

SUBJECT:	LICENSING ACT 2003 STATEMENT OF LICENSING POLICY
DIRECTORATE:	COMMUNITIES & ENVIRONMENT
REPORT AUTHOR:	IAN CULLEN, LICENSING TEAM LEADER

1. Purpose of Report

1.1 To update the committee on the result of the consultation of the Statement of Licensing Policy (the Policy) under the Licensing Act 2003 ('the Act').

2. Executive Summary

2.1 An updated Statement of Licensing Policy under the Licensing Act 2003 has been out for consultation.

2.2 Following feedback from various stakeholders, approval is sought to forward the amended Policy to Full Council for adoption.

3. Background

3.1 The Act requires that the Licensing Authority publish its Statement of Licensing Policy at least every five years. The current Statement of Licensing Policy came into effect in October 2014 and under current legislation was therefore due for revision by October 2019.

3.2 Core to the Licensing Act are the four licensing objectives. These are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

3.3 The draft Policy was forwarded to a total of 85 persons/organisations and to every member of the Licensing Committee. The Policy was also placed on the Councils website.

3.4 The list of persons consulted when reviewing the licensing policy was deliberately wide. This enables the licensing authority to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the policy.

3.5 A working group was formed from members of the Licensing Committee which has steered the draft policy through its consultation and final drafting.

3.6 The consultation period commenced on 5th July 2019 and ended on the 19th August 2019. A total of 3 responses were received.

3.7 This report comments on the responses received and necessary weight has been given to them by the Committee Working Group. Alterations have therefore been made to the draft policy and a suggested final policy can be seen in the final draft at **Appendix A**.

3.8 The statutory Section 182 Guidance to licensing authorities states:

Before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- *the chief officer of police for the area;*
- *the fire and rescue authority for the area;*
- *each local authority's Director of Public Health in England (DPH)¹⁴ or Local Health Board in Wales for an area any part of which is in the licensing authority's area,*
- *persons/bodies representative of local premises licence holders;*
- *persons/bodies representative of local club premises certificate holders;*
- *persons/bodies representative of local personal licence holders; and*
- *persons/bodies representative of businesses and residents in its area.*

The views of all these persons or bodies should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so. Licensing authorities should note that the terms of the 2003 Act do not prevent them consulting other bodies or persons.

4. Consultation results

4.1 The committee working group met on 28th August 2019 to consider the responses to the consultation.

4.2 The first response was from the Council Noise officer in the Public Protection and Anti-social behaviour team. His comments referred specifically to paragraph 5.4 of the Policy document regarding the prevention of public nuisance and the potential noise impact of services vehicles visiting licensed premises. The working group took note of the comments and a reference to the impact of service vehicles has been included at paragraph 5.4.4. The noise officer's full response can be found at **Appendix B**.

4.3 The second response was from Steve Renshaw, Secretary of the Lincoln Campaign for Real Ale (CAMRA) branch. He makes comment on the wording of paragraph 5.2.4 of the Policy document namely:

"CCTV remains one of the most effective measures for reducing crime and disorder. The Licensing Authority expects premises that retail alcohol for consumption on or off the premises will have an effective CCTV system installed that operates in compliance with the requirements of Lincolnshire Police."

4.4 Mr Renshaw expressed a concern that the insertion of this paragraph creates a requirement for all alcohol licensed premises to have CCTV installed, at potential expense to operators.

