

*PART A

Report to: Licensing Committee (Licensing Act 2003)
Date of meeting: 25 June 2018
Report of: Head of Community and Environmental Services
Title: Review of Licensing Act 2003 Statement of Licensing Policy 2013-2018

1.0 SUMMARY

- 1.1 In its role as the licensing authority under the Licensing Act 2003, the council has a duty to prepare, and keep under review, a statement of licensing policy (SLP). This report sets out how the authority approaches its responsibilities under the Act to review the policy which expires in November 2018.
- 1.2 The SLP lays out the council's approach to licensable activities such as the sale of alcohol, the supply of hot food after 11pm and regulated entertainment, such as live music. The framework it contains is used as the starting point for dealing with premises licence applications.
- 1.3 It is particularly important for the town centre as there is currently a 'family friendly' policy for this area which imposes a tighter regime for some types of business. This 'Cumulative Impact Policy (CIP)' has to date been an adoptive one but the Policing and Crime Act 2017 places CIPs on a statutory footing.
- 1.4 The SLP was last reviewed in 2013, at which time Sensitive Licensing Areas were introduced as policy LP4. This policy is discussed more in paragraph 4.6.
- 1.5 The Licensing Act sets out four licensing objectives which must be taken into account when a local authority carries out its functions. They are:
- the prevention of crime and disorder
 - public safety
 - prevention of public nuisance
 - the protection of children from harm
- 1.6 Members will be aware that the council is also embarking on a piece of work to identify a Vision for the Town Centre which is currently being developed by the

Deputy Managing Director. This is being done in light of the recent pond improvements, the extension to the INTU centre and the current upgrading works to the High Street adjacent to the INTU centre. The aim is to create a high-quality safe environment for pedestrians by reducing traffic flow. It is understood that the work on the Vision will commence in the autumn of 2018.

- 1.7 It is proposed that a full review of the statement of licensing policy be carried in parallel with Town Centre Vision work, so that the two pieces of work complement each other and the SLP can help deliver some aspects of the Vision.
- 1.8 As the SLP must be reviewed, and cannot just be extended beyond its November 2018 expiry, and must be subject to public consultation, it is proposed that a light touch public consultation be carried out in the summer of 2018, focussing on some key aspects of the SLP. This approach will also allow a full review of the SLP to build on the results of the Council's Cultural Plan, which is also currently being developed.
- 1.9 It is further proposed that the SLP be brought back before Licensing Committee when the Town Centre Vision has been completed or in June 2020, whichever is sooner, at which time a full review and public consultation will be carried out.

2.0 Risks

2.1

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(Treat, tolerate, terminate, transfer)</i>	Risk Rating (the combination of severity and likelihood)
Legal challenge from failure to properly adopt the policy	Failure to meet requirements under the Licensing Act	Ensure that a policy is adopted before 19 November 2018	Treat	2
Legal challenge from failure to properly consult	Negative perception of council and its licensing functions, and challenge through the courts	Carry out consultation in accordance with legal requirements under the Licensing Act 2003 and in accordance with the	Treat	2

		Government's published principles of consultation		
Policy is unreasonable, irrational, discriminatory etc.	Legal challenge through the courts	Ensure that the results of the public consultation are taken into account in the final Statement of Policy	Treat	2
Further legislation or reported cases arising during course of consultation and adopting policy	Policy may be outdated as soon as it is published	Monitor situation and, if necessary, take amendments to September Committee	Treat	2

3.0 RECOMMENDATIONS

- 3.1 That the Licensing Committee agrees the timetable for the implementation of a new licensing policy by 19 November 2018 as set out in paragraph 6.2 and the approach to be taken with regard to the new policy.
- 3.2 That the Licensing Committee agrees the focus of the public consultation, as set out in Section 4 below.
- 3.3 That officers consult with the parties set out in paragraph 6.2 below and report to the Licensing Committee at its meeting on 26 September 2018 and then Council on 16th October 2018.

