

REPORT TITLE: REVIEW OF LICENSING POLICY UNDER THE LICENSING ACT 2003.

5 SEPTEMBER 2023

REPORT OF CABINET MEMBER: Cllr Jackie Porter, Cabinet Member for Place and Local Plan

Contact Officer: Carol Stefanczuk Tel No: 01962 848188
Email cstefanczuk@winchester.gov.uk

WARD(S): ALL

PURPOSE

The City Council as the Licensing Authority is required to determine its policy with respect to the exercise of its licensing functions under the Licensing Act 2003 at least every five years. The Licensing Policy must be reviewed and adopted by 6 February 2024. The reviewed Policy will cover the 5 year period from 7 February 2024 to 7 February 2029.

This report suggests minor amendments to the Policy as detailed in the report.

RECOMMENDATIONS:

1. That the reviewed Draft Licensing Policy at Appendix 1, including any further amendments by the Licensing and Regulation Committee, be approved for consultation as detailed in paragraphs 10.6 to 10.9 of the report.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 Tackling the Climate Emergency and Creating a Greener District
- 1.2 N/A
- 1.3 Homes for all
- 1.4 N/A
- 1.5 Vibrant Local Economy
- 1.6 The Policy aims to promote a thriving economy for individuals and businesses providing licensable activities, whilst ensuring they comply with the law.
- 1.7 Living Well
- 1.8 The Policy seeks to balance supporting local businesses and using powers available to officers to ensure that the Winchester district is a pleasant place to live, work and visit.
- 1.9 The Policy highlights working closely with the police and other partners to address anti-social behaviour and improve community safety.
- 1.10 Your Services, Your Voice
- 1.11 The Policy sets out the powers available to officers and any person negatively impacted by the provision of licensable activities and where they consider the licensing objectives are not being met.

2 FINANCIAL IMPLICATIONS

- 2.1 None

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Licensing Policy must be reviewed at least every five years as required by the Licensing Act 2003.

4 WORKFORCE IMPLICATIONS

- 4.1 None

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None

6 CONSULTATION AND COMMUNICATION

- 6.1 The proposed changes to the Licensing Policy will go through a full consultation process subject to approval at the Licensing and Regulation Committee on 5 September 2023 – see paragraphs 10.6 to 10.9 below.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 None

8 PUBLIC SECTOR EQUALITY DUTY

- 8.1 The Policy sets out that all applicants must ensure that they take into account adequate provision for the safety of persons under the Equality Act 2010.

- 8.2 An Equality Impact Assessment (EqIA) has been completed and can be found at Appendix 2.

- 8.3 The EqIA highlights the following:

- Residents living in urban areas may be disproportionately likely to be impacted by the anti-social behaviour and noise complaints than rural areas. This is directly acknowledged in the Policy and is effectively mitigated by providing more support to these areas (such as additional policing and community support) and applying higher requirements in areas with dense residential properties.
- The Policy has the potential to negatively impact individuals with a disability. This is mitigated by making other versions available, such as larger text. Customers can also book an appointment for an officer to read the Policy to them face-to-face or by telephone.
- As all applicants for premises and personal licences must be aged 18 or over, this has the potential to negatively affect an individual based on age. The policy clearly explains the rationale and legal justification of age restrictions and the benefits of having these in place.
- The Policy includes a glossary to explain the meaning of legal 'jargon' making the document easier to understand for those with English as an additional language, people with learning difficulties, or those with lower levels of literacy.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 Any personal data received as part of the consultation process will be stored in line with Council policy and GDPR requirements.

- 9.2 Personal data will be made public as part of a future report to the Licensing and Regulation Committee for consideration of any comments received. Consultees will be notified of this in advance and will be given the opportunity to withdraw their comments or provide exceptional reasons why their personal data should not form part of the report.

9.3 RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure	N/A	
Exposure to challenge	The adoption of the Policy could be challenged by Judicial Review, but as the proposed changes are minor and legal advice has been provided for the process, a challenge is considered unlikely. There will be a formal consultation as detailed in paragraphs 10.6 to 10.9.	
Innovation	N/A	
Reputation	The Policy aims to strike a balance between obtaining all the benefits provided by licensed premises and events, and ensuring that their impact is properly controlled and balanced against other community interests.	
Achievement of outcome	Where representations are received against applications, these decisions are made by the Licensing Sub-Committee where the Policy and national guidance are considered as part of the decision-making process.	
Property	N/A	
Community Support	All elected Members and Parish Clerks will be consulted.	
Timescales	The current Policy will be active until the reviewed Policy has been determined.	
Project capacity	N/A	
Other	N/A	

10 SUPPORTING INFORMATION:

Introduction

- 10.1 The Licensing Authority is required under section 5 of the Licensing Act 2003 to review and publish its Licensing Policy every five years.
- 10.2 The current Licensing Policy (“the Policy”) was adopted by full Council on 28 February 2019, following a review.
- 10.3 The Policy must be taken into consideration when the Council is carrying out its Licensing Act 2003 functions.

