

Committee Name and Date of Committee Meeting

Cabinet – 17 March 2025

Report Title

Licensing Act 2003 – Statement of Licensing Policy

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Andrew Bramidge, Strategic Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

Section 5 of the Licensing Act 2003 requires the Council to publish a Statement of Licensing Policy which sets out the principles it proposes to apply in exercising functions under the Act. The Statement of Licensing Policy must be reviewed and republished at five year intervals.

The current Statement of Licensing Policy was published in 2020, and therefore is now due for the five year review. The Cumulative Impact Policy was reviewed in 2023 and is therefore not due for further review until 2026.

The Council's Licensing Service have carried out informal consultation with partners, local licence holders and members of the public to identify any areas within the current Policy that would benefit from development. This feedback has been used to formulate an ambitious draft Policy that is considered to strike an appropriate balance between the need to promote a thriving licensed trade within the Borough whilst ensuring that any negative impacts of licensable activity are kept to an absolute minimum.

The draft Policy is presented to Cabinet for review and approval prior to the commencement of a period of statutory consultation. A further report will be presented to Cabinet after the consultation has concluded for approval of the final Statement of Licensing Policy 2025.

Recommendations

That Cabinet approve the draft Licensing Act Statement of Licensing Policy attached to this report as Appendix 1 for consultation in accordance with the requirements of the Licensing Act 2003.

List of Appendices Included

Appendix 1 Draft Licensing Act 2003 Statement of Licensing Policy 2025
Appendix 2 Equality Analysis – Initial Screening Document
Appendix 3 Carbon Impact Assessment

Background Papers

Licensing Act Statement of Licensing Policy 2020
Guidance issued under s182 of the Licensing Act 2003

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Licensing Act 2003 Statement of Licensing Policy

1. Background

1.1 As the Licensing Authority under the Licensing Act 2003 (the Act) the Council is responsible for licensing:

- the sale and supply of alcohol.
- regulated entertainment such as live and recorded music, performances of theatre, dance, cinema and indoor sports.
- the sale of hot food and drink between 11 pm and 5 am.

1.2 Under Section 5 of the Act, a licensing authority must prepare a Statement of Licensing Policy which effectively sets out the principles it proposes to apply in exercising functions under the Act. This Statement of Policy must be published at least every five years.

1.2.1 The Statement of Licensing Policy has a number of key objectives including:

- Providing applicants with a clear, consistent basis for submitting applications and notices in the Borough.
- Providing a clear, consistent basis for determining licensing applications in Rotherham.
- Ensuring the relevant views of those affected by licensed premises are taken into consideration.
- Ensuring that local area issues are taken into account by licensed premises; and
- Supporting the wider strategies of the Council and the approach to licensed activities and premises across the Borough.

1.3 The current Statement of Licensing Policy was published in 2020, and therefore the five year formal review is now due.

1.4 Licensing officers commenced the review of the Policy in October 2024 and this included a period of informal consultation with partner agencies, licence holders and members of the public. In addition, officers have carried out a review of other policies from across the UK to identify best practice that could be adopted in Rotherham.

1.5 As a result of this initial review, licensing officers have developed a draft Policy, attached as Appendix 1, that is considered to be ambitious in nature, whilst continuing to strike the correct balance between promoting a vibrant licensed economy and protecting local people and communities from any negative consequences of licensable activity. The areas where changes have been made are highlighted in yellow on the attached document.

1.6 This draft Policy is being presented to Cabinet for consideration and approval prior to the commencement of a period of statutory consultation. Following the consultation, a further report will be brought to Cabinet for consideration and agreement of the Statement of Licensing Policy 2025.

2. Key Issues

2.1 The licensed entertainment and hospitality industry is a major provider of full time, part time and casual employment and it makes a significant contribution to the local economy. It fulfils an important social and community role, providing facilities for both residents and businesses, and provides vital support for related sectors such as retail and tourism.

2.2 As of December 2024, the number of licensed premises in Rotherham is as follows:

Club licensed to sell alcohol (e.g. working men's club)	51
Premises licensed to sell alcohol (e.g. pub, shop, restaurant)	682
Premises licensed for late night refreshment (e.g. late night takeaway) or regulated entertainment (without alcohol)	124

2.3 The Council's Statement of Licensing Policy should strike a balance between the need to encourage a vibrant and dynamic entertainment industry as part of the regeneration of the Borough, whilst ensuring that the Licensing Objectives specified in the Act are sufficiently promoted. The Licensing Objectives are:

- The prevention of crime and disorder,
- The promotion of public safety,
- The protection of children from harm,
- The prevention of public nuisance.