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Report approved by: Alan Gough, Head of Community and Environmental Services

4.0 DETAILED PROPOSAL

- 4.1 The Council is the licensing authority under the Licensing Act 2003 for alcohol, regulated entertainment and late-night refreshment within the Borough. It is required to prepare, consult and keep under a review a statement of licensing policy (SLP) that sets out how it approaches its responsibilities under the Act, so that applicants, other statutory bodies and local bodies can ascertain its general approach to particular situations.
- 4.2 In preparing the SLP, the authority must have regard to the statutory guidance published under the Act by the Secretary of State and approved by Parliament. This is known as the s.182 Guidance and was most recently updated in April 2018

Legislative changes since the last review of the Statement of Licensing Policy

- 4.3 The Anti-Social Behaviour, Crime and Policing Act 2014 repealed a number of existing measures to control alcohol-related crime, such as designated public places orders (“drinking on the streets” bans), alcohol banning orders and powers to close noisy and disorderly premises. The Act introduced new measures such as community protection notices; public space protection orders; and premises closure orders which are designed to be more flexible and responsive to tackling those issues.
- 4.4 The mandatory conditions that must be included on some premises licences and club premises certificates were last reviewed in 2014.
- 4.5 The Deregulation Act 2015 further relaxed the requirement to hold a licence to put on certain entertainment between 8am and 11pm such as live and recorded music. This gives more flexibility for businesses to offer new services without paying for a licence where it is felt that the impacts of the new activities are not significant.

It allowed local authorities to designate areas where late night refreshment can be provided without needing authorisation under a premises licence or a Temporary Event Notification (TEN). Officers have not identified any areas within Watford where this would be suitable.

It abolished the need for personal licence holders to renew their licences every 10 years.

Finally it allowed premises to give up to 15 TENs in a calendar year instead of 12.

- 4.6 The Immigration Act 2016 introduced Immigration Enforcement as a new Responsible Authority, meaning that they could object to licence applications if they have any concerns over applicants for licences and either their right to stay and work in the country, or over the employment of illegal workers.

- 4.7 The Policing and Crime Act 2017 placed Cumulative Impact Policies (CIPs) on a statutory footing. Members are reminded that the council's current Statement of Licensing Policy has a cumulative impact policy (LP3 - (Creating a Family-Friendly Town Centre). By giving such policies a statutory footing, they become a formal part of the licensing process, and will assist in strengthening controls and addressing the problems caused through a saturation of any particular type of premises.

Such policies must be reviewed every three years by the Licensing Committee, and the evidence both for and against continuing with such a policy will need to be assessed.

It is therefore important that the need for this policy be one of the key focuses of this year's review.

- 4.8 The Police and Crime Act also contained further amendments to the Licensing Act 2003, widening the definition of alcohol, to include alcohol in any state, following concerns raised to the Government over the rise of 'cloud' bars, whereby alcohol was vaporized and pumped into a room, where customers inhaled the alcohol. This has not been a concern within Watford.

Local Changes in the town

- 4.9 The Watford Business Improvement District (BID) was established in April 2016 and gives local businesses the power to raise and spend funds locally with the aim of improving their own business environment, for example by enhancing the look and feel of the town and by organising events and promotions.
- 4.10 The BID team have taken over the running of the annual Best Bar None awards and have expanding them into the Watford Food and Drink Awards.
- 4.11 They have also taken over the responsibility of reapplying for the Purple Flag status for its evening and night-time economy. The Town has held a Purple flag since 2012 and was last reaccredited in 2016.
- 4.12 Improvements to the Pond and surrounding area were completed in June 2014. The Events space created by the improvements has seen the start of large scale events run or sponsored by the council such as the Big Beach, the Big Screen and the Big Skate.
- 4.13 The INTU Centre is currently being extended. This work is scheduled to be completed in September 2018. Although the exact occupancy is still to be finalised, the extension will include a cinema, a bowling alley, and a department store, as well as a number of retail units and restaurants.

- 4.14 The section of the High Street from Clarendon Road to Market Street is currently being upgraded. This work is set for completion in September 2018 and aims to create a high-quality safe environment for pedestrians by reducing traffic flow.
- 4.15 Watford's charter market has been relocated from Charter Place to New House Lane, close to The Parade flyover. The market includes a number of day traders who have stalls on The Parade.

