

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

YES**Statement of Licensing Policy 2021-2026**

Final Decision-Maker	Licensing Committee
Portfolio Holder	Councillor Matthew Bailey Portfolio Holder for Sustainability
Lead Director	Paul Taylor Director of Change and Communities
Head of Service	Gary Stevenson, Head of Housing, Health & Environment
Lead Officer/Report Author	Sharon Degiorgio, Senior Licensing Officer
Classification	Non-exempt
Wards affected	All

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

1. To approve the amended draft Statement of Licensing Policy 2021/2026 for public consultation.

This report relates to the following Five Year Plan Key Objectives:

- A Confident Borough
In the interests of transparency the licensing regime is intended to ensure that the people of Tunbridge Wells can be confident that premises providing regulated entertainment are subject to appropriate codes of practice and guidance in managing their business activities in a controlled manner.

Timetable

<i>Meeting</i>	<i>Date</i>
Licensing Committee	8 September 2020
Licensing Committee	1 December 2020
Full Council	16 December 2020

Statement of Licensing Policy 2021-2026

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Licensing Act 2003 requires that the Council publishes a 'Statement of Licensing Policy' that sets out the framework the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.2 The Council's current Policy Statement took effect from 7 January 2016 and is valid until 6 January 2021
- 1.3 This report seeks Member approval for officers to commence a public consultation on the revised Statement of Licensing Policy 2021-2026 at Appendix A.

2. INTRODUCTION AND BACKGROUND

- 2.1 In its role as the Licensing Authority under the Licensing Act 2003, the Council has a duty to prepare, and keep under review its Statement of Licensing Policy. This sets out how the Authority approaches its responsibilities under the Act. Such a statement must be published before the Authority carries out any function in respect of individual applications made under the terms of the Act. During the five-year period the policy is required to be kept under review; revisions can be made within this period if the authority considers them to be appropriate. This policy has been subject to a minor amendment within this time.
- 2.2 Underpinning this obligation are the four Licensing Objectives which are:
 - The Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from Harm
- 2.3 Equal weight is given to all four licensing objectives and the policy must seek to secure the promotion of these objectives throughout the licensing process.
- 2.4 The proposed draft policy largely replicates the existing policy; however officers have taken the opportunity to insert minor changes to the wording and updates in relation to legislative changes and Government Guidance.
- 2.5 The layout of the policy has also been amended to ensure compliance with accessibility requirements.
- 2.6 A summary of the amendments are set out in Appendix B.
- 2.7 As there are no significant changes proposed, it is suggested to run the consultation for an eight week period.
- 2.8 The Licensing Act 2003 sets out a list of statutory consultees and also makes provision for other persons/bodies to be consulted as necessary and as requested. The list of consultees are set out in Appendix C.

3. AVAILABLE OPTIONS

- 3.1 There are no available options to the Council – Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy for publication at least every five years. The current policy is due to expire on 6 January 2021.
-

4. OPTION AND REASON FOR RECOMMENDATION

- 4.1 Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy for publication at least every five years. This enables the Licensing Authority to have a secure foundation on which to determine applications in a way that clearly promotes the licensing objectives. Members are therefore asked to approve the revised draft statement of licensing policy for public consultation.
-

5. CONSULTATION RESULT AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Any comments received will be considered by the Senior Licensing Officer and a further report will be brought before Members for consideration at the Licensing Committee meeting scheduled for 1 December 2020.
-

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Should Members approve the draft Policy at Appendix A for consultation, it is proposed this will commence on 11 September for a period of eight weeks via the Council's consultation portal, the Council webpages and various emails.
- 6.2 Any comments received will be considered by the Senior Licensing Officer and a further report will be brought before Members for consideration at the Licensing Committee meeting scheduled for 1 December 2020. The minutes of the meeting will be placed on the Council's website.
- 6.3 If the Policy is approved by Members this Statement will be presented to Full Council on 16 December 2020 for adoption taking effect from 7 January 2021. The minutes of the meeting will be placed on the Council's website.
-

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	The Authority's licensing policy provided the framework on which the Licensing Service under the Licensing Act 2003 was administered. This policy was not only important in setting out the licensing authority's approach to the Licensing Act; it would also be considered and referred to by the Magistrates Court on appeal. The Magistrates Court could decide to depart from the policy if they had good reason to do so.	Robin Harris, Senior Lawyer (Contentious)

	<p>The Magistrates Court could also decide that an appealed decision of the authority as not reflective of the policy, and that no good reason was given by the authority to depart from the policy when making that decision. In such a case, the appealed decision could be referred back to the local authority to reconsider in the line with its policy.</p> <p>The Licensing Act makes it clear in that each application must be considered n its individual merit and certain matters cannot be considered when making a decision on an application. Therefore the policy must be clear in its aims, but if the policy provides a rigid or unlawful approach to licensing then it will be subject to being challenged in the High Court by way of Judicial Review.</p> <p>The Licensing Authority must also ensure that it has regard to the Regulators Code 2014 when developing standards, policies or procedures that guide some regulatory activities. There should be a risk and evidence based approach to regulatory activity.</p>	
Finance and other resources	No issues identified	Sharon Degiorgio, Senior Licensing Officer 06.08.2020
Staffing Establishment	The adoption, implementation and application of the draft policy will be undertaken using existing resources.	Sharon Degiorgio, Senior Licensing Officer 06.08.2020
Risk Management	No issues identified	Sharon Degiorgio, Senior Licensing Officer 06.08.2020
Data Protection	No implications	Sharon Degiorgio, Senior Licensing Officer 06.08.2020
Environment and sustainability	No issues identified	Sharon Degiorgio, Senior Licensing Officer 06.08.2020
Community Safety	The Council has a statutory duty to contribute to the reduction of crime and disorder within the Borough under S.17 of the Crime and Disorder Act 1988. The prevention of crime and disorder is also one of the licensing objectives as defined in the Licensing Act 2003 and in the current statement of Licensing Policy.	Sharon Degiorgio, Senior Licensing Officer 06.08.2020
Health and Safety	No issues identified	Sharon Degiorgio, Senior Licensing Officer 06.08.2020
Health and Wellbeing	No issues identified	Sharon Degiorgio, Senior Licensing Officer 06.08.2020
Equalities	The Council must have due regard to its Equality Duty	

	<p>under the Equality Act 2010 and consider the potential effect of any policy changes on people with protected characteristics which are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual preference. The Council should also consider whether the Policy could be used to advance opportunities and foster good relations between different groups within the community.</p> <p>Officers have undertake an Equalities Impact Assessment on the draft Statement of Licensing Policy 2021-2026 and considered whether the Policy could be a vehicle to advance opportunity and foster good relations between those with protected characteristics.</p> <p>The following is noted:</p> <ul style="list-style-type: none"> • Supporting the role of licensed venues and events at the heart of the community, such pubs, restaurants, cultural venues, community venues and events. • Ensuring children (age protected) are protected from harm • Those with a disability are able to enter and enjoy licensed premises as far as is practically possible. 	<p>Sarah Lavallie Corporate Governance Officer 06.08.2020</p>
--	--	---

8. REPORT APPENDICES –

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

- Appendix A – Draft Statement of Licensing Policy 2021-2026
- Appendix B – Proposed amendments
- Appendix C – Consultees details

9. BACKGROUND PAPERS

- Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- S.182 Guidance issued to Licensing Authorities - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- Current Statement of Licensing Policy 2015