



2 JULY 2019

Report of: Director of Leisure and Environment

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**SUBJECT: APPROVAL OF REVISED DRAFT STATEMENT OF LICENSING POLICY
REQUIRED BY THE LICENSING ACT 2003**

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

- 1.1 To approve the revised draft Statement of Licensing Policy as required by the Licensing Act 2003 prior to public consultation.

2.0 RECOMMENDATIONS

- 2.1 That the revised draft Statement of Licensing Policy attached at Appendix 2 to this report be approved.
- 2.2 That the Director Leisure and Environment be given delegated authority to publish the draft Statement of Licensing Policy and conduct a period of public consultation prior to returning the final policy for approval by the Licensing and Gambling Committee and Council before 7 January 2020.
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3.0 BACKGROUND

- 3.1 Members will be aware that the Council acts as Licensing Authority (the Authority) when discharging its functions under the Licensing Act 2003 (the Act). As part of these responsibilities, the Authority is required to produce a Statement of Licensing Policy (the Policy) every 5 years. The current Policy came into force on 7 February 2015, and so a revised Policy must be approved and published before 7 January 2020, coming into force on 7 February 2020.

4.0 POLICY CHANGES

4.1 Section 4 of the Act provides that, in carrying out its functions, the Authority must 'have regard to' guidance issued by the Secretary of State under Section 182 of the Act (the Guidance). Accordingly, the draft Statement of Licensing Policy (the draft Policy) attached at Appendix 2 to this report has been revised and updated throughout using all available legislation and guidance. However, it is not intended for the draft Policy to replicate the information already in the public domain, rather it is to focus on those issues that have a direct implication for the Borough or where required to do so by the Guidance. All amendments are provided as 'tracked changes' in order to make any changes easier to identify.

4.2 Members' attention is drawn to the following key changes in the draft Policy:

- Clearer definition of public nuisance to allow a wider context when considering contested applications;
- Updated table of delegations to the Director of Leisure and Environment;
- Substantive changes to the review provisions, which outline the options available as well as the expectations for licence breaches and / or criminal activity, thereby allowing removal of the outdated yellow and red card scheme;
- The cumulative impact section has been amended to ensure consistency with the available guidance.

5.0 ISSUES

5.1 In order for the Council to comply with its statutory duties as Licensing Authority, the appended draft Policy must be approved for publication and consultation for a minimum of 12 weeks. Accordingly, and if approved, the draft Policy will be subject to public consultation from 1 August July 2019 to 31 October 2019.

5.2 The consultation will involve direct contact with those listed under Section 5(3) of the Act, namely:

- The chief officer of Lancashire Constabulary;
- Lancashire Fire and Rescue Service;
- Lancashire County Council Director of Public Health;
- Those representative of premises licence holders, club premises certificate holders, personal licence holders, businesses and residents in the Borough.

5.3 Furthermore, the consultation will also include the Community Safety Partnership, local A&E departments, Trading Standards, local tourism representatives, local performers' representatives etc. This list has been made deliberately wide to enable the Authority to undertake a comprehensive consultation exercise with anyone who may be affected by, or otherwise have an interest in, the draft Policy.

5.4 In addition, the following activities will be undertaken to ensure increased awareness of the draft statement:

- Updates in the local press to draw attention to the draft Policy and the need for contributions;
- The draft Policy will be posted on the Council's website;
- Presentation of the draft Policy to the Council's MALT (Multi Agency Licensing Team).

5.5 Once the consultation period has ended, the draft Policy will be amended to take account of any views received. The final version of the Policy will be submitted to this Committee and Council for approval before publication. The final Policy must be published no later than 7 January 2020 in advance of it coming into force on 7 February 2020.

6.0 SUSTAINABILITY IMPLICATIONS

6.1 The operation of the Act has the potential to impact upon many areas within the Community, particularly upon licensed premises directly and the Council's ongoing licensing responsibilities to the public within West Lancashire.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are no financial implications associated with this report.

8.0 RISK ASSESSMENT

8.1 Whilst, the Council has a legal duty to carry out the functions of the Act, it is not under a statutory obligation to review the current Policy Statement until 7 February 2016. However, the Licensing and Gambling Committee has previously made the decision to review the content of the current Policy Statement as it does not accurately reflect relevant legislation and guidance.

8.2 Any failure to administer a review of the Policy Statement appropriately is a breach under the Act and would render any future licensing decisions potentially unlawful. Accordingly, there is significant involvement from, and impact upon, relevant statutory bodies, the licensed trade, the public and other interested parties.

Background Documents

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

Guidance issued under Section 182 of the Licensing Act 2003 – April 2018

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

- 1 Equality Impact Assessment
- 2 West Lancashire Borough Council: Licensing Act 2003 – Draft Statement of Licensing Policy 2020

Appendix 1

Equality Impact Assessment Form



Directorate: Leisure and Environment		Service: Licensing
Completed by: Paul Charlson		Date: 17/06/19
Subject Title: APPROVAL OF REVISED DRAFT STATEMENT OF LICENSING POLICY REQUIRED BY THE LICENSING ACT 2003		
1. DESCRIPTION		
Is a policy or strategy being produced or revised:	No	<i>*delete as appropriate</i>
Is a service being designed, redesigned or cutback:	No	
Is a commissioning plan or contract specification being developed:	No	
Is a budget being set or funding allocated:	No	
Is a programme or project being planned:	No	
Are recommendations being presented to senior managers and/or Councillors:	Yes	
Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty (Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations):	No	
Details of the matter under consideration:		
<p><i>If you answered Yes to any of the above go straight to Section 3</i></p> <p><i>If you answered No to all the above please complete Section 2</i></p>		
2. RELEVANCE		
Does the work being carried out impact on service users, staff or Councillors (stakeholders):	No	<i>*delete as appropriate</i>
If Yes , provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered Yes go to Section 3</i>		
If you answered No to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i>		
3. EVIDENCE COLLECTION		
Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?	Licensing Authorities, service users, members of the public.	
If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?	All sections of the public and businesses use or operate the licences outlined in this report.	

Which of the protected characteristics are most relevant to the work being carried out?	<i>*delete as appropriate</i>
Age	No
Gender	No
Disability	No
Race and Culture	No
Sexual Orientation	No
Religion or Belief	No
Gender Reassignment	No
Marriage and Civil Partnership	No
Pregnancy and Maternity	No
4. DATA ANALYSIS	
In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why?	Licensing Authorities, Responsible Authorities, licensed trade, service users, and members of the public.
What will the impact of the work being carried out be on usage/the stakeholders?	The draft Policy will be subject to consultation and the responses will help shape the final document for approval and use.
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	The draft Policy will be subject to consultation and the responses will help shape the final document for approval and use.
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	The draft Policy will be subject to consultation and the responses will help shape the final document for approval and use.
If any further data/consultation is needed and is to be gathered, please specify:	N/A
5. IMPACT OF DECISIONS	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	None.
6. CONSIDERING THE IMPACT	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	N/A
What actions do you plan to take to address any other issues above?	No actions <i>If no actions are planned state no actions</i>

7. MONITORING AND REVIEWING

When will this assessment be reviewed and who will review it?

The draft Policy will be subject to consultation and the responses will help shape the final document for approval and use. The review of this assessment will form part of the report to Members at that time.