

Gloucester City Council

Meeting:	Licensing & Enforcement Committee	Date:	15 September 2015
Subject:	Revised Licensing Policy Statement – Licensing Act 2003		
Report Of:	Head of Public Protection		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	Yes
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Appendices:	1. Draft Licensing Policy Statement		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To present the draft revised Licensing Policy Statement for approval by the Licensing & Enforcement Committee for consultation.

2.0 Recommendations

- 2.1 The Licensing and Enforcement Committee is asked to **APPROVE** the draft Licensing Act 2003 Statement of Licensing Policy for the period 2016-2021 for the purposes of public consultation over a 10 week period.

3.0 Background and Key Issues

- 3.1 The Council is the Licensing Authority for the purposes of the Licensing Act 2003.
- 3.2 The Licensing Act 2003 requires the Council to produce, consult on and publish a Policy Statement that sets out the policies that the Licensing Authority will apply in exercising its functions under the Licensing Act 2003.
- 3.3 Gloucester City Council published its existing Licensing Policy Statement to take effect from 7 January 2011. At the time, the statutory maximum review period was three years. Section 122 of the Police Reform and Social Responsibility Act 2011 amended Section 5 of the Licensing Act 2003, and changed the period of time which a local authority should review their Licensing Policy Statement from 3 years to 5 years.
- 3.4 Attached as **Appendix 1** is a copy of the draft revised Licensing Policy Statement incorporating all the proposed amendments and revisions.

3.5 The revision concerns a 'tidying up' of the original wording, the deletion of those parts which are outdated and no longer relevant, and incorporating new legislation and guidance.

3.6 The changes to the wording are shaded red in the draft. Notable additions are contained as follows:-

3.7 Late Night Levy (LNL)

The Late Night Levy introduced in the Police Reform and Social Responsibility Act 2011 gives the Council discretionary powers to impose a financial levy on premises licensed to sell alcohol anytime between Midnight and 6.00am.

The Council has not introduced a levy at this time, but the option to introduce such a levy will be kept under review. See Chapter 4 of the draft policy.

3.8 Early Morning Restriction Orders (EMRO's)

The draft policy notes the amendment to the Licensing Act 2003 that gives powers to the Licensing Authority to prevent the sale of alcohol on premises within a certain geographical area for any period between Midnight and 6.00am if the Authority believes that it is appropriate for the promotion of the licensing objectives. There is currently no evidence to support the introduction of the scheme at this time. See Chapter 4 of the draft policy.

3.9 Public Space Protection Orders (PSPO's)

Public Space Protection Orders replaced Designated Public Place Order (DPPO's) under the ASB Crime & Policing Act 2014 – See Chapter 4 of the draft policy.

3.10 Promoting Good Practice Initiatives.

The Draft Licensing Policy includes a new Chapter titled Promoting Good Practice Initiatives. Initiatives included in this chapter are:

- Best Bar None;
- Gloucester City Safe Scheme;
- Reduced Alcohol Strength Initiatives;
- Irresponsible Drinks Promotions.

3.11 Suspension of Licence or Certificate for failing to pay annual fee

The Police Reform and Social Responsibility Act 2011 allows local authorities to suspend a premises licence for failing to pay their annual fee. See Chapter 10 of the Draft Policy.

3.12 Temporary Event Notices

Paragraph 11.8 of the draft policy takes account of new legislation under the Deregulation Act 2015 which increases the number of TEN's allowed on a premises in any one calendar year from 12 to 15. This becomes effective on 1st January

2016. The Police Reform and Social Responsibility Act 2011 made changes to the Temporary Event Notice regime that included the introduction of the late Temporary Event Notice, Environmental Health now having the ability to object to Temporary Event Notices and a change to the duration of events from 96 hours to 168 hours.

3.13 Appendix B of the Draft Policy titled The Licensing Process – Additional Information now includes paragraphs to guide applicants in respect of the Council's policy regarding the following:-

- Takeaway Food Premises
- Sexual Entertainment Venues (SEV's)
- Pavement Cafes and External Areas
- Shops Selling Alcohol (Off Licences)

3.14 Health Bodies as a Responsible Authority

The Police Reform and Social Responsibility Act 2011 identified local health bodies as responsible authorities under the Licensing Act 2003.

Local Health bodies can make representations regarding concerns about the impact of new licensed premises on the local NHS or more generally the safety of the public within the night time economy. Accidents and incidents due to drunkenness are often traceable to individual premises and fall under the 'public safety' objective in the Licensing Act 2003.

Appendix I of the draft policy 'List of Responsible Authorities' now includes the local health board as a responsible authority.

3.15 When reviewing its Statement of Licensing Policy the Licensing Authority is required to consult with:-

- The Chief Officer of Police for the Authority's area
- The Fire Authority for that area
- The Director of Public Health (DPH) for the Authority's area
- Persons/bodies representative of local holders of Premises Licences issued by the Authority
- Persons/bodies representative of local Club Premises Certificates issued by the Authority
- Persons/bodies representative of local holders of Personal Licences
- Persons/bodies representative of businesses and residents in its area

3.16 The Licensing Act does not prevent a Licensing Authority from consulting more widely than the above allows for. To this end the Licensing Authority will seek to identify and consult with other organisations and individuals who may be affected or have an interest in this Policy.

4.0 Asset Based Community Development (ABCD) Considerations

4.1 There is a legal process within the terms of the Licensing Act 2003 we must follow. However, giving communities as much information about an application as we can by providing help and advice where it is needed should also be a consideration. We

will engage with the Partnership and Engagement Team to develop an effective communication process.

5.0 Reasons for Recommendations

- 5.1 The Statement of Licensing Policy provides the framework in which the licensing function is administered and the Council's approach under the Licensing Act 2003
- 5.2 The Licensing Act 2003 requires a statutory review of the Statement of Licensing Policy every 5 years but it does not prevent an earlier review.
- 5.3 The Licensing Authority must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 when drafting its policy. The latest version, issued by the Home Office in March 2015, has been referred to during the drafting of this policy.

6.0 Future Work and Conclusions

- 6.1 The Council must publish its Licensing Policy Statement prior to 29 January 2016 so that it may be effective from that date.
- 6.2 In line with the BIS code of Practice on consultations it is intended to conduct a 10 week consultation. The consultation will be placed on the Council's website and advertised in the local press.
- 6.3 The next review of the Policy Statement is scheduled for 2019.

7.0 Financial Implications

- 7.1 The recommendations have no impact on the Council's budgets.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 The Act requires Gloucester City Council to prepare a Statement of Licensing Policy to cover each 5 year period. The Policy must contain the principles that the Council proposes to apply in exercising its function under the Act during the period. Gloucester City Council must undertake consultation prior to determining the final Statement of Licensing Policy. Failure to determine the Statement of Licensing Policy could lead to judicial challenge.

(One Legal have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 The risk management implications for this report and Licensing Policy Statement are as follows:-

- Licensing Policy Statement unfair or too prescriptive.
- Revised Licensing Policy Statement not published on time (by 29 January 2016).

- Consultation is inadequate.

10.0 People Impact Assessment (PIA):

10.1 The screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.

11.0 Other Corporate Implications

Community Safety

11.1 None

Sustainability

11.2 None

Staffing & Trade Union

11.3 None

Background Documents: Licensing Act 2003
Section 182 Guidance issued by the Home Office –
March 2015