

WELWYN HATFIELD BOROUGH COUNCIL
LICENSING COMMITTEE – 26 FEBRUARY 2024
REPORT OF THE EXECUTIVE DIRECTOR (RESIDENT SERVICES AND CLIMATE
CHANGE)

STATEMENT OF LICENSING POLICY - REVIEW

1 Executive Summary

- 1.1 The statement of Licensing Policy under the Licensing Act 2003 has been produced in accordance with the Licensing Act 2003 and with regard to the Home Office guidance (issued under section 182 of the Licensing Act), which was last updated in December 2023.
- 1.2 The purpose of the Statement of Licensing Policy is to set out the policies of Welwyn Hatfield Borough Council for the carrying out its functions and responsibilities as the licensing authority under the Licensing Act 2003.
- 1.3 The Statement of Licensing Policy was last approved by full Council on 7 January 2020. The Policy is due for review and approval by full council before the end of the 5 year period.
- 1.4 The current Policy has been reviewed, and regards had to the revised guidance under section 182 of the Act, and the amendments are summarised as follows:
 - Entitlement to work in the UK for personal licence holders. Criminal record checks and means of checking the right to work via a weblink.
 - Persons operating an alcohol delivery service should check with the Licensing Authority that this form of alcohol sale is permitted.
 - New paragraphs 4.82-4.84 clarifying the circumstances when a closure notice may be served and when an application can be made to court to close the premises.
 - Clarification that Home Office Immigration Enforcement is not a responsible authority in relation to Club Premises Certificates.
 - Increase in the limits for Temporary Event Notices (TENS)
 - Clarification that there is no right of appeal if a late TEN receives an objection from the police or Environmental Health.
 - Full variations should not be used to vary substantially the premises to which a licence relates. A new application should be submitted instead.
 - Clarification that conditions should be interpreted in accordance with the applicant's intentions and be proportionate and appropriate.
 - Addition of paragraph 14.66 to bring licensing more in line with planning and refers to the agent of change.
 - Removal of Annexe A - documents demonstrating the entitlement to work have been replaced with embedded web links.

- 1.5 The Licensing Act 2003 requires us to consult on our policy (before approval) with the consultees listed in Appendix B of the Policy. It proposed that the public consultation take place between 11 March and 3 June 2024 (12 weeks).

2 Recommendation(s)

- 2.1 That the Licensing Committee consider the attached draft revised Licensing Policy in Appendix 1 and suggest any changes.
- 2.2 That the Licensing Committee approve the public consultation to take place.

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.
- 3.2 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.
- 3.3 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.
- 3.4 The Statement of Licensing Policy was last approved by full Council on 7 January 2020. The Policy is due for review and approval by full council before the end of the 5 year period.
- 3.5 The Licensing Act 2003 requires us to consult on our policy (before approval) with the consultees listed in Appendix B of the draft revised Policy (at Appendix 1). It proposed that the public consultation take place between 13 May and 2 August 2024 (12 weeks).
- 3.6 The current Policy has been reviewed, and regards had to the revised guidance under section 182 of the Act, and the amendments are summarised as follows:
- Entitlement to work in the UK for personal licence holders, Criminal record checks and means of checking the right to work information inserted via a weblink.
 - Removal of Annexe A - documents demonstrating the entitlement to work have been replaced with embedded web links.
 - Persons operating an alcohol delivery service should check with the Licensing Authority that this form of alcohol sale is permitted.
 - New paragraphs 4.82-4.84 clarifying the circumstances when a closure notice may be served and when an application can be made to court to close a premises.

- Clarification that Home Office Immigration Enforcement is not a responsible authority in relation to Club Premises Certificates.
- Increase in the limits for Temporary Event Notices (TENS)
- Clarification that there is no right of appeal if a late TEN receives an objection from the Police or Environmental Health.
- Full variations should not be used to vary substantially the premises to which a licence relates. A new application should be submitted instead.
- Clarification that conditions should be interpreted in accordance with the applicant's intentions and be proportionate and appropriate.
- Addition of paragraph 14.66 to bring licensing more in line with planning and refers to the agent of change.

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 & 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.

10 Link to Corporate Priorities

- 10.1 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*.

11 Equality and Diversity

- 11.1 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.

Name of author	Kate Payne 01707 357206
Title	Licensing Team Leader
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Background papers to be listed

None

Appendices

Appendix 1 – Draft revised Statement of Licensing Policy