terms of consultation before determining the revised SLP.</p> <p>The SLP should also be considered alongside the current revised Section 182 guidance issued in August 2023.</p> <p>The references to the constitution and decision making within the revised version of the SLP have been updated.</p> <p>Patricia Brown and Beth Varcoe have been consulted on proposed changes to the current policy pre-consultation.</p> <p>Legal Services have been consulted on the consultation responses and the proposed amendments to the draft policy arising from it.</p>
Risk Management:	<p>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.</p>
Property:	<p>None</p>

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Policy:	The policy and its subsequent review is required in order to comply with the Licensing Act 2003.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		<p>The consultation was undertaken in accordance with the Council's Consultation Policy.</p> <p>We did not receive any comments relating specifically to the protected characteristics. One of the respondents did however comment on the need to ensure that the policy is written in plain and simple English wherever possible to assist dyslexic readers and for readers whose first language is not English.</p>
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		<p>The Council is not in a position where it can proactively affect the profile of licence holders but the policy ensures that the process of obtaining a licence is fair and free of discrimination.</p> <p>The policy does not give any particular group priority over another in relation to implementation of the policy and how each applicant is dealt with. The Act requires that each application is assessed on its individual merits so all groups should be treated equally.</p>
Environmental Impact:	x			Section 10 of the draft policy addresses the issue of cumulative impact and the impact that a concentration of licensed premises in an area can have on the licensing objectives.

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Health Impact:	x			Although public health is not a licensing objective the Public Health Team were consulted on the draft policy and health data can be used to identify the impact of premises on the licensing objectives.
ICT Impact:		x		The Consultation was posted on the Consultation Hub as well as the Public Protection Partnership website.
Digital Services Impact:		x		The Consultation Hub was used to support the consultation.
Council Strategy Priorities:				<p>The Policy will support the following Council priorities: (Updated to reflect new CS priorities)</p> <ul style="list-style-type: none"> • Services we are proud of. • A Prosperous and Resilient West Berkshire • Thriving Communities with a Strong Local Voice
Core Business:				It is a statutory requirement for the Council to have an up to date SLP in place.
Data Impact:				The consultation was undertaken in accordance with the PPP's privacy statement .
Consultation and Engagement:	<p>The list of consultees is set out in paragraphs 4.3 and Appendix A of the Policy. The Licensing Committee considered the consultation responses and the draft policy at their meeting on the 06 November 2023. They requested that future consultation exercises on the policy also be directed to Education professionals.</p> <p>The Council's Resource Consultation and Performance Team, have assisted with drafting the consultation questionnaire and uploading the consultation documents onto the Council's Consultation Hub.</p>			

4 Introduction and Background

- 4.1 Officers presented the draft Statement of Licensing Policy to the [10 July 2023 Licensing Committee](#) meeting. The report set out the background to the policy, the legislative framework and the proposed key changes to the policy. It also included proposals for consulting on the draft policy and agreement that the outcome of that consultation would be brought back to November Licensing Committee meeting prior to it being recommended to full Council for adoption..
- 4.2 It was noted that The [Licensing Act 2003](#) (hereafter called the Act) regulates licensable activity in England and Wales. Licensing authorities are required to prepare and publish a Statement of Licensing Policy (SLP) every five years in accordance with section 5 of the Act. The Statement of Licensing Policy 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. The current SLP was published in December 2018, so must be reviewed and republished by December 2023 at the latest.
- 4.3 Before determining the policy for any five year period, the licensing authority must consult the persons listed in section 5(3) of the Act:
- The chief officer of police for the area.
 - The fire and rescue authority for the area.
 - Persons or bodies representative of holders of local personal licences, premises licences and club premises certificates.
 - Persons or bodies representative of businesses and residents in its area.
- 4.4 The Act also states that applications for licences must demonstrate that they will promote the four licensing objectives which are:
- Prevention of Crime and Disorder.
 - Public Safety.
 - Prevention of Public Nuisance and
 - Protection of Children from Harm.
- 4.5 At the July meeting the Licensing Committee agreed that the draft policy should be subjected to a ten week consultation period starting on the 12 July 2023 and running until the 20 September 2023. The consultation was posted on the West Berkshire Consultation portal and a link was included on the PPP website consultation pages on the 12 July 2023.
- 4.6 Members agreed that the consultation would be promoted on the Public Protection Partnership's social media channels and via a press release. It was also agreed that in addition to the statutory consultees set out in paragraph 4.3 above officers would also write to the parties set out in Appendix A to the draft policy to solicit their views on the policy. A notification was also sent out to the 2,537 people on the Community Panel.
- 4.7 The Council received 47 responses to the consultation. Of those responses 44 were submitted via the consultation portal and three were sent directly to officers. Twenty responses were submitted by residents, seven by premise licence holders, six from parish or town councils, four from officers or departments within the Council, two from

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businesses, two from Thames Valley Police, one each from a personal licence holder, the owner of a premise licence, a district councillor, a member of the general public, a community group and operators of a village hall. Officers would like to thank all those that took the time to respond.

4.8 A summary of the consultation responses is set out in Appendix B to this report. Of those that responded:

- 71.5% agreed that the draft policy was easy to understand.
- 60% believed the draft policy promoted the prevention of crime and disorder.
- 64% agreed that the policy promoted public safety.
- 67% concurred that the policy promoted the prevention of public nuisance.
- 70% acquiesced that the draft policy protected children from harm.

