

WAVERLEY BOROUGH COUNCIL

LICENSING AND REGULATORY COMMITTEE – 18 JUNE 2018

EXECUTIVE –10 JULY 2018

COUNCIL – 17 JULY 2018

Title:

**LICENSING ACT 2003 - PUBLIC CONSULTATION ON REVIEW OF THE
COUNCIL'S STATEMENT OF LICENSING POLICY**

[Wards Affected: All]

Summary and purpose:

The purpose of this report is to enable the Council to consider comments following consultation and on the review of the Statement of Licensing Policy for Waverley, against which applications for licences under the Licensing Act 2003 are considered.

How this report relates to the Council's Corporate Priorities:

Licensing contributes to improving lives and protecting the environment in Waverley.

Equality and Diversity Implications:

There are no equality implications.

Environment and Climate Change Implications:

There are no Environmental and Climate change implications in this report.

Resource/Value for Money implications:

There are no immediate resource implications in this report.

Legal Implications:

There are legal implications for the Council in that it will need to be prepared to defend the revised Policy, if challenged. Members will note that the existing Policy has worked well in practice for the past five years. There are also Human Rights considerations in the processes under this Act, and these will be taken into account.

Background

The Licensing Act 2003 requires Waverley to have a Statement of Licensing Policy, to keep this under review, at least every five years. The current Waverley Policy has been in place since August 2013, and requires updating following changes to legislation, including the Immigration Act 2016 in relation to the prevention of illegal working in licensed premises and the issuing of the latest revised guidance under section 182 of the Licensing Act 2003 (effective from 6 April 2018). In addition, the Home Office has issued its Modern Crime Prevention Strategy (March 2016) which potentially impacts on licensing, including the encouragement of partnership working

schemes, improved local intelligence systems for use as evidence in licensing hearings, and support to local authorities in efforts to diversify late night economy away from alcohol-led premises, and which is available on the Home Office website at . <https://www.gov.uk/government/publications/modern-crime-prevention-strategy>
The Policy has been reviewed and was subject to public consultation between 09 March 2018 and 01 June 2018, (a twelve week period).

Introduction

Statement of Licensing Policy - Public Consultation

1. The existing Statement of Licensing Policy was adopted by the Council in December 2007, reviewed and updated (last) in January 2013 following a period of public consultation. However, the legislation obliges licensing authorities to review their licensing policies on a five-year cycle.
2. A copy of the existing Statement of Licensing Policy, incorporating the changes proposed and amendments from Officers is attached at Annexe 1. The tracked changes are shown in colour.
3. The consultation has been conducted by written process to all Responsible Authorities, bodies representing existing licence holders, representatives of registered clubs, businesses and residents in the Borough, Town and Parish Councils, and via the Waverley website.
4. There have been six responses in total to the consultation, four of which make no comment or suggestion which are attached at Annexe 2 and two further responses with proposed changes/comments relating to 'safeguarding and local initiatives' attached at Annexe 3. Officers have suggested a proposed amendment to the policy following the comments received - 18.3 page 26 of the licensing policy

Licensing objectives

5. Historically alcohol related crime and anti-social behaviour has been a significant problem in parts of the Borough before the introduction of the Licensing Act 2003. Waverley continues to work in close partnership with the Relevant Authorities, (including Immigration Services a new Relevant Authority) to ensure that the potential impact as a result of extended licensing hours does not adversely impact upon the situation and community. The Council continues to promote all four of the key licensing objectives of preventing crime and disorder, public safety, preventing public nuisance and protecting children from harm, working in close conjunction with its partners to achieve its aims. This close working, normally a two- or three-pronged approach, as needed, has proved very effective. Input from the Licensing Manager and Enforcement Officers have been a helpful additional tool, as /they are removed from the Responsible Authorities and can therefore have an independent position and added impact where problems arise in licensed premises.

6. The Council has agreed a Licensing Joint Enforcement Protocol with Surrey Police, Surrey Fire and Rescue Service, Environmental Health, Surrey Trading Standards and other colleagues/agencies, whereby enforcement activity is targeted and its results monitored. Representatives from all agencies, are invited to meet monthly, as the Joint Action Group (JAG), in order to review any problems arising during the previous weeks. This meeting is co-ordinated by the Council's Community Safety team and chaired by the Waverley's Head of Communities and Major Projects. Reports of crimes and incidents relating to licensed premises are shared at JAG meetings, and a "traffic lights" priority system is then agreed to target enforcement resources.
7. The result has been a very focused partnership-working approach, which has also involved working with licensees through the four Pubwatch schemes in the Borough.

