

REPORT TITLE: REVIEW OF LICENSING POLICY UNDER THE LICENSING ACT  
2003 – UPDATE FOLLOWING CONSULTATION

21 FEBRUARY 2019

REPORT OF PORTFOLIO HOLDER: Cllr Jan Warwick, Portfolio Holder for  
Environment

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WARD(S): ALL

PURPOSE

At the Licensing and Regulation Committee on 6 December 2018, Members made minor amendments to the draft review of the Licensing Policy (“the Policy”) and approved the Policy for consultation.

Members are asked to consider all comments received during the consultation period and decide if further amendments should be made to the Licensing Policy before adoption.

RECOMMENDATIONS:

1. The revised Licensing Policy be recommended to Council for adoption.

IMPLICATIONS:1 COUNCIL STRATEGY OUTCOME

- 1.1 The Licensing Policy relates to the third Strategic Outcome; 'Improve the health and happiness of our community' by supporting the delivery of a programme of events across the District.
- 1.2 It also relates to the fourth Strategic Outcome; 'Improving the quality of the District's environment' by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

2 FINANCIAL IMPLICATIONS

- 2.1 All fees under the Licensing Act 2003 are set by central government.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Licensing Policy must be reviewed every five years as required under 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 consultation period was held from 20 December 2018 to 20 January 2019.
- 6.2 The following parties were consulted:-

Chief Constable of Hampshire Constabulary	Police and Crime Commissioner for Hampshire
Hampshire Constabulary - Licensing	Hampshire Fire and Rescue Service
Child Protection - Hampshire County Council	Environmental Health - Winchester City Council
Development Management - Winchester City Council	South Downs National Park Authority
All Members – Winchester City Council	All Parish Clerks
Winchester Pub Watch	Winchester BID

BIIAB	British Beer and Pub Association
Punch Taverns	Fuller Smith & Turner
Greene King Retailing Limited	Enterprise Inns Plc
Marstons Plc	Wadworth and Co. Limited

6.3 Comments were received from; Environmental Health (WCC), Hampshire Constabulary, South Downs National Park Authority, Cheriton Parish Council, Cllr Hugh Lumby and the British Beer and Pub Association. Further details can be found in paragraph 11.3.

## 7 ENVIRONMENTAL CONSIDERATIONS

7.1 None

## 8 EQUALITY IMPACT ASSESSEMENT

8.1 There is a need to have regard to the public sector duty of equality when reviewing the Licensing Policy.

## 9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None

## 10 RISK MANAGEMENT

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<i>Property</i>	N/A	
<i>Community Support</i>	All elected Members and Parish Clerks were consulted on the Policy review.	
<i>Timescales</i>	The review Policy will take effect once adopted by full Council.	
<i>Project capacity</i>	N/A	
<i>Financial / VfM</i>	N/A	
<i>Legal</i>	The Policy could be challenged by Judicial Review, but as the Council's decision-making process is lawful, a challenge is considered unlikely.	

<i>Innovation</i>	N/A	
<i>Reputation</i>	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.	
<i>Other</i>	N/A	

## 11 SUPPORTING INFORMATION:

### Introduction

- 11.1 The City Council as the Licensing Authority is required to review and publish its Licensing Policy under section 5 of the Licensing Act 2003 every five years. During the five year period, the Licensing Authority must keep its policy under review and make such revisions to it, at such times as it considers appropriate.
- 11.2 At the Licensing and Regulation Committee on 6 December 2018, Members considered the reviewed Policy and agreed to progress to consultation in respect of minor changes as detailed in report LR 514.

### Comments received

- 11.3 During the consultation period, comments have been received from the following; Environmental Health (WCC), Hampshire Constabulary, South Downs National Park Authority, Cheriton Parish Council, Cllr Hugh Lumby and the British Beer and Pub Association, which are detailed below along with any proposed changes to the Policy

a) Environmental Health

Several changes have been suggested by the Environmental Health Manager (Environmental Protection) as a responsible authority, to revise the sections of the Policy, primarily in relation to public nuisance.

