

To the Chair and Members of the Council

STATEMENT OF LICENSING POLICY 2016 – LICENSING ACT 2003

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr Christopher McGuinness	All	K1294

EXECUTIVE SUMMARY

1. The purpose of this report is to request that members of the Council consider the Statement of Licensing Policy 2016 (Licensing Act 2003) following its quinquennial review. The route and timetable for adoption is attached as Appendix A.

RECOMMENDATIONS

2. It is recommended that the members of the Council approve the reviewed Statement of Policy – Licensing Act 2003 and, following consideration of the responses received during the consultation and the resolutions by the Licensing Committee and Cabinet - 15th October 2015 and 3rd November respectively, resolve that the Policy be adopted with the inclusion of the following points:-
 - i. Agree to the continuation of the existing Cumulative Impact Zone in Doncaster Town Centre (Bradford Row, Hall Gate, High Street, Priory Walk and Silver Street), with the inclusion of additional areas of Market Place and Cleveland Street and that the policy should apply to all licensed premises;
 - ii. Agree to the implementation of a new Cumulative Impact Zone for all licensed premises in a specified area of the Wheatley Ward to include Nether Hall Road, Copley Road, Christ Church Road, Broxholme Lane and Highfield Road.
 - iii. Agree to the implementation of a new Cumulative Impact Zone in Bawtry for all licensed premises in the areas of Market Place, High Street, Swan Street, Church Street, Scot Lane, Wharf Street and Grasswood Lane/Dower House Square with the intention to review the adoption of this in 2 years' time.

References to 'all licensed premises' refers to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on and off the premises, and the provision of late night refreshment.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. Doncaster Council is required by the Licensing Act 2003 to produce a Statement of Licensing Policy and to review its Policy quinquennially. This is the fourth Statement of Policy produced by Doncaster Council, under the Licensing Act 2003, which will set out the basis for all relevant licensing decisions to be taken by the Authority over the next five years.

EXEMPT REPORT

4. There are no confidential issues.

BACKGROUND

5. One of the key functions of the Council, in its capacity as the Licensing Authority, is to prepare and publish a Statement of Licensing Policy which sets out the basis upon which the Authority will make its licensing decisions in relation to the following licensable activities:
 - The sale by retail and/or supply of alcohol;
 - The provision of regulated entertainment; and
 - The provision of late night refreshment.
6. The duty to do this is contained within Section 5 Licensing Act 2003 which also provides for the Licensing Authority to keep its Policy Statement under review generally and to determine its Policy at least every 5 years, including undertaking a period of statutory consultation. The existing five year period began on 7th January 2011 and the revised Licensing Policy will replace the current policy on 7th January 2016.
7. In the interim the licensing service have compared the re-issued Home Office Guidance, made under Section 182 of the Act, with our existing policy statement and has made amendments to reflect the new statutory guidance and other legislative changes. These changes have now been incorporated into the revised policy statement.
8. The licensing service has endeavored to create a policy document that is functional and has taken the opportunity to strip out non-policy information and guidance. It is the intention to create a separate Local Licensing Guidance document, to supplement the statutory policy statement, which will contain practical guidance for licence holders and assist local residents or other interested people who may make a representation against an application.
9. There are four licensing objectives set out in the Act and these must be addressed within the Authority's Statutory of Licensing Policy, namely:-
 - i. Prevention of crime and disorder;
 - ii. Public safety;
 - iii. Prevention of public nuisance;
 - iv. Protection of children from harm.

10. The Policy sets out, with reference to these four objectives, the steps that need to be taken by applicants to address these issues. It also sets out how the Licensing Committee will conduct hearings for applications that cannot be resolved. The delegation of duties to the Licensing Committee is prescribed within the Act and members of that Committee and any Sub Committee will have to have a detailed knowledge of the Policy and its implications for applicants. Decisions of the relevant committees must state how decisions have been made and how the relevant parts of the Policy have been used to make that decision.
11. Before determining its policy the Act places a duty on the Authority to consult with prescribed persons. This consultation has taken place and four relevant responses have been received. The responses and suggested actions are attached and /or summarised in Appendix B.
12. A summary of the main changes is at Appendix C with the proposed Policy is at Appendix D.
13. During the consultation the Licensing Authority received applications from the Police, Public Health and Bawtry Town Council asking the Licensing Authority to consider extending the existing and introducing further Cumulative impact Zones. Details of the applications are at Appendix B and B1 to B4. It is a legal requirement that the Licensing Authority identifies the concern about crime and disorder or public nuisance; considers whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent before such a decision is made.

