

Statutory Licensing Committee

15 July 2024

Review of the Council's Statement of Licensing Policy

Ordinary Decision



Report of Head of Community Protection Service.

Alan Patrickson Corporate Director of Neighbourhoods and Climate Change

John Shuttleworth Cabinet Portfolio Member for Neighbourhoods and Local Partnerships

Electoral division(s) affected: County Wide

Purpose of the Report

- 1 This report seeks Statutory Licensing Committee approval of the revised Statement of Licensing Policy and recommendation of the proposed version of the revised policy for adoption by the Council.

Executive summary

- 2 Following public consultation, the current statement of licensing policy has been revised. Where it was appropriate to do so, the suggestions and recommendations of respondents were incorporated into the revised statement. A copy of the proposed statement of licensing policy is attached in Appendix 4.
- 3 The current policy has been reformatted and updated creating a policy document which provides applicants, licensees, Members, officers, and the public with much more guidance, information, and direction. Details of changes incorporated into the proposed Policy are highlighted in purple and italics and referenced in Appendix 5 Table of Changes.
- 4 The policy changes aim to improve the quality of applications by assisting applicants to clearly and comprehensively demonstrate how they can promote the licensing objectives through their licensed business activities. They will also help responsible authorities and other persons when considering and assessing proposed and existing licensed premises under the 2003 Act.

- 5 If accepted by the Statutory Licensing Committee for recommendation to Council, this proposed policy will be taken to Council for adoption by October 2024.
- 6 Some organisations in the City of Durham have called for DCC to introduce a late-night levy (LNL) and to carry out a cumulative impact assessment (CIA), with a view to the introduction of a cumulative impact policy (CIP) or special policy on cumulative impact and a LNL within the revised statement of policy.
- 7 The CIA and the LNL assessment processes are lengthy and detailed, and we would expect to contract out the CIA to a third party in due course. Our intention is to progress with the reporting and introduction of a revised policy within statutory timescales and concurrently, conduct the necessary assessments and investigations required for reporting on a CIA/CIP and LNL.
- 8 Should there be evidence of need for a CIP and/or to support the introduction of a LNL, those matters would then be reported to Members later and if agreed and adopted, would then be 'inserted' within the newly revised SLP.

Recommendation(s)

- 9 Statutory Licensing Committee consider the current policy, the comments received during consultation and the proposed revised statement of licensing policy.
- 10 Statutory Licensing Committee approves the revised statement of licensing policy and recommends consideration by Council with a view to its adoption by October 2024.
- 11 Statutory Licensing Committee agrees to the carrying out of work in connection with a LNL and a CIA to establish any evidential needs and requirements for the possible introduction of such measures and inclusion within the revised licensing policy later.

Background

- 12 The Licensing Act 2003 requires that licensing authorities prepare and publish a statement of its licensing policy at least every five years. The policy must be kept under review and the licensing authority may make such revisions to it, as it considers appropriate. Durham County Council adopted the current Statement of Licensing Policy on 23rd October 2019. It must be revised, adopted, and published by Thursday 24th October 2024.
- 13 The need to revise the current policy stems from the statutory timetable set in legislation. The current policy was deemed as being fit for purposes however it was recognised that improvements could be made to the document and the review did present an opportunity to make several appropriate and desirable changes to the existing statement of policy.
- 14 The Statement of 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.
- 15 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 residents through a failure to promote the licensing objectives effectively.
- 16 The Policy seeks to promote the following four licensing objectives:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 17 These are the only licensing objectives, and no other objectives exist for England and Wales.

Statutory consultation

- 18 Prior to consultation, the Consultation Officers Group (COG) process was engaged. In accordance with the Government's Code of Practice on Consultation, 12 weeks was allocated for the consultation and for the

return of responses. In addition to direct communications on the subject, the review was also advertised and publicised on the Council website.

- 19 A discussion seminar with Members on Licensing Policy development took place in April, to which all members of the Statutory Licensing Committee were invited, and officers also met with various representatives of the responsible authorities and Durham City Parish Councillors during the consultation period.
- 20 The consultation ran between Monday 12th February 2024 and ended on Friday 3rd May 2024. In addition to the named statutory consultees, many other individuals, agencies, and organisations considered to be affected by the policy were identified and their comments invited. The list of consultees that were communicated with directly in connection with this policy review are shown in Appendix 2.
- 21 In total the Council received 66 responses. 7 Responses were received directly by DCC Licensing Services, and 59 respondents completed an on-line Snap Chat questionnaire. A list of respondents together with copies of the responses are shown in Appendix 3.
- 22 To create the revised policy, all recorded responses were considered and the merits of each were judged against the legislation and statutory guidance. All proposed changes to the current policy document are shown in purple font and italics.