- 4.5 Mr Renshaw was contacted and it was explained that this is not creating a requirement for all alcohol licensed premises to install CCTV but rather gives the Licensing Authority's opinion that CCTV is one of the best tools in the detection and prevention of crime and disorder and that operators should give serious consideration to its inclusion when making an application.
- 4.6 The working group felt that the wording of this paragraph reflected the views of the Licensing Authority and that its inclusion was merely to guide prospective applicants. If the discretion of the Licensing Authority were engaged, following relevant representations, then any such condition would only be imposed if it were appropriated for promoting the licensing objective put at risk. Mr Renshaw's full response can be seen at **Appendix C**.
- 4.7 The final response received was a letter from Barry Hepton on behalf of 'A Plan for Bailgate' – a group of Lincoln residents and others. Their response gives an overview of the aims of 'A Plan for Bailgate' and makes some specific comments on the draft policy. The full response can be seen at **Appendix D**.
- 4.8 Contact was made with the author of the letter and the points raised were discussed. The working group analysed the response and have made amendments to the policy as set out below.
- 4.9 The working party gave weight to the comments made at the bottom of page 3 of Mr Hepton's response with reference to the mention of local conditions. Therefore an additional paragraph has been inserted at 1.14 of the policy document.
- 4.10 An amendment has also been made to paragraph 3.6.3 of the Policy document to now read '*Applicants are strongly advised to make enquiries...*'. It was felt by the working group that the addition of the word 'strongly' further enhances the belief that applicants should take into account local circumstances when preparing applications.
- 4.11 Reference is made in the response to paragraph 6.3 of the Policy concerning cumulative impact. A Cumulative impact assessment is to be conducted separately to the main policy and many of the concerns raised in the response would contribute more appropriately to a cumulative impact assessment rather than the main policy document.
- 4.12 Mr Hepton was thanked for his feedback on the Policy, however it was felt by the working party that much of the content of the consultation response was specific to the Bailgate area within the City rather than the city as a whole.
- 4.13 The working party felt that the policy is intended as a document to provide guidance for various stakeholders as well as guide the Council in its decision making process. To inform applicants of the parameters under which the authority will make licensing decisions and provide clarity of the expectations of the licensing authority with regard to promoting the licensing objectives. The statement cannot create new requirements for applicants outside of the Act, or override the right of anyone to make an application under the Act, make representations or seek a review of a licence.

- 4.14 The policy sits alongside many other policies, strategies and local initiatives to help promote the licensing objectives. Therefore, save for the amendments as mentioned in paragraphs 4.9 and 4.10 above it was felt that no further amendments were necessary to the draft policy.
- 4.15 No other responses were received during the consultation period.

5. Strategic Priorities

5.1 Let's drive economic growth

By keeping the statement of policy up to date it will ensure that there is clear guidance for businesses.

5.2 Let's reduce inequality

Protecting vulnerable people is a key objective of the Act. This Statement of Licensing Policy should ensure that the licensing objectives are promoted and the most vulnerable are protected.

5.3 Let's deliver quality housing

N/A

5.4 Let's enhance our remarkable place

N/A

5.5 High performing services

N/A

6. Organisational Impacts

6.1 Finance (including whole life costs where applicable)

Cost of consultation and printing of Policy can be contained within the current licensing budget.

6.2 Legal Implications including Procurement Rules

Licensing Act 2003 section 5.

Each Licensing Authority (in this case the City Of Lincoln Council) must in respect of each five year period-

- a) Determine its policy with respect to the exercise of its licensing functions, and
- b) Publish a statement of that policy before the beginning of the period.

The implication here is that in order to carry out its licensing function, it must have a licensing policy that is valid.

6.3 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

The statement of policy shall ensure that the licensing function is conducted in a fair and transparent way.

The licensing policy provides transparency for everyone, including local residents and applicants for premises licences, who will be able to refer to the statement when making representations or when preparing their applications. There is therefore not a need to complete an Equality Impact Assessment as there are no specific impacts on anyone who has a protected characteristic.

7. Risk Implications

7.1 (i) Options Explored

7.2 (ii) Key risks associated with the preferred approach

8. Recommendation

8.1 The Committee is asked to:

- Note the contents of the report and approve the draft policy; and
- recommend it to Full Council for adoption

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? 4

List of Background Papers: Appendix A – Draft Policy document
 Appendix B – Response of Noise officer
 Appendix C – Response of Steve Renshaw, CAMRA
 Appendix D – Response of Barry Hepton, A Plan for Bailgate

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