

Statutory Licensing Committee

29th January 2024

Review of the Council's Statement of Licensing Policy

Ordinary Decision



Report of Head of Community Protection Services

Alan Patrickson Corporate Director of NCC

John Shuttleworth Cabinet Portfolio Member for Neighbourhoods and Local Partnerships

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To seek approval to undertake public consultation leading to the production of a revised Licensing Act policy statement.

Executive Summary

- 2 The Licensing Act 2003 creates the regulatory regime for the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment (i.e. takeaways).
- 3 The Act requires that licensing authorities prepare and publish a Statement of Licensing Policy (a 'licensing policy') every five years. Durham adopted its current licensing policy on 23rd October 2019 and therefore a new policy must be adopted and published no later than 22nd October 2024.
- 4 There is a statutory requirement that consultation must take place prior to a new policy being adopted and it is proposed that this will take place between February and April 2024.
- 5 Following the conclusion of the consultation, a further report will be brought to this committee detailing responses and providing a draft licensing policy for consideration.
- 6 Approval and adoption of the final draft licensing policy is a decision for full Council.

Recommendation

- 7 That Statutory Licensing Committee approves and authorises the commencement of the statutory consultation process relating to the consideration and adoption of a new licensing policy.

Background

- 8 The Licensing Act 2003 creates the regulatory regime for the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment (i.e. takeaways).
- 9 Durham County Council is the licensing authority for the Act and, amongst other things, is required to publish a statement of its licensing policy every five years. Durham adopted its current licensing policy on 23rd October 2019. A new policy must therefore be revised, adopted, and published no later than 22nd October 2024.
- 10 The licensing policy fulfils two principal purposes; firstly, it provides advice to businesses and the public on the Council's overall position concerning the Licensing Act 2003. Secondly, it provides a decision-making framework for the Council via its Statutory Licensing Committee to exercise its functions under the Act. As such the policy must balance the legitimate needs of businesses and demand for leisure and cultural activities alongside the need to protect those adversely affected by activities.
- 11 Failure to achieve the correct balance could lead to a policy being either overly prescriptive or open to challenge or alternatively ineffective in the protection of the public through a failure to promote the licensing objectives effectively.
- 12 The Policy seeks to promote the following four statutory licensing objectives:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance; and
 - the protection of children from harm
- 13 The Licensing Act requires that all matters relating to the Act must be discharged by a licensing authority's statutory licensing committee except for the final approval and adoption of the licensing policy which must be a decision of full council.
- 14 The Act also requires that prior to a new licensing policy being adopted, it must be subjected to a consultation process that allows for the views of all interested parties to be heard and taken into consideration.

Consultation

- 15 It is proposed that a 12 week consultation process take place in accordance with the council's standard consultation procedures.
- 16 It is proposed that this will take place between February and April 2024, and will include all statutory consultees plus any other individuals, agencies, and organisations that may reasonably be affected by, or have an interest in, the new policy. In addition, notice of the consultation taking place will be advertised in local press.

- 17 Provisional discussions have already taken place with key partners such as Durham Police and Durham's Public Health Team in order to establish where there is any appetite for significant changes to be made to the existing policy. These discussions are ongoing and the outcome will be reported back to this committee along with details of any other consultation responses received at the conclusion of the consultation process.
- 18 Following the conclusion of the consultation, relevant information, proposals and recommendations will be used together with information from other sources to draft a revised licensing policy which will be brought back to this committee for consideration.
- 19 Final approval and adoption of the draft licensing policy is a decision of full Council.

Background papers

- Durham County Council's Statement of Licensing Policy
- Revised Guidance issued under Section 182 of the Licensing Act 2003

Other useful documents

- The Licensing Act 2003

Contact:	Joanne Waller	Tel: 03000 260924
	Ian Harrison	Tel: 03000 263866
	Craig Rudman	Tel: 03000 260090

Appendix 1: Implications

Legal Implications

Failure to adopt a revised statement of licensing policy by 23rd October 2024 would mean that DCC has not complied with the requirements of the Licensing Act 2003 in connection with the revision, adoption, and publication of licensing policies. Under such circumstances, licensing activities subject to the provisions of Act performed by the Council in the absence of such a policy may be unlawful or subject to legal challenge. This report and associated appendices have been considered by Legal and Democratic Services

Finance

The costs of consultation and publication of the revised policy will be met from existing budgets.

Consultation

The consultation will be undertaken following COG processes and procedures and will be carried out in accordance with statutory guidance over a 12-week period. It is likely that this may generate a wide range of responses both from the public, responsible authorities, interested parties including BALANCE, various trade associations, individual trade members, and members of the public and from the media.

Equality and Diversity / Public Sector Equality Duty

There are no equality and diversity implications from the recommended option

Human Rights

There are no Human Rights implications from the recommended options.

Crime and Disorder

The Council's licensing policy forms a central part of the control and regulation of the evening and night-time economies. As such, it can be viewed as having a pivotal role in the prevention of alcohol related crime and disorder. The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for alcohol related issues or mitigate their effects. This coupled with monitoring and enforcement and the appropriate use of the review process can significantly contribute towards crime reduction and an increase in public reassurance.

Staffing

There are no staffing implications

Accommodation

There are no accommodation implications

Risk

Failure to follow the statutory process could result in challenge and reputational damage. Following adoption, the policy may be subject to judicial review and legal challenge

Procurement

There are no procurement implications from the recommended options.

Appendix 2: Our current Statement of Licensing Policy
