

Part A

Report to: Licensing Committee

Date of meeting: Thursday, 28 September 2023

Report author: Senior Licensing Officer (AY)

Title: Review of Licensing Act 2003 Statement of Licensing Policy

1.0 Summary

1.1 At its meeting in July 2023, the Licensing Committee agreed the process by which officers would consult on a review of the Statement of Licensing Policy (SLP) under the Licensing Act 2003.

1.2 The consultation finished on 31 August 2023 and the responses have been collated. The Committee is now asked to finalise the policy and recommend that it is adopted by the Council

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (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 by Full Council before 19 November 2023	Treat	4
Legal challenge from failure to properly consult	Negative perception of the 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 Government's published principles of consultation	Treat	3

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 Licence Policy	Treat	3
Further legislation or reported cases arising during course of consultation and adopting policy	Policy may be outdated as soon as it is published	Monitor situation and, if necessary, take amendments to September Committee	Treat	3

3.0 Recommendations

- 3.1 That the Licensing Committee recommends to Council, acting as the Licensing Authority for the Borough of Watford, that it adopts the amended Statement of Licensing Policy for 2023-2028 as attached at appendix 3 at its meeting on 17 October 2023.

Further information:

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Report approved by: Justine Hoy, Associate Director Housing and Wellbeing

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. This is known as the s.182 Guidance. This guidance was most recently updated in August 2023, during the consultation period, and any changes to the proposed policy as a result of this updated guidance will be highlighted in this report. The policy does need to reflect the most current guidance.

4.3 At its meeting on 6 July 2023, the Committee agreed the process of consulting on reviewing the SLP and the timescale for consultation. The full rationale behind the consultation can be found in the report for the Committee and in the minutes for that meeting.

4.4 Consultation on the proposed policy

4.5 The consultation on the SLP took place between 20 July and 31 August 2023, during which time we consulted:

- the statutory responsible authorities
- 326 licence and club premises certificate holders
- 52 licensing agents, who had acted for licence holders since the last policy review, as representatives of all licence holders
- 21 residents' associations and community groups, as representatives of residents
- Watford Town Centre BID
- Economic Development team of Watford Borough Council
- Watford Community Safety Partnership
- Watford & West Herts Chamber of Commerce

4.6 The consultation was advertised on our website during this time with any person invited to participate in a survey on the proposed changes. There was an option to provide specific feedback on each proposal, to allow comments to be submitted with any alternative wording or proposals or to identify any other issues which the consultees foresaw.

4.7 Overall, five responses were received to the consultation. Two responsible authorities replied by email to officers and three residents replied via the online survey. No other responses were received.

4.8 Responses were received from the Police and Environmental Health as responsible authorities. Neither party raised any comments or concerns over the proposed policy. Their responses are attached at appendix 1.

4.9 Three survey responses were received from residents. Their responses are attached at appendix 2. It is confirmed by the residential postcodes provided that these replies were submitted by residents. The details of the respondents have been removed from the appendix, but the full details of the respondents including details of their addresses, ages and employment status are available from officers upon request. There was unanimous support for the proposals concerning the retention of the sensitive licensing areas (policy LP4), our policy on planning permissions (LP5), and our approach to licence reviews (LP13).

- 4.10 Unfortunately, where there was not unanimous support from the three survey responses, no comments were received with regards to why the residents did not support the proposal and no amendments were suggested.
- 4.11 Two respondents did not support the proposed changes to the definitions used by the licensing authority when assessing premises (policy LP1). The proposal was to vary the definitions by adding the use of premises for remote sales as its own type of premises. This was due to increased applications and queries received by officers since the Covid-19 pandemic. It was also proposed to expand the description of entertainment venues to include non-licensable activities such as escape rooms, mini-golf and other similar activities. This is due to an increase in the number of premises who offer activities and who obtain a licence to sell alcohol. The same respondents also did not support the proposed changes to the licensing authority's recommended hours for premises (policy LP2). We were highlighting the need for consultation on recommended hours for premises involved in remote alcohol sales, as well as remove references to pavement licences because they are dealt with under separate legislation and may be used by premises not also licensed under the Licensing Act 2003.
- 4.12 One respondent did not support the policy regarding the sale of alcohol at petrol filling stations (Policy LP2A). We were not proposing any changes to this policy because officers had not received any complaints or challenges to this policy.
- 4.13 One respondent did support the policy regarding the licensing of circuses (Policy LP2B). We were not proposing any changes to this policy because officers had not received any complaints or challenges to this policy.
- 4.14 No comments which required consideration were received with regards to the licensing authority's cumulative impact policy. Two respondents did not reply at all, and the third advised that they had no comments to make on the policy.
- 4.15 One respondent did not support the licensing authority's proposal regarding the promotion of the licensing objectives (Policies LP6, LP7, LP8 and LP9). We were not proposing to make substantial changes to these policies, but were mindful that any feedback regarding remote alcohol sales or entertainment premises may have resulted in amendments as appropriate. With no specific comments received it is difficult to understand which parts of the policy require further consideration. However, it should be noted that these policies, particularly Policy LP7 regarding public safety, has been amended as a result of the publication of new statutory guidance.
- 4.16 One respondent did not support the licensing authority's proposal regarding film exhibitions (Policy LP10). This also states how officers will approach certifying films for exhibition where required. because officers had not received any complaints or challenges to this policy.

