

East Herts Council Report

Executive

Date of meeting: 06 July 2021

Report by: Oliver Rawlings, Service Manager – Licensing & Enforcement

Report title: Consideration of the draft revision of the Statement of Licensing Policy 2021-26

Ward(s) affected: All

Summary – The Licensing Act 2003 requires each Local Authority to adopt and publish a Statement of Licensing Policy (SLP) at least every five years. The purpose of the Policy is to set out the principles the Local Authority will apply when carrying out its licensing functions under the Act.

There is a requirement for public consultation and the consideration of any responses that are received.

RECOMMENDATIONS FOR Executive:

- a)** Consider the consultation responses; and
- b)** Propose any amendments considered necessary to the draft Statement of Licensing Policy; and
- c)** Endorse a final version of the Statement of Licensing Policy 2021-26 for presentation to Council for approval.

1.0 Proposal(s)

- 1.1 That the wording of the proposed Statement of Licensing Policy 2021-26 be considered in light of the consultation responses.

2.0 Background

- 2.1 The Licensing Act 2003 regulates the provision of sale of alcohol, regulated entertainment and late night refreshment (hot food and/or drink between 23:00-05:00) in England and Wales.
- 2.2 The Act makes Local Authorities responsible for licensing premises that are used for these activities within their District or Borough.
- 2.3 It also requires each Local Authority to adopt and publish a Statement of Licensing Policy at least every five years. The purpose of the Policy is to set out the principles the Local Authority will apply when carrying out its licensing functions under the Act.
- 2.4 In 2018 the Licensing Authority created a 'Night Time Economy Position Statement' as an addendum to the Statement of Licensing Policy. This document contained additional information and explanations around 'Licensing Decision Making relating to the Night Time Economy'.

3.0 Reason(s)

- 3.1 As the Licensing Authority East Herts Council is required to have a Statement of Licensing Policy and revise it at least every 5 years.

- 3.2 The current Statement of Licensing Policy expires in July 2021 so as a result an up-to-date revision of the document has been consulted upon as required by the Act.
- 3.3 The SLP is an important document which sets out the principles we will apply when carrying out our licensing function. For this reason extensive consultation was carried out during the drafting process which included:
- the responsible authorities;
 - the licensed trade;
 - a reference group of elected Members;
 - Community Safety Partnership and Joint Action Group members.
- 3.4 As part of the revision the relevant parts of 'Night Time Economy Position Statement' were integrated into the SLP. This will add all stakeholders in licensing as there will now be one document to reference which will contain all the relevant information.
- 3.5 Some of the changes that were proposed in the draft were:
- A new section on pre-application advice and engagement
 - Licensing Hours – Revised premises definitions and timings
 - Town Centres – Revised locations and the introduction of a Sensitive Licensing Area
 - Revised section on stakeholder engagement and representations
 - Revised section on enforcement and inspection

- 3.6 The changes to the original SLP reflect the changes that have been seen in relation to licensing over the last number of years and reflect local trends and issues as well as dealing with issues that were not prevalent when the Policy was last reviewed. Examples of these issues are:
- Modern Slavery;
 - Child sexual Exploitation (CSE);
 - Psychoactive substances.
- 3.7 At the same time as consulting on the SLP the opportunity was taken to seek views on the 'Pool of Model conditions' which the authority already had in place. This is a separate document to the SLP with no statutory requirement to consult on changes however it was felt that it was best practice to take the opportunity to seek opinions on this document as well.
- 3.8 Extensive consultation was undertaken on the proposed revised SLP and during this consultation seven responses were received. Each consultation response is a separate appendix to this report and contains:
- the consultees response;
 - the Licensing Authorities response to the consultee; and
 - details of any amendments to the draft Statement of Licensing Policy proposed as a result of that consultation response.
- 3.9 The first response which is **Appendix A** was received from a Parish Council. This response raised the issue of advertising applications with local residents and sighted a specific example relating to a small music festival.