OPTIONS CONSIDERED AND REASONS FOR RECOMMENDED OPTION

14. The Policy has been reviewed and updated to ensure it is relevant to Doncaster in 2016 going forward and to take account of the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003. If the Policy was to remain in its current form it would be outdated.
15. The alterations that have arisen out of the review process are largely driven by the Licensing Authority seeking to ensure the Policy remains up to date, relevant and in line with the latest guidance.
16. With regard to the responses received during the consultation period (Appendix B and B1 to B4), in particular the consideration of the existing special policy regarding cumulative impact and the proposals to extend, these were considered by the Licensing Committee on, 15th October 2015. The Licensing Committee resolved to recommend the Policy to Council for adoption with the inclusion of the points listed in section 2 of this report.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

- 17.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>It is recognised that licensed premises are, quite often, businesses and places of employment.</p> <p>The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this priority when making licensing decisions.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this priority when making licensing decisions.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>It is recognised that licensed premises are, quite often, businesses, places of employment and potential assets to the community.</p> <p>The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this priority when making licensing decisions</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	None
	<p>Council services are modern and value for money.</p>	None
	<p>Working with our partners we will provide strong leadership and governance.</p>	None

RISKS AND ASSUMPTIONS

18. Failure to adopt and or review a statement of licensing policy (cause), will exposed the Council to a legal and financial liability (event) brought about by the Council's inability to discharge its functions under the Licensing Act 2003. The initial risk rating is 20 = Likelihood 5 (very likely) x Impact 5 (critical).
19. However, by preparing and publishing a statement of policy, in accordance with the Licensing Act 2003, that has regard to the licensing objectives of the 2003 Act, the revised Home Office guidance issued under section 182 of the 2003 Act, and any responses from those consulted on the statement the current risk rating is 1 = Likelihood 1(very unlikely) x Impact 1 (slight).

LEGAL IMPLICATIONS

20. The Statement of Licensing Policy must be reviewed and published every five years (section 5 Licensing Act 2003). The policy was last adopted to be effective in January 2011 and therefore the Statement of Licensing Policy should be reviewed and then publish that revised statement by 7th January 2016. There are issues that may arise if the policy is not in place by that date. The impact of any issues will only take effect if the Licensing Authority is required to deal with any licence applications between the date the licensing statement should be in force (7th January 2016) and the date it actually comes into force.
21. The Statement of licensing policy sets out the Authority's policy in relation to the exercise of its licensing functions under the Licensing Act 2003 and associated legislation. There is no requirement to make any revisions, however the Home Office have issued revised guidance in respect of the Licensing Act 2003 and therefore it is recommended that revisions are made to take account of this revised Guidance. Before making revisions to the Policy the Authority is required to consult in accordance with the relevant statute.
22. In addition the Authority has now received requests for the Authority to continue to adopt a Cumulative Impact Policy in respect of the town centre and proposals to include additional zones. The effect of adopting such a policy is to create a rebuttable presumption that a licence application, which is likely to add to the existing cumulative impact, will normally be refused following relevant representations.
23. The Cumulative Impact Policy should be aligned with other policies such as planning and also other relevant strategies for example late night economy strategy. The Home Office Guidance states the steps that should be followed by licensing authorities when adopting a cumulative impact policy:
 - Identify concern about crime and disorder or public nuisance;

- Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
 - Identify the boundaries of the area where problems are occurring;
 - Consult with those specified in section 5(3) of the 2003 Licensing Act; and subject to the outcome of the consultation
 - Include and publish details of special policy in licensing policy statement.
24. Once the licensing authority has adopted a special policy it must include within its policy statement the following:-
- A full justification as to why the saturation policy has been adopted, including what problems there are and why these cannot be resolved other than by restricting further licensed premises. Please be aware that it is possible for saturation policies to restrict hours in an area. Evidence must be collated to support this and should be summarised in the policy. The policy should also clearly specify the geographical area where the saturation policy is to apply.
 - The policy statement must make clear that the special policy is not absolute and that the circumstances of each application will be considered properly. Moreover, where licences are unlikely to add significantly to the cumulative impact on the licensing objectives, the licence will be granted.
 - There should be a clear statement regarding the difference between commercial need and the cumulative impact of premises in an area. Need is a matter for the planning committee and for market forces, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the licensing authority and its committee to consider.
 - The policy must not impose quotas of premises or licences.
 - A special saturation policy must not include provisions for a terminal hour in a particular area.