2.4 The way that licensable activities are managed on site can often influence the wider issues that arise through the sale and supply of alcohol or the provision of late night refreshment. Critically, there are areas of the Statement of Licensing Policy that can direct the way that establishments are managed and operated, including setting standards for training around key priorities through to requirements for security staff and their training and accreditation.

2.5 It is for this reason that the draft Policy includes additional sections relating to specific aspects of the licensed economy. It is expected that the inclusion of these sections within the Policy will encourage applicants and licence holders to adopt best practice, and clearly set out the Council's expectations with regard to the activities that take place at licensed premises.

2.6 It is recognised that many of the principles outlined below are aspirational in nature, and it will be made clear within the Policy that although the Council has certain expectations of licensed premises in the Borough, the principles within the Policy will only be mandated if they are required to prevent one or more of the Licensing Objectives from being undermined. Despite the limitations of the Licensing Act and Statement of Licensing Policy, it is nonetheless considered important that the Council provides appropriate best practice guidance and encourages local licence holders to go beyond the

minimum that is required with the ultimate aim of ensuring that licensed premises are safe and enjoyable places to be, and that the activities that take place there have minimal negative impact on local communities and the wider environment.

- 2.7 The Council is mindful that there is a need to encourage and facilitate growth and development within the Borough, and the licensed trade have an obvious role in this. It is therefore important that the Statement of Licensing Policy does not deter appropriate development and investment within the Borough, and the draft Policy is considered to strike the correct balance between encouraging economic growth and minimising any negative impacts on those that may be affected by the activities that are taking place.

Key new additions to the draft policy include:

- 2.8 Specific policies with regard to the Licensing Objectives:

The current Policy outlines the Council's expectations with regards to the promotion of the Licensing Objectives. The proposed Policy develops this by providing additional information and advice regarding the obligations that licensed premises have with regard to, for example, the prevention of general crime and disorder, counter terrorism (including Martyn's Law) and safeguarding of children and vulnerable adults.

In addition, the proposed Policy will provide licence holders and applicants with details of good practice which the Council believes will assist licensed premises to further promote the Licensing Objectives. Such good practice includes making adequate provision for the welfare of customers, management of smoking / vaping, minimisation of waste, rehearsal of written contingency plans and enhanced safeguarding practices (such as the appointment of a "safeguarding champion" at the premises).

- 2.9 Premises specific policies:

The proposed Policy recognises that the expectations / requirements applicable to licensed premises will vary depending on the nature of the premises themselves. For example, requirements for pubs / bars will be different to late night takeaways. The Policy will therefore set out specific areas relevant to each class of premises and make it clear that the Council expects applicants and licence holders should consider these matters when submitting an application / managing their premises.

- 2.10 Promoting Equality and Inclusion in Licensed Venues:

It is already a requirement that licensed premises should operate in a manner that does not discriminate against groups / individuals with a particular characteristic. The proposed Policy encourages applicants and licence holders to go further than this to further improve the experiences of all communities within licensed venues. This will include the provision of inclusive and transparent policies / procedures, accessible venues and regular training for staff on equality and inclusion.

2.11 Promotion of Environmental Best Practice:

Licensed premises have a significant role in maintaining and promoting a clean and green Borough. The proposed Policy sets out good practice regarding waste minimisation, energy efficiency, reducing road traffic and action on climate change. Simple, practical suggestions on how premises can improve their environmental performance will be detailed in the Policy (for example, the use of online menus and reusable drinking vessels).

2.12 Safety of Women in Licensed Venues:

The Policy will provide advice and guidance on the practical steps that licensed venues can take to keep women safe when using licensed premises. The adoption of good practice will be encouraged, including Ask for Angela, Walksafe (and similar schemes) – along with training for staff and regular testing of procedures to ensure that they are being effectively implemented within the premises.

2.13 Core Hours Policies:

The Policy recognises that premises operating hours can have a significant impact on local residents, the economy and the local area. It therefore sets out a number of core hours that are applicable to each type of licensed premises. The Policy makes it clear that applications for licences outside of the core hours will not necessarily be refused, but that the Council will expect applicants to provide more detail on the steps they will take to minimise the impact on the local area outside of the core hours specified in the Policy.

2.14 Clarification of Roles, Responsibilities and Guidance:

The Policy will set out the responsibilities of licence holders, applicants, the Council and partners. It will also provide guidance to members of the public so that they feel confident raising concerns relating to licensed premises and are aware of the opportunities within (and importantly, the limitations of) the Licensing Act 2003 when it comes to addressing concerns with regard to licensed premises.

