

Waverley Borough Council

Report to: Council

Date: 17 October 2023

Ward(s) affected: All Wards

Report of Director: Community Wellbeing/Place/Transformation & Governance

Author: Paul Hughes

Licensing and Environmental Enforcement Manager

Tel: 01483 523189

Email: paul.hughes@waverley.gov.uk

Executive Portfolio Holder/ Lead Councillor responsible: Cllr Tony Fairclough

Report Status: Open

Licensing Act 2003 – Review of the Council’s Statement of Licensing Policy

1. Executive Summary

- 1.1 The purpose of this report is to enable the Council to consider comments, following public consultation, on the five-year review of the Statement of Licensing Policy 2023-2028 for Waverley, against which applications for licences under the 2003 Licensing Act (the Act) are considered.

- 1.2 The Council is asked to consider the report, details of the public consultation process undertaken, details of the comments received during the consultation period on the Statement of Licensing Policy.
- 1.3 The Licensing and Regulatory Committee considered the report on the 5th June 2023.

2. Recommendation

- 2.1. That Council approve the revised Statement of Licensing Policy for adoption.

3. Reason(s) for Recommendation:

- 3.1. It is recommended that the Council formally adopt the revised Statement of Licensing Policy in order to have the new Policy in place at the earliest opportunity.

4. Exemption from publication

- 4.1. No

5. Purpose of Report

- 5.1. To review feedback from the public consultation

6. Strategic Priorities

- 6.1. The Statement of Licensing Policy and Principles under the Licensing Act 2003 whilst being a statutory duty of the Council helps to deliver the Council's strategic outcomes in promoting a thriving local economy, supporting business and employment, encouraging small businesses and promoting the health and wellbeing of our communities, helping to ensure that licensing activity is safe and controlled.

7. Background

7.1. The Licensing Act 2003 came into effect on 25 November 2005. The Act introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshment, to be administered by the local licensing authority (within Waverley, this Council.) Section 5(1) of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met.

7.2. The Statement of Licensing Policy ('the Policy') is expected to set out, for the benefit of applicants, responsible authorities and members of the community how the Licensing Authority intends to exercise its powers under the Act, including:

- How the Licensing Authority will use its regulatory powers in relation to applications and reviews of licensed activities, to the extent that it is allowed by statute
- The Authority's approach to regulation
- A Scheme of Delegation.

The Policy must also comply with the statutory guidance issued under section 182 of the Act.

7.3. In determining the Policy, the Authority must conduct a statutory consultation as set out in the Act and which includes the following consultees:

- The Chief Officer of Police for the Licensing Authority area
- The Fire and Rescue Authority for the area
- Such persons as the Licensing Authority consider to be representative of the holders of existing premise and personal licences

- Such persons as the Licensing Authority consider to be representative of the holders of existing club premises certificates issued by the Authority
 - Such persons as the Licensing Authority consider to be representative of businesses and residents in the Authority's area
 - Director of Public Health.
- 7.4. The Council's current Policy has been in place since 01 August 2018 and will expire on 1 August 2023. The policy deals with the sale of alcohol, the supply of alcohol by or on behalf of a club, the provision of regulated entertainment and the provision of late night refreshment. The policy covers all types of applications that can be made under the Act, outlines other licensing functions which are linked with these applications and details other associated strategies which support the wider Council ambitions and visions.
- 7.5. The policy will also guide the Licensing Sub Committee when determining applications and assists the Licensing Authority in administering and enforcing the Licensing Act systems in accordance with the four core licensing objectives.
- 7.6. Whilst reviewing its policy the Licensing Authority has gone through a strict consultation process in line with the process carried out for the last policy review, as well as what is stipulated in legislation.
- 7.7. The Statement of Licensing Policy was initially reviewed and updated by officers to propose:
- Updated information regarding Waverley's population following the 2021 Census
 - Reference to the revised (Dec 2022) statutory guidance
 - Updates to the Council's vision/policies/partnerships/and weblinks/email addresses
 - Addition of measures in line with updated Home Office strategy and other guidance to prevent spiking sexual harassment, together with the promotion of Pubwatch and the campaign 'Ask for Angela'

