
Cabinet Member for Policing and Equalities
Licensing & Regulatory Committee

5th October 2020
6th October 2020

Name of Cabinet Member:

Cabinet Member for Policing and Equalities - Councillor AS Khan

Director Approving Submission of the report:

Director of Streetscene and Regulatory Services

Ward(s) affected:

All

Title:

Licensing Act 2003 – Revised Statement of Licensing Policy

Is this a key decision?

No

Executive Summary:

The purpose of this report is to seek Members' views and approval to consult on the draft revised Statement of Licensing Policy under the Licensing Act 2003.

Recommendations:

1. The Cabinet Member for Policing and Equalities is requested to consider the draft revised Statement of Licensing Policy and authorise the Director of Streetscene and Regulatory Services to carry out the consultation as detailed in the report;
2. The Cabinet Member for Policing and Equalities is requested to consider and approve that the existing Statement of Licensing Policy 2016 – 2021 be extended beyond the 6th January 2021, until the consultation and Revised Statement of Licensing Policy 2021 - 2026 has been consulted on and implemented.
3. The Licensing and Regulatory Committee is requested to consider the draft Statement of Licensing Policy and forward any comments it wishes to make as part of the consultation process.

List of Appendices included:

Revised Statement of Licensing Policy (shaded paragraphs illustrate the amendments to the document)

Other useful background papers:

1. Licensing Act 2003
2. Licensing Act 2003 Guidance (section 182)
3. Current Licensing Policy
4. Government Policies and Guidance
5. The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (now repealed and replaced with (Coronavirus, Restrictions) (England)(No.2) Regulations 2020).
6. Local Government Association Publication (updated 17 April 2020) - Approaches to managing licensing and related issues during the COVID-19 pandemic
7. Letter to Licensing Authorities (dated 8 April 2020) from Kit Malthouse MP, Minister of State for Crime and Policing

Other Useful documents

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

Licensing & Regulatory Committee – 6th October 2020

Will this report go to Council?

Not applicable

1. Context (or background)

- 1.1 Under the Licensing Act 2003, the Council's Statement of Licensing Policy must be reviewed every five years. The current Statement of Licensing Policy came into effect on 5th January 2016 and a review must, therefore, be completed and a revised Statement of Licensing Policy published by 5th January 2021.
- 1.2 On 26th March 2020 the Government enacted The Health Protection (Coronavirus, Restrictions)(England) Regulations 2020 (which have been since be repealed and replaced with The Health Protection (Coronavirus Restrictions)(England)(No.2) Regulations 2020), in response to the COVID-19 pandemic, which forced many licensed premises, such as bars, pubs, cafés, restaurants, nightclubs, hotels, cinemas and theatres, to either close and cease trading, and/or placed restrictions on their business operations, which would adversely affect their trade.
- 1.3 On 9 April 2020 the Local Government Association (LGA) published advice to Licensing Authorities in a document titled "Approaches to managing licensing and related issues during the COVID-19 pandemic" (updated on 17 April). This advice considers issues relating to a wide spectrum of Local Authority licensing, including alcohol, entertainment and late-night refreshment under the Licensing Act 2003.
- 1.4 Within this guidance it was advised that Councils may want to consider with Elected Members delaying the consultation on the Revised Statement of Licensing Policy, and that this may be pragmatic due to the challenges in effectively communicating with the local licensed trade and residents. Many of the local trade were either closed or experienced challenges financially during these unprecedented times and were not in a position to give the consultation to the revised Statement of Licensing Policy 2021 – 2026 appropriate consideration.
- 1.5 In a letter to Licensing Authorities (dated 8th April 2020), Kit Malthouse MP, Minister of State for Crime and Policing, acknowledged that 'these are challenging times and that Licensing Authorities should exercise the right collaboration, communication and pragmatism in order to get through them with minimum damage to businesses and to the licensing objectives'.
- 1.6 Following consultation with Cabinet Member for Policing and Equalities, and Elected Members it was considered that it would be pragmatic to delay this consultation to when some level of normality returned within the licensed trade. The majority of the hospitality trade began re-opening from the 4th July 2020 and continue to do so, albeit with COVID-19 secure operating risk assessments in place,
- 1.7 This is the fifth Statement of Licensing Policy produced by the Licensing Authority under the Licensing Act 2003. The Policy will be relevant for all licensing decisions taken by the Council as the Licensing Authority over the next five years. Due to the decision to delay the consultation due to the pandemic, Cabinet Member is requested to authorise that the existing policy will remain in place until the revised Statement of Licensing Policy is consulted on, adopted and implemented by Full Council.
- 1.8 The general principles of the Licensing Policy remain the same, and the document is still centred around the Licensing Act's four licensing objectives, namely

