



## North Devon Council

Report Date: 4 July 2023

Topic: Review of Licensing Act 2003 Policy

Report by: Katy Nicholls, Public Protection Manager

### 1. INTRODUCTION

- 1.1. North Devon Council is under a legal obligation to review its Licensing Act 2003 Statement of Licensing Policy on a five yearly basis.
- 1.2. This report seeks to consult members of Licensing and Community Safety Committee on a proposed draft revision to the Council's Licensing Act 2003 Statement of Licensing Policy, after which a six week full consultation exercise will follow.
- 1.3. The feedback received as a result of the consultation exercise will then be considered by the Licensing and Community Safety Committee prior to a recommendation being made for the adoption of an amended Statement of Licensing Policy by the Council's Strategy and Resources Committee to Full Council.

### 2. RECOMMENDATIONS

That Licensing and Community Safety Committee:

- 2.1 Consider the draft revised Licensing Act 2003 Statement of Licensing Policy found within **Appendix A** (this is a tracked document highlighting the amendments made to the current policy).
- 2.2 Instruct that the Public Protection Manager commence a process of public consultation on the above draft revised Licensing Act 2003 Statement of Licensing Policy as detailed in this report (the tracked changes document will be alongside a final list of amendments at 4.12).

### 3. REASONS FOR RECOMMENDATIONS

- 3.1. In order to discharge its statutory duties under the Licensing Act 2003, North Devon Council is required to produce a Licensing Act 2003 Statement of Licensing Policy and review it at least every five years.
- 3.2. The current Licensing Act 2003 Statement of Licensing Policy was adopted by the Council on the 21 November 2018 and became effective on 7 January 2019. In order to keep within the statutory time-scale and adhere to the Council's Constitution, committee time-tables, and best practice guidance relevant to consultation, Licensing and Community Safety Committee will need to consider this report in order that a six week period of consultation



can take place between a proposed period of 11.07.23 – 22.08.23, the Statement of Licensing Policy can in turn be considered by them on 12.09.23; Strategy and Resources on the 06.11.23; be approved by Full Council on the 22.11.23; then be published and become Effective prior to the 07.01.24.

#### 4. REPORT

- 4.1. The Licensing Act 2003 (“the Act”) received royal assent in July 2003. The Act created a single integrated scheme for licensed premises which are used for the supply of alcohol, provision of regulated entertainment and late night refreshment.
- 4.2. North Devon Council has responsibilities under the Act to issue premises licences and temporary event notices in respect of premises where it is proposed that licensable activities and qualifying club activities should take place. Additionally the Council is responsible for issuing personal licences.
- 4.3. Section 5 of the Act (as amended) requires all licensing authorities to prepare and publish a Licensing Act 2003 Statement of Licensing Policy that they intend to apply in exercising their functions under the Act. This Licensing Act 2003 Statement of Licensing Policy will last for a maximum of five years, but it can be reviewed and revised by the authority at any time during that five year period.
- 4.4. The revised draft Licensing Act 2003 Statement of Licensing Policy (Appendix A) has been written pursuant to the provisions of the Licensing Act 2003, and the Guidance issued under Section 182 of the Act.
- 4.5. The route proposed through the Council’s Committee process will enable the Council to satisfy the legislation requiring the Licensing Act 2003 Statement of Licensing Policy to be published every five years and by the 7 January 2019.

#### **Consultation**

- 4.7 Based upon the fact that there are no major proposed amendments, in line with the risk assessment methodology outlined in ‘Consultation Principles (November 2013’) published by the Cabinet Office, the proposed consultation on the draft revision will be carried out for a period of 6 weeks. This period will provide an opportunity for all stakeholders,

interested parties and the general public to make comments on the content of the draft revision.

4.8 Section 5(3) of the Act requires licensing authorities to consult the following when making any revision to a Licensing Act 2003 Statement of Licensing Policy:

- the Chief of Police for the authority's area;
- the Fire and Rescue authority's area;
- each Primary Care Trust or Local Health Board for an area any part of which is in the authority's area;
- 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.

4.9 The draft revised policy will be published on the Council's website.

### **Amendments to the Licensing Act 2003 Statement of Licensing Policy**

4.10 The revised Licensing Act 2003 Statement of Licensing Policy focuses on the on-going responsibilities of licensed premises to proactively uphold the licensing objectives. The amendments made in the last review (which encompassed amendments made by the Live Music Act 2012; Immigration Act 2016; increased powers pertaining to the revocation of Personal Licences, and information added in respect of beer gardens and other outdoor spaces) are built upon.