Changes proposed

- 10.4 The draft Licensing Policy at Appendix 1 details the proposed changes which are shown tracked.
- 10.5 The changes are minor, as set out below:
 - a) Page 2. Updated the approximate number of licensed premises, to reflect the changes in the last five years.
 - b) Page 2. To include Outdoor events and festivals, and wholesalers/online alcohol sales to acknowledge the increase of these types of businesses/applications.
 - c) Page 4. To update and acknowledge The Regulatory Reform (Fire Safety) Order 2005.
 - d) Pages 10 & 11. Reference to Live Music Act 2012 and Deregulation Act 2015 and the expectation on the premises licence holder not to create unacceptable nuisance where the activity is exempt.
 - e) Pages 16 & 54. Remove reference to TEN limitations, as these have been changed and could be amended again in the future. The Council’s website will detail the current, relevant restrictions.
 - f) Page 16. To clarify that all electronic notices will be forwarded to the relevant Responsible Authorities by the Licensing Authority, not the applicant.
 - g) Page 24. Include consideration by applicants relating to procedures on how to deal with reports of Violence Against Woman and Girls (VAWG), which is being highlighted by Hampshire Police and the Police and Crime Commissioner.
 - h) Page 26. Recognising that the Regulatory Reform (Fire Safety) Order 2005 replaces previous fire safety legislation. The Licensing Authority will

not seek to impose fire safety conditions on a licence/certificate where the Order, or any future fire safety guidance/legislation applies. Conditions should not duplicate any legislation.

- i) Page 26. Remove paragraph B.3 in relation to fire safety considerations, which are not required to be duplicated. This would be subject to separate review by Hampshire & IOW Fire and Rescue Service.
- j) Page 27. To expect applicants to consider national safety campaigns and measures on how to deal with drink spiking and any reported incidents of these.
- k) Page 27. Add reference to counter terrorism considerations, in line with the updated Home Office guidance issued under Section 182 of the Licensing Act 2003.
- l) Pages 27 & 40-47. Remove reference and list of 'additional matter which should be considered by applicants' which refer to outdated conditions used prior to the Licensing Act 2003.
- m) Page 36. Remove reference to premises having a direct link to the Police and update in line with modern technology, including reference to 'banned persons' imposed by Winchester Pubwatch.
- n) Page 39. Updated bibliography.
- o) Page 55. Remove known breweries or companies such as Punch Taverns and Marstons PLC, as they have been taken over or do not have a significant number of premises within the district to justify consulting them directly.

Consultation

10.6 Before adopting the Policy, the Council will consult with:

- The Chief Officer of Police for Hampshire
- The Chief Officer of Hampshire Fire and Rescue Service
- Bodies representing local holders of premises licences
- Bodies representing local holders of club premises certificates
- Bodies representing local holders of personal licences
- Bodies representing businesses and residents in the Council's area
- The relevant area Child Protection Teams
- Primary Care Trust or Health Board
- Any other bodies the Council deems appropriate, e.g. Winchester BID

10.7 The consultation period will run from 20 September 2023 to 22 October 2023.

10.8 A clean draft Policy (without tracked changes) will be provided to the consultees and will be available to view on the Council's website.

10.9 The results of the Consultation will be reported to the Licensing and Regulation Committee on 6 December 2023 and, subject to any further amendments by that committee, the final version will be referred to full Council on 17 January 2024.

11 OTHER OPTIONS CONSIDERED AND REJECTED

11.1 Not applicable.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

[CIL142 – Review of Licensing Policy under the Licensing Act 2003 – 28 February 2019](#)

[LR517 – Review of Licensing Policy under the Licensing Act 2003 – update following consultation – 21 February 2019](#)

[LR514 – Review of Licensing Policy under the Licensing Act 2003 – 6 December 2018](#)

Other Background Documents:-

[Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 – 16 August 2023](#)

APPENDICES:

Appendix 1 – Draft Licensing Policy – Review 2023

Appendix 2 – Equality Impact Assessment (EqIA)