

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 2019 and under current legislation was therefore due for revision by October 2024.
- 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 83 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 12 July 2024 and ended on the 19 August 2024. A total of 5 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 20 August 2024 to consider the responses to the consultation.

4.2 The first response was from the Portman Group. They extended their appreciation of the policies inclusion of reference to their code of practice and Alert Bulletin. A suggestion was made for further description to be added around the context of the code of practice. The working group took note of the comments, and it was felt the addition of a hyperlink at paragraph 5.5.10, to the Portman Group website would provide sufficient guidance for prospective applicants. The Portman Group full response can be found at **Appendix B**.

4.3 The second response was from the City of Lincoln Council planning department. They raised three points in the document with regards to planning. These points were acknowledged, and the draft policy has been amended accordingly. Plannings response can be seen at **Appendix C**.

4.4 The third response received was from the University of Lincoln Students' Union. Their response was on behalf of the student population and centres on the issue of spiking. With many students seeing this as an area of concern when it came to the night-time economy and licensed premises.

4.5 The working group took on board the comments of the Student Union and some

further guidance and advice has been inserted into the policy at paragraphs 9.8.3 and 9.8.4. The full response from the Student Union can be found at **Appendix D**.

- 4.6 The final response received was from Lincolnshire Police. Their comments were a mixture of observations and suggested revisions/inclusions. The full response can be seen at **Appendix E**.
- 4.7 Contact was made with the officer and the points raised were discussed. The working group analysed the response and have made amendments to the policy as set out below.
- 4.8 The addition of reference to Home Office (Immigration Enforcement) was inserted at paragraph 2.9.
- 4.9 The working party acknowledged the comments of the officer with regards to paragraph 5.5.11. However, they felt that the consequences of a failed test purchase would be more a matter for trading standards or the police, who had conducted the operation. It was also felt that the Authorities view on such matters was better referenced later in the document under the Reviews section.
- 4.10 The reference to contradictory statements at section 8.2 was discussed with the officer. It was acknowledged and agreed that the information on pages 23 and 37 were referring to different scenarios and therefore they were both relevant depending on the situation. It was therefore felt by the working group that no amendment was necessary.
- 4.11 The reference to paragraph 8.10 and conditions being publish online was discussed with the officer. It was acknowledged that this would be a dynamic document that would regularly be updated separately to the policy document. The Authority would endeavour to publish these online however in case of technical issue with the website, contact details for the most current version were included in the policy document.
- 4.12 Reference is made in the response to paragraph 10.3 with regards to the inclusion of persistent sales of alcohol to minors.
- 4.13 The working group were in agreement with the officer that this is an area where it was felt a robust view and response should be taken. It was felt that paragraph 10.3 was more specifically related to criminal activity on licensed premises and the crime prevention objective. The subject of sales of alcohol to children is concerned with the protection of children from harm objective and it was therefore felt that it would be more appropriate to reference this in a separate paragraph. Therefore, there has been an insertion at paragraph 10.5.
- 4.14 No other responses were received during the consultation period.

5. Strategic Priorities

5.1 Let's drive inclusive 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 all kinds of 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 enhance our remarkable place

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?

N/A

List of Background Papers:

Appendix A – Draft Policy document
Appendix B – Response of Portman Group
Appendix C – Response of Planning department
Appendix D – Response of Lincoln Students' Union
Appendix E – Response of Lincolnshire Police

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