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

1.9 It must be noted that the key changes reflect the Licensing Authority’s policy on large scale events and Temporary Event Notices (TEN). This change is to deal with the anticipated increase in events due to the forthcoming year of Coventry City of Culture 2021. No other major changes have been proposed to the Statement of Licensing Policy due to the pandemic as it is unclear what the Licensing landscape will look like in the immediate future. A subsequent full review will be made when it is appropriate to do so, within the five-year cycle, once the pandemic has subsided. All changes have been shaded in the draft policy for ease of reference).

2. Key changes to the Revised Statement of Licensing Policy

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| Applications – Temporary Event Notices | Requirement that event organisers submit TEN’s for events for up to 499 persons, 28 days prior to the event, accompanied with an event overview and risk assessment detailing how they will manage the event and uphold the licensing objectives. The reason for the extended lead in time, is to allow sufficient time for Responsible Authorities to consider the event and review the risk assessment, as the Licensing Authority anticipates an increase in the number of TEN applications and events being held due to City of Culture 2021 (paragraph 10.6 and 10.11). |
| Large Scale -Events | Included so that event organisers of large-scale events can provide sufficient notice and attend Safety Advisory Group meetings as part of the application process to ensure safe events and that the Licensing Objectives are upheld. |
| Responding to a pandemic | Included so that applicants and licence holders consider relevant guidance when operating their premises when responding to a pandemic, and working with partner agencies such as Environmental Health Officers (paragraph 8.4 and 13.2) |
| Coventry a Marmot City | Update from Public Health regarding underage drinking following a recent review (paragraph 13.8) |

3. Options considered and recommended proposal

3.1 The Cabinet Member for Policing and Equalities is requested to consider the draft revised Statement of Licensing Policy and authorise the Director of Streetscene and Regulatory Services to carry out the consultation as detailed in the report.

3.2 The Cabinet Member for Policing and Equalities is requested to consider and approve that the existing Statement of Licensing Policy 2016 – 2021 be extended beyond the 6th January 2021, until the consultation and Revised Statement of Licensing Policy 2021 - 2026 has been prepared, consulted on and implemented by full Council.

3.3 The Licensing and Regulatory Committee is requested to consider the draft Statement of Licensing Policy and forward any comments it wishes to make as part of the consultation process

4. Results of consultation undertaken

4.1 Before amending the policy for a further five-year period, licensing authorities are required to carry out a wide consultation process. In addition to those it must consult by law, the Council has authority to include in the process any individuals or organisations it deems appropriate.

The draft revised Statement of Licensing Policy, which has been produced in compliance with government guidance, is attached to this report as Appendix A

4.2 The Responsible Authorities have been consulted on in the drafting of the revised Statement of Licensing Policy via the Responsible Authority Working Group.

4.3 The public consultation exercise will begin on the 9th October 2020 for an 8-week period and finish on the 4th December 2020, and will include the following elements: -

- Mail shots to representatives of the licensed trade, clubs and key partners
- Formally writing to Chief Officers of the Responsible Authorities
- Mail shots to residents' groups and business and events' organisers
- Wider public consultation through the City Council Website

4.4 The results of the consultation process will be submitted for consideration to Cabinet Member for Policing and Equalities before a finalised policy is presented to full Council for approval.