Fees and licences - for background information

8. For information, the current licence fees set by the Government under the Licensing Act 2003 are as follows, together with information by way of context to date:-

	<u>Fee</u>	<u>Duration</u>
Personal licences	£37	Surrender/revocation
Premises licence and Club Premises Certificate	£100-635 depending on rateable value	Life of business
Premises annual fee	£70-350 depending on rateable value (with additional fee for very large events)	1 year
Variations/transfers	£23	
Temporary event notices	£21 each event	Up to 96 hours for one event

9. Certain premises are exempt from premises licence fees. These are generally village, parish, and community halls for providing regulated entertainment only. They are not exempt from temporary event notice fees.
10. The Licensing Act 2003 was implemented on 24th November 2005. To date around 1,640 personal licences have been issued, and there are currently 463 valid premises licences/club certificates (391/72) in Waverley, and a

continuing succession of variations to licences, premises supervisors and transfers of licences (ownership issues).

Around 7,016 temporary event notices (TENs) have been dealt with since 2008 (no records are held between the introduction of the legislation in November 2005 and the end of 2007).

In May 2012, 'Late TENs' were introduced, and since then to date 940 Late TENs have been processed.

The total amount of TENs and Late TENs since 2008 amounts to ,7956, averaging 796 TENs a year.

11. Since December 2007, one appeal has been lodged at the Magistrates' Court against decisions of the various Licensing Sub-Committees in relation to licensed premises, and there have been none within in the period of the last statement of licensing policy or since then:-
 - House of Blues, Godalming – Appeal against decision to attach certain condition to a premises licence, removal of DPS and some Licensable activities – Appeal withdrawn
12. The Government has stated that the income received from licence fees under the Licensing Act 2003 should cover all Council costs, including the consultation exercise. This is a general principle for all licensing although it is rarely achieved. The Council's budget book shows that the Council recovers only approximately around 88% of its Licensing Act 2003 costs from the fee structure. The income and expenditure issue is looked at during budget consideration in the autumn of each year.

Human Rights Implications

13. The Human Rights Act 1998 incorporated into English law the protection of human rights enshrined in the European Convention on Human Rights (ECHR). The Council must have regard to the human rights of individuals affected by its decisions. Although there are no direct implications in this report, the Council will have regard to the following matters in considering applications for licences under the Licensing Act 2003.
14. Article 1 of the First Protocol of the ECHR provides for the protection of private property and possessions. In addition to Article 1 of the First Protocol, the Council must comply with the principles of Article 6, which provides for the right to a fair hearing in determining civil rights and obligations. This necessitates a fair and public hearing undertaken within a reasonable time by an independent and impartial tribunal established by law. In providing for determination of licensing matters by a local authority the legislation also provides for appeal to the Magistrates' Court, so that there is access to an independent and impartial tribunal and a public hearing.

15. Article 8 of the ECHR confirms that everyone has the right to respect for his private and family life, his home and his correspondence. Accordingly, when making decisions on the grant of licences, the Council (the Committee) will consider representations on the effect of businesses on the amenities of residents living in the vicinity of premises which benefit from the licences.

Conclusion

The Committee is asked to consider the comments and proposed changes on the Statement of Licensing Policy and make its recommendations for amending the Policy to the Executive. The Policy is ultimately set by the Council as part of the Policy Framework, on the recommendation of the Executive, and the activity under the Policy is the remit of this Committee and its Licensing Act Sub-Committees.

Recommendation

It is recommended that the Licensing and Regulatory Committee consider the representations in Annexe 3 to this report and make recommendations as appropriate to the Executive so that a final revised version of the Statement of Licensing Policy for Waverley can be approved by the Council and with a view to formal adoption in order that the revised Policy may be in place by August 2018.

Background Papers

Immigration Act 2016 and revised Guidance under section 182 of the Licensing Act (effective April 2018).

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