



Monday, 6 November 2023

Dear Sir/Madam

A meeting of the Licensing and Appeals Committee will be held on Tuesday, 14 November 2023 in the Council Chamber, Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB, commencing at 10.00 am.

Should you require advice on declaring an interest in any item on the agenda, please contact the Monitoring Officer at your earliest convenience.

Yours faithfully

Chief Executive

To Councillors:	R Bullock (Chair)	H Land
	E Winfield (Vice-Chair)	S Paterson
	B C Carr	D D Pringle
	A Cooper	C M Tideswell
	G S Hills	S Webb
	S Kerry	K Woodhead

AGENDA

1. APOLOGIES

To receive apologies and to be notified of the attendance of substitutes.

2. DECLARATIONS OF INTEREST

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda.

3. MINUTES

(Pages 3 - 6)

The Committee is asked to confirm as a correct record the minutes of the meeting held on 12 September 2023.

4. REVIEW OF LICENSING ACT 2003 STATEMENT OF LICENSING POLICY 2024-2029 (Pages 7 - 20)

To advise Members of the response to the consultation of the Council's draft reviews Licensing Act 2003 Statement of Licensing policy for 2024-2029.

5. EXCLUSION OF PUBLIC AND PRESS

The Committee is asked to RESOLVE that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2, 3 and 7 of Schedule 12A of the Act.

6. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE (Pages 21 - 38)

LICENSING AND APPEALS COMMITTEE

TUESDAY, 12 SEPTEMBER 2023

Present: Councillor R Bullock, Chair

Councillors: E Winfield
A Cooper
G S Hills
S Kerry
S Paterson
D D Pringle
C M Tideswell
S Webb
E Williamson
K Woodhead

Apologies for absence were received from Councillors B C Carr and R D MacRae

23 DECLARATIONS OF INTEREST

Councillor K Woodhead declared a non-pecuniary interest in agenda item 5 due to knowing the appellant in a personal capacity and left the meeting for this item. Minute number 26 refers.

24 MINUTES

The minutes of the meeting held on 13 June 2023 were confirmed and signed as a correct record.

25 EXCLUSION OF PUBLIC AND PRESS

RESOLVED that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following item of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1, 2, and 3 of Schedule 12A of the Act.

26 APPEAL AGAINST DISMISSAL

RESOLVED to uphold the original decision.

(Councillor K Woodhead, having declared a non-pecuniary interest, left the meeting for this item).

27 REVIEW OF STATEMENT OF LICENSING POLICY 2024 - 2029

Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act. A number of legislative changes have taken place since the last review in 2018 and the Home Office revised Section 182 statutory guidance has also made a number of

amendments in respect of the Licensing Act 2003 and the Authority must now review, adopt and publish a new statement to reflect these changes by 7 January 2024.

RESOLVED that the draft statement of Licensing Policy for the purposes of statutory consultation be approved.

28 HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE SPECIFICATION - ENGINE SIZE

The Committee considered a request from the taxi trade to amend the current specification of hackney carriage and private hire vehicle engine capacity as outlined in the Council's Hackney Carriage and Private Hire Vehicle Policy.

The current specification for all vehicles as set out in the Policy in terms of cubic capacity (cc) is a minimum of 1400cc. This has been the case since 3 December 2019 when the minimum capacity was reduced from 1500cc to 1400cc.

It has been requested from members of the taxi trade that the Committee considers reducing the minimum capacity further.

RESOLVED that the Policy be amended to reduce the size of the minimum capacity further.

29 AMENDMENT TO THE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE POLICY AGE OF VEHICLE

The Committee considered a request from the taxi trade to amend the current age policy for hackney carriage and private hire vehicles as outlined in the Council's Hackney Carriage and Private Hire Vehicle Policy.

The current policy states that licence plates for under 5 years old are issued annually, following a successful examination of the vehicle. When a vehicle has reached the age of 5 years it will, on the next renewal, be licensed on a six monthly basis. Subject to the vehicle successfully passing the examination, the vehicle will continue to be renewed up to the age of 8 years. Vehicles over the age of 8 years will not normally be licensed by the Council unless they are wheelchair accessible. Wheelchair accessible vehicles will normally be renewed up to the age of 10 years.