2.15 Large Events:

The Policy will include specific guidance for large events taking place at outdoor venues, sports stadia, arenas etc with a capacity of more than 2000 persons. The Policy will strongly encourage involvement with those with an interest in large events in the Borough (for example, through attendance at Rotherham Safety Advisory Group). The Policy will recognise the benefits of large events, but clarify the expectation that applicants and licence holders will give additional consideration to security, counter terrorism, safeguarding, traffic management, welfare facilities etc.

2.16 More detail in relation to the proposals outlined in paragraphs 2.8 to 2.15 is included within the draft policy, in particular within Appendices F to H. The

amendments reflect national best practice and the Council's ambition to develop a Licensing Act Policy that both addresses our local priorities and encourages licence holders and applicants to meet the highest standards possible.

3. Options considered and recommended proposal

3.1 The Council is statutorily obliged to publish a Statement of Licensing Policy and to consult on that Policy. However, the Council does have a degree of discretion in relation to the contents of the Policy and the way in which a consultation is conducted.

3.2 Option 1

To consult on the content of the current Policy, and to seek comment on the aspects of the Policy that should be developed or amended. These comments would then be formulated into a draft Policy that would be further consulted upon prior to being brought to Cabinet for consideration for adoption.

Although this approach will facilitate the capturing of views / comments from a large cross section of those affected by the Policy, it is unlikely to result in the provision of feedback that is significantly different to that which has already been obtained through the informal consultation and document review undertaken by licensing officers.

3.3 Option 2

The Council proposes a draft Policy with amendments based on the feedback obtained via the document review and informal consultation carried out by licensing officers. This would allow all those affected by the Policy to comment on the proposals, whilst ensuring that the development process remains as efficient as possible.

3.4 Option 2 is preferred as it both demonstrates the Council's ambitions to move forward its Policy position and will allow for a more efficient Policy development process, which will still ensure that all those affected by the Policy have the opportunity to comment on the proposals. This report therefore recommends that Cabinet approve the draft Licensing Act Statement of Licensing Policy for consultation in accordance with the requirements of the Licensing Act 2003.

4. Consultation on proposal

4.1 Before determining its Policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- the chief officer of police for the area.
- the fire and rescue authority for the area.
- each local authority's Director of Public Health in England (DPH) for an area any part of which is in the licensing authority's area.

- persons/bodies representative of local premises licence holders.
- persons/bodies representative of local club premises certificate holders.
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in its area.

4.2 The views of all these persons or bodies will be given appropriate weight when the Policy is determined. It is recognised that in some areas it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so. Licensing authorities should note that the terms of the 2003 Act do not prevent them consulting other bodies or persons.

4.3 In addition, responses to the consultation will be sought from the wider public to ensure that the Council's approach is fully informed at a local level.

4.4 The Council's Licensing Committee, who are responsible for considering and determining applications under the Licensing Act 2003, will be fully consulted as part of this approach.

4.5 The consultation is anticipated to be open for a period of six weeks and will take the form of an online consultation, with written requests for responses directed to those stakeholders that the Council is statutorily required to consult with.

4.6 The consultation will be complemented by communication and marketing methods including website, intranet, social media and ward member briefings. Detailed consideration will be given to ensuring that the consultation is open and accessible to all.

4.7 The responses received will be fully considered and will be used to inform the development of a final Statement of Licensing Policy which will be presented to Cabinet before formal adoption by the Council later in 2025.

5. Timetable and Accountability for Implementing this Decision

5.1 Subject to Cabinet approval, the consultation will commence in April 2025. The results of the consultation will be used to finalise the Statement of Licensing Policy and this will then be presented to Cabinet in the summer of 2025.

5.2 The final Policy will then be considered by full Council with a recommendation from Cabinet that the Policy is approved.

5.3 The Policy will then fall due for a further formal review in 2030.

6. Financial and Procurement Advice and Implications

6.1 This proposal is part of the statutory duty as a Licensing Authority. The costs of this are met within the Licensing account and should be covered by fees

paid by licence holders. Under the Licensing Act 2003, the fees a Licensing Authority can charge are set by Central Government and not at a local level.

- 6.2 There are no direct procurement implications arising from the recommendations detailed in this report.

7. Legal Advice and Implications

- 7.1 Section 5(1) of the Licensing Act 2003 [the Act] requires a licensing authority to determine its Licensing Policy with respect to the exercise of its licensing functions and to publish this before the beginning of each five year period.