Review Proposals

- 23 We wanted to understand if people thought our current policy provided sufficient and satisfactory information on the three licensing objectives, and in particular:
 - the problem of drink spiking
 - licensing hours and opening hours
 - sexual harassment and misconduct and gender-based violence

We also wanted to know if people thought there was anything missing from the policy.

Consultation responses

- 24 Information was provided by respondents on several subjects including the ones which had been highlighted by the Council in the consultation. Information, addressing relevant alcohol related harms and providing useful guidance to applicants and licence holders, has been incorporated into the proposed revision. In the draft policy, the proposed

changes to the current policy document are highlighted in italics and purple font referenced in Appendix 5 '*Table of Changes*'.

Main changes to current policy

- 25 Most respondents were supportive of the current framework hours contained within the policy and no alternative proposals on this subject were received. No respondents provided any alternative suggestions and therefore it is proposed that the current recommendations about terminal hours for licensed premises are maintained.
- 26 The following matters have been included in the revised policy document:
- (i) Changes to layout, format, syntax – to improve the look and structure of the policy for clarity and readability purposes
 - (ii) Information concerning possible future changes resulting from the CIA and LNL
 - (iii) Addition of a version history table
 - (iv) Expanded content table and guide
 - (v) Update of 'forward'
 - (vi) Guidance on the application and operation of the policy in practice detailing the types and use of licensing conditions that may be attached to licences to control the use of premises where licensable activities take place, thereby safeguarding and promoting the licensing objectives. New information concerning street drinkers and preventing thefts from licensed premises is included in chapter 5 '*How the council promotes the licensing objectives*'.
 - (vii) More useful information about the practical application of licensing looking at the methods and standards of operating licensed premises that may be used to promote the objectives and to encourage excellent standards of management by licence and certificate holders. New information and guidance about the prevention and reporting incidents of sexual harassment, misconduct and gender-based violence at licensed premises and drink and needle spiking is presented in chapter 6. '*Standards of management and operating practice*'.
 - (viii) Greater focus on each of the licensing objectives in turn, detailing with the use of examples how applicants and licence holders may practically demonstrate their understanding of and commitment to the promotion of the objectives at their premises.

- (ix) Clearer descriptions and explanations of what the council expects, recommends, requires, considers, and encourages and why.
- (x) Updated information concerning responsible authorities contact details.
- (xi) Updated background information and data on public health matters associated with alcohol consumption in the County.
- (xii) Greater clarity in connection with planning and development control issues and the links between planning and licensing regimes.
- (xiii) New links to other important and relevant strategies and policies that may be of help/interest and contain further details of schemes available in Durham which applicants and licensees can participate in to assist in carrying out the objectives.

27 A copy of the draft revised policy that includes all the proposed revisions is attached in Appendix 4. In the draft policy, the proposed changes to the current policy document are highlighted in italics and referenced in Appendix 5 Table of Changes. A revised Equality Impact Assessment (screening) is provided in Appendix 6.

Late Night Levy and Cumulative Impact

28 Some organisations in the City of Durham have called for DCC to introduce a late-night levy (LNL) and to carry out a cumulative impact assessment (CIA), with a view to the introduction of a cumulative impact policy (CIP) or special policy on cumulative impact and a LNL within the revised statement of policy.

29 LNL's are a discretionary tool that licensing authorities can adopt which requires licensees in specified areas to pay a surcharge to the council, in addition to their licence fee, which can be used to cover additional expenses associated with the nighttime economy. CIP's are a discretionary tool that licensing authorities can adopt (based on evidenced need) to make it more difficult (but not impossible) for new licences to be granted in specified areas.

30 The Council as the licensing authority is expected to consider the need for a levy with the Chief Officer of Police and Police and Crime Commissioner for the police area in which it is proposed the levy will be introduced. To bring this matter to the Statutory Licensing Committee and ultimately, Council for consideration, considerable information must be gathered, collated, and presented. For example, in connection with a LNL, the authority must ask itself whether, having regard to the costs of

policing, administrative costs etc. in connection with the supply of alcohol or late-night refreshment between 12 midnight and 6 a.m., it is desirable to raise revenue (Section 125). We will therefore need to know amongst other things, what the costs are associated with Policing Durham City area during any LNL period.