5.0 **Main Policies**

5.1 Policy LP1 – Premises Definitions

This policy contains the premises definitions that we use when applying policies LP2 and LP3. Some Licensing Authorities' Statement of Licensing Policies do not contain premises definitions which allows them more flexibility when determining applications for licensable activities.

It is not proposed to amend or remove the Premises Definitions until more is known about the Town Centre Vision and the Cultural Plan.

5.2 Policy LP2 – Location and Operation of Premises

This policy sets up our approach to licensing different types of premises when we have received relevant representations to a licensing application, depending on whether the premises is located in the Town Centre, a Leisure or Shopping Area or a Residential Area.

Some Licensing Authorities' Statement of Licensing Policies are not as prescriptive, which allows them more flexibility when determining applications for licensable activities.

It is not proposed to amend this policy until more is known about the Town Centre Vision and the Cultural Plan.

5.3 Policy LP2A – Petrol filling stations

Section 176 of the Licensing Act 2003 prohibits alcohol sales from premises that are used primarily as garages or for the sale and maintenance of vehicles.

Paragraph 5.22 of the statutory guidance issued under the Act makes it clear that we must decide whether or not any premises is used primarily as a garage. We are aware that different licensing authorities take a number of different approaches to this question and the approach laid out in Policy LP2A allows us to obtain the necessary information for us to reach that decision.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.4 Policy LP2B- Circuses

This policy states our view that circuses do not require authorisations under the Licensing Act 2003 for regulated entertainment, unless a significant proportion of the performance amounts to regulated entertainment. The sale of alcohol or the provision of late night refreshment as part of a circus will need to be licensed.

The Legislative Reform (Entertainment Licensing) Order 2014 deregulated entertainment in travelling circuses provided that the following qualifying conditions are met:

- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- the entertainment takes place between 08.00 and 23.00 on the same day;
- the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- the travelling circus has not been located on the same site for more than 28 consecutive days.

It is proposed to amend this policy to reflect the new legislation and the exemptions that apply, and that we will deal with other scenarios on a case by case basis.

5.5 Policy LP3 – Creating a Family Friendly Town Centre

This policy encourages restaurants, cafes, food establishments and venues offering entertainment licensable activities in the Town Centre, and discourages alcohol led premises. It is classified as a Cumulative Impact Policy (CIP).

Although there are many aspects to this policy, the key point is that when we have received relevant representations about an application for a pub, bar or nightclub the starting point will be to refuse it.

The justification for introducing the policy and the area that it covers were the violent crime and alcohol-related statistics for the Town Centre that had been gathered since 2008.

Section 141 of the Policing and Crime Act 2017, which came into effect last year, placed CIPs on a statutory footing. This means that Licensing Authorities must ensure that there is justification for such policies and that those businesses who wish to apply for premises licences are not disadvantaged by a policy that does not need to be in place.

It is proposed that the effectiveness of and justification for policy LP3 be one of the key focuses of the 2018 public consultation. As currently written, the draft 2018-2023 Statement of Licensing Policy includes the policy but the views of stakeholders will be sought during the consultation phase, along with updated crime statistics and complaint data.

5.6 Policy LP4 – Sensitive Licensing Areas

This policy was introduced in the 2013-2018 SLP following concerns about:

- availability of stronger-strength alcohol to street drinkers leading to anti-social behaviour in the immediate vicinity of the premises
- alcohol and/or late-night refreshment being available at times that are significantly different from other premises in that area likely to have an adverse impact on the licensing objectives
- litter and other nuisances from a concentration of late-night take-aways

The Sensitive Licensing Areas are:

1. Whippendell Road, between its junction with Cassio Road and Hagden Lane
2. Queens Road, between Derby Road and Loates Lane
3. Market Street between Exchange Road and Merton Road/Cassio Road; and
4. St Albans Road between the A41 and Leavesden Road.

We must make sure that there is justification for such policies and that businesses that wish to apply for premises licences are not disadvantaged by a policy that does not need to be in place.

It is proposed that the effectiveness of and justification for policy LP4 be one of the key focuses of the 2018 public consultation. As currently written, the draft 2018-2023 Statement of Licensing Policy includes the policy but the views of stakeholders will be sought during the consultation phase, along with updated crime statistics and complaint data.

