

Meeting:	Council
Meeting date:	Friday 11 December 2020
Title of report:	Licensing Policy 2020-2025
Report by:	Cabinet Member Housing, Regulatory Services & Community Safety

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To review and approve the draft Licensing Policy 2020-2025 to be applied by the council when exercising its licensing functions under the Licensing Act 2003 (the Act). The current policy was approved in March 2015; that policy has been reviewed and refreshed to take account of new guidance issued by the Home Office under Section 182 of the Act.

Recommendation(s)

That:

- 1. the draft Licensing Policy appended to the report be approved: and**
- 2. that authority be delegated to the Assistant Director Regulatory Environment and Waste to make any minor amendments to the statement of licensing policy, as and when required to be updated by legislation and guidance issued by government.**

Alternative options

1. Not to approve the revised policy. This is not recommended as there is a requirement under the Act that the Licensing Authority has a Statement of Licensing Policy and a failure to have in place an updated policy would leave the Licensing Authority without any policy to guide its decision making process and would lead to delay.

2. To make further changes to the policy. This is not recommended as the draft policy has been subject to consultation and areas for improvement or change have been addressed.

Key considerations

3. Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.
4. The previous policy appears to have been effective, as there have been few appeals to the Magistrates Court against any decision of the Licensing Sub-Committee.
5. The purpose of the policy is to ensure that the four licensing objectives are promoted within Herefordshire and this appears to have been effective in the past.
6. Whilst the policy itself remains largely unchanged, amendments have been made to reflect the requirements of the amended guidance issued to Licensing Authorities under Section 182 of the Act and to address any issues which have arisen over the preceding five years to provide clarity where required.
7. The biggest change is the removal of the council's Special Policy (Cumulative Impact Zone) because the council does not have the evidence to support its inclusion. This is probably due to the effect on the hospitality industry caused by COVID. There is the option to re-introduce it subsequently, if the need should arise.
8. Over the life of the policy, the effectiveness of the policy will be monitored to ensure that the licensing objectives are being promoted. This will be achieved by monitoring whether any issues are identified which affects these licensing objectives.
9. The new policy will be published on the website and has already been consulted on, so both the trade and our residents will already be aware of the proposed changes.

Community impact

10. The statement of licensing policy is likely to have some impact on the community. However, the council as Licensing Authority has a responsibility to promote the four licensing objectives of the prevention of crime and disorder, public safety, public nuisance and the protection of children from harm. This policy helps to promote this requirement.
11. The statement of licensing policy will ensure that businesses are aware of the expectations of the Licensing Authority in respect of the licensing of premises/persons under the Act. This will result in the promotion of the licensing objectives, as well as having a positive impact on the ambitions of the Council, as outlined in the County Plan 2020 - 2024, which are:
 - Environment: Protect and enhance our environment and keep Herefordshire a great place to live
 - Community: Strengthen communities to ensure everyone lives well and safely together
 - Economy: Support an economy which builds on the county's strengths and resources

12. By exercising the functions correctly in respect of the Act, an appropriate balance can be struck between the requirements to promote the four licensing objectives, whilst supporting the needs of legitimate business and the local economy.

Environmental Impact

13. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
14. Whilst this decision has minimal direct environmental impacts, consideration has been made to minimise waste and resource use in line with the council's Environmental Policy. For example license conditions can be included to ensure that licensee premises are required to clear litter and tidy up the immediate surrounding area. In addition, through the change to the on-line application process, this has reduced paper usage.

Equality duty

15. The effects of this policy have been considered in relation to both the Equality Act 2010 and the Human Rights Act 1998. It will have little impact as:
 - a) The policy remains in essence the same as the previous one, with only minor amendments which are updating the policy, mainly as a result of guidance issued under Section 182 of the Act and
 - b) One of the Licensing Objectives under the Act is the protection of children from harm and the policy reflects this objective.
16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Resource implications

17. This report has no resource implications.

Legal implications

18. Section 5 of the Licensing Act 2003 (the Act) requires each licensing authority to publish a statement of licensing policy at least every 5 years. Before determining its policy a licensing authority is required by the Act to consult with the bodies listed in section 5 (3) of the Act.

- 19 The statement of licensing policy has been drafted and consulted on in accordance with the requirements of the Act.
- 20 The statement of licensing policy will be a relevant consideration in determining all applications for premises licences and club premises certificates, changes to licences, temporary event notices and personal licences.

Risk management

21. None associated with the recommendation. Failure to approve the statement of licensing policy could result in an application for Judicial Review being made, as the regulation of premises/persons licensed under the Act would have to be in the absence of an updated statement of licensing policy.
22. Should no policy be adopted then we would be in breach of the legislation which requires the council to have a statement of licensing a policy.

Consultees

23. The consultation period ran from 16 October to 20 November 2020.
24. In accordance with Section 5(3) of the Licensing Act 2003 the following have been consulted as statutory consultees:
 - (a) the chief officer of police for the licensing authority's area (West Mercia Police)
 - (b) the fire and rescue authority for that area, (Hereford and Worcester Fire and Rescue Service)
 - (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority
 - (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.(Parish & Town Councils and Local Chamber of Commerce).

[Items (c) and (e) to (f) was achieved by sending out 865 emails to holders of these types of licence]. Twenty five letters were to clubs (d) as no email addresses were held.

25. In addition to the statutory consultees the following have also been consulted:
 - Environmental Health
 - Trading Standards
 - West Midlands Ambulance Service
 - Public health
 - Safeguarding and Review, Children and Families
 - Health and Safety Executive
 - Herefordshire Against Night time Disorder
 - Hereford BID
26. The consultation document was published on the council website.

27. Any responses from the consultation together with the response of the Licensing Authority, in relation to points raised, can be found in the table at Appendix 2.
28. All feedback has been responded to by email.

Appendices

- Appendix 1 - Draft Licensing Policy 2020-2025
Appendix 2 - Summary of major changes to policy
Appendix 3 - Table of consultation responses

Background papers

None Identified