4.9 In addition to a suggestion about correcting typographical and grammatical errors and some comments about style and layout (which have been picked up in the revised draft document as set out in Appendix A) the following suggestions were also put forward:

- a) 'I wonder if there is a way of weaving in a positive obligation to partake in 'locally run community safety schemes'.
- b) 'I do agree that it would be so helpful for many of the public safety campaigns that we run if there was an expectation rather than a hope that licensees will take part in the campaigns that we run. If there was any way of weaving that expectation in, I think it would contribute considerable to community and public safety.'
- c) 'Policy should include the expectations around Late Night Entertainment venues to include Door Staff with BWV and high viz uniform, the use of ID Scanners for entry to such venues. This should be from 22:00 for venues open beyond 01:00, providing recorded or live music.'
- d) 'In paragraph 3.3 – is (in relation to plan scale) "however the Council will accept plans of an alternative scale provided this is approved prior to submitting the application" correct? Clearly, there is a tension between the GOV.UK guidance ("Unless you have previously agreed with the relevant licensing authority in writing that an alternative scale plan is acceptable to it, the plan should be drawn in standard scale, where 1 millimetre represents 100 millimetres.") and the s182 Guidance ("Plans, for written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is "clear and legible in all material respects", i.e. they must be accessible and provides sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information."). Surely the s.182 guidance trumps the GOV.UK version, so that there is no need for an applicant to agree an alternative plan scale in advance provided that the plans are clear and legible in all respects?'

4.10 Officers have considered the above observations and these are reflected in amendments to the draft Policy. On points a) and b) making participation compulsory would be something that would need to be done on a case-by-case basis such as the review of an existing licence at a hearing. The Policy has been amended at 6.3 to reflect the fact the Council will actively encourage participation in the development and delivery of initiatives designed to protect the public.

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4.11 In relation to point c) these measures would need to be considered on a premise-by-premise basis. We have however amended the draft Policy with respect to encouraging the wearing of hi-vis jackets by security staff. In relation to point d) the draft Policy has been updated to reflect this.

4.12 In addition, the following general comments were also received:

- a) it would be easier if there was a national policy as it was difficult to navigate different policies in different authorities.
- b) the policy needed to be supported by enforcement action.
- c) It would be useful to be able to react quickly to anti-social behaviour (asb) and lock ins by being able to temporarily close establishments quickly where this asb was occurring.
- d) The policy does not indicate time scales for reasonable replies to communication regarding applications for licenses and how this should be escalated if not satisfactory.
- e) More stringent controls to who is licensed and also give licencees more power.
- f) The whole process needs to be speeded up.
- g) Need to ensure that the document is easy to understand and written in plain English.
- h) Make the process easy for applications of temporary licences for charity/small community events with a quick response to the issuing of the licence.

4.13 With respect to the observation at a) above, whilst attractive to those operating in multiple licensing areas it would detract from the purpose of the Act which is to provide local delivery against a local policy framework focussed on local factors. With respect to enforcement i.e. point b), this is a critical part of delivering the licensing regime and checking compliance. Various parts of the Public Protection Service play a part in this activity from investigating nuisance to underage sales test purchasing as well as routine and multi-agency licensing visits.

4.14 The suitability of applicants to hold licences is checked as part of the application process. Where concerns emerge about activity relating to a premise or personal licence holder there are statutory review processes in place. In the case of premises this can include the requirement for a change of Designated Premises Supervisor (DPS).

4.15 In terms of issues relating to speed of service delivery and general timescales there are service standards that the service works too. There is also an escalation process set out in the Council's Complaints Procedure if escalation through service management structures does not resolve any issues. These standards would not be included in this policy.

4.16 The management of premise related Anti-Social Behaviour (ASB) is considered through the licensing process and premise related ASB can be addressed through the review process.

4.17 The Licensing Committee considered the responses received and the proposed amendments to the draft policy. They recommended the modified draft policy to the Council for approval subject to the correction of a few typographical errors which have been addressed in the current iteration of the draft policy.

5 Proposals

- 5.1 The Council is asked to adopt the policy subject to any additional modifications identified at the meeting and the revised policy be published and come into effect on the 01 December 2023.

6 Other Options Considered

- 6.1 To comply with the Licensing Act 2003 a Statement of Licensing Policy must be agreed and published every five years leaving no alternatives to doing so.

7 Conclusion

- 7.1 The Licensing Act 2003 requires West Berkshire Council to determine and publish its Statement of Licensing Policy at least every five years. The Council must have reviewed the current policy by December 2023.
- 7.2 The implementation of the licensing regime is an important function of local authorities. The proper application of the licensing objectives provides protections for the community and individuals. The 'Statement of Licensing Policy' along with the prevailing legislation and statutory guidance is critical to the proper discharge of functions by the Council.
- 7.3 Officers would like to thank the residents, organisations, businesses, licence holders, parish and town councils and stakeholders that responded to the consultation.

8 Appendices

- 8.1 Appendix A – Draft Statement of Licensing Policy
- 8.2 Appendix B – Outcome of the Consultation
- 8.3 Appendix C – Equality Impact Assessment

9 Background Papers:

- Licensing Act 2003
- S182 Guidance

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

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Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Wards affected: All

Officer details:

Name: Julia O'Brien
Job Title: Licensing Manager
Tel No: 01635 519894
E-mail: Julia.O'Brien@westberks.gov.uk
