

COUNCIL

20 January 2020

LICENSING ACT 2003 – REVIEW OF STATEMENT OF LICENSING POLICY

Report of the Strategic Director for Places

Strategic Aim:	- Sustainable growth - Safeguarding the vulnerable	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr Gordon Brown, Deputy Leader and Portfolio Holder for Environment, Planning, Property, and Finance	
Contact Officer(s):	Kerry Leishman – Licensing and Business Manager	Tel: 01733 453502 email:Kerry.leishman@peterborough.gov.uk
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Ward Councillors	All Wards	

DECISION RECOMMENDATIONS

That Council:

1. Adopts the post consultation revised Statement of Licensing Policy as attached at Appendix A, as recommended by the Planning and Licensing Committee.

1 PURPOSE OF THE REPORT

- 1.1 Rutland County Council as the Licensing Authority, has a statutory responsibility under the Licensing Act 2003, to produce a statement of licensing policy. The policy must be reviewed, updated, consulted upon and republished every 5 years, in accordance with Section 5 of the Act. The statement of licensing policy was last reviewed in 2014 and therefore has been subject to this process.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The statement of licensing policy sets out how the council will administer its functions under the 2003 Act. Without a policy the council may be subject to Judicial Review for failing in its responsibilities to carry out a statutory function.

- 2.2 The policy was reviewed and revised in accordance with the 2003 Act, statutory guidance issued under section 182 of the Act and in line with the best practice framework issued by the LGA (Local Government Association).
- 2.3 Whilst the entire policy has been redrafted, the intent remains unchanged, the revised policy is in accordance with the requirements of the 2003 Act.
- 2.4 There has been an addition of section 7, which has been inserted following the changes made by the Immigration Act 2016. This requires the licensing authority to ensure that applicants have the right to work in the UK prior to issuing a licence.
- 2.5 The redrafted policy was subject to consultation from Monday 30 September to Friday 18 October 2019. The two responses were given due consideration and the policy was amended in section 16.7 and 14.12. A copy of the proposed final policy showing proposed changes made following consideration of the consultation responses, was made available to members at the committee meeting on the 22 October 2019.
- 2.6 When the Planning and Licensing Committee convened on the 22 October 2019, they considered the draft policy and responses and determined to recommend to full council to adopt the post consultation amended policy.

3 ALTERNATIVE OPTIONS

- 3.1 Retain the existing policy and be in breach of statutory requirements.

4 FINANCIAL IMPLICATIONS

- 4.1 None identified

5 LEGAL AND GOVERNANCE CONSIDERATIONS

- 5.1 As per paragraph 2.1 of the policy "*The content of the policy is aimed only to provide guidance and should not be interpreted as legal advice.....*"
- 5.2 The Council must have regard to the policy when carrying out its duties under the Act.
- 5.3 Legal Services will rely upon the contents of the policy in the event of any appeals to the Magistrates Court against decisions of the council and prosecutions.
- 5.4 Having a policy which is consistent and compliant with legislation will leave the council less subject to challenge.
- 5.5 As per paragraph 6.5 of the policy "*Nothing in the policy prevents each licence application being considered on its own merits, nor does it override the right of any individual to apply under the terms of the Licensing Act 2003 for a variety of permissions.*"
- 5.6 As per paragraph 6.6 of the policy "*This policy does not seek to override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.*"

6 DATA PROTECTION IMPLICATIONS

- 6.1 A Data Protection Impact Assessments (DPIA) has not been completed as there are no DPA implications in producing and publishing the Policy.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 An Equality Impact Assessment (EqIA) has not been completed as the policy does not seek to discriminate against any particular group.

8 COMMUNITY SAFETY IMPLICATIONS

- 8.1 The Licensing Act 2003 is far reaching and affects a number of different departments and as such a close working relationship will continue to be developed to ensure delivery of the objectives.

9 HEALTH AND WELLBEING IMPLICATIONS

- 9.1 Please refer to 9.1

10 ORGANISATIONAL IMPLICATIONS

- 10.1 Environmental implications
- 10.2 Please refer to 9.1
- 10.3 Human Resource implications
- 10.4 Please refer to 9.1
- 10.5 Procurement Implications
- 10.6 None identified

11 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 11.1 To comply with the statutory requirements of the Licensing Act 2003 and to ensure that the statement of licensing policy is up to date and remains fit for purpose.

12 BACKGROUND PAPERS

- 12.1 The Licensing Act 2003
- 12.2 Guidance issued under Section 182 of the Licensing Act 2003 – April 2018
- 12.3 Best Practice Framework for the Review of Licensing Policy Statements October 2012 published by the LGA (Local Government Association)

13 APPENDICES

13.1 Appendix A: Rutland County Council post consultation revised Statement of Licensing Policy 2019

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.