- 4.17 One respondent did not support the licensing authority's proposal regarding representations (Policy LP11). We were not proposing any changes to this policy because officers had not received any complaints or challenges to this policy.
- 4.18 One respondent did not support the licensing authority's proposal regarding complaints against licensed premises (Policy LP12). We were not proposing any changes to this policy because officers had not received any complaints or challenges to this policy. It should also be noted that complaints against premises will be considered in accordance with the council's compliance policy.
- 4.19 Finally, where asked if there were any general comments to make with regards to our proposals, two respondents did not reply at all and the third stated that they had no comments to make.
- 4.20 Without the evidence or specific comments to back up an alternative approach, officers cannot propose alternative arrangements. In the absence of substantial evidence to the contrary, officers are therefore unable to make substantive amendments to the policy.
- 4.21 Although the policy is to be in force during the period of 2023 to 2028, this does not mean that the policy is untouchable during this time. Officers will keep the policy under review, and where it is felt necessary to amend the policy due to legislative changes, to deal with specific issues which arise during operation, or for any other reason, the policy can be brought back before the Committee for amendment.

5.0 Amended Statutory Guidance

- 5.1 As mentioned earlier in this report, new statutory guidance was issued in August 2023, during the consultation period. The licensing authority are required to have regards to the statutory guidance.
- 5.2 The statutory guidance has been amended by introducing new paragraphs at 2.10 through 2.14 with regards to counter terrorism and public safety. These paragraphs explain the importance of conditions around health care provision and access to emergency services at high profile or large premises or events. The guidance also contains an annex with a list of useful resources.
- 5.3 The SLP already mentioned that access to emergency services and health care provision are factors that the licensing authority could consider, but because of the added paragraphs the policy has been amended to state that the licensing authority will seriously consider any concerns raised by Police counter terrorism staff under the public safety licensing objective (page29 of the policy). We have also added a link to ProtectUK, a central hub for counter terrorism and security advice for businesses, members of the public and those who work in the security sector, to our

list of useful links for event organisers (page 25 of the policy). It is suggested to keep this approach broad and deal with applications and matters on a case-by-case basis, which is supported by the guidance in the general interpretation of considering licence conditions and applications.

- 5.4 The amendments introduced with regards to counter terrorism are the only suggested amendments. Although these were not included in the original draft policy, the amended guidance was published during the consultation period. This does not result in significant changes to the policy and the licensing authority must always have regards to the statutory guidance.
- 5.5 Considering the responses received during the consultation period and the impact of the amended statutory guidance outlined in this report, a revised draft policy is attached at appendix 3.

6.0 Implications

6.1 Financial

- 6.2 The Shared Director of Finance comments that there are no financial implications arising directly from the report.

6.3 Legal Issues (Monitoring Officer)

- 6.4 The Group Head of Democracy and Governance comments that the legal implications are contained within the policy.

6.5 Equalities, Human Rights and Data Protection

- 6.6 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
- advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them
- foster good relations between persons who share relevant protected characteristics and persons who do not share them

- 6.7 As this is a change to an existing policy, an equalities impact analysis has been undertaken. The analysis is attached as appendix 4 to this report. The main conclusions of that analysis are, as detailed in the impact analysis, that the amendments are overall positive for the Watford community and visitors to the town.

6.8 Community Safety/Crime and Disorder

6.9 The Statement of Licensing Policy aims to promote the four licensing objectives, one of which is the prevention of crime and disorder. The Police are a statutory consultee and the consultation also included Watford Community Safety Partnership.

Appendices

Appendix 1 – Responsible authority comments

Appendix 2 – Survey responses

Appendix 3 – Draft Statement of Licensing Policy 2023-2028

Appendix 4 (to follow) – Equalities impact assessment

Background papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Licensing Act 2003

Statement of Licensing Policy 2021-2023

Revised Guidance issued under section 182 of the Licensing Act 2003 (August 2023)

Consultation Principles (2018)