Representations have been received from the taxi trade expressing concern over the current age limitations of the policy.

The request is to allow vehicles of up to 8 years old at date of first registration to be granted a new licence.

RESOLVED that the policy be amended to include the addition of licensing vehicles up to 8 years old at the date of first registration.

30 EXCLUSION OF PUBLIC AND PRESS

RESOLVED that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1, 2, and 3 of Schedule 12A of the Act.

31 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 HACKNEY
CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

RESOLVED to defer the item to a future meeting.

32 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 HACKNEY
CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

RESOLVED that the application be approved.

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Report of the Chief Executive

REVIEW OF LICENSING ACT 2003 STATEMENT OF LICENSING POLICY 2024 - 2029

1. Purpose of Report

To advise Members of the response to the consultation of the Council's draft reviews Licensing Act 2003 Statement of Licensing policy for 2024-2029.

2. Recommendation

The Committee is asked to RECOMMEND to Full Council that the Statement of Licensing Policy be approved for publication by 7 January 2024 and implementation on 7 January 2024 by Full Council on 13 December 2023.

3. Detail

Members approved the content of the draft Statement of Licensing Policy on 12 September 2023 for statutory consultation between 13 September 2023 and 25 October 2023.

Comments have been received following the consultation and a schedule of the comments and the proposed response together with any proposed amendments to the policy is attached at Appendix 1.

A change table incorporating the proposed amendments to the policy is attached at Appendix 2.

The Equality Impact Assessment which accompanied the report on the draft Statement of Licensing Policy is attached at Appendix 3.

Members are asked to approve the proposed amendments and recommend that the policy be approved by Full Council on the 13 December 2023.

The Council is required to publish the revised policy by 7 January 2024 and implement on 7 January 2024.

4. Financial Implications

The comments from the Head of Finance Services were as follows: There are no additional financial implications to consider at this consultation stage with activity being contained within existing budgets. Any significant budget implications going forward, over and above virement limits, would require approval by Cabinet.

5. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

The Licensing Act 2003 Act specifies a minimum level of consultation which the Council must carry out before determining its licensing policy for a 5-year period. Section 5(3) of the Act requires specified persons and bodies to be consulted, this has been done. When determining its' licensing policy, the Council is required to have regard to promoting the four licensing objectives. Failure to formally review the Statement of Licensing Policy in accordance with Section 5 of the Licensing Act 2003, the Regulations and Associated Guidance would mean that the Council would not be able to comply with its statutory duty and would leave it open to legal challenge.

6. Human Resources Implications

The comments from the Human Resources Manager were as follows:

No comments.

7. Union Comments

The Union comments were as follows:

No Comments

8. Climate Change Implications

The comments from the Waste and Climate Change Manager were as follows:

No comments

9. Data Protection Compliance Implications

This report does not contain any [OFFICIAL (SENSITIVE)] information and there are no Data Protection issues in relation to this report.

10. Equality Impact Assessment

As this is a change to policy an equality impact assessment is included in the appendix to this report.

11. Background Papers

Nil

Licensing and Appeals Committee
14 November 2023
Alcohol Policy Representation Response

Representation	Comment	Action Recommended
<p><u>Tom Clark – Nottinghamshire Fire & Rescue Service.</u></p> <p>Within the draft Licensing Policy 7.11 there is the following paragraph:</p> <p><i>“Applicants are expected to have carried out the relevant assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications. These assessments should be used to identify particular issues. . . ”</i></p> <p>We would like to offer the following alternative for the above:</p> <p>Alternative:</p> <p><i>“Applicants are expected to have carried out the relevant risk assessments under any other relevant legislation (e.g. fire safety, health and safety at work, etc) prior to submitting their applications. These assessments should be used to identify those particular issues. . . ”</i></p> <p>We feel the use of the words fire safety is more appropriate than fire precautions, and any promotion you can offer towards compliance with fire safety legislation is appreciated and demonstrates enhanced partnership working towards better regulation.</p>	<p>It is considered that the response by Nottinghamshire Fire & Rescue to change the words in paragraphs 7.11 and the addition of a bullet point at 7.15 will assist with the promotion of licensing objectives.</p>	<p>Amend paragraphs 7.11 and 7.15 in line with the proposals put forward by the Nottinghamshire Fire & Rescue Service.</p>

