

# **WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE –10 JULY 2018**

**COUNCIL – 17 JULY 2018**

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**Title:**

**STATEMENT OF LICENSING POLICY 2018 - 2023**

**[Portfolio Holder: Cllr Andrew Bolton]  
[Wards Affected: All]**

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**Summary and purpose:**

The Licensing Act 2003 requires Waverley to have a Statement of Licensing Policy, and to keep this under review, at least every five years. The current Policy was last reviewed in January 2013 and requires updating to reflect changes in legislation and revised guidance.

The revised Statement of Licensing Policy has been subject to public consultation and consideration by the Licensing and Regulatory Committee, and is recommended for adoption by the Council.

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**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.

**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.

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**Background**

1. The Licensing Act 2003 requires Waverley to have a Statement of Licensing Policy, against which applications for licences under the Licensing Act 2003 are considered, and to keep this under review, at least every five years. The existing Statement of Licensing Policy was adopted by the Council in December 2007, and last reviewed and updated in January 2013.
2. 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).

3. 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>
4. The Policy has been reviewed and was subject to public consultation between 9 March 2018 and 1 June 2018, (a twelve week period).

### **Statement of Licensing Policy - Public Consultation**

5. A copy of the existing Statement of Licensing Policy, incorporating the changes proposed and amendments from Officers is attached at Annexe 1 (tracked changes are shown in colour). These incorporate minor amendments made by the Licensing and Regulatory Committee at their meeting on 18 June 2018.
6. The public 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.
7. There have been six responses in total to the consultation, four of which make no comment or suggestion and two further responses with proposed changes/comments relating to 'safeguarding and local initiatives' Officers have suggested a proposed amendment to the policy at 18.3 in response to the comments received.

### **Licensing objectives**

8. 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.
9. 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.

10. 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.

### **Human Rights Implications**

11. 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.
12. 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.
13. 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.

### **Licensing and Regulatory Committee**

14. The Committee endorsed the updated Policy with some minor amendments which have been incorporated into the Policy at Annexe 1.

### **Conclusion**

The Council's Statement of Licensing Policy is ultimately set by the Council as part of the Policy Framework, on the recommendation of the Executive. Activity under the Licensing Policy is the responsibility of the Licensing and Regulatory Committee and its Licensing Act Sub-Committees.

### **Recommendation**

That the Executive recommends to Council that the revised Statement of Licensing Policy for Waverley, 2018-2023 be adopted and implemented with effect from 1 August 2018.

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## Background Papers

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

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