FINANCIAL IMPLICATIONS

25. There are no financial implications associated with this report. Any costs involved with the preparation, adoption and implementation of the Policy are met by the fees paid by new applicants and existing licence holders.

HUMAN RESOURCES IMPLICATIONS

26. Not applicable.

TECHNOLOGY IMPLICATIONS

27. Not applicable.

EQUALITY IMPLICATIONS

28. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

29. The Licensing Act 2003 requires formal consultation with:-
- a. The Chief Officer of Police;
 - b. Representatives of the holders of the various licences for premises within the Borough who will be affected by the Policy; and
 - c. Persons/bodies representing the interests of persons likely to be affected by the Policy.
30. Full details of the consultation process and those consulted with can be found in section 1.2 of the Policy.
31. Responses to the consultation have been received. The relevant responses are summarized at Appendix B.
32. With regard to the Cumulative Impact Policy (CIP), further consultation was undertaken with all parties following the receipt of requests to extend Area 1 – Doncaster Town Centre and add two new areas namely part of the Wheatley Ward and Bawtry. The requests and supporting information is attached at Appendix B1 to B4.

BACKGROUND PAPERS

33. None.

REPORT AUTHOR & CONTRIBUTORS

Paul Williams: Business Safety and Licensing Manager .
Telephone: 01302 737837
Email: pj.williams@doncaster.gov.uk

Helen Wilson: Senior Legal Advisor
Telephone: 01302 734688
Email: helen.wilson@doncaster.gov.uk

Catherine Anderson: Finance Manager
Telephone: 01302 736611
E Mail: catherine.anderson@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment

Appendix A
Statement of Licensing Policy 2016 Licensing Act 2003
Adoption Route and Timetable

Meeting / Committee	Date of Meeting
Directors Meeting	1/9/15
Exec Board	15/9/15
Overview and Scrutiny Management Committee	8/10/15
Licensing Committee	15/10/15
Cabinet (for noting)	3/11/15
Council	26/11/15

Appendix B
Relevant consultation responses received

Source	Details	Comments / Recommended Action
South Yorkshire Police	<u>Summary</u> - Section 4.11 - Suggest consideration be given to making reference to door supervisors needing to be registered with the Security Industry Authority (SIA)	It is a mandatory condition under the Licensing Act 2003 that where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority. For the above reason is it not considered necessary to amend the existing wording section 4.11.
South Yorkshire Police	<u>Summary</u> -Proposal to retain the existing Cumulative Impact Policy (Area 1 Town Centre) as detailed in section 7.13 with a suggestion to also expand the zone to include the areas of Market Place and Cleveland Street.	A request has been made of the SYP Licensing Manager to provide supporting evidence with a view to presenting this information to the Licensing Committee for consideration. Additional Information - Appendix B1.
Director Public Health – Doncaster Council	<u>Summary</u> - Support for the continuation of the existing Cumulative Impact Police in respect of the zone detailed in section 7.13 with a proposal to create a new zone in part of the Wheatley ward i.e. Nether Hall Road, Copley Road and Christ Church Road, Broxholme lane and Highfield Road. To apply to all licences authorising alcohol sales (on and/or off).	Evidence to support the proposal has been provided which will be presented to the Licensing Committee for consideration. Additional Information - Appendices B2 and B3
Bawtry Town Council	<u>Actual response</u> - <i>Licensing objectives - prevent of crime & disorder, public safety, prevention of public nuisance and protection of children from harm. Public nuisance is defined as the effect of licensed activities on persons living and working in the area, which may be disproportionate and unreasonable.</i> Perhaps Bawtry could be helped if 'nuisance car parking' could be added to the list as some residents complain regarding visitor parking on residential streets. We know from DMBC that the number	Parking on residential streets beyond the boundary of licensed premises are matters for the personal responsibility of individuals under law and parking is a matter that is regulated / controlled under specific road traffic legislation. The request to consider the creation

of existing licensed premises is not something to be taken into account when considering a new application, but the draft policy appears to suggest otherwise: "The policy includes a special policy which seeks to limit the cumulative effect of licensed premises in certain areas" Doncaster town centre is designated as a community impact policy area and there, because of the significant number of licensed premises concentrated in one area, the presumption of approval of new applications is reversed, ie they will normally be refused if relevant representations are received. This is the only one designated a CIPA within the Borough. The suggestion is that Bawtry could similarly be designated. There are over 20 establishments licensed to serve alcohol and this is quite high for a small town of c3700 inhabitants. Some residents reside in or very close to Bawtry town centre. Thus it is felt that we should benefit by being able to control the number, and operation, of licensed premises within Bawtry. We would wish to push for this under clause 4.6 and prior to an application being made for a premises license, that consultation with responsible authorities takes place and comments included (referred to) in the application. Clause 6.22 is relevant in this regard.