- 3.10 The Licensing Authority response explains the prescriptive nature of the rules within which applications and advertising must take place and that it is not possible to mandate a different process. The additional steps that the Council will take to facilitate residents engagement were detailed and links included that can be shared with the Parish residents.
- 3.11 The second response which is **Appendix B** was sent on behalf of the holder of a premises licence for an educational establishment.
- 3.12 The response simply stated that they were grateful that we had shared the information and that they were satisfied with the document.
- 3.13 The third response which is **Appendix C** was received from the Fire and Rescue service and is in reference to the 'Pool of Model conditions' rather than the SLP. The point raised was regarding a model condition which required an Event Management Plan to be submitted 28 days prior to the event. The Fire Service felt that this time period was not long enough for a responsible authority to properly consider such documents. Having amended the model condition and informed the Fire Service a further email was received on the same point.
- 3.14 This additional response is **Appendix D**. After consideration it was felt that inclusion of the point within the body of the Statement of Licensing Policy was appropriate.

- 3.15 **Appendix E** contains the Fire service 'Guidance for Event Organisers' referenced in the second email.
- 3.16 The fourth response at **Appendix F** was received from the Hertfordshire Modern Slavery Partnership Coordinator.
- 3.17 The response dealt solely with section 25 of the draft policy which contains information regarding Modern Slavery. Insertions of new information and changes to the original text were proposed in support of the issues identified in this section of the policy.
- 3.18 There was also a question around the feasibility of including two sections in the Pool of Model conditions.
- 3.19 The fifth response which is **Appendix G** was received from Hertford Town Council and dealt with two areas of the draft policy.
- 3.20 The first point related to making it mandatory for applicants to engage early with a variety of bodies and the setting of a minimum period for this to happen.
- 3.21 The second point raised relates to the area defined within the draft policy as being considered Hertford Town Centre and so covered by the proposed 'Sensitive Licensing Area'. Concerns were raised that certain areas were excluded from this definition.
- 3.22 The sixth response which is **Appendix H** was received from Environmental Health, a responsible authority under the Licensing Act 2003.

- 3.23 Of the eight points raised several were in support of the wording of different parts of the draft policy. Slight amendments were suggested to two paragraphs, a typo was highlighted and there was a request for additional information regarding Late Night Levy's.
- 3.24 The seventh response which is **Appendix I** was received from the Police, a responsible authority under the Licensing Act 2003.
- 3.25 The Police response states that they are happy with the draft policy and in particular it is good to see the Sensitive Licensing area for Hertford and the comments made in paragraphs 7.4, 7.5 and 7.9.
- 3.26 The Police commented on various parts of the policy including section 8 (Licensing Objectives), section 9 (Stakeholder engagement and representations), section 16 (Conditions) and section 20 (Festivals and outdoor events). Some more general comments and questions were also included.
- 3.27 Below is a table containing all the amendments to the draft Statement of Licensing Policy which were endorsed by Licensing Committee following consideration of the consultation responses and officer recommendations.

Para. No. or Section	Proposed amendment to draft Statement of Licensing Policy as a result of consultation responses
Foreword	The foreword to be amended slightly to highlight the introduction of a Sensitive Licensing Area (SLA) and the increased detail regarding public health and well-being. Adding an acknowledgement that the foreword is by Executive Member for Neighbourhoods.
4.14	Add a footnote to stating: <i>Such small scale events may still benefit from contacting the East Herts Safety Advisory Group:</i> https://www.eastherts.gov.uk/community-wellbeing/community-events
7.0	Add <i>Castle Street</i> and <i>The Folly</i> to the area considered Hertford Town Centre, and subsequently the Sensitive Licensing Area.
8.0	Add additional paragraphs dealing with under 18's working in licensed premises (8.40-8.44)
8.24	Add the words 'manage or' to start of bullet point 3 so that it reads: <i>• manage or prevent queuing (either by pedestrian or vehicular traffic);</i>
8.9	Add an additional bullet point stating: <i>• the use or not of an ID scanning type system;</i>
8.37	Change 'premise' to 'premises'.
9.2	The wording of bullet point 5 amended to read: <i>• on the first day after the statutory consultation closed, the licence is automatically granted as applied for, that is, without any variation or additional conditions beyond those offered as part of the application.</i>
9.2	Add a footnote to stating: <i>Amendments made by the applicant during the consultation process become part of the application as 'applied for' and will be reflected in any licence which is automatically granted.</i>
16.0	Add additional paragraphs dealing with mandatory