- 7.2 The Licensing Policy must be published before the licensing authority carries out any function in respect of individual applications and notices made under the terms of the Act. During the five-year period, the policy must be kept under review

- 7.3 The Licensing Authority must consult with those persons listed in Section 5(3) of the Act in relation to a proposed statement of Licensing Policy, as set out at Paragraph 4.1 of this report.

- 7.4 The Council must have regard to the Statutory Guidance issued under Section 182 of the Act, Part 14 relates to Statements of Licensing Policy. Paragraph 14.6 makes it clear that subject to any statutory requirements, the extent of the consultation process of a matter for each Local Authority. The Act does not set out a minimum consultation period in respect of the proposed statement of Licensing Policy.

- 7.5 The Guidance makes it clear that Local Authorities should always consider a full consultation, as a limited consultation may not allow all person's sufficient opportunity to comment on and influence local policy, which in turn then leaves the Council open to legal challenge.

- 7.6 The extent of the consultation process requires consideration of any previous consultation and the length of time since that consultation, it is good practice to consult widely.

- 7.7 The Council must have regard to all relevant legislation and statutory guidance in order to ensure that the consultation process is conducted in accordance with any legal requirements and full consideration must be given as to the length of the consultation to minimise the risk of legal challenge.

8. Human Resources Advice and Implications

- 8.1 There are no direct HR implications arising from this report

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 It is appreciated that it would not be possible for licensing Policy statements to anticipate every issue of concern that could arise in respect of children in

relation to individual premises and therefore the individual merits of each application should be considered in each case.

9.2 However, the protection of children from harm is one of the Licensing Objectives and the draft Policy sets out a series of actions that can be taken by licence holders to ensure that this is promoted within premises that they are responsible for. This may include limiting the access of children to any premises where this is appropriate for the prevention of physical, moral or psychological harm, but could also include a range of other alternatives such as the introduction of good safeguarding practice.

9.3 The draft Policy also includes reference to model conditions that maybe used to promote the protection of children from harm.

10. Equalities and Human Rights Advice and Implications

10.1 This report seeks a decision with regard to the commencement of consultation on a draft Policy. Consequently, the decision itself will have minimal impact on equalities and human rights. However, it is recognised that the Policy will make reference to the steps that licence holders and applicants can take with regard to the promotion of equality and diversity within the venue.

10.2 Section 149 of the Equality Act 2010 imposes a Public Sector Equality Duty (PSED) on the Council and Public Sector Partners. This duty requires the Authority to eliminate discrimination, advance equality of opportunity and foster good relations when exercising any of its functions.

10.3 In accordance with corporate requirements, an Equality Analysis screening assessment has been undertaken. Given that this report recommends undertaking consultation to inform the development of a Policy, it is assessed that an Equality Analysis is not required at this stage as any changes to Policy are not as yet identified. However, once the consultation is completed then the need for Equality Analysis will be revisited. A copy of the initial screening assessment is attached as Appendix B.

10.4 The Human Rights Act 1998 requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in any way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality: the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

11. Implications for CO2 Emissions and Climate Change

- 11.1 This report seeks authorisation for Council officers to commence consultation on the proposed Policy, therefore the decision itself will have minimal implications for CO2 emissions and climate change.
- 11.2 However, the Policy itself encourage licensed premises to have regard for environmental best practice, which if adopted would positively impact on the level of CO2 emissions and contribute to a reduced impact on climate change.

12. Implications for Partners

- 12.1 The draft Statement of Licensing Policy does not introduce any negative implications for partners.
- 12.2 A number of partner agencies will be formally consulted with during the statutory consultation process, and their contributions will be taken into consideration during the drafting of the final Policy document.

13. Risks and Mitigation

- 13.1 Failure to publish a Licensing Act Statement of Licensing Policy exposes the Council to legal challenge as a result of failing to comply with statutory requirements.
- 13.2 Failure to carry out the required consultation in accordance with the legislation and guidance is also likely to open the Council up to legal challenge.
- 13.3 In addition, the absence of an up-to-date Policy may lead to inappropriate decisions being made in relation to licence applications.
- 13.4 In order to mitigate this risk, it is proposed that the Statement of Licensing Policy be introduced as soon as possible (ensuring that all statutory processes are observed).

14. Accountable Officers

Alan Pogorzelec, Licensing Manager

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp OBE	03/03/25
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	17/02/25
Assistant Director of Legal Services (Monitoring Officer)	Phil Horsfield	19/02/25

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