5. Timetable for implementing this decision

5.1 As the decision was taken to delay the consultation the revised Statement of Licensing Policy must be published as soon as it has been consulted on, adopted and implemented by full Council. The Cabinet Member for Policing and Equalities is requested to authorise the use of the existing Statement of Licensing Policy 2016 – 2021 between the period of 6th January 2021 until the revised Statement of Licensing Policy has been approved by full Council on the 23rd February 2021, allowing the Council to carry out any function in respect of individual applications under the Licensing Act 2003.

6. Comments from Director of Finance and Director of Law and Governance

6.1 Financial implications

The financial implications associated with the recommendation are limited to the employee costs associated with undertaking the consultation exercise and any costs involved in publishing the Statement of Licensing Policy. These costs will be managed within existing budgets.

6.2 Legal implications

The Council will not be able to undertake its role as a Licensing Authority after the 6th January 2021 unless it has approved and published its revised Statement of Licensing Policy. The Policy must be reviewed every 5 years. However, the COVID-19 pandemic has placed the UK into unprecedented times, therefore the decision to delay consultation is taken on advice from the LGA, who considers that this would be a pragmatic approach in the circumstances and has flagged to the Home Office that this should be acceptable, assuming work is progressed once some level of normality has returned. Therefore, a formal decision has been requested to continue with the existing policy following the delayed consultation and when it is presented to full Council on the 23rd February 2021.

The licensing function is carried out by the Council's Licensing & Regulatory Committee with the exception of the approval of the policy statement, which must be approved by Full Council.

The Council is required to have regard for any Government Guidance when carrying out any licensing functions under the 2003 Act including preparing its Statement of Licensing Policy.

7. Other implications

7.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The prevention of crime and disorder is at the centre of the licensing regime and there are strong structural links between the administration of the licensing process and the role of the Community Safety Partnership and West Midlands Police. The Licensing policy acknowledges the Community Safety Plan and gives information about proposed enforcement protocols with the Police and other enforcement authorities. As a Responsible Authority, the Police have been a key consultee.

One of the licensing objectives is 'the Protection of Children from Harm'. Applicants are required to show how they will address this objective in their operational schedule when making applications. The Coventry Safeguarding Children Board is a Responsible Authority consulted when applications are made.

Although there is not a specific licensing objective related directly to health within the current legislation, Public Health is a Responsible Authority. Alcohol has been identified as a priority within Coventry's Health and Wellbeing Strategy. Public health related licence conditions will be used where practicable to reduce the impact of alcohol on public safety and other licensing objectives

7.2 How is risk being managed?

If the Licensing Policy is not renewed in the above timeframe, the City Council will not be able to perform its function under the Act, which is why a formal decision has been sought to continue with the existing Statement of Licensing Policy while the revised Statement can be consulted on and adopted.

The Statement of Licensing Policy will inform decisions taken by the licensing authority that will have an impact on the interests of private individuals and businesses. The policy reflects the need to respect the relevant rights given by the Human Rights Act

Decisions of the licensing authority are open to challenge through the Magistrates Court and beyond. The Statement of Licensing Policy is designed to ensure our compliance with legislation and statutory guidance, minimising the risk of legal challenge.

7.3 What is the impact on the organisation

The adoption of the policy should have no impact on the organisation. There are no human resource, financial or ICT implications.

7.4 Equalities / EIA

The Licensing Policy makes links to the Council’s Equality and Diversity Policies and an Equalities Impact Assessment exists for licensing activities. This will be reviewed and updated as part of the consultation process.

7.5 Implications for (or impact on) climate change and the environment

None

7.6 Implications for partner organisations?

The Licensing Policy contributes towards the work of the Community Safety Partnership and specifically with the work of the Police and Fire services.

The effective operation of the policy by the licensing authority and all enforcement agencies has an impact on the night time economy and on the co-existence of licensed premises with local residents and communities.

7.7 Human Rights Act Implications

None.

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Appendices

Appendix A - Draft Statement of Licensing Policy