<p>Furthermore any opportunity to promote compliance with other legislation for example fire safety, health and safety etc. would be of benefit.</p> <p>As an example: but not exhaustive;</p> <p>a) Within 7.15 is there is an opportunity to have a bullet point similar to “compliance with all appropriate / relevant / applicable** legislation”. (delete the ones not required**)</p> <p>I have replied with very similar feedback to other licensing draft policies across the county, and I am very encouraged and grateful that a shared suggestion to these authorities has been adopted into 7.15 (the first bullet point).</p>		
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APPENDIX 2

Policy Section	Suggested Change	Reason for Change
<p>7.11</p> <p><i>“Applicants are expected to have carried out the relevant assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications. These assessments should be used to identify particular issues. .</i></p>	<p>7.11</p> <p>“Applicants are expected to have carried out the relevant risk assessments under any other relevant legislation (e.g. fire safety, health and safety at work, etc) prior to submitting their applications. These assessments should be used to identify those particular issues. .</p>	<p>Representations from Nottinghamshire Fire & Rescue Service to change the wording.</p> <p>They feel the use of the words fire safety is more appropriate than fire precautions, and any promotion you can offer towards compliance with fire safety legislation is appreciated and demonstrates enhanced partnership working towards better regulation.</p>
<p>7.15</p> <p>Examples of recommended management practice to ensure public safety:</p> <ul style="list-style-type: none"> • The preparation and application of appropriate risk assessments. • The setting and monitoring of 	<p>7.15</p> <p>Examples of recommended management practice to ensure public safety:</p> <ul style="list-style-type: none"> • The preparation and application of appropriate risk assessments. • The setting and monitoring of occupancy levels for the premises. • Reasonable facilities, access and egress for people with disabilities. • Having glassware policies. 	<p>Representations from Nottinghamshire Fire & Rescue Service to promote compliance with other legislation for example, fire safety.</p>

Policy Section	Suggested Change	Reason for Change
<ul style="list-style-type: none"> • occupancy levels for the premises. • Reasonable facilities, access and egress for people with disabilities. • Having glassware policies. 	<ul style="list-style-type: none"> • Compliance with all appropriate/relevant/applicable** legislation (**delete the ones not required) 	

EQUALITY IMPACT ASSESSMENT (EIA)

Directorate:
Chief Executive's
Lead Officer Responsible for EIA:
Chief Environmental Health Officer
Name of the policy or function to be assessed:
Statement of Licensing Policy 2024-2029
Names of the officer undertaking the assessment:
Licensing Manager
Is this a new or an existing policy or function?
Existing
<p>1. What are the aims and objectives of the policy or function?</p> <p>This Policy Statement aims to establish sensible controls and appropriate guidance to encourage and further the efforts that are being made by the Council and its partners together with the licensed trade to help the Authority deal with issues that may arise from licensable activities.</p> <ol style="list-style-type: none"> 1. The sale by retail of alcohol 2. The supply of alcohol by or on behalf of a club to a member 3. The provision of regulated entertainment 4. The provision of late night refreshment <p>This will be achieved by:</p> <ul style="list-style-type: none"> • Establishing and building upon best practice within the industry; • Recognising and facilitating the role of partners and stakeholders; • Encouraging self-regulation by licensees and managers; • Providing a clear basis for the determination of licence applications; and • Supporting related policies and strategies of the Borough Council. • An inspection and enforcement regime targeted at premises that present a high risk. <p>The Licensing Authority must carry out its functions under the Licensing Act 2003 with a view to supporting the four Licensing Objectives:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder; • Public safety; • The prevention of public nuisance; and • The protection of children from harm.

