



LICENSING COMMITTEE REPORT

Report Title	Licensing Act 2003
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AGENDA STATUS: PUBLIC

Committee Meeting Date:
10 November 2020

Policy Document:
Statement of Licensing Policy 2020 -
2025

Directorate:
Customers & Communities

1. Purpose

- 1.1. To allow the Alcohol and Gambling Committee (“the Committee”) to consider the proposed new Northampton Borough Council Statement of Licensing Policy (“SoLP”) as a part of a statutory review which must take place before February 2021 and to approve it for the purpose of undertaking the necessary statutory consultation.

2. Recommendations

- 2.1. That the Committee approve the draft proposed SoLP at **Appendix A** be the subject of consultation as required by section 5 of the Licensing Act 2003 (“the Act”), with a view to Officers reporting back to the Committee in order to seek referral to the first available full Council meeting thereafter for adoption of that policy.
- 2.2. That the Committee delegate the authority to commence the necessary statutory consultation to the Environmental Health and Licensing Manager.

3. Report Background and Issues

- 3.1. In accordance with Section 5 of the Act, the Council, as Licensing Authority for the District area of Northampton, is required to make and adopt an SoLP, in

accordance with which premises licensing applications must be decided. There is also a duty to review the SoLP at least once every five years and adopt a new policy or renew the existing one after undertaking the necessary statutory consultation.

- 3.2. The Council's current SoLP was last adopted in February 2016 and needs to be reviewed with a view to adopting a new policy or renewing the existing one no later than February 2021. This report seeks approval of the draft of the proposed new SoLP by the Committee and delegation of the authority to Officers to undertake the necessary consultation prior to consideration. Once this has taken place and the responses considered, a further report will be brought to the Committee to seek a resolution to refer the proposed SoLP to full Council for adoption, which is a statutory requirement. The Committee cannot by law adopt or renew an SoLP.
- 3.3. The existing SoLP was initially adopted by full Council on 12th December 2004 and required review periodically. The Secretary of State has since decreed that the policy must now be reviewed at least every five years, although a Licensing Authority can review it at any time it wishes. The last Council review and revision occurred in February 2016, so another review and adoption of a new policy or renewal of the existing one must now take place, irrespective of the creation of a new Unitary local authority for West Northants on 1st April 2021.
- 3.4. The proposed replacement SoLP has been prepared in accordance with the provisions of the Act and with regard to the current statutory Guidance issued under section 182 of the same and is appended to this report at **Appendix A**
- 3.5. The draft policy at **Appendix A** has been produced with the assistance of the Northamptonshire Licensing Liaison Group. This group consists of Local Authority licensing team leaders from each District Council, the Police, Fire Service, Trading Standards and the local Health Authority. There are no key significant proposed policy changes in the draft document but there are some changes to contact details and website details.
- 3.6. This SoLP will need to be reviewed by West Northamptonshire Council ("WNC"), as the Licensing Authority for the new unitary District area of West Northamptonshire, at some point in the next five years. South Northamptonshire and Daventry District Councils have recently adopted a very similar SoLP so that, until such time as WNC reviews all three SoLPs which will be applicable in the new unitary District Council area, there will be a consistent approach to licensing policy in West Northamptonshire.
- 3.7. Section 5 of the Act requires the Council to consult with the following organisations and persons as part of a review of its current SoLP;
 - a) the Chief Officer of Police for the Licensing Authority's area,
 - b) the Fire and Rescue Authority for that area,
 - c) each Local Health Board for an area, any part of which is in the Licensing Authority's area,

- d) each Local Authority in England whose public health functions within the meaning of the **National Health Service Act 2006** are exercisable in respect of an area any part of which is in the licensing authority's area,
- e) such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority,
- f) such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority,
- g) such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority and
- h) such other persons as the Licensing Authority considers to be representative of businesses and residents in its area.

3.8. The Environmental Health and Licensing Manager proposes to consult the organisations and persons above and to request comments from each within a period of 6 weeks, as there are no proposed significant changes to the Policy since the publication of the last SoLP.

4. **Choices (Options)**

- 4.1. The Committee can choose to approve the draft proposed SoLP at Appendix A for consultation and choose to delegate the appropriate to the Environmental Health and Licensing Manager to undertake that statutory process. **This option is recommended** in order to ensure that the SoLP for Northampton matches up to the other SoLPs which are likely to remain in force within the new West Northamptonshire District area as part of interim arrangements, which will reduce the risk of judicial challenge against WNC until such time as it adopts one single policy for the new District area.
- 4.2. The Committee can choose to request amendments to the draft proposed SoLP at Appendix A prior to consultation. **This option is not recommended** because if a policy that does not accord with the other SoLPs in the new West Northamptonshire District area is ultimately adopted by the Council, the risk of judicial challenge by premises license applicants in Northampton against WNC will remain.
- 4.3. The Committee can choose to not consult about a proposed replacement SoLP. **This option is not recommended** as the Council has a statutory duty to review the existing SoLP no later than February 2021 and not doing so would be unlawful. This could potentially make any decisions made by either the Council, and eventually WNC with regard to premises license applications, unlawful until a review and statutory consultation as required by section 5 of the Act is eventually carried out and a new SoLP adopted.

5. Implications (including financial implications)

5.1. Policy implications

- 5.1.1. The existing Council SoLP would potentially be replaced by the draft proposed policy at Appendix A, subject to any responses by consultees and adoption by the full Council.

5.2. Financial Resources and Risk

- 5.2.1. There are no financial risks associated with the statutory consultation exercise.

5.3. Legal Comments

- 5.3.1. As set out above, the Council has a statutory duty to review its existing SoLP by February 2021 at the latest. As part of this, the organisations and persons identified at paragraph 3.7 above must be consulted with regard to a proposal to renew the existing SoLP or adopt a replacement policy. If a new SoLP is not adopted by the end of February 2021, or shortly thereafter, the Council will be in breach of its duty under Section 5 of the Act and any decision it makes with regard to any premises license application could potentially be ruled unlawful if judicially challenged.
- 5.3.2. On 1st April 2020, WNC will become the Licensing Authority for the new District area of West Northamptonshire. As a result, the duty to have an SoLP will pass from the three existing Licensing Authorities to it, save for any interim arrangements made by Parliament that will ensure the three separate SoLPs will continue to apply in their respective geographical areas until such time as they are replaced by one policy for the entire new District licensing area.
- 5.3.3. In order to ensure consistency of the approach to deciding premises license applications in the new District area and avoid judicial challenges by premises in Northampton, it is advisable to align the Council's SoLP as much as possible with South Northamptonshire and Daventry District Councils before all three are abolished on 31st March 2021.

5.4. Equality

- 5.4.1. The purpose of the SoLP is to ensure that the four licensing objectives of;

- The prevention of crime and disorder,
- The prevention of public nuisance,
- Public safety and
- The protection of children from harm

are upheld and promoted through the licensing framework. Each premises license application and decision must taken on its own merits with promotion of these objectives as its basis. As a result, no potentially detrimental equality issues have been identified or are envisaged as a result of the decision to consult about a proposed new SoLP following a statutory review.

5.5. Consultees

5.5.1. The Council must consult the organisations and persons identified at section 5 of the Act and set out at paragraph 3.7. above.

5.6. Environmental Implications (including climate change issues)

5.6.1. None identified.

5.7. Other Implications

5.7.1. None identified.

6. Background Papers

6.1. Statement of Licensing Policy 2016 - 2021

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