

	REPORT TO CABINET TO BE HELD ON 16 OCTOBER 2018	
	Key Decision	YES
	Forward Plan Ref No	
Corporate Priority: Meets all Corporate Priorities	Cabinet Portfolio Holder	Cllr Bill Chatt

REPORT OF: THE DIRECTOR (LD) – 18/221

WARDS AFFECTED: “All”

SUBJECT: REVIEW OF COUNCIL’S STATEMENT OF LICENSING POLICY – LICENSING ACT 2003

RECOMMENDATION(S):

Cabinet are asked to:

- a) Note the analysis of the results of the consultation on the Statement of Licensing Policy including comments received (attached at **Appendix 1**)
- b) Approve the amended Statement of Licensing Policy (attached at **Appendix 2**) post consultation; and
- c) Recommend its approval by Council for adoption.

REASON FOR RECOMMENDATION (S):

In accordance with the Licensing Act 2003 the Licensing Authority is required to publish a statement of policy every successive five year period. The Policy is now due to be revised to cover the next period: November 2018 to November 2023.

HIGHLIGHTED RISKS:

Failure to update the Policy will result in an outdated Policy that does not reflect changes to relevant legislation, associated guidance and local circumstances.

1. INTRODUCTION

- 1.1 Section 5 of the Licensing Act 2003 (“the Act”) requires all Licensing Authorities to prepare and publish a Statement of Principles in the form of the Licensing Policy (“the Policy”) that it proposes to apply in exercising its functions under the Act during the five year period to which the Policy applies.
- 1.2 Cabinet at its meeting of 17 April 2018 agreed a public consultation on the revised Policy to cover the next five-year period: November 2018 to November 2023. The consultation took place between 1 May and 31 July 2018.
- 1.3 Members are asked to note the comments and responses attached to this report and to approve the draft Policy at **Appendix 2**.

2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN

- 2.1 This report supports all four of the Council’s corporate objectives.

3. BACKGROUND AND ISSUES

- 3.1 The Council has powers under the 2003 Act to regulate the sale of alcohol, the provision of regulated entertainment and late night refreshment in licensed premises. The Council uses these powers when making decisions on licensing applications based on the four statutory licensing objectives, Home Office guidance issued under section 182 of the Act (the Guidance) and the Council’s adopted Statement of Licensing Policy (the Policy). The four licensing objectives are the prevention of crime and disorder, public safety, protection of children from harm and the prevention of public nuisance.
- 3.2 The Council is required to publish a Statement of Licensing Policy, which sets its general approach to how it will regulate licensable activities. The Policy seeks to balance the right of a person to make an application for a premises licence, against the right of any person to object to an application or to seek a review of an existing licence. An effective balance will help businesses to develop successfully whilst providing assurance to the public.
- 3.3 The Council must determine and publish its Policy every five years, however during each five-year period, the Council must keep its Policy under review and make revisions, as it considers appropriate.

4. CONSULTATION

- 4.1 The Act requires the Council to keep its Policy under review and make revisions, as it considers appropriate. If it makes revisions, the Council must consult on any changes before determining and publishing an amended Policy.

4.2 A three-month consultation period commenced on 1 May and concluded on 31 July 2018 with the following groups:

- North Yorkshire Police
- North Yorkshire Fire Authority
- Representatives of existing licence holders
- Representatives of businesses and residents in the area
- Residents groups
- Community Associations
- Faith Groups
- Neighbouring Licensing Authorities
- Relevant Council Departments
- Responsible Authorities
- Ward Councillors
- Members of the public

4.3 A total of 33 responses were received to the consultation, the majority of which were in favour of the revised Policy.

4.4 The amended draft Policy at **Appendix 2** was considered by the Licensing Committee at its meeting of 10 September 2018 who recommended that Cabinet approve it for adoption at Full Council.

4.5 Cabinet will recall that a separate consultation took place over the summer concerning proposed amendments to the Council's Cumulative Impact Assessment in respect of Scarborough and Whitby town centres. This consultation garnered a significant number of responses (in excess of 250) expressing concern at some of the proposals which require further consideration by Officers. As a consequence Cabinet are asked to agree that the existing Cumulative Impact Policies are retained pending a further report to Licensing Committee and Cabinet in December 2018.

5. ASSESSMENT

5.1 It is important that the Council takes into account consultees' comments as part of the consultation process. Members will note that:

- 90.6% of consultees agreed that the Policy is now more accessible and easier to understand.
- 96.8% of consultees agreed that the revised introduction together with clarification of who is consulted on the Policy was beneficial.
- 100% of consultees agreed that any Cumulative Impact Policy should now exist as a separate document to the Policy so that it can be reviewed and developed independently.
- 96.7% of consultees agreed that specific initiatives should be removed from the Policy in favour of supporting any strategies allied with the licensing objectives.
- 96.8% of consultees agreed that the different types of de-regulated entertainment had been clarified.

- 5.2 Officers have carefully considered the limited number of comments received via the online survey and do not believe they require the Policy document to be amended. Responses have been provided in respect of all comments and certain areas clarified where necessary.

6. IMPLICATIONS

Policy

- 6.1 This report does recommend changes to the Policy following consultation.

Legal

- 6.2 It is a statutory requirement for the Council to review this Policy every successive five year period.

Financial Implications

- 6.3 The costs involved in undertaking the review have been met from existing budgets.

Equality and Diversity

- 6.4 This report and Policy has been prepared in accordance with the Council's Corporate Equalities Scheme.

Crime and Disorder

- 6.5 Under s17 of the Crime and Disorder Act 1998 the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.

7. ACTION PLAN

- 7.1 If Cabinet are minded to approve the revised Policy a report will be submitted to Full Council on 5 November 2018 requesting adoption.



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Background Papers:
Current Licensing Policy
Licensing Act 2003
Policing and Crime Act 2017

Home Office Revised guidance issued under section 182 of the Licensing Act 2003

Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	24/02/2018	Legal challenge or appeal against Policy if not revised.	Legal costs against the Council.	Timely revision of the Policy following public and statutory consultation	B2	A1	Jonathan Bramley	None

Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
			A	B	C	D
		Likelihood				

Likelihood:

A = Very Low

B = Not Likely

C = Likely

D = Very Likely

E = Almost Certain

Impact

1 = Low

2 = Minor

3 = Medium

4 = Major

5 = Disaster