- 31 The timeline for the introduction of a revised statement of policy is tight. As a result, it will not be possible to have everything in place to report on these other matters fully before the statutory deadline for the introduction of a new policy. The CIA and the LNL assessment processes are lengthy and detailed, and we expect to be contracting out the CIA to a third party in due course.
- 32 Our intention is to progress with the reporting and introduction of a revised policy within statutory timescales and at the same time, conduct the necessary assessments and investigations required for reporting on a CIA/CIP and LNL. Should there be evidence of need for a CIP and or to support the introduction of a LNL, those matters would then be reported to Members and if agreed and adopted, would then be 'inserted' within the newly revised SLP.

Options

- 33 Following consideration of the information presented in this report, the responses, and the current policy statement, Statutory Licensing Committee may give support to the revised statement of policy and the associated proposals as they have been presented and agree to recommend the policy to the Council for adoption.
- 34 Statutory Licensing Committee may give support to some of the proposals and reject others.
- 35 Statutory Licensing Committee may reject the revised statement and associated policy proposals in full.

Main implications

- 36 When considering whether a LNL or CIP should be adopted, the council must gather sufficient robust evidence to justify the measures as legal challenges from the licensed trade would be highly likely.
- 37 This will require significant assistance from several agencies (particularly the Police) and council departments and will take too long to fit within the October deadline for adoption of a new policy. As such, it is proposed that the attached draft policy be taken to Statutory Licensing Committee, and council, for adoption while, simultaneously, evidence gathering takes place in relation to the LNL and CIP. Should

sufficient evidence be obtained to warrant consideration of a LNL and/or CIP, this would be considered later.

- 38 Supporting the proposal that consideration of the LNL and CIP be undertaken separately from the main policy will allow for the main policy to be considered and adopted by Council before the statutory deadline of October 2024.
- 39 Supporting the proposals in full. This will allow the process to continue and the revised policy to be presented to the Council for their consideration and adoption.
- 40 Supporting the proposed revision of the policy statement in part. This option, with the less-than-full support being offered, depending on the exact nature and extent of any required changes would allow for those modifications to be made to the draft policy prior to submission to the Council.
- 41 Rejection of the proposal. This would require a detailed explanation of the committee's decision to withhold support for revised policy statement. Because of the timescales involved, rejection of the proposals would likely result in a failure to produce a revised statement of policy for adoption by Full Council by the prescribed date.

Conclusion

- 42 The current licensing policy requires revision and re-adoption by the 23rd of October 2024. The current policy has been consulted on in accordance with statutory requirements and all the responses received have been considered.
- 43 Relevant information, suggestions and recommendations have been used together with information from other sources to draft a revised licensing policy. This policy together with the consultation response information is presented for consideration by Statutory Licensing Committee with a view to taking forward the proposals as a recommendation to Council.
- 44 Some matters raised during the consultation period would necessitate the carrying out of a CIA and the investigation of the efficacy of a LNL. The outcome of the CIA and LNL investigations could subsequently lead to further revision of the policy following its adoption by Council by October 2024.

Background papers

- Durham County Council's Statement of Licensing Policy

[Licensing Act 2003 Statement of Licensing Policy 2019 to 2024 \(durham.gov.uk\)](https://www.durham.gov.uk/2019/03/20/licensing-act-2003-statement-of-policy-2019-to-2024/)

- Licensing Act 2003
[Licensing Act 2003 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2003/30/)
- Revised Guidance issued under Section 182 of the Licensing Act
https://assets.publishing.service.gov.uk/media/65a8f578ed27ca000d27b1f9/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_-_December_2023.pdf

Other useful documents

- Police Reform and Social Responsibility Act 2011 – Late Night Levy
- UK Gov Guidance - Amended guidance on the late-night levy Updated 13 July 2023 <https://www.gov.uk/government/publications/late-night-levy-guidance/amended-guidance-on-the-late-night-levy>
- Durham County Council Report on Cumulative Impact assessment David Lucas & James Button, James Button and Co., Solicitors July 2020

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Appendix 1: Implications

Legal Implications

Failure to adopt a revised statement of licensing policy by 24 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 was undertaken following COG processes and procedures and was carried out in accordance with statutory guidance over a 12-week period.

Equality and Diversity / Public Sector Equality Duty

There are no known equality or diversity implications.

Human Rights

There are no known human rights implications.

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.