2. What outcomes do you want to achieve from the policy or function?

The policy is intended to define how applications are made and dealt with under the relevant legislation. It also sets out matters that applicants must consider when making such applications and gives clear guidance on matters to be considered by the licensing authority when determining the applications. It will also assist in supporting the Council's objectives as set out in the Equality and Diversity Policy

The policy will integrate with other initiatives that will:

- Reduce crime and disorder
- Encourage tourism, creating a vibrant licensed economy
- Reduce alcohol misuse
- Ensure the safety of children and vulnerable adults in the licensed economy
- Ensure a fair and consistent approach to the consideration of applications and management of those premises granted a licence.

3. Who is intended to benefit from the policy or function?

Applicants, Responsible Authorities, other stakeholders, the public and the licensing authority will benefit from the policy. In particular, Councillors, ensuring that as decision makers and representatives of their residents, they understand the considerations required.

Responsible Authorities are:

- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;
- the chief officer of police;
- the local fire and rescue authority;
- the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
- the local authority with responsibility for environmental health;
- the local planning authority;
- a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- each local authority's Director of Public Health (DPH) in England
- the local weights and measures authority (trading standards); and
- Home Office Immigration Enforcement (on behalf of the Secretary of State).

4. Who are the main stakeholders in relation to the policy or

function?

Operators of licensed premises, Responsible Authorities, the public and the licensing authority are all stakeholders in the policy. The Policy is statutorily reviewed every 5 years. The policy review is widely consulted upon with all stakeholders.

5. What baseline quantitative data do you have about the policy or function relating to the different equality strands?

According to research undertaken by the Joseph Rowntree Foundation, (Ethnicity and alcohol; – A review of the literature Hurcombe, Bailey & Goodman. Joseph Rowntree Foundation 2010) overall, most minority ethnic groups have higher rates of abstinence, and lower levels of frequent drinking and heavy drinking compared with the British population as a whole and to people from white backgrounds. However, there is considerable variation between and within different minority ethnic group populations in their drinking behaviours and frequent and heavy drinking can occur in some communities. The controls provided by the reviewed policy will affect all equality strands equally

There are 389 premises licensed by the authority.

- 196 on/off/both Licensed premises
- 109 are licensed for off sales only.
- 16 premises hold Club premises certificates.
- 26 premises are licensed for Late Night Refreshment only
- 58 community premises which are licensed for entertainment only (no sale of alcohol).

6. What baseline qualitative data do you have about the policy or function relating to the different equality strands?

The Licensing policy references equality issues in paragraph 9.1:

Broxtowe Borough Council is committed to promoting equal opportunities, valuing diversity and tackling social exclusion. The Council will aim to provide opportunities that meet the diverse needs of different people and groups of people by ensuring that services and employment opportunities are accessible to all. Everyone will be treated fairly and with respect. Diverse needs will be understood and valued. The Council will aim to eradicate all forms of discrimination

The Licensing Authority working in partnership in particular with Nottinghamshire Police and their Licensing team follow a policy of early intervention when any issues arise.

Test purchasing for under age sales by Police and Trading Standards Officers has resulted in a limited number of fixed penalties being issued but no premises prosecuted for offences. Anecdotally there are few reports of under-age sales.

There are three Pubwatch schemes operating in the Borough supporting the aims and objectives of the policy.

There have been no reported issues relating to any of the equality strands.

The House of Lords Select Committee on the Licensing Act 2003 in 2017 concluded that:

“We do not recommend adding as a licensing objective “compliance with the Equality Act 2010” or “securing accessibility for disabled persons”.

