

Report of the Chief Executive

REVIEW OF STATEMENT OF LICENSING POLICY1. Purpose of report

To recommend approval of the Council's draft revised licensing statement for statutory consultation.

2. Detail

Section 5 of the Licensing Act 2003 (The Act) requires a licensing authority 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 Act. A number of legislative changes have taken place since the last review of Broxtowe's policy in 2013 and the Home Office revised Section 182 statutory guidance has also made a number of amendments in respect of the Licensing Act 2003. The Authority must now review its existing policy and adopt and publish a new statement to reflect these changes by 7 January 2019

The Act obliges the licensing authority to consult widely on any revision of its licensing statement. There are a number of statutory consultees outlined in the Act and a number of other interested parties and trade bodies have also been identified. A copy of the approved draft will be circulated to all of those so identified. Consultation is planned to commence on 22 June 2018 for a period of 8 weeks.

Members will also be aware that senior members and officers of all Nottinghamshire licensing authorities have been meeting to secure a co-ordinated approach to the new legislation. Considerable work has been undertaken by inter-authority groups to produce core documents common to the districts which reflect the statutory guidance. The draft revised licensing statement reflects the co-operation between the Nottinghamshire authorities.

A copy of Broxtowe's draft licensing statement is circulated separately with the agenda and will be placed in the Members' Room, on the intranet and on the Council's website as part of the consultation process. Appendix 1 shows a proposed timescale for consideration of the document and its adoption in time for the revised policy to be implemented. An Equality Impact Assessment is attached at appendix 2

Recommendation

The Committee is asked to RESOLVE that the draft Statement of Licensing Policy be approved for the purposes of statutory consultation.

Background papers

Nil

APPENDIX 1**TIMESCALE FOR ADOPTION OF REVISED STATEMENT OF LICENSING POLICY**

Draft policy presented to Alcohol and Entertainment Committee for approval	19 June 2018
8 week consultation commences	22 June 2018
8 Week consultation finishes	17 August 2018
Consideration of consultation responses and amendment of draft policy as necessary.	17 August 2018
Revised policy presented to Alcohol and Entertainment Committee for approval	11 September 2018
Adoption of policy by Council	19 December 2018
Publish Statement of Licensing Policy	7 January 2019

APPENDIX 2**Equality Impact Assessment**

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and equality. The majority of the Act came into force on 1 October 2010.

Public bodies are required in it to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited under the Act
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- foster good relations between people who share a protected characteristic and people who do not share it.

The public sector Equality Duty came into force on 5 April 2011. The duty ensures that all public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. It ensures that public bodies consider the needs of all individuals in their day to day work – in shaping policy, delivering services and in relation to their own employees.

The Equality Duty encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

The new equality duty replaces the three previous public sector equality duties, for race, disability and gender. The new equality duty covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – including lack of belief
- sex
- sexual orientation.

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

Having due regard means consciously thinking about the three aims of the equality duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies, including how they act as

employers, how they develop, evaluate and review policies, how they design, deliver and evaluate services, and how they commission and procure from others.

Having due regard to the need to advance equality of opportunity involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics
- meet the needs of people with protected characteristics, and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

Complying with the equality duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic.

The Equality Duty also explicitly recognises that disabled people's needs may be different from those of non-disabled people. Public bodies should therefore take account of disabled people's impairments when making decisions about policies or services. This might mean making reasonable adjustments or treating disabled people better than non-disabled people in order to meet their needs.

There is no explicit requirement to refer to the Equality Duty in recording the process of consideration but it is good practice to do so. Keeping a record of how decisions were reached will help public bodies demonstrate that they considered the aims of the Equality Duty. Keeping a record of how decisions were reached will help public bodies show how they considered the Equality Duty. Producing an Equality Impact Assessment after a decision has been reached will not achieve compliance with the Equality Duty.

It is recommended that assessments are carried out in respect of new or revised policies and that a copy of the assessment is included as an appendix to the report provided to the decision makers at the relevant Cabinet, Committee or Scrutiny meeting.

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary.

Public bodies should take a proportionate approach when complying with the Equality Duty. In practice, this means giving greater consideration to the Equality Duty where a policy or function has the potential to have a discriminatory effect or impact on equality of opportunity, and less consideration where the potential effect on equality is slight. The Equality Duty requires public bodies to think about people's different needs and how these can be met.

EQUALITY IMPACT ASSESSMENT (EIA)

Directorate:	Chief Executive's	Lead officer responsible for EIA	D Gell
Name of the policy or function to be assessed:		Statement of Licensing Policy 2019-2014	
Names of the officers undertaking the assessment:		John Miley	
Is this a new or an existing policy or function?		Existing	

1. What are the aims and objectives of the policy or function?

This Statement of Licensing Policy 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.

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

This will be achieved by:

- 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.

The Licensing Authority must carry out its functions under the Licensing Act 2003 with a view to supporting the four Licensing Objectives:

- 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, 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 England⁴ and Local Health Boards (in Wales);
- 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 364 premises licensed by the authority of which 98 are licensed for off sales only. 17 premises hold Club premises certificates. There are 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?

See the research from the Joseph Rowntree Foundation referred to in 5 above.

The Licensing Authority working in partnership in particular with Nottinghamshire Police and their Licensing team follows a policy of early intervention when any issues arise. This has resulted so far, in no reviews of premises licences in the 15 years of the Licensing Act 2003.

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.

Best Bar None also supports good management practice in licensed premises.

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 BBC Heads of Service
- CAMRA
- Association of Convenience Stores
- Local MPs
- Alcohol Problems Advisory Service

Change Grow Live
 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
 Clerk to the Licensing Justices
 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 Broxtowe Borough Pubwatches
 Local Taxi Operators

There were no responses to the previous consultation in 2013

There will be a full 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 the Alcohol and Entertainment 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. 7.14 and Section 8 identify matters in relation to safeguarding of children.

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 para 7.30 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 Child Sexual Exploitation (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: D Gell