5.7 Policy LP5 - Planning Permission

This policy maps out the links between the licensing and planning regimes and the approach we will take in certain scenarios.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.8 Policy LP6 - Prevention of Crime and Disorder

Policy LP7 - Public Safety Policy

Policy LP8 - Prevention of Public Nuisance Policy

Policy LP9 - Protection of Children From Harm

Whilst we will always consider each application on its merits, these policies set out the typical conditions that we will ask for to promote the four licensing objectives.

Our pool of model conditions was reviewed in consultation with the Police and Environmental Health in 2017.

We believe that these policies are sufficient to promote the licensing objectives and have not received any challenges to or complaints about them.

Whilst we do not propose to amend them at this time, we will consult on whether there is anything else that they should include.

5.9 Policy LP10 – Film Exhibitions

This policy sets out how we will deal with films that need to be certificated by the council's Licensing Officers.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.10 Policy LP11 - Representations Against Application

This policy sets out how we will deal with any representations that are made about licensing applications.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.11 Policy LP12 - Complaints Against Licensed Premises

This policy sets out how we will deal with any complaints that are made about licensed premises.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.12 Policy LP13 - Licence Reviews

This policy sets out how we will deal with any requests to review a licence that are received.

As we have not received any challenges to or complaints about his policy it is not proposed to amend it at this time.

5.13 Policy LP14 - Enforcement and Compliance Policy

This policy sets out the approach that we will take to enforcement.

Other than to update the policy to reflect links to the Environmental Services Enforcement Policy 2016-2021, and the Hertfordshire Better Business for All Partnership Charter, as we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

6.0 **Consultation**

6.1 The licensing authority is under a statutory duty to consult with residents and businesses in its area, representatives of licence-holders and responsible authorities. Previous Cabinet Office guidelines which recommended a 12-week written consultation exercise have now been superseded by more flexible arrangements.

6.2 Officers propose consulting with the bodies set out on page 3 of the draft SLP. In addition, it is proposed to place a copy of the draft policy on the council website for comments to be made, either online or by paper. It is suggested that the consultation runs from 29 June 2018 until 10 August 2018, in order that comments can be reported to the Committee at its next meeting on 26 September 2018. Officers believe that the light touch nature of the review justifies a shorter than normal consultation period.

6.3 This approach is in accordance with the Government's consultation principles. These state that the length of consultation should take into account the nature and impact of the proposal, and that consultations which are too short will not give enough time for the consultation to be considered and will reduce the quality of the responses. The proposed changes are not so wide ranging that a lengthy consultation is required, but there is sufficient time for the consultees and any other person to respond to the consultation.

7.0 **Implications**

7.1 **Financial**

7.1.1 The Shared Director of Finance comments that it is expected that there will be no change in income or workflow cost from the proposals, although this can only be confirmed or amended as necessary after the consultation. The income is a statutory fee and any Watford 2020 implications will be dealt with separately to this report.

7.2 Legal Issues (Monitoring Officer)

- 7.2.1 The Head of Democracy and Governance comments that the legal implications are contained within the body of the report. The policy will need to be agreed by Council

7.3 Equalities/Human Rights

- 7.3.1 An Equalities Impact Assessment of the new policy will be undertaken
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7.4 Staffing

- 7.4.1 There are no staffing issues associated with this report

7.5 Accommodation

- 7.5.1 There are no accommodation issues associated with this report

7.6 Community Safety/Crime and Disorder

- 7.6.1 The Statement of Licensing Policy aims to promote the four licensing objectives, one of which is the prevention of crime and disorder.

7.7 Sustainability

- 7.7.1 There are no sustainability issues associated with this report

Appendices

- Appendix 1 Licensing Act 2003 Statement of Principles 2013 – 2018
- Appendix 2 Licensing Act 2003 proposed Statement of Principles 2018 – 2023 draft
- Appendix 3 Proposed list of consultees
- Appendix 4 Proposed list of consultation questions

Background Papers

No papers were used in the preparation of this report.

File Reference

- *TBC*