Para. No. or Section	Proposed amendment to draft Statement of Licensing Policy as a result of consultation responses
	licence conditions and irresponsible drinks promotions (16.8-16.15) as detailed in Appendix I.
18.1	Wording revised to better demonstrate the interplay between the role of the Licensing Committee and the Executive Member.
20.5	Add a footnote to stating: <i>Small scale events may still benefit from contacting the East Herts Safety Advisory Group: https://www.eastherts.gov.uk/community-wellbeing/community-events</i>
20.8	Add an additional paragraph to 'Festivals and outside events' section stating: <i>Where the nature of an event means an Event Management Plan, or other similar document, is required it is likely that the responsible authorities will need the final version of these documents to be provided 6 weeks in advance of the event start date. This sort of time scale allows the responsible authority time to properly consider the documents, respond with any concerns and then those concerns to be addressed in good time. Late submission of complex and lengthy documents is likely to result in representations being made against applications</i>
25.0	Amend the section on Modern Slavery as detailed in Appendix F to this report.
Appendix 1 - Consultation	Additional paragraphs added to the start of the appendix to document the engagement work carried out prior to a draft Policy being finalised for consultation.

3.28 Below is a table containing proposed amendments to draft Statement of Licensing Policy which have been identified by officers. These are not substantive changes but are proposed for clarity.

Para. No. or Section	Proposed amendment to draft Statement of Licensing Policy as a result of consultation responses
7.2	Wording amended to indicate that maps of the Town Centre locations are contained in Appendix 5.
9.19 (point 4)	Wording revised to indicate that any application licence application within East Herts will be notified to all local councillors and all parish/town councils instead of just applications within that particular ward.
Appendix 5 – Town Centres	Maps showing the Town Centre locations described in the Policy included for clarity.

3.29 The revised wording, containing the above amendments, of the draft Statement of Licensing policy 2021-26 is contained in **Appendix J**.

3.30 The Pool of Model conditions, as amended following the consultation, is attached as **Appendix K** to this report. It is included for information only as it is a separate document to the Statement of Licensing Policy.

4.0 Options

4.1 Endorse the draft Policy for presentation to Council without amendment.

4.2 Endorse the draft Policy for presentation to Council following appropriate amendments.

4.3 Do not endorse the draft Policy for presentation to Council.

- 4.3 Endorse the existing Statement of Licensing Policy for presentation to Council.
- 4.4 Make amendments to the draft Policy and consult again.

5.0 Risks

- 5.1 The Licensing Authority is required to review its Statement of Licensing Policy at least every 5 years. To fail to do so would leave the authority unable to carry out its licensing function until such time as it has been so reviewed.
- 5.2 Failure to address any perceived or actual gaps within the current Statement of Licensing Policy could be detrimental to the authority's ability to make and defend robust decisions.
- 5.3 If the authority does not have robust policies and procedures in place then it is unable to ensure that the Licensing Objectives are promoted.

6.0 Implications/Consultations

Community Safety

The Statement of Licensing Policy is an important document which seeks to promote the four licensing objectives: Prevention of Crime and Disorder, Public Safety, Prevention of public nuisance; and Protection of children from harm. Therefore Community Safety has been considered when drafting the Policy.

Data Protection

No changes are proposed to how data will be held or handled so no additional implications.

Equalities

Consideration has been given to the Equality Act 2010 and the Public Sector Equality Duty whilst drafting the Policy.

Environmental Sustainability

None

Financial

None

Health and Safety

None

Human Resources

None

Human Rights

As with all Policies and Council functions, the Human Rights Act 1998 has been considered when drafting the Policy.

Legal

All statutory requirements have been considered in preparing this report, including the requirement for public consultation.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

- 7.1 Appendix A – Parish Council Consultation response
- 7.2 Appendix B – Licence Holder consultation response
- 7.3 Appendix C – Fire & Rescue consultation response
- 7.4 Appendix D – Fire & Rescue second response
- 7.5 Appendix E – Fire & Rescue, Guidance for event organisers

- 7.6 Appendix F – Hertfordshire Modern Slavery Partnership Coordinator consultation response
- 7.7 Appendix G – Hertford Town Council consultation response
- 7.8 Appendix H – Environmental Health Consultation response
- 7.9 Appendix I – Police consultation response
- 7.10 Appendix J – Proposed amended wording of the Statement of Licensing Policy 2021-26
- 7.11 Appendix K – Pool of Model Conditions
- 7.12 Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705327/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf
- 7.13 East Herts Statement of Licensing Policy 2016 – https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Statement_of_Licensing_Policy.pdf
- 7.14 Night Time Economy (NTE) Position Statement – https://cdn-eastherts.onwebcurl.com/s3fs-public/documents/Night_Time_Economy_NTE_Position_Statement.pdf

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