

Name of meeting: Council

Date: Wednesday 15th January 2020, at 17.30pm – Council Chamber, Huddersfield Town Hall, Ramsden Street, Huddersfield

Title of report: Proposed Revision to Statement of Licensing Policy 2020-2025.

Purpose of report: To consider the revised policy

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by Strategic Director & name	Russell Williams as agreed by Karl Battersby
Is it also signed off by the Service Director (Finance)?	[to be inserted]
Is it also signed off by the Service Director for Legal Governance and Commissioning?	[to be inserted]
Cabinet member portfolio	Cllr Rob Walker

Electoral wards affected: ALL

Ward councillors consulted: ALL

Public or private: Public

GDPR Implications:

GDPR has been considered and appropriate sections of the report have been amended.

1 Summary

1.1 The Licensing Act 2003 requires the Council, in its capacity as Licensing Authority to review its statement of licensing policy every five years. The purpose of this report is to request Members approve the proposed policy attached at Appendix A, as the Councils Statement of Licensing Policy, issued under the Licensing Act 2003, for the next five year period.

1.2 This revision of the policy does not propose any major amendments. The changes that have been made are summarised as follows: –

- The structure of the policy
- Expanding guidance around promoting the four Licensing Objectives
- Adding guidance in relation to the Equalities Act 2010
- Expanding guidance on completing operating schedule
- Updating information on Closure Notices, Reviews and Expedited reviews
- Updating the guidance on safeguarding

2 Information required to take a decision

2.1 Introduction

2.1.1 The Licensing Act 2003 requires each authority to carry out its various licensing functions so as to promote the following four licensing objectives;

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Public Safety
- Protection of Children from Harm

2.1.2 To achieve these objectives, the authority is required to publish a Statement of Licensing Policy every five years. The policy is what the authority will generally apply to promote the four licensing objectives when making decisions on applications applied for under the Licensing Act 2003.

2.1.3 The Statement of Licensing Policy provides guidance for everyone from applicants who require direction on how to apply for a licence to residents who may wish to make a formal representation against an application.

2.1.4 The proposed revised policy, including representations made, was considered by members at the 6th January 2020 Licensing & Safety Committee.

2.1.5 Having considered the proposed revised policy, representations made, and changes made as a result of those representations, members of the 6th January 2020 Licensing and Safety Committee agreed to recommend the proposed revised policy, as presented at Appendix A, to Full Council for formal adoption with two amendments. Those amendments were to remove paragraph 6.30 as members felt it was too open and ambiguous. Members requested officers tighten the wording of that section and instead include it in a separate guidance document that officers will be

producing; and the second amendment being to clarify section 13.4 and 13.5 in line with representations from Trading Standards.

2.2 Licensing Policy

2.2.1 Under Section 5 of the Licensing Act 2003, the Secretary of State may make regulations governing the determination and revision of policies and the preparation and publication of policy statements.

2.2.2 The Licensing Authority will give appropriate weight to the views of those consulted in respect of the draft policy. In determining what weight to give a particular representation, the factors that will be taken into account should include;

- Who is making the representations (what is their interest);
- Relevance to the four licensing objectives;
- How many other people have expressed the same or similar views;
- How far the representation relates to the matters that the licensing authority should be including in its statement of policy.

2.2.3 It is important to demonstrate that in reviewing responses to the consultation, due weight and consideration has been given to all representations including, where appropriate, why some (if any) have been disregarded. This is so that in the event that the policy is challenged, the Authority can make evident to a court how it arrived at the policy.

2.3 Secretary of State Guidance

In considering this proposed revised policy Members must have regard to guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. The Secretary of State's Guidance at paragraph 1.11 and 1.12 provides:–

1.11 Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.

1.12 However, determining and publishing a statement of its policy is a licensing function and as such the authority must have regard to this Guidance when taking this step [...]

3 **Implications for the Council**

3.1 **Working with People**

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders under the Licensing Act 2003 are in a position to uphold the four licensing objectives. The committee is required to take appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

The proposed revised policy aims to support the Council in achieving this objective.

3.2 Working with Partners

The Council's licensing team work closely with partnering agencies, named 'Responsible Authorities' under the Licensing Act 2003. Responsible authorities include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safe Guarding Children team.

3.3 Place Based Working

Working closely with Responsible Authorities the Licensing Authority, by having a robust licensing policy, can address issues within the districts that make up Kirklees.

3.4 Improving outcomes for children

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, will have to have regard to this objective, and the guidance laid down in this proposed revised policy.

3.5 Other (e.g. Legal/Financial or Human Resources)

It is a legal requirement of the Licensing Act 2003 that the Council is required to review and publish a statement of licensing policy every five years. The policy, or any part of it, can be reviewed at any time within that five year period.

In preparing this report due consideration has been given to the Council's equality duties under the Equality Act 2010 and an Integrated Impact Assessment has been carried out. The assessment indicated the proposed revised policy had no specific discriminatory impact. A copy of the Integrated Impact Assessment can be found at - <https://www.kirklees.gov.uk/beta/delivering-services/integrated-impact-assessments.aspx>

There are no direct financial implications associated with this report.

3.6 Climate Change

The introduction of the policy is taken into account in the IIA above. The Council will continue to work with licence holders and applicants to raise awareness of Climate change and the need for them to consider the impact of their activities on it.

4 Consultation

4.1 The proposed revised policy attached (Appendix A) has been consulted on in accordance with the requirements of the Licensing Act 2003. A list of those consulted can be found at Appendix B.

4.2 Consultation took place between 4th November 2019 and 15th December 2019; with five responses being received.

4.3 The responses, along with officer's comments on those responses, and any proposed amendments as a result, are attached at Appendix C.

5 Next steps and timelines

- 5.1 Members are asked to consider the proposed revised Statement of Licensing Policy, as presented at Appendix A, and adopt the policy as the Council's Statement of Licensing Policy for the five year period.

6 .Officer recommendations and reasons

- 6.1 Members are recommended to adopt the proposed revised policy, as presented at Appendix A, as the Council's Statement of Licensing Policy for the next five year period.
- 6.2 Members are recommended to adopt the revised policy in order for the Council to fulfil its duties under the Licensing Act 2003.

7 Cabinet portfolio holder's recommendations

- 7.1 Councillor Rob Walker, Cabinet Member for Culture and Environment recommends that the proposed revised policy be approved by Council for adoption.

8 Contact officer

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9 Background Papers and History of Decisions

- 9.1 Appendix A – Copy of the Proposed Revision to Statement of Licensing Policy 2020-2025
- 9.2 Appendix B – List of consultees
- 9.3 Appendix C – Consultation responses

10 Strategic Director responsible

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