In the past Bawtry TC has contacted the Authority regarding Early Morning Restrictions Order but apparently SY Police say they have had no cause for concern in connection with drinking in the early hours, thus there seems to be nothing we can do on this particular issue.

It is hoped you will be able to take the above comments into account.

of a special policy regarding cumulative impact for the Bawtry area is noted and will be presented to the Licensing Committee for consideration.

Additional Information - Appendix B4.

The application process for a premises licence requires copies of the application to be served on all responsible authorities. The responsible authorities are defined in the Licensing Act but do not include town/parish councils. Applicants cannot be compelled to consult with responsible authorities or local residents and businesses prior to submitting an application but can, and are, encouraged to do so through Doncaster Council's Statement of Licensing Policy. (Section 6.22)

Whilst tentative enquires have, in the past, been made regarding EMROs no formal request has been received at this time. EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly

		<p>attributable to specific premises. Section 8.6 outlines the process that would be followed should such a request be received and considered appropriate.</p>
--	--	---

Appendix C
Statement of Licensing Policy 2016 - Licensing Act 2003
Summary of Key Changes

We have compared the re-issued Guidance under Section 182 of the Act with our existing policy statement and have made amendments to reflect the new statutory guidance and other changes. These changes have now been incorporated into our draft policy statement.

We have endeavored to create a policy document that is functional and manageable by taking the opportunity to strip out non-policy information and guidance. It is our intention to create a separate 'Local Licensing Guidance' document, to supplement this policy, which will contain practical guidance for licence holders and assist local residents or other interested people who may make a representation against an application.

In addition to the general concept outlined above, the following key changes have been made to the policy all of which are necessitated by legislative changes that have come about since the commencement of the previous policy (January 2011)

1. Removal of the 'vicinity' test - persons wishing to make representations about a new application or to review an existing permission are no longer required to be located in the vicinity of the premises.
2. Removal of the 'interested parties' term and replace with 'any other person' – this facilitates 1 above and widens the scope for persons wishing to make representations.
3. Change to the policy review period from 3 years to 5 years.
4. Recognition that the responsible authorities have been expanded to now include the Licensing Authority and the body responsible for Public Health.
5. Change to wording relating to the imposition of conditions on a licence. Conditions may only be imposed that are 'appropriate and proportionate' to the promotion of the licensing objectives. Previously the term was 'necessary and proportionate'.
6. Recognition of the introduction of new mandatory licence conditions in particular those which effectively ban irresponsible drink promotions, ban the dispensing of alcohol directly into the mouth and ensure that customers have access to free drinking water.
7. Removal of the renewal requirement for Personal Licences. Prior to 2015 all Personal Licences were valid for 10 years.
8. Changes to Temporary Events
 - a. recognition that, in addition to the Police, the Environmental Health service can now intervene to prevent or modify an event; and
 - b. new provision to facilitate a temporary event required at short notice where the minimum period of notice cannot be achieved.
9. Introduction of the new provisions relating to:
 - a. Late Night Levy
 - b. Early Morning Restriction Orders.

Section 7 - Cumulative Impact - The consultation has resulted in requests to retain and extend the existing area (Area 1 – Doncaster Town Centre) along with proposals to add 2 additional areas, namely part of Wheatley and Bawtry.

On the 15th October 2015, the Licensing Committee resolved to recommend, to Council, the adoption of the Policy with the inclusion of the following:

- i. the continuation of the existing Cumulative Impact Zone in Doncaster Town Centre (Bradford Row, Hall Gate, High Street, Priory Walk and Silver Street), with the inclusion of additional areas of Market Place and Cleveland Street and that the policy should apply to all licensed premises;
- ii. the implementation of a new Cumulative Impact Zone for all licensed premises in a specified area of the Wheatley Ward to include Nether Hall Road, Copley Road, Christ Church Road, Broxholme Lane and Highfield Road.
- iii. the implementation of a new Cumulative Impact Zone in Bawtry for all licensed premises in the areas of Market Place, High Street, Swan Street, Church Street, Scot Lane, Wharf Street and Grasswood Lane/Dower House Square with the intention to review the adoption of this in 2 years' time.