

Bolsover District Council

Healthy, Safe, Clean and Green Communities Scrutiny Committee

29th June 2018

**Licensing Act – Statement of Licensing Policy 2019-2024
Policy Review**

Report of the Licensing Team Leader

This report is public

Purpose of the Report

- The purpose of this report is for Communities Scrutiny Committee to consider and feedback on proposed amendments to the Council's **Licensing Act - Statement of Licensing Policy 2019-2024**, to enable Licensing Committee to take the Committee's comments into account as part of their consideration of the revised Statement, prior to formal public consultation.

1 Report Details

- 1.1 Under The Licensing Act 2003, the Council is responsible for the administration of licences and certificates for:
- The sale/supply of alcohol
 - The provision of regulated entertainment and
 - The provision of late night refreshment
- 1.2 The Act contains four licensing objectives, which underpin the functions of the legislation and the local authority, acting in their capacity as the licensing authority. These objectives are central to the regulatory regime created by the Act and are:
- The prevention of crime and disorder
 - The prevention of public nuisance
 - Public safety and
 - The protection of children from harm

All decisions under the Act must be taken with a view to promoting these licensing objectives.

- 1.3 The Licensing 2003 imposes a statutory requirement upon Bolsover District Council, as the statutory Licensing Authority to prepare a Statement of Policy.
- 1.4 This must be reviewed every 5 years, although the Council may reviews its policy at any time within that 5 year period should it see fit.

- 1.5 In accordance with the Licensing Act 2003, the Statement of Licensing Policy must be determined by full Council after consultation with prescribed bodies.
- 1.6 The Licensing Authority must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 when drafting its policy. The latest version was issued by the Home Office in April 2018.
- 1.7 The current statement of policy was adopted with effect from January 2012 following a full consultation exercise. At the time of adoption it incorporated all relevant and amended legislation guidance and reflected good practice.
- 1.8 The Committee is being invited to review the revised policy and provide comments. These will be incorporated by the Licensing Team Leader and the revised policy will then be submitted to the Councils Licensing Committee on 26th July 2018. They will consider the draft, with a view to commencing statutory consultation on 30th July 2018.
- 1.9 The outcome of the 11 week consultation period will be fed back to the Licensing Committee, and a final version of the policy will then be recommended to Full Council for approval.
- 1.10 The revised policy will be used as a guide by Members of the Licensing Authority in their decision making as well as providing applicants with general guidance as to how each application will be examined although, each application is considered on an individual basis. The Policy also give guidance to residents, businesses and objectors as to how their concerns are considered as part of the application process.
- 1.11 The most significant change is in the format and layout of the policy. This has been changed substantially and looks very different to the old policy. It has therefore not been possible to show amendments by way of track changes to the current policy.
- 1.12 Local Authorities are encouraged to work together to review their Statements to offer consistency to those who have premises in neighbouring Licensing Authorities. We have therefore simplified the policy, and adopted the same style and standard as that used by neighbouring authorities.
- 1.13 The new revised policy has in the main changed the layout and order of the Policy but not the overall content. The key changes made to the contents of the policy are as follows;

Introducing a simplified policy document with 5 key policies which set out the Councils approach to regulation and how they link to the 4 licensing objectives. This is a new and improved way of presenting the Councils Policy.

- Policy 1 deals with effective and responsible management of licensed premises.
- Policy 2 provides a list of relevant factors to be taken into consideration during the application process.
- Policy 3 suggests what should be taken into account where it is considered an application may result in or contribute to a cumulative impact in an area.

- Policy 4 is concerned with where the Chief Officer of Police has lodged an application and provides guidance on consideration with the need to promote the crime prevention objective.
- Policy 5 looks and what needs to be considered to meet the objective of protecting children from harm

Updating the policy to reflect numerous legislative changes

- Amendments made to the 2003 Act by the Live Music Act 2012 and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, Legislative Reform Order 2014 and the Deregulation Act 2015, which affects what is a regulated activity.
- The Immigration Act 2016 which amended the Licensing Act 2003 so that applications made by someone who is not entitled to work in the UK must be rejected, and sets out what steps a Licensing Authorities must take to be satisfied that an applicant has the right to work in the UK.
- The Policing and Crime Act 2017 gives Licensing Authorities the power to revoke or suspend personal licences, with effect from 6 April 2017. This is a discretionary power.

1.14 Any further changes will be brought to members' attention at the meeting.

2 Conclusions and Reasons for Recommendation

2.1 The Licensing Act Policy has been reviewed in accordance with the Licensing Act 2003 which requires Licensing Authorities to prepare a Statement of Policy on a five year cyclical basis. The proposed revised Licensing Policy reflects recent changes in legislation and Statutory Guidance. It is a statutory requirement to prepare a Licensing Act Policy for the next five years and to publish that policy.

2.2 The proposed revised policy is fit for purpose, more simplified in its layout and follows the best practice of bordering Licensing Authorities.

3 Consultation and Equality Impact

3.1 The approved draft policies will be subject to a full public consultation. The feedback will be presented to members of the licensing committee in October 2018 and approval sought to recommend final versions of the policies to Council.

3.2 Similarly an equality impact assessment will be undertaken once feedback has been received, before the matter goes to the Licensing Committee.

4 Alternative Options and Reasons for Rejection

4.1 Leaving our current policy in place is not an option. There is a legal requirement that the Statement of Policy is updated.

5 Implications

5.1 Finance and Risk Implications

5.1.1 There will be a minor cost associated with carrying out the consultation, which can be accommodated from existing budgets.

5.2 Legal Implications including Data Protection

5.2.1 Having a policy which is up to date and complaint with the legislation, and fit for purpose and clearer to Premise Licence Holders and Applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review, with associated costs in defending the same.

5.3 Human Resources Implications

5.3.1 None.

6 Recommendations

6.1 That Members review the attached policy documents and provide comments for consideration by Licensing Committee.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	All indirectly
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
1.	Revised Bolsover District Council Statement of Policy 2019-2024.
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
<ul style="list-style-type: none"> • Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018 	
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Report Reference –