

# Draft Statement of Licensing Policy 2021-2026

Licensing Committee on 1 December 2020

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## Summary

**Lead Member:** Councillor Matt Bailey – Portfolio Holder for Sustainability

**Lead Director:** Paul Taylor – Director of Change and Communities

**Head of Service:** Gary Stevenson – Head of Housing, Health & Environment

**Report Author:** Sharon Degiorgio – Senior Licensing Officer

**Classification:** Non-exempt

**Wards Affected:** All

Approval Timetable	Date
Licensing Committee	1 December 2020
Full Council	16 December 2020

## Recommendations

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 following public consultation for ratification at Full Council. If approved by Full Council will be adopted from 7 January 2021 to remain in force for a period of five years.

# 1. Introduction and Background

- 1.1 In its role as the Licensing Authority under the Licensing Act 2003, the Council has a duty to prepare, publish 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.
- 1.2 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
- 1.3 The Council's current Policy Statement took effect from 7<sup>th</sup> January 2016 and is valid until 6<sup>th</sup> January 2021.
- 1.4 The proposed draft policy largely replicates the existing policy; however officers took the opportunity to insert minor changes to the wording and updates in relation to legislative changes and Government Guidance.
- 1.5 On the 8<sup>th</sup> September Members approved the draft policy for an eight week public consultation. The policy review was conducted in accordance with the requirements of the Act and associated guidance. The Authority received one response which formed part of another email to a member of the licensing team. A copy of the response is attached at appendix A.
- 1.6 From the limited number of responses received from consultees, it appears that there is general satisfaction with the revised draft policy.

## 2. Options Considered

- 2.1 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<sup>th</sup> January 2021.

## 3. Preferred Option and Reason

- 3.1 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.

- 3.2 Should Members approve this draft statement it will be presented to Full Council on 16<sup>th</sup> December for adoption taking effect from 7<sup>th</sup> January 2021.

## 4. Implementation

- 4.1 The Chairman will announce the Committee decision at the end of the meeting and the statement will be presented to Full Council on 16 December 2020. The minutes will be published on the Council's website.

## 5. Appendices and Background Documents

Appendices:

- Appendix A: Draft Statement of Licensing Policy 2021-2026
- Appendix B: Response to consultation.

Background Papers:

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

## 6. Cross Cutting Issues

### A. Legal (including the Human Rights Act)

The Authority's licensing policy provides the framework on which the Licensing Service under the Licensing Act 2003 is administered. This policy is not only important in setting out the licensing authority's approach to the

Licensing Act, it is considered and referred to by the Magistrates Court on appeal. Both the Magistrates Court and the Authority can decide to depart from the policy if they have good reason to do so.

The Magistrates Court can decide that an appealed decision of the authority is 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.

The Licensing Act makes it clear that each application must be considered on its individual merits 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 could be subject to being challenged in the High Court by way of Judicial Review.

The Licensing Authority must also ensure that it has regard to the Regulators Code 2014 when developing standards, policies or procedures that guide regulatory activities. There should be a risk and evidence based approach to regulatory activity.

## **B. Finance and Other Resources**

There are no financial or other resource implications

Sharon Degiorgio, Senior Licensing Officer, 09.11.2020

## **C. Staffing**

The adoption, implementation and application of the draft policy will be undertaken using existing resources.  
Sharon Degiorgio, Senior Licensing Officer, 09.11.2020

## **D. Risk Management**

There are no issues identified.

Sharon Degiorgio, Senior Licensing Officer, 09.11.2020

## **E. Environment and Sustainability**

No implications

Sharon Degiorgio, Senior Licensing Officer 09.11.2020

## **F. 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.

## Section 17, Crime and Disorder Act 1998

*17(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.*

Terry Hughes, Community Safety Manager, 09.11.2020

## G. Equalities

The Council must have due regard to its Equality Duty 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.

Officers have undertaken 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.

The following is noted:

- Supporting the role of licensed venues and events at the heart of the community, such as 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.

Sara Lavallie, Corporate Governance Officer 09.11.2020

## H. Data Protection

No issues identified.

Sharon Degiorgio, Senior Licensing Officer, 09.11.2020

## I. Health and Safety

No issues identified.

Sharon Degiorgio, Senior Licensing Officer, 09.11.2020

## J. Health and Wellbeing

No issues identified.

Sharon Degiorgio, Senior Licensing Officer, 09.11.2020