

Report to: **Development Management and Licensing Committee**

Date: **24 November 2020**

Title: **Review of Statement of Licensing Policy for 2021 - 2026**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **Council Meeting on 8 December 2020 – see below recommendation**

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Recommendations:

1. That the Licensing Committee considers the draft Licensing Policy (**Appendix A**) and responses received during the public consultation and makes any changes it deems necessary.
2. That the Licensing Committee recommends to Council that the draft Licensing Policy, as amended, is adopted at the meeting on 8 December 2020 for the period 7 January 2021 to 6 January 2026.

1. Executive summary

- 1.1 Section 5 of Licensing Act 2003 (the 'Act') requires that Licensing Authorities have in place a Statement of Licensing Policy with respect to the exercise of its licensing functions and that this policy is reviewed at least every five years. West Devon Borough Council's current Licensing Policy was adopted in December 2015 and came into effect on 7 January 2016. It is therefore necessary for an updated Statement of Licensing Policy to be adopted in advance of 7 January 2021.

2. Background

- 2.1 The purpose of the Licensing Policy is to assist the Licensing Authority in determining applications and to provide clarity for applicants, residents and members of the business community. It provides information and guidance on the general approach that the Licensing Authority will take when assessing applications and sets out expected operating standards.
- 2.2 This Licensing Authority covers a wide variety of licensed premises undertaking a range of activities, including pubs, restaurants, private members' clubs, village and community halls, cinemas, off-licences and late night food premises. It is therefore important that the Licensing Policy is sufficiently flexible to reflect their differing needs and characteristics.
- 2.3 The proposed draft document is attached at **Appendix A**. A summary of the changes that have been made from the current version (2011-2016), is provided at **Appendix B**. Included are new sections on safeguarding, film classifications and partnership working, as well as amendments due to updated legislation and statutory guidance. Much of the previous policy has not changed, but sections have been re-ordered and put under different headings, to make the document flow more logically. New sections and amendments have been highlighted in red in the draft document.
- 2.3 Before determining the Licensing Policy, Licensing Authorities must first consult with certain persons or bodies, namely:
- The Chief Officer of Police;
 - The Fire and Rescue Authority;
 - Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
 - Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
 - Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
 - Such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- 2.4 A list of the organisations/persons that have been consulted is provided at Appendix D of the Licensing Policy document (**Appendix A**). The Statement was subject to a public consultation during the period 21 July to 16 October 2020. During this time the document was available on the Council website and promoted through a press release, as well as through social media.

- 2.5 A summary of the consultation responses, together with suggested amendments can be found at **Appendix C**. The suggested amendments have been provisionally incorporated into the revised draft.
- 2.6 The current Statement of Licensing Policy for 2016-2021 and the original consultation responses are included within the background documents and are available upon request.
- 2.7 In determining its Licensing Policy, the Authority must have regard to Guidance issued by the Secretary of State under Section 182 of the Act, and give appropriate weight to representations made within the consultation period.
- 2.8 The Licensing Authority must carry out its licensing functions with a view to promoting the licensing objectives. These are:-
- a) The prevention of crime and disorder
 - b) Public safety
 - c) The prevention of public nuisance
 - d) The protection of children from harm
- The Licensing Authority must also have regard to its Licensing Statement of Policy and guidance issued by the Secretary of State under section 182 of the Act.
- 2.9 The draft Licensing Policy was prepared with regard to other Licensing Authorities' policies in Devon. We have tried to align our policies to promote a consistent approach to regulation. This is particularly helpful for Responsible Authorities, such as the police, which cover the whole Devon area.
- 2.10 At the meeting of the Licensing Committee on 24 November 2020, Members will have a final opportunity to make any further amendments before the Licensing Committee is asked to recommend the approval of the draft to Council.

