

Gloucester City Council

Meeting:	Licensing and Enforcement Committee	Date: 8 December 2020
	Council	28 January 2021
Subject:	Licensing Act 2003 – Revised Licensing Policy Statement	
Report Of:	Head of Place	
Wards Affected:	All	
Key Decision:	No	Budget/Policy Framework: Yes
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Appendices:	1. Draft Licensing Policy Statement	
	2. List of Consultees	
	3. Formal Written Responses	

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To present to members the result of the consultation on the Draft Revised Licensing Policy Statement.
- 1.2 To agree a final draft version of the Licensing Policy Statement for adoption by Council at the meeting on 29th January 2021.
- 1.3 To note that the cumulative impact zone, within the Statement of Licensing Policy, is currently under review. There is a separate report going before members asking for the Cumulative Impact Assessment to go out for a statutory consultation with a view to a further report being presented to the Licensing and Enforcement Committee for a final decision in March 2021.

2.0 Recommendations

- 2.1 The Licensing and Enforcement Committee is asked to **APPROVE** the Licensing Policy Statement and **RECOMMEND** that:

- (1) The revised Licensing Policy Statement – Licensing Act 2003, is approved and adopted by Council.

- 2.2 Council is asked to **RESOLVE**:

- (1) To adopt the Licensing Policy Statement 2021-2026 – Licensing Act 2003 as set out in Appendix 1.

3.0 Background and Key Issues

Statement of Licensing Policy

- 3.1 The Council is the Licensing Authority for the purposes of the Licensing Act 2003.
- 3.2 In accordance with the provisions of the Act, the Council is required to determine and publish a Statement of Licensing Policy at least every five years.
- 3.3 The Council's current Statement of Licensing Policy under the Licensing Act 2003 took effect in 2016.
- 3.4 The Licensing Policy Statement is now due to be reviewed and the new Statement will need to be in place by 29th January 2021.
- 3.5 The Licensing and Enforcement Committee on 8th September 2020 approved the draft revised Licensing Policy Statement for the purposes of consultation.
- 3.6 The document has been subject to an eight week consultation that ran from 17th September 2020 until 12th November 2020.
- 3.7 A list of consultees is attached at Appendix 2.
- 3.8 In addition the consultation was published on the Council's website.
- 3.9 In total two formal written responses were made by email and these are attached as Appendix 3 and are summarised below.
- 3.10 Response from the Chair of the Licensed Victuallers Association (LVA)
- The Chair of the LVA comments were mostly complimentary and asked if under paragraph 9 of the Policy a reference to the LVA could be mentioned.
- 3.11 I have made reference to the LVA within the Policy. This can be seen at Paragraph 9.12 and is shaded in red.
- 3.12 Response from Richard Graham MP
- 3.13 Mr Graham's comments were regarding Anti-Social Behaviour and Off-licences selling alcohol to people that appear to be under the influence of alcohol.
- 3.14 These concerns have been noted and can be dealt with by way of a review of the Premise Licence if there is evidence to support this. We will continue to work with partners to gather any evidence that might help to bring a review of a particular premise.
- 3.15 Another action is through education where a written warning might suffice in order to stop any further complaints coming in against a licensed premise.

Cumulative Impact

- 3.16 The section of the policy relating to Cumulative Impact at this point has been left unchanged. This is because the Council's Cumulative Impact Policy is currently subject to a separate review, which is in line with the new requirements of the Licensing Act 2003 (as amended by the Policing & Crime Act 2017).
- 3.17 By way of background, as the Committee is already aware, "cumulative impact" is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. This Council has had a Cumulative Impact Policy ("CIP") in place since 2004 and it was last reviewed in 2016. It covers a specific geographical area in the city centre. In terms of the legal effect of a CIP, the CIP does not remove the Committee's discretion to grant new premises licenses or vary existing ones and all licensing applications must be treated on their individual merits and determined in accordance with the licensing objectives and relevant legal considerations. However, what the CIP does do, is create a rebuttal presumption that the grant or variation of a premises license within the CIP area will have a cumulative impact on the promotion of the licensing objectives.
- 3.18 Where a Cumulative Impact Policy has been adopted, the Licensing Act 2003 requires the Council to periodically undertake a cumulative impact assessment, based on evidence, to determine whether the number or density of premises can be shown to be having an impact and whether that impact is undermining the Council's duty to uphold the 4 licensing objectives.
- 3.19 At the Licensing and Enforcement Committee in September members approved an eight week consultation to work with partners i.e. the Police and Public Health to seek their view on whether there is still a need for a CIP within the Statement of Licensing Policy. A separate report has been written on this for members to consider.

4.0 Social Value Considerations

- 4.1 The Policy aims to provide clarity to applicants, interested parties and Responsible Authorities on how the Licensing Authority will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

5.0 Environmental Implications

- 5.1 The statement of Licensing Policy aims to balance the social and economic benefits of licensable activities against the potential adverse environmental implications, such as public nuisance.

6.0 Alternative Options Considered

- 6.1 As there is a legal requirement for the licensing authority to review, consult and republish their Statement of Licensing Policy every five years, no alternative options have been considered appropriate on this occasion.

7.0 Reasons for Recommendations

- 7.1 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.
- 7.2 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.
- 7.3 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 2018, has been referred to during the drafting of this policy.

8.0 Future Work and Conclusions

- 8.1 The Council must publish its Licensing Policy Statement prior to 29 January 2021 so that it may be effective from that date.
- 8.2 The next review of the Policy Statement is scheduled for 2025.
- 8.3 The draft Licensing Policy Statement has been widely consulted upon and the feedback is contained within this report. Apart from minor amendments already made to the draft document, Members must decide whether they wish for any other amendments to be made before the final version is approved by Full Council.

9.0 Financial Implications

- 9.1 The recommendations have no impact on the Council's budgets
(Financial Services have been consulted in the preparation this report.)

10.0 Legal Implications

- 10.1 The Council has a statutory duty to have a Statement of Licensing Policy. It is important that the Statement of Licensing Policy provides an open and transparent policy regarding the Council's functions under the Licensing Act 2003. The Statement of Licensing Policy forms an essential part of the decision making process for licensing applications.
- 10.2 The Act also requires that the Statement of Licensing Policy should be kept under review and must be re-published at least every five years.
- 10.3 Failure to determine the Statement of Licensing Policy could lead to judicial challenge.
(One Legal have been consulted in the preparation this report.)

11.0 Risk & Opportunity Management Implications

- 11.1 Failing to prepare and publish a new Statement of Licensing Policy would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Licensing Act 2003.

12.0 People Impact Assessment (PIA):

12.1 The screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion. A further assessment will be conducted to consider any feedback from the consultation.

13.0 Other Corporate Implications

Community Safety

13.1 None

Sustainability

13.2 None

Staffing & Trade Union

13.3 None

Background Documents:

Licensing Act 2003

Guidance issued under S182 of the Licensing Act 2003.