

Licensing Committee

17 September 2019

Is the final decision on the recommendations in this report to be made at this meeting?

No

LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY

Final Decision-Maker	Full Council
Portfolio Holder(s)	Portfolio Holder for Sustainability
Lead Director	Paul Taylor - Director of Change and Communities
Head of Service	Gary Stevenson - Head of Housing, Health and Environment
Lead Officer/Author	Sharon Bamborough – Head of Licensing Partnership
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. To agree the proposed amendment to the Statement of Licensing Policy (which will expire 6 January 2021) to include a new section on outdoor events

Explain how this report relates to the Corporate Priorities in the Five Year Plan:

- A Prosperous Borough
- A Green Borough
- A Confident Borough
- To ensure effective partnership working

Timetable

Meeting	Date
Licensing committee – approved for consultation	05.03.19
Licensing Committee – consider amendment following consultation	17.09.19
Full Council - adoption	25.09.19

LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report invites Members to consider a minor review of the current Council's Statement of Licensing Policy for the five-year period 7 January 2016 to 6 January 2021 so as to include a policy for outdoor events.
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2. INTRODUCTION AND BACKGROUND

- 2.1 The Licensing Act 2003 (the Act) requires the Council, in its role as a licensing authority, to prepare and publish a statement of licensing policy with respect to the exercise of its functions under the Act.
- 2.2 The Council's current Policy is in force until 6 January 2021. Once in place this Policy must be kept under review at least every five years. The usual full review of this policy is scheduled to take place in 2020.
- 2.3 In accordance with this requirement the Committee is asked to agree a minor addition to the Council's Statement of Licensing Policy for the remainder of the current five year period, which commenced on 7 January 2016 and ends on 6 January 2021.
- 2.4 A copy of the proposed Statement of Licensing Policy for the five-year period expiring 6 January 2021 is attached at **Appendix A** to the report.
- 2.5 The proposed Policy has been revised so as to add a new section regarding outdoor events, in section 20, highlighted in yellow.
- 2.6 Many authorities have seen an increased demand for outdoor events and festivals in recent years. The Licensing Authority's current policy does not have any specific or additional considerations for outdoor events as opposed to the regular licensing activity which takes places mostly within buildings. In light of the evidence of an increased demand for outdoor events and festivals from other authorities, it is anticipated that there may be a national trend for an increase in such events and that Tunbridge Wells can expect an increase in such demand over the five-year period 7 January 2016 to 6 January 2021.

The proposed section includes:

- A suggested general terminal hour for all licensable activities of 23:00 at outdoor events;
- Setting out expectations that organisers will demonstrate that they have the required permissions in place to use the land;

- Setting out expectations that organisers will demonstrate that they have arrangements in place to ensure the site is properly checked and certified (for example, if water supplies or electrics need to be checked); and
- Setting out expectations that organisers will demonstrate that they have notified and where necessary sought authorisation / advice from the Council's Safety Advisory Group for the event.

2.7 At its meeting in March 2019, the Licensing Committee members approved consultation on the proposed new section.

3. AVAILABLE OPTIONS

3.1 To approve the proposed amendment.

3.2 Reject the proposed amendment and leave the policy as it currently is.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The Licensing Service recommends the first option in order to keep the wording in line with similar proposals for all the statements of licensing policy across the Licensing Partnership.

5. CONSULTATION

5.1 Prior to determining (or amending) its Statement of Licensing Policy the Council must consult with those parties identified in section 5(3) of the Licensing Act 2003, who are:

- the chief officer of police for the licensing authority's area;
- the fire and rescue authority for that area;
- each Local Health Board for an area any part of which is in the licensing authority's area
- each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area
- such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
- such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
- such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
- such other persons as the licensing authority considers to be representative of business and residents in its area.

5.2 The following parties were also directly consulted on the proposed Policy:

- Members of the Council;
- Neighbouring Authorities;
- Parish Clerks
- Pub Watch Members
- Libraries
- Head offices for Breweries

5.3 The proposed amended Policy, together with an invitation to submit comments, was posted on the Council's website. In addition relevant officers of the Council, such as the Council's Head of Legal Services, was consulted on the Policy.

5.4 During the 6 week consultation period it was open to any person to make comments on the proposed Policy. This allows for comments both on the proposed Policy together with the submission of any evidence that specifically relates to 'outdoor events'.

5.5 Consultation was carried out from 15th April 2019 to 26th May 2019. Two responses were received:

1. Bidborough Village Hall responded advising that there foresaw no problems with the proposed change
2. Royal Tunbridge Wells Together has submitted an objection to the proposal due to occasional event which would normally go on beyond the proposed general terminal hour.

Copies are attached as **Appendix B**

5.6 In response to the objection, the Head of Licensing would advise as follows:

- The introduction of this section will not prohibit applications to be made beyond the terminal hour of 23:00, it is merely intended to be a guideline to event organisers of a general expectation of cessation of licensable activities.
- There will be events which occur on dates such as New Year's Eve, where there would be an expectation to go to beyond midnight and it is unlikely that such applications would be refused on that basis alone in line with this policy.
- It should always be the case that each application should be assessed on its individual merits, but the licensing authority's position is that to prevent public nuisance, outdoor events should, in general, have a terminal hour no later than 23:00 and introduction of this section to the existing policy will allow for the promotion of this objective.
- At present there is no policy to rely on for outdoor events and it is hoped that this proposed change will provide clarity and guidance to applicants without restricting their ability to apply for hours beyond 23:00 – it is simply the case that an applicant may need to be more specific and demonstrate how they are going to promote the licensing objectives and should be granted a licence for an outdoor event which goes beyond the policy terminal hour.

- The proposed general terminal hour was agreed with Environmental Health and is based upon experience of previous events and complaints about noise late into the night.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Should the Committee be minded to agree the proposed amendment to policy, it would then be referred to a meeting of the full council for adoption.
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7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	<i>Under the Licensing Act 2003 Section 5 the licensing authority has a duty to publish a statement of licensing policy with respect to the exercise of its licensing functions. By virtue of subsection 4 the Council must keep its policy under review and make such revisions to it, at such times, as it considers appropriate. This is such a revision.</i>	Robin Harris Senior Lawyer – Contentious, Mid-Kent 02.09.19
Finance and other resources	<i>There are no financial implications</i>	Sharon Bamborough Head of Licensing Partnership 09.09.19
Staffing establishment	No impact on Tunbridge Wells Borough Council	Sharon Bamborough Head of Licensing Partnership 09.09.19
Risk Management	A risk assessment is undertaken on an annual basis regarding the service objectives and reviewed regularly	Sharon Bamborough Head of Licensing Partnership 09.09.19

Data Protection	No impact.	Sharon Bamborough Head of Licensing Partnership 09.09.19
Environment and Sustainability	No impact.	Sharon Bamborough Head of Licensing Partnership 09.09.19
Community Safety	No impact.	Sharon Bamborough Head of Licensing Partnership 09.09.19
Health and Safety	No impact.	Sharon Bamborough Head of Licensing Partnership 09.09.19
Health and Wellbeing	No impact.	Sharon Bamborough Head of Licensing Partnership 09.09.19
Equalities	No impact.	Sharon Bamborough Head of Licensing Partnership 09.09.19

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Appendix A: [Statement of licensing policy amended to show new wording]
 - Appendix B – copies of consultation responses
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9. BACKGROUND PAPERS

none