These are recommended and can be found as tracked changes in the draft Policy at Appendix 1.

b) Hampshire Constabulary

Sergeant Julian Ainsworth, responsible for Licensing and Harm Reduction, commented that he had no concerns from a Police perspective to the content/amendments to the Policy.

No changes to policy made in response to the Police comments.

c) South Downs National Park Authority (SDNPA)

The South Downs National Park Authority has suggested the following minor changes to the Policy;

- To make minor changes to paragraph 1.5 (page 3) for clarification. This is agreed and has been included in the draft Policy at Appendix 1.
- To include a web link to the SDNPA's guidance notes to event organisers on page 3, paragraph 1.6.

This is agreed has been included in the draft Policy at Appendix 1.

- To add a specific reference to the International Dark Sky Reserve in Appendix D, page 47, paragraph 7.

This is not agreed following consideration of proposed changes by Environmental Health.

The full response from the SDNPA can be found at Appendix 2.

d) Cheriton Parish Council

Cheriton Parish Council have suggested the following amendment (shown in italics below) to paragraph C.4 on page 25 of the Policy:-

- Stricter conditions with regard to noise control will be expected in those areas of the District which have denser residential accommodation or low levels of background noise, such as the South Downs National Park *which has in its Local Plan a Strategic Policy SD7: Relative Tranquillity. The SDNP Local Plan states that "The purpose of Policy SD7 is to ensure that development does not harm the relative tranquillity of the National Park and to encourage the conservation and enhancement of positive tranquillity factors." In the context of this clause in the Licensing Policy, applications for premises licences for sites within the South Downs National Park must be regarded as "development" and stricter conditions will be imposed in respect of regulated entertainment for such sites in order to comply with the SDNP Local Plan Strategic Policy SD7.*

This is not agreed following the suggested changes by Environmental Health to remove this paragraph.

The full response from Cheriton Parish Council can be found at Appendix 2.

e) Cllr Hugh Lumby, Upper Meon Valley Ward

Cllr Lumby has proposed that changes are made to paragraph C.4 on page 25 of the Policy, that:-

- The following phrase is removed; "*but this will not limit opening hours without regard to the individual merits of any application*".
- The paragraph is amended using the wording suggested by Cheriton Parish Council as detailed in 11.5 c) above.

This is not agreed following the suggested changes by Environmental Health to remove this paragraph.

The full response from Cllr Lumby can be found at Appendix 2.

f) British Beer and Pub Association (BBPA)

Andrew Green on behalf of the British Beer and Pub Association has commented in support of the changes to the Policy, which brings the document up-to-date and has not suggested any changes.

The full response from the BBPA can be found at Appendix 2.

## 12 Summary

The Licensing Policy has been revised following the necessary consultation and is presented for consideration. Should the policy be agreed the Policy will be recommended for adoption at the next Council meeting on 28 February 2019.

## 13 OTHER OPTIONS CONSIDERED AND REJECTED

13.1 Members will wish to consider all comments received and decide whether to make changes to the Policy in light of these. As detailed above, there are conflicting suggested changes in relation to the section of the Policy titled 'Noise Controls'. However, it is for the council to determine the policy and the best course of action has been set out

### BACKGROUND DOCUMENTS:-

#### Previous Committee Reports:-

LR 514 – Review of Licensing Policy under Licensing Act 2003 – 6 December 2018

LR 468 – Review of Statement of Licensing Policy 2016 – comments received following consultation – 17 March 2016

LR 463 - Review of the Statement of Licensing Policy 2016 – 14 January 2016

LR 422 – Review of Licensing Policy 2014 – 10 October 2013

LR 410 – Review of Licensing Policy 2014 – 13 June 2013

Other Background Documents:-

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

APPENDICES:

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|------------|--|
| Appendix 1 | Amended Draft Licensing Policy January 2019      |
| Appendix 2 | Comments received during the consultation period |