- Updating 'sources of information' organisations, websites and contact details
 - General formatting/grammatical changes
- 7.8. A draft proposed Statement of Licensing Policy, incorporating the suggested amendments from the existing Statement of Licensing, was approved for consultation by members at the 27 February 2023 Licensing & Regulatory Committee.
A copy of the policy approved for consultation is attached at **Annexe 2.**

8. Consultation

- 8.1. The consultation was conducted through a written process to all Responsible Authorities, local Pub Watch Schemes, Citizens Advice Centres, Chambers of Commerce, Town and Parish Councils and via the Council's website.
- 8.2. The timetable for the review and implementation of the Statement of Licensing Policy 2023-2028 was/is as follows:
- 03 March 2023 the review commenced, this was a written process by email/letter to consultees, and consultation information was placed on the Council's website.
 - Consultation period ended 19 May 2023 (11 weeks) - followed by:
 - Licensing and Regulatory Committee to consider the outcome of the consultation and determined whether the draft policy is recommended to Full Council for adoption 05 June 2023
 - Full Council 18 July 2023
 - Publication on Council's website 01 August 2023
 - Policy comes into effect at the earliest opportunity.
- 8.3. There have been two responses in total to the consultation, both of which suggest changes to the job titles in Annexe 1 of the policy on;
- (page 32 (e)) Head of Planning needs to be replaced with Executive Head of Planning

- (page 32 (d) and (f)) Head of Environment needs to be replaced by Executive Head of Regulatory Services

There was also a note as to whether reference to 'Martyn's Law' should be included in the policy. Martyn's law is proposed legislation to better protect the public from terrorism in any place or space to which they have access.

9. Key Risks

- 9.1. The Statement of Licensing Policy is in place to ensure public safety when using these services and to ensure the appropriate balances and mitigations are in place to minimise risk to public safety whilst enabling businesses to trade effectively, efficiently and legally.

The Statement of Licensing Policy is required to comply with the legislation. Failure to do so would invite legal challenge to decisions on applications and reviews subsequently made under the Act.

10. Financial Implications

- 10.1. There are no immediate resource implications in this report; resources required to fulfil the Council's duties in respect of the licensing process are met from the existing budget.

11. Legal Implications

- 11.1. Section 5(1) of the Licensing Act 2003 requires the Licensing Authority to prepare and publish a Statement of Licensing Policy every 5 years. When determining its policy, the Council is exercising a licensing function and as such must have regard to the Guidance issued by the Secretary of State under section 182 of the Act. It must also give appropriate weight to the views of those persons/bodies listed in section 5(3) of the Act which it is required to consult before determining its policy.

12. Human Resource Implications

12.1. There are no additional human resource implications

13. Equality and Diversity Implications

13.1. The Licensing Policy sets out the framework within which decisions are made that impact crime and disorder, public safety, public nuisance and the protection of children from harm. There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the Council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

14. Climate Change/Sustainability Implications

14.1. There are no implications arising from the recommendations contained within this report in terms of meeting the Council's climate change obligations.

15. Summary of Options

15.1 To approve the contents of the report; the attachments and the consultation that has taken place

15.2 To refer the Statement of Licensing Policy to full Council for approval

16. Conclusion

16.1 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 Council. The Policy

is ultimately set by the Council as part of the Policy Framework, on the recommendation of the Licensing Regulatory Committee, and the activity under the Policy is the remit of this Committee and its Licensing Act Sub-Committees.

17. Background Papers

17.1 Licensing Act 2003 and revised Licensing Act Guidance (December 2022)

18. Appendices

18.1 Annexe 1 – The two comments received following the public consultation.

18.2 Annexe 2 – A draft revised Statement of Licensing Policy approved for consultation is attached at Annexe 2.