7. What has stakeholder consultation, if carried out, revealed about the nature of the impact?

The Statement of Licensing Policy is reviewed and widely consulted upon every 5 years. This is a statutory function of the Licensing Authority. Consultees are identified in the Licensing Act 2003 and the consultation process includes a number of other interest parties:

- All Broxtowe Borough Councillors
- All Parish/Town Councils within the borough
- All Broxtowe Borough Council Heads of Service
- CAMRA
- Association of Convenience Stores
- Local MPs
- East Midland Ambulance Service
- Children and Adult Safeguarding Boards
- Licensing Solicitors
- Licensed Premises Operators
- Club Operators
- Nottinghamshire Police

Association of Licensed Multiple Retailers
Health & Safety Executive
Nottinghamshire Police
Principal Community Safety Officer
Nottinghamshire Fire & Rescue Service
Association of Town Centre Managers
Trading Standards Service
British Beer & Pub Association
British Institute of Innkeeping
NHS – Nottinghamshire County
All Pubwatches
Local Taxi Operators

There were five responses to the previous consultation in 2018, none of which related to any equality strands.

There will be a consultation on the 2019-24 policy review and full use will be made of the Council's website consultation process as well. Should any response from the current consultation indicate concerns, the matter will be reported to the Licensing and Appeals Committee for consideration and resolution.

The policy will remain under review throughout its lifetime and may be subject to early review if required.

8. From the evidence available does the policy or function affect or have the potential to affect different equality groups in different ways?

In assessing whether the policy or function adversely affects any particular group or presents an opportunity for promoting equality, consider the questions below in relation to each equality group:

- Does the policy or function target or exclude a specific equality group or community? Does it affect some equality groups or communities differently? If yes, can this be justified?**

The Council aims to ensure that services provided are relevant to the needs of all sections of the communities. The stated policies are not expected to adversely affect any of the protected equalities groups highlighted in this assessment. The Council is aware of the negative impact of alcohol on some specific groups

(children, those with mental health issues, particular ethnic groups), therefore in some cases the reviewed policy may have a positive effect.

The policy does not target or exclude any particular body. However, a number of issues of vulnerability and safeguarding are addressed in the statement.

Paragraph 7.14 and Section 8 identify matters in relation to safeguarding of children and other vulnerable persons.

Whilst licensees are able to ban persons from their premises. They are under a duty not to discriminate on grounds of equality.

The policy at 7.37 actively encourages diversity in the licensed economy.

The policy also outlines measures and limitations in respect of “adult entertainment”

- **Is the policy or function likely to be equally accessed by all equality groups or communities? If no, can this be justified?**

The revised policy will apply equally across all groups and communities in the borough.

- **Are there barriers that might make access difficult or stop different equality groups or communities accessing the policy or function?**

There are no barriers in respect of the policy being accessed and utilised by any equality group or community. The policy is available for all to use.

- **Could the policy or function promote or contribute to equality and good relations between different groups? If so, how?**

The implementation of the Licensing Act and the Statement of Licensing Policy engendered a close working relationship with all stakeholders across the County. Safeguarding and vulnerability issues have been and continue to be dealt with by the Nottinghamshire Authorities Licensing Group (NALG). Work is ongoing in respect of CSE and vulnerability issues at licensed premises.

- **What further evidence is needed to understand the impact on**

equality?

Should any evidence arise as a result of the comprehensive consultation process or indeed become apparent during the life of the statement, it will be considered and if necessary acted upon. There are no barriers to revisiting the statement and revising if necessary throughout the five-year period.

9. On the basis of the analysis above what actions, if any, will you need to take in respect of each of the equality strands?**Age:**

One of the licensing objectives is protection of children from harm. NALG will continue to work in partnership with Nottinghamshire Police and the County Safeguarding Boards to address the issues of CSE and vulnerability on Licensed premises.

The statement of policy supports these initiatives.

Disability:

No adverse impact has been identified. However, businesses have a duty under national legislation to make reasonable adjustments for people with disabilities. Should there be any reported incidents or issues, the licensing team will liaise with planning to assist in resolving matters.

Gender Reassignment:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.

Marriage and Civil Partnership:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.

Pregnancy and Maternity:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.

Race:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.

Religion and Belief:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.

Sex:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. The issue of adult entertainment is addressed in the statement. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.

Sexual Orientation:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.

Head of Service:

I am satisfied with the results of this EIA. I undertake to review and monitor progress against the actions proposed in response to this impact assessment.

Signature of Head of Service:

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