

WELWYN HATFIELD BOROUGH COUNCIL
LICENSING COMMITTEE – 22 AUGUST 2024
REPORT OF THE EXECUTIVE DIRECTOR (RESIDENT SERVICES AND CLIMATE
CHANGE)

LICENSING ACT POLICY REVIEW

1 Executive Summary

- 1.1 This report informs Members that the review of our Licensing policy under the Licensing Act 2003 has completed the consultation period and the responses are at Appendix 2. This report asks members to consider and agree proposed changes following the consultation and recommend the policy for onward approval by Full Council.

2 Recommendation(s)

- 2.1 For Members to note the results of the consultation and agree changes proposed to the revised policy at Appendix 1.
- 2.2 For members to agree for onward approval by Cabinet and Full Council.

3 Explanation

- 3.1 The council in its capacity as licensing authority for the purposes of the Licensing Act 2003 is obliged by law to have a statement of licensing policy. Originally such a statement had to be reviewed every 3 years, but along with a number of other changes to the Licensing Act 2003 and the statutory guidance this frequency has been increased to 5 years.
- 3.1 During the five year period the policy must be kept under review and the licensing authority may make such revisions to it as it considers appropriate, for instance when changes have been made by Government or in the light of feedback from the local community on whether the statutory licensing objectives are being met.
- 3.2 The statement of licensing policy under the Licensing Act 2003 should also be developed according to the licensing act guidance issued by the Home Office which was last updated in December 2023. The Licensing policy has been amended to reflect the relevant areas which had been addressed or clarified in the new Guidance.
- 3.3 The policy has been updated and new sections introduced where appropriate to reflect the current guidance and this revised policy represents an update to previous policies and reflects the current situation and practice in Welwyn Hatfield.
- 3.4 The consultation has taken place and there were four responses received, only two of which made comments regarding changes to the policy. The table at Appendix 2 shows the responses received and the suggested changes

proposed. The first was from Welwyn Parish Council and the changes suggested are highlighted in yellow. The second column has some explanatory information and any proposed changes for discussion highlighted in green. The second from North Mymms Parish Council related to the TENS process and to the consultation process for applications. These are both statutory processes set out in the Act so we cannot deviate from these in our policy. Those changes agreed by members will be made to the revised policy.

Implications

4 Legal Implication(s)

4.1 The Council, as a Licensing Authority, has a duty under Section 4 of the Licensing Act 2003 to carry out its licensing functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance and
- d) the protection of children from harm

4.2 The Council, as a Licensing Authority, also has a duty under Section 5 of the Licensing Act 2003 to determine its policy in relation to the exercise of its licensing functions (known as a Statement of Licensing Policy) in respect of every five year period, and review and publish the policy before the beginning of the next five year period.

4.3 Under Section 4 of the Licensing Act 2003, the Council as a Licensing Authority carrying out its licensing functions, must also have regard to its statement of licensing Policy and any guidance issued by the Secretary of State under section 182 of the Act.

4.4 Before the Council approves its policy for a five year period, the licensing authority must consult:

- a) the chief officer of police for the licensing authority's area
- b) fire and rescue authority for that area,
- c) the Local Health Board for an area any part of which is in the licensing authority's area
- d) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area
- e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority
- f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority
- g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

5 Financial Implication(s)

5.1 Preparation and consultation on the Statement of Licensing Policy, and administration of the Licensing functions, are met from within the existing budget

and staff resources in the Licensing Team. The purpose of the licensing fees charged for applications under the Act are to cover the costs of the Licensing functions.

6 Risk Management Implications

- 6.1 The council is at risk of legal challenge if it does not have a statement of licensing policy in place, has failed to review or consult on its licensing policy, or if its policy does not take account of the Secretary of State's guidance issued under the Licensing Act. The approval of and adherence to the Statement of Licensing Policy (Appendix 1) on how licensing functions are exercised will help mitigate this risk.

7 Security and Terrorism Implication(s)

- 7.1 The Council has an overarching duty to have due regard to the need to prevent people being drawn into terrorism and to consider security and measures to counteract terrorism in public places.
- 7.2 The guidance issued under section 182 of the Act provides advice and information about counter terrorism in section 2 and the annex.

8 Procurement Implication(s)

- 8.1 None arising directly from this report.

9 Climate Change Implication(s)

- 9.1 The proposal appears to result in no increase in the use of water or other materials. All documentation and agreements are sent electronically unless specifically requested.

13 Link to Corporate Priorities

- 13.1 The subject of this report is linked to the Council's Corporate Priority "enable an economy that delivers for everyone" as it supports trade through the issuing of licenses, certificates and temporary event notices. It is also linked to the Council's Corporate Priority 'Together, create opportunities for our communities' - to help us feel safer where we live.

14 Equality and Diversity

- 14.1 An Equality Impact Assessment (EIA) has been previously been completed and no negative impact was identified on any of the protected groups under Equalities legislation.

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Background papers to be listed

Revised guidance issued under section 182 of the Licensing Act 2003

Appendices to be listed

Appendix 1 Draft licensing policy 2025-2030

Appendix 2 Consultation comments and responses table

Appendix 3 Survey and written responses