



## Report of the Cabinet Member for Corporate Services & Performance

Council – 6 July 2023

### Review of the Statement of Policy for Licensing

<b>Purpose:</b>	To consider the result of the consultation on the review of the Council's Statement of Policy for Licensing.
<b>Policy Framework:</b>	Licensing Act 2003, Statement of Policy for Licensing 2018
<b>Consultation:</b>	Legal, Finance, Access to Services
<b>Recommendation(s):</b>	It is recommended that:  1) the result of the consultation on the proposed amendments to the Policy is noted, the proposed amendments are approved and the revised policy attached at Appendix A is adopted for 2023-28.
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#### 1.0 Background

- 1.1 Under the Licensing Act 2003 (The Act) a Licensing Authority must produce and publish a statement of its licensing policy (the Policy) at least once every 5 years and the Policy must be published before it carries out any of its licensing functions. In determining and publishing the Policy, the authority must have regard to the statutory guidance issued by the Home Office (the Guidance).
- 1.2 During the five year period the Policy must be kept under review and subject to the requirements of the legislation, the Council can make any appropriate revisions. Any revisions to the Policy must be issued for consultation before they can be introduced.

- 1.3 The last full review of the Policy was in 2018 and also included a review of the previously adopted Cumulative Impact Policy/Special Policy (CIP) for the city centre.

## **2.0 Cumulative Impact**

- 2.1 The CIP/Special policy, which was in place for specific areas within the city centre has lapsed. Previously, consideration of cumulative impact, was described within the Guidance and has been used by licensing authorities within their statements of licensing policy since the implementation of the Act in November 2005. This has now changed and to address issues of cumulative impact in an area, licensing authorities may introduce and publish Cumulative Impact Assessments (CIA). These were introduced into the 2003 Act by the Policing and Crime Act 2017 and replace CIP/Special Policies.
- 2.2 In view of the changes, consideration of whether or not the licensing authority now publishes a CIA, is the subject of a separate report however a summary of the proposed CIA is included in the Statement of Licensing Policy.
- 2.3 The absence of a CIA does not prevent any responsible authority or other person making representations on a new application for the grant or variation of a licence, on the grounds that the premises will give rise to a detrimental cumulative impact on one or more of the licensing objectives in a particular area.

## **3.0 Review of the Policy**

- 3.1 Officers undertook a full review of the Policy, in accordance with the current Guidance issued in April 2018. Where changes are proposed they are identified in bold italic type and where it is proposed to remove information, this is shown by striking through the text. A draft of the proposed changes to the Policy is attached at **Appendix A**.
- 3.2 A summary of the changes is detailed below and the reason for the change is also indicated:
- Foreword, population statistics updated;
  - Foreword, people employed within Swansea statistic updated;
  - Paragraph 1.3, Licensing Policy review dates updated;
  - Paragraph 3, dates updated;
  - Paragraphs 6.1 - 6.25 have been removed and replaced with new wording at paragraphs 6.1 to 6.19 which will reflect the proposed changes to cumulative impact requirements if agreed

for publication. A link to the CIA will also be included if the CIA is published.

- Paragraph 13.1 has been reworded to reflect current enforcement protocols;
- Paragraph 13.2 has been reworded to reflect the Premises Licence holder's responsibility to provide appropriate training to staff, to promote the Licensing Objectives;
- Paragraph 14.1, an updated link related to organising events inserted;
- Paragraph 14.3, an updated link to the Purple Guide inserted;
- Paragraph 14.8, an updated link to "Crowded Places Guidance" inserted;
- Paragraph 15.2, new wording added in relation to possible charges for the provision of advice/guidance;
- Paragraph 15.3, new wording added to confirm the Licensing Officer's responsibility for determining if an application meets the statutory requirements, prior to acceptance;
- Paragraph 15.6, updated link to Home Office website inserted;
- Paragraph 15.7, new wording inserted relating to dispensing with a hearing and paragraphs 15.8 and 15.9 have been removed;
- Paragraph 15.14, new wording inserted relating to TENS being non-transferable and non-refundable and new link to guidance added;
- Paragraph 15.15, renumbered;
- Paragraph 15.16, wording amended to cover correspondence delivered by hand or by electronic means. New link to guidance provided;
- Paragraph 17.1 Delegation of functions – classification of films added;
- Paragraph 20.1 - Licensing Authority and Child Protection details updated;

## **4.0 The Consultation**

- 4.1 Extensive consultation on the proposed amendments to the Policy was undertaken, involving existing licence holders, representatives of persons carrying on licensed businesses, statutory bodies, representatives of other persons and City and County of Swansea Members.
- 4.2 The consultation period ended on the 31<sup>st</sup> March 2023 and no responses were received.
- 4.3 During the period of review of the policy, the Home Office also issued a revised version of the Guidance. This was issued in December 2022, reviewed by officers during the consultation period and no further amendments to the Policy are required.

## **5.0 Integrated Assessment Implications**

- 5.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts;
  - Advance equality of opportunity between people who share a protected characteristic and those who do not;
  - Foster good relations between people who share a protected characteristic and those who do not;
  - Deliver better outcomes for those people who experience socio-economic disadvantage;
  - Consider opportunities for people to use the Welsh language;
  - Treat the Welsh language no less favourably than English; and
  - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 5.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 5.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

- 5.4 The screening identifies that this policy review has four main purposes;
- a. To provide Members of the Licensing Committee with a decision making framework and the policy will be taken into account at each hearing held following the receipt of representations;
  - b. To inform applicants of the parameters within which the Authority are able to make licensing decisions and to allow them to take this into account when making applications;
  - c. To provide guidance to local residents and businesses of the boundaries within which the Licensing Authority will make licensing decisions. This will assist those parties when making representations in relation to various applications;
  - d. To support the Licensing Authority if required, to demonstrate in a court of law how it arrived at its licensing decisions.

Therefore, the Statement of Licensing Policy will assist all those involved in licensing applications in Swansea.

5.5 The policy was reviewed and issued for consultation, where members of the public, all members of the licensed trade and associated professions, had the opportunity to respond, in line with the legislation.

5.6 All aspects of the WFG Act principles were considered and the potential risk is considered to be low. A copy of the completed IIA screening form is attached at **Appendix B**.

## **6.0 Legal Implications**

6.1 The review of the policy is statutory requirement.

6.2 Failure to undertake a review may result in decisions of the Council being challenged by Judicial Review and/or appeals to the Magistrates Court.

6.3 As the publication of a CIA under the 2003 Act is a new consideration and must follow specific steps before a decision can be reached, it is appropriate that this is the subject of a separate report.

## **7.0 Financial Implications**

7.1 There are no financial implications.

**Background Papers:** Licensing Act 2003, Statement of Policy for Licensing 2018

### **Appendices:**

Appendix A – Draft Statement of Licensing Policy 2023;

Appendix B – IIA Screening Form