3. Outcomes/outputs

- 3.1 Legislation prescribes that Full Council is empowered to adopt the Draft Statement of Licensing Policy. Adoption cannot be delegated to the Licensing Committee.
- 3.2 The following timetable is proposed in respect of the consultation and adoption of the Statement of Principles:

Action	Date
Draft Statement of Licensing Policy published and distributed for consultation	21 July 2020
Consultation concludes	16 October 2020
Licensing Committee approval of revised Statement of Licensing Policy and agrees to recommend to Council for adoption	24 November 2020

Revised Licensing Policy approved by Council	8 December 2020
Licensing Policy comes into effect	7 January 2021

4. Options available and consideration of risk

- 4.1 Failure to produce a licensing policy statement in accordance with the Act and accompanying Regulations is a breach of statutory duty and will render the Authority susceptible to criticism and legal challenge. Without adoption of the Statement of Licensing Policy the Licensing Authority is powerless to make decisions or exercise the licensing objectives in its locality.
- 4.2 The consultation process was undertaken between 21 July and 16 October 2020. Members will need to consider the consultation responses and give proper weight to comments, amending the draft policy as considered appropriate. The consultation responses and provisional suggested amendments can be found in **Appendix C**.
- 4.3 Following meeting of Licensing Committee on 24 November 2020, on track for adoption of Statement of Principles at Council meeting on 8 December 2020.

5. Proposed Way Forward

- 5.1 The Licensing Committee recommends to Full Council that the draft Statement of Licensing Policy, as amended, is adopted at the meeting on 8 December 2020 for the period 7 January 2021 to 6 January 2026.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	Y	<p>Section 5 of Licensing Act 2003 requires that Licensing Authorities have in place a Statement of Licensing Policy with respect to the exercise of its licensing functions and that this policy is reviewed at least every five years.</p> <p>Before determining the Licensing Policy, Licensing Authorities must first consult with certain persons or bodies, namely:</p> <ul style="list-style-type: none"> • The Chief Officer of Police; • The Fire and Rescue Authority' • Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority; • Such persons as the licensing authority

		<p>considers to be representative of holders of club premises certificates issued by that authority;</p> <ul style="list-style-type: none"> • Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and • Such other persons as the licensing authority considers to be representative of businesses and residents in its area. <p>Legislation requires the Statement to take effect from 7 January 2021.</p>
Financial		The associated preparation and publication costs will be met in full from Licensing Act 2003 applications and annual fees income. Therefore, there are no financial implications to the Council from this report.
Risk		<p>Failure to produce a Statement of Licensing Policy in accordance with the Licensing Act 2003 and its accompanying Regulations is a breach of statutory duty and will render the Council powerless to make decisions or exercise the licensing objectives in its locality.</p> <p>Not adopting a Licensing Policy could leave the Council open to criticism and legal challenge.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		There is the duty on Council when considering applications or enforcement action to comply with Human Rights Act 1998. Equality Impact Assessment carried out prior to publication.
Safeguarding		The protection children from harm is one the licensing objectives underpinning the Licensing Act 2003.
Community Safety, Crime and Disorder		The prevention of crime and disorder is one of the licensing objectives underpinning the Licensing Act 2003.
Health, Safety and Wellbeing		Since 2011 health bodies (directors of public health) have been included as responsible authorities under Licensing Act 2003. They are able to make representations in relation to applications or apply to review licences should they have reason to do so in relation to the licensing objectives.
Other implications		

Supporting Information

Appendices:

Appendix A – Draft Statement of Licensing Policy

Appendix B – Summary of changes

Appendix C – Summary of consultation responses and suggested amendments

Background Papers:

- Licensing Act 2003 and associated relevant Regulations
- Guidance issued under section 182 Licensing Act 2003
- West Devon Borough Council’s Statement of Licensing Policy, which expires January 2021
- Consultation responses

Process checklist	Completed
Portfolio Holder briefed	Yes/No
SLT Rep briefed	Yes/No
Relevant Exec Director sign off (draft)	Yes/No
Data protection issues considered	Yes/No
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	Yes/No