4.11 The suggested changes to the current Licensing Act 2003 Statement of Licensing Policy largely attempt to ensure accuracy; improve clarity to licensees and applicants on their responsibilities; respond to issues surrounding any legislative changes, and respond to emerging trends.

4.12 The main proposed amendments to the Licensing Act 2003 Statement of Licensing Policy are as follows. Paragraphs where the proposed changes are made are included:

- 1.1 Reflect latest revision to Section 182 Guidance being made in December 2022.
- 1.4 Update Licensing Authority Area section with latest statistics pertaining to population, numbers of licensed premises etc.
- 4.1 Addition of available closure powers afforded by way of Section 76 of the Anti-Social Behaviour Crime and Policing Act 2014.
- 4.1.3 Reflect new Corporate Enforcement Policy approved by the Council.
- 4.1.5 Reflect latest title of Licensing and Community Safety Committee.
- 4.4.1 Cite that preference is for a Premises Licence rather than multiple TENs for larger events, and direct users to the Safety Advisory Group pages on the Council's website.
- 4.5.2 Reflect new Public Space Protection Orders which have replaced Designated Public Place Orders, for a more limited number of localities.
- 4.5.5 Provide clear advice about the de-regulation of live and recorded music and entertainment facilities.
- 4.5.6 Update section in respect of duties on local authorities and applicants pertaining to the Immigration Act. Provide link to the Home Office's Employer right to work checks and supporting guidance.
- 5.1.6 Reflect learned experience of issues with licensed premises enforcement, and concerns with licensed premises being run behind the scenes by persons who may not otherwise be able to possess a licence themselves.
- 5.2 Reflect a new form for representations for those that wish to utilise it available on the Council's website.
- 5.4 Update section on Mobile, Remote, Internet and Other Delivery Sales to provide example conditions.
- 9.4 Set out the stance taken by Licensing Authority in respect of the protection of children. For example where its discretion is engaged this Licensing Authority will consider refusal/revocation in the first instance where test purchases have found venues selling age restricted products to children.
- 11.0 Addition of new information regarding psychoactive substances and the stance taken by the Licensing Authority whereby persons are seen using or selling these.
- 15.0 Set out examples of mitigating measures to reduce any disturbance to neighbouring residents by way of utilisation of beer gardens and outdoor spaces.
- 16.0 Amend Temporary Activities section to reflect updates to limits brought in via The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021. Provide clarity surrounding notice periods, and make a suggestion for inclusion

of risk assessments and event management plans where appropriate.

- 17.0 Reflect newly formed Barnstaple Pubwatch scheme.
- 18.0 Insert new sections to cover initiatives supported by the Council including Project Nighteye, Ask For Angela, and Anti-Drink Spiking Initiatives.
- 23.0 Enhance information available to licence holders in respect of their duties to equality.
- 24.0 Suggestions made with regard contact details, and relevant updates to these.

4.13 A document highlighting the above suggested amendments to the Statement of Principles as tracked changes is found at **Appendix A**.

## 5. RESOURCE IMPLICATIONS

5.1. There are no expected financial costs likely to be incurred through the review of this policy.

## 6. EQUALITIES ASSESSMENT

6.1. The impact of the proposals is likely to be neutral. The improved section in the policy pertaining to equality will have a positive impact. A full Equality Impact Assessment will be undertaken when proposed amends to the policy are finalised for consultation.

## 7. ENVIRONMENTAL ASSESSMENT

7.1. An environmental assessment has been undertaken and revealed a neutral impact.

## 8. CONSTITUTIONAL CONTEXT

- 8.1. Article of Part 3 Annexe 1 paragraph:4b
- 8.2. Referred or delegated power?: delegated

## 9. STATEMENT OF CONFIDENTIALITY

9.1. This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 10. BACKGROUND PAPERS

10.1. The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

- Home Office Guidance issued under s.182 of the Licensing Act 2003, December 2022.
- LGA Guidance Note on Drink Spiking Prevention 7 September 2022



9. STATEMENT OF INTERNAL ADVICE

11.1 The author (below) confirms that advice has been taken from all appropriate Councillors and Officers.

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