

Slough Borough Council

Report To:	Council
Date:	28 th November 2024
Subject:	Recommendations of the Licensing Committee: B. Review of Statement of Licensing Policy
Chief Officer:	Laura Robertson - Head of Public Protection
Contact Officer:	Melanie Sagar – Principal Licensing Officer / Russell Denney-Clarke – Trading Standards and Licensing Manager
Ward(s):	ALL
Exempt:	NO
Appendices:	Appendix A – Summary of changes and additions Appendix B – List of consultees Appendix C – Response to consultation Appendix D - Equality Impact Assessment Appendix E – Revised draft Statement of Licensing Policy

1. Summary and Recommendations

- 1.1 This report contains the recommendations of the Licensing Committee from its meeting held on 30th October 2024. It sets out to advise members on the results of the consultation on the review of the Council’s Statement of Licensing Policy for the Licensing Act 2003 (the “**Act**”) and to recommend for approval the revised Statement of Licensing Policy for the period 2024-2029.

Recommendations to Council:

That the draft revised Statement of Licensing Policy 2024-2029 be adopted as the Council’s Licensing Policy.

Reasons:

- 1.3 The review of the Statement of Licensing Policy under the Act 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.
- 1.4 Each authority is required to keep its statement of policy under review, to update it no less than every 5 years and make any revisions it considers appropriate.

Commissioner Review

Commissioners have reviewed the report and made no comment.

2. Report

Introductory paragraph

2.1 The 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, namely:

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

2.2 Each of these objectives is of paramount and equal importance.

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

Priorities:

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

Options considered

2.4 The Act requires the Council to publish its statement of licensing policy not less than every 5 years since the date of the previous policy, and therefore to ensure compliance with the Act other options are not recommended.

2.5 Consideration has been given to how the decision sought will help the Council meets its vision and corporate priorities, however the nature of the policy is outside the scope of these priorities in that it is a legal requirement for the Council to have and revise this statement of policy under the Act. The statement of policy does cover the protection of children generally, and the prevention of public nuisance that can affect residents' wellbeing, as these are two of the four licensing objectives (the protection of children from harm and the prevention of public nuisance) that licensing authorities are required to consider under the Act.

Background

2.6 The Act governs the licensing of alcohol, regulated entertainment, and late-night refreshment, which is administered in Slough by the Council, as the licensing authority for the borough.

2.7 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 and exercise its licensing responsibilities and in particular how it intends to promote the four Licensing Objectives.

2.8 The statement of policy is to be reviewed not less than every 5 years, and during each 5-year period the Council is required to keep its statement of policy under review and make any revisions at such times as it considers appropriate. Where

revisions are made to the statement of policy the Council, as the licensing authority, must publish a statement of the revisions or the revised licensing statement.

- 2.9 The current policy approved in 2019 - 2024, took effect in February 2019 to cover the period up to January 2024.
- 2.10 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**.
- 2.11 The revised draft Policy was subject to public consultation, which commenced 17 September 2024 and concluded 03 October 2024. The Council is required to follow a prescribed process and a list of the consultees is attached at **Appendix B**.
- 2.12 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 Act, the Regulations under the Act and the Government Guidance closely prescribe how licensing authorities carry out the licensing functions.
- 2.13 Only one response has been received to the consultation which is attached at **Appendix C**.
- 2.14 The draft revised policy, which is attached at **Appendix E**, reflects the necessary changes, deletions, and amendments.
- 2.15 The Licensing Committee considered the report at its meeting on 30th October 2024 and agreed to recommend the policy to full Council. The committee discussed a wide range of issues including the relationship between the various regulatory regimes and distinct legal frameworks relating to licensing, planning and housing regulation; notification to ward councillors of licences for alcohol and late-night refreshment; the involvement of councillors in reviews; and the implementation of Martyn's law relating to the duties of certain premises for security and terrorism prevention.
- 2.16 Members of the committee expressed concerns about the effectiveness of the working relationship between Council departments, particularly licensing and planning, which was essential to ensure effective enforcement. Members asked that consideration be given to further practical steps the Council could take to ensure consistency between licensing and planning conditions before approval and to strengthen enforcement in instances where licensing or planning conditions were breached. Officers were asked to carry out benchmarking of other relevant authorities licensing policies to ascertain whether any additional provisions or good practice could be incorporated into Slough's policy in the future which would improve the coordination and consistency of licensing and planning conditions.

3. Implications of the Recommendation

3.1 Financial Implications

- 3.1.2 There are no specific financial implications specially arising from the recommendations, and the policy does not incorporate issues of fees, levies or other chargeable income, which will form part of the budget process. However, all functions relating to the administration and enforcement of licensing arrangements

will need to be contained in the agreed budgetary provision as agreed by Council on 7th March 2024, plus any agreed mitigations agreed by Cabinet to ensure a balanced budget for 2024/25.

3.2 Legal implications

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

3.2.2 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.

3.2.3 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.

3.2.4 The Act requires the Council, as the licensing authority, to prepare and publish a statement of its licensing policy not less than 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 Act. It must also give appropriate weight to the views of those persons/bodies which it is required to consult under the Act 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 Act.

3.2.5 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.

3.2.6 Members should note that the 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.

3.2.7 Members should note that the statement of licensing policy must not be inconsistent with the provisions of the 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 Act, to do all it reasonably can to prevent crime and disorder within the Borough.

3.2.8 Under Part 3.4 (Responsibility for Functions) of the Council's Constitution, the Licensing Committee's responsibilities include determining all functions not reserved to Full Council in relation to the Act, and to approve policy in relation to this function where these are not executive functions or reserved to Council

3.2.9 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 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.

3.3 Risk management implications

3.3.1 The Act requires that the Licensing Authority have in place a policy document to adhere to in order to carry out its functions under the Act.

3.3.2 Licensing functions cannot be carried out without a policy document in place.

3.4 Environmental implications

3.4.1 Consideration has given to environmental implications however the nature of the decision is outside the scope of these priorities.

3.5 Equality implications

3.5.1 There are no equality implications to the Council.

3.6 Procurement implications

3.6.1 There are no procurement implications to the Council.

3.7 Workforce implications

3.7.1 There are no workforce implications to the Council.

3.8 Property implications

3.8.1 There are no property implications to the Council.

4. Background Papers

4.1 [Licensing Act 2003](#)

4.2 [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#)

4.3 [Secretary of States Guidance issued under Section 182 of the Licensing Act 2003 Revised December 2023\)](#)