

SLOUGH BOROUGH COUNCIL

REPORT TO: Council **DATE:** 21st February 2019

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WARD(S): ALL

PART I
FOR DECISION

RECOMMENDATION OF THE LICENSING COMMITTEE FROM ITS MEETING HELD ON 14TH FEBRUARY 2019

LICENSING ACT 2003: REVIEW OF STATEMENT OF LICENSING POLICY 2019-2024

1. **Purpose of Report**

To consider a recommendation of the Licensing Committee from its meeting held on 14th February 2019 for the Council to formally adopt the revised Statement of Licensing Policy for the period 2019 -2024.

2. **Recommendation**

The Council is requested to recommend that the draft revised Statement of Licensing Policy 2019-2024 is adopted as the Council's Licensing Policy.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The review of the Statement of Licensing Policy under the Licensing Act 2003 is a statutory requirement. The Act requires each licensing authority to prepare and publish a statement of licensing policy. The policy statement sets out how the authority intends to approach its licensing responsibilities and in particular how it intends to promote the four Licensing Objectives.

Each authority is required to keep its statement of policy under review and make any revisions it considers appropriate.

3a. **Slough Joint Wellbeing Strategy Priorities**

The Licensing Act 2003 imposes a duty on the Council, as the licensing authority, to carry out its functions under the 2003 Act with a view to promoting the four licensing objectives of:

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

Each of these objectives is of paramount and equal importance.

The revised Statement of Licensing Policy contributes to the following wellbeing priorities:

Priorities:

1. Protecting vulnerable children
2. Increasing life expectancy by focusing on inequalities
3. Improving mental health and wellbeing

3b. **Five Year Plan Outcomes**

The report outlines the statutory requirement for each licensing authority to prepare and publish a Statement of Licensing Policy and that it must be kept under review during each 5 year period. If a revision is conducted during the 5 year period, it will not require a further review until 5 years after the date of the publication of the revised Policy.

The statutory requirement to prepare and publish a Statement of Licensing Policy contributes toward the Five Year Plan with the specific outcomes of:

1. Our children and young people will have the best start in life and opportunities to give them positive lives.
2. Slough will be an attractive place where people choose to live, work and visit.
3. Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

4. **Other Implications**

(a) Financial

There are no financial implications of the proposed action.

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
The Committee is requested to recommend to Full Council that the draft revised Statement of Licensing Policy 2019-2024 is adopted as the Council's Licensing Policy.	The Licensing Act 2003 requires that the Licensing Authority have in place a policy document to adhere to in order to carry out its functions under the Licensing Act 2003	Licensing functions cannot be carried out without a policy document in place

(c) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Part 1 and 11 of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to a peaceful enjoyment of his or her possessions including the possession of a licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal by law.

The Licensing Act 2003 requires the Council, as the licensing authority, to prepare and publish a statement of its licensing policy every 5 years. In determining its policy, the Council is exercising a licensing function and as such must have regard to the Guidance issued by the Secretary of State under section 182 of the 2003 Act. It must also give appropriate weight to the views of those persons/bodies which it is required to consult before determining its policy. Although the Guidance represents best practice, it is not binding on the Council. As long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. In this event they will need to give full justifiable reasons for their decisions, which must be consistent with the objectives of the 2003 Act.

The Council is required to have regard to the statement of licensing policy and make decisions in accordance with it. Licensing authorities may depart from their policy if the individual circumstances of any case merit such a decision in the interests of promoting the licensing objectives. In this event it is important that full justifiable reasons are given for departing from the published statement of licensing policy.

Members should note that the 2003 Act imposes a duty on the Council, as the licensing authority, to carry out its functions under the Act with a view to promoting the four licensing objectives. Each of these objectives is of paramount and equal importance.

Members should note that the statement of licensing policy must not be inconsistent with the provisions of the 2003 Act and must not override the right/s of any individual as provided for in that Act. Nor must the statement of licensing policy be inconsistent with obligations placed on the Council under any other legislation, including human rights legislation. Members should also note that the Council has a duty under Section 17 of the Crime and Disorder Act 1998, when carrying out its functions as a licensing authority under the 2003 Act, to do all it reasonably can to prevent crime and disorder within the Borough.

Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, decisions relating to licensing matters are not the responsibility of an authority's executive. The 2003 Act provides that whilst the majority of the functions of the licensing authority, are to be taken or carried out by its licensing committee, decisions relating to the statement of licensing policy cannot be delegated in such a way. The decision on whether to adopt the statement of licensing policy must therefore be taken by Full Council.

(d) Equalities Impact Assessment

An Equality Impact Assessment has been carried out that indicates that there are no negative impacts of opportunity for any equality target group or for any reasons.