Appendix 2: List of consultees

- Responsible Authorities for County Durham (the relevant licensing authority, the chief officer of police; the local fire and rescue authority; the relevant enforcing authority under the Health and Safety at Work etc. Act 1974; the local authority with responsibility for environmental health; the local planning authority; a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm; each local authority's Director of Public Health (DPH); the local weights and measures authority (trading standards); Home Office Immigration Enforcement (on behalf of the Secretary of State)
- All persons / bodies throughout the County holding premises licences or Club Premises Certificates including pubs, clubs, off licences, supermarkets, takeaways, restaurants and mobile food vendors
- Persons / bodies representative of local holders of Personal Licences
- Persons / bodies representative of businesses and residents in the County
- Safeguarding Children Board
- All Elected Members of Durham County Council
- Clerks of Town and Parish Councils throughout Durham County
- Safe Durham Partnership
- Durham CIU
- The British Beer and Pub Association
- The Federation of Licensed Victuallers
- British Institute of Inn Keeping (BIIB)
- Alcoholics Anonymous
- The Association of Licensed Multiple Retailers
- Equity
- North East Musicians Union
- Global Online Assessment for Learning (GOAL)
- Security Industry Authority
- Local MP's and MEP's
- Area Action Partnerships
- Citizens Panels
- County Durham Area Taxi Working Groups
- Safety Advisory Groups
- Business Support Managers
- Town Centre Managers
- Residents Associations
- Disability Groups
- North East Chamber of Commerce
- Night Time Economy Managers
- Local Multi Agency Problem Solving Groups
- Streetscene
- Community Safety Team
- Anti-Social Behaviour Team
- BALANCE

Appendix 3: List of Respondents and Copies of Responses

7 Responses Received directly by DCC Licensing Services:

1. Response from Balance received Monday, April 29, 2024, 12:37 PM
2. Response from Durham Constabulary received Thursday, May 2, 2024, 2:43 PM
3. Response from City of Durham Trust received on Friday, May 3, 2024, 11:06 AM
4. Response from Trinity Barristers, on behalf of the City of Durham Parish Council received May 3rd, 2024, 3:21 PM
5. Response from Crossgate Community Partnership received Friday, May 3, 2024, 4:32 PM
6. Response from Durham University received Friday, May 3, 2024, 4:39 PM
7. Anonymous response received Tuesday, April 23, 2024, 11:27 AM

In addition, Snap-Chat on-line survey responses - this report was generated on 10/05/24. Overall, **59 respondents** completed this questionnaire. The report has been filtered to show the responses for 'All Respondents'.

Therefore, in total, **66 responses** were received.

**Appendix 4 Revised Statement of Licensing Policy – See
Attached**

Appendix 5 Table of Changes

This table shows the proposed changes made to the Statement of Licensing Policy

No	Chapter, section, page	Description of proposed change
1	Title page	New dates
2	Forward page 2	Revision information
3	Forward page 3	Information about the LNL and CIA & CIP assessment situation
4	Contents page 5	New numbering and insertion of new paragraphs 5.7, 5.8, 6.6 and 6.7
5	Contents page 6	Changes to Suggestions, Recommendations and Examples of what may be included in applications and operating schedules to ensure that the licensing objectives are promoted
6	Para 1.4, page 8	Changes to stats on Co Durham and Durham University
7	Para 2.6, page 13	Up-to-date statistical information for alcohol related harm
8	Para 2.16, page 21	Updated important notes - information about reviews
9	Para 3.15, page 30	Changes to information about TENs
10	Para 3.23, page 35	Information on calls for a LNL
11	Para 5.3, page 42	Extra information on relevant trade forums and mechanisms for reporting, communicating, and identifying risks
12	Para 5.7, page 44	New information about street drinkers
13	Para 5.8, page 44	New information about preventing thefts from licensed premises
14	Para 5.14, page 50	New information about alcohol deliveries
15	Para 6.0, page 52	Additional information inserted on management standards
16	Para 6.5, page 53	Additional information Irresponsible drinks promotions, sales and pricing including increase in recommended MUP
17	Para 6.6, page 55	New information about preventing and reporting incidents of sexual harassment, misconduct, and gender-based violence
18	Para 6.7, page 57	New information about drink and needle spiking
19	Para 11, page 79	New information about enforcement
20	Table 1, page 97	New information about drink and needle spiking
21	Appendix 9, page 108	New public health information

Appendix 6 Revised Equality Impact Screening Assessment - See Attached
