

# Cheltenham Borough Council

## Licensing Committee – 2 September 2020

### Consultation on Revised Licensing Act 2003 Statement of Licensing Policy

#### Report of the Licensing Team Leader

#### 1. Background

- 1.1 Section 5 of the Licensing Act 2003 requires the authority to review, determine and publish its Licensing Act 2003 Policy Statement every five years.
- 1.2 The current policy statement was adopted by Council in December 2015. A review of the current policy statement has been undertaken as outlined in this report.
- 1.3 A statutory consultation has now commenced and this report provides the Committee an opportunity to consider the proposed policy amendments and to provide formal feedback to the Cabinet Member for Development & Safety.
- 1.4 **The Committee is recommended to:**
  - 1.4.1 **Note the proposed changes to the revised Statement of Licensing Policy (paragraph 4); and**
  - 1.4.2 **In your capacity as lead consultee to the Cabinet Member for Development & Safety, provide any feedback you may wish to submit as part of the policy consultation.**

#### 1.5 Summary of implications

Legal	Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate.
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#### 2. The Licensing Act 2003

- 2.1 The 2003 Act is the primary legislation that deals with the licensing requirements relating to:
  - a) the sale by retail of alcohol,
  - b) the supply of alcohol by or on behalf of a club to, or to the order of a member of the club,
  - c) the provision of regulated entertainment, and
  - d) the provision of late night refreshment.

- 2.2 The licensable activities listed above are authorised through the issue of:
- a) a premises licence; or
  - b) a club premises certificate; or
  - c) a temporary event notice.
- 2.3 The council is obligated to promote the four licensing objectives when discharging its functions under the 2003 Act including setting policy. The licensing objectives are:
- a) the prevention of crime and disorder;
  - b) public safety;
  - c) the prevention of public nuisance; and
  - d) the protection of children from harm.

### **3. The Policy Statement**

- 3.1 The draft revised policy statement is attached at **Appendix 1** of this report.
- 3.2 The policy statement sets out the principles the council will apply when determining applications under the 2003 Act for up to the next five years. It also provides guidance to licence holders and applicants on how to make an application and advises them how the council will determine applications.
- 3.3 The draft amended policy reflects any changes in primary legislation, case law and national guidance as outlined in section 4 of this report. Changes to the policy also draw from the council's experience since the 2003 Act came in to force.
- 3.4 The profile of alcohol in particular has become a popular issue locally. Its availability has caused, and continues to cause, problems for the authority and other regulatory partners in, for example, the prevalence of pre-loading, crime, disorder, street drinking, ASB and public nuisance.
- 3.5 Equally however, there is recognition that the trade in alcohol has benefits for the town, particularly in relation to the economic contribution made through, for example, a vibrant and popular night-time economy that draws thousands of people on most nights and investment in the town by businesses selling alcohol.
- 3.6 This policy statement is a key document for the council in terms of how it seeks to address the challenges brought by the licensable activities whilst at the same time promoting the town as a safe place to visit and invest in.
- 3.7 This policy statement also forms part of a wider night-time economy strategy to promote a greater diversity in the night time economy that is less focused on alcohol, supporting better management of licensed premises and public spaces, working to reduce alcohol related health harms by preventing vulnerability, promoting safe drinking limits and reducing pre-loading and working to promote a clean environment.
- 3.8 Taking into account all of the measures above, the policy statement sets a proactive approach to the regulation of the licensable activities whereby the council is more proactive and prescriptive in shaping the licensing landscape in the town. For example, the policy includes measures to identify certain areas where more intensive intervention may be appropriate, proposes recommended core trading hours and admission times, better management of outside areas and seeks to introduce a best practice guide for drinks promotions.

## 4. Policy Amendments

- 4.1 Since the last statement of policy review, there have been no significant changes to the national statutory guidance, primary legislation or case law that would substantially affect the policy. Consequently, there are no significant changes proposed as part of this policy review.
- 4.2 The draft revised statement of policy document at **Appendix 1** shows tracked changes for the purpose of clarity. The tracked changes will be removed for the consultation version.
- 4.3 Aside from general tidying up and general updates, the following notable changes are proposed:
- 4.3.1 Inclusion of a new paragraph on “Promotion of equality (1.12)”;
  - 4.3.2 Removal of reference to Late Night Levy that no longer applies to Cheltenham;
  - 4.3.3 Inclusion of an addition section (6.13) to reflect the statutory guidance stating that the planning and licensing regimes are to be treated as separate regimes to avoid duplication and inefficiency;
  - 4.3.4 Replacing section on “Designated Public Places Orders” with “Public Spaces Protection Orders”; and
  - 4.3.5 Inclusion of a new section (6.66) to confirm the authority has not passed a resolution to exempt late night refreshment licensing based on designated locations, premises types and times.

## 5. Statutory Guidance

- 5.1 Section 4 of the 2003 Act states that, in carrying out its functions, the Council must ‘have regard to’ guidance issued by the Secretary of State under section 182.
- 5.2 Attached at **Appendix 2** is a copy of the relevant part of the statutory guidance for Members’ information.

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### Background Papers

1. [Licensing Act 2003](#)
2. [Revised Guidance issued under section 182 of the Licensing Act 2003 \(April 2018\)](#)
3. [Cheltenham Borough Council’s Licensing Act 2003 Licensing Policy Statement Approved by Council, 14 Dec 2015](#)

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