5. Supporting Information

- 5.1 The Licensing Act 2003 introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshment, administered by a local licensing authority.
- 5.2 The Act requires each licensing authority to prepare and publish a Statement of Licensing Policy. The policy statement sets out how the authority intends to approach its licensing responsibilities and in particular how it intends to promote the four Licensing Objectives.
- 5.3 Each authority is required to keep its statement of policy under review and make any revisions it considers appropriate. Previously the statutory requirement under the 'Act' was for the Local Authority to review the Statement of Licensing Policy every 3 years. However the Police Reform and Social Responsibility Act 2011 amended the 2003 Act as follows:
 - a) The period for which full revisions are to be made is now 5 years
 - b) It must be kept under review during that period
 - c) If a revision is conducted during the 5 years period, it will not require a further review until 5 years after the date of the publication of the revised Policy.
- 5.4 The current policy approved in 2014 - 2019, took effect in January 2014 to cover the period up to January 2019.
- 5.5 The five year review of the Statement of Licensing Policy has now been conducted and the summary of minor changes, deletions and additions to the revised policy document are detailed at **Appendix A**.
- 5.6 The revised draft Policy was subject to public consultation, which commenced on the 13th December 2018 and concluded on the 18th January 2019. The Council is required to follow a prescribed process and a list of the consultees is attached at **Appendix B**.
- 5.7 Although a number of requests were made for copies of the revised draft policy, there has been very little response to the consultation, as it is generally realised that the discretion of the Council in reviewing the Policy is very limited as the Licensing Act 2003, the Regulations under the Act and the Government Guidance closely prescribe how licensing authorities carry out the licensing functions.
- 5.8 Only one response has been received to the consultation which is attached at **Appendix C**.
- 5.9 The draft revised policy, which is attached at **Appendix D**, reflects the necessary changes, deletions and amendments.

6. Comments of Other Committees

This report will be considered by the Licensing Committee at its meeting on 14th February and any comments will be reported to the meeting.

7. Conclusion

That the Council consider details of and approve the Statement of Licensing Policy 2019-2024.

8. Appendices Attached

'A' - Summary of changes and additions

'B' - List of consultees

'C' - Response to consultation

'D' - Revised draft Statement of Licensing Policy

9. Background Papers

'1' - Licensing Act 2003

'2' - Secretary of States Guidance issued under Section 182 of the Licensing Act 2003 (Revised Aril 2018).

'3' - Equality Impact Assessment.

APPENDIX A

SUMMARY OF MAIN CHANGES AND ADDITIONS

Contents Pages

1. Reformatting with deletions and new insertions.
2. Page and paragraph numbering following deletions and new insertions.
3. Deletion of reference for Designated Public Places Order and Appendix E.

Page 8 - Reformatting of Licensable Activities

Page 11 – Amendments to reference to section 182 Guidance

Page 12 – Insertion of reference to Human Rights Act 1998

Page 13 – Safer Clubbing Guide amended to Safer Nightlife Guide

Page 13 – Removal of reference to Section 40 & 41 Anti-Social Behaviour Act 2003

Page 13 – Inclusion of Section 35 Anti-Social Behaviour, Crime and Policing Act 2014

Page 14 – Insertion of Closure Notices and Closure Orders

Page 15 – Amendment and rewording to Equality of Opportunity

Page 29 – Insertion of Immigration Matters

Page 38 – Deletion of Film Exhibitions

Page 38 – Insertion of Exhibition of Films (Condition)

Page 39 – Deletion of Drinks Promotions and Binge Drinking

Page 38 – Insertion of Door Supervision (Condition)

Page 39 – Insertion of Authorisation of Alcohol (Condition)

Page 39 – Insertion of Mandatory Conditions (2014)

Deletion of Designated Public Places Order maps

APPENDIX B

All Responsible Authorities <ul style="list-style-type: none">- Thames Valley Police- Royal Berkshire Fire and Rescue Service- SBC Neighbourhood Enforcement Team- SBC Planning Development Control Services- SBC Trading Standards and Food Teams- Environmental Health- Local Safeguarding Children's Board- Service Lead Public Health
All current Premises Licence holders, with and without alcohol
All current holders of Club Premises Certificates
All elected Members of Slough Borough Council
All religious establishments
Residents Associations
All neighbouring and other Berkshire Local Authorities
Placing the consultation on the Council website for public consultation
Safer Slough Partnership

APPENDIX C

One response received from a Club Premises Operator.

We have been through the new licencing policy our observations are as follows

We are surprised to see that the population of slough is exactly the same, and also the amount of licence premises are the same.

We notice that you have incorporated European Convention on human rights act 1998 will remain after Brexit.

We note the inclusion of immigration matters 5.1

Could the reference 5.17 in the yellow and red card review applications read 5.20

Sections 6.9 to 620 have been expanded.

The changes to appendix B are noted