

**BRISTOL CITY COUNCIL**

**LICENSING COMMITTEE**

**7 FEBRUARY 2019**

**Report of:** Strategic Director, Growth and Regeneration

**Title:** Review of the Council's Statement of Licensing Policy

**Ward:** Citywide

**Officer Presenting Report:** Jonathan Martin

**Contact Telephone Number:** 0117 357 4900

**RECOMMENDATION**

The committee are recommended to:

- (1) Establish a member /officer working group to commence a review of the Council's Statement of Licensing Policy in order to assist full Council in connection with the discharge of its' functions under section 5 of the Licensing Act 2003, with the following terms of reference:
- (2) To consider current policy and engage with stakeholders in line with the directions of the Council's licensing committee and produce a draft policy for Full Council consideration by 21 May 2019.
- (3) Subject to Full Council approval, carry out full public consultation on the draft policy. The results of the consultation to be brought back before the member/officer working group for consideration prior to a final policy being presented to Full Council on 11 February 2020, with implementation in August 2020.

## **Summary**

The Council is required to determine and publish its' Statement of Licensing Policy every five years. The next policy must be published by 1 August 2020.

Determination and publication of the policy and consultation upon the policy are functions that can only be carried out by Full Council. In previous years a draft policy has been taken to Full Council in order for the consultation to be approved. The work flow for this was managed by a Licensing Policy Scrutiny Board. In line with recent reviews of other licensing policies officers propose to establish an officer/member working group.

### **The significant issues in the report are:**

The report sets out a proposed work programme for carrying out the review and includes details of consultation arrangements and stakeholder engagement.

## **Policy**

The Licensing Authority must, in respect of each five year period, determine and publish a Statement of Licensing Policy. Before determining such a policy section 5(3) of the Licensing Act 2003 places a statutory duty on the Authority to consult. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each five-year period. Section 5(3) applies in relation to any review of an Authority's policy as it applies in relation to the determination of that policy. Where a new policy is made the Authority must state the date the five year period begins with.

## **Consultation/Advice**

### **1. Internal**

Legal Services

### **2. External**

None

### **3. Context**

In July 2015 Full Council approved the Council's current Statement of Licensing Policy. The policy provides guidance to the Licensing Committee

to assist them when considering applications for authorisations under the Licensing Act 2003. It also provides guidance to those wishing to make applications to the Council, in particular with regard to the steps the Council expects applicants to take with regard to promoting the licensing objectives in their operating schedule.

#### **4. Decision Making Process**

The decision to publish a Statement of Licensing Policy under section 5 of the Licensing Act 2003 must be taken by Full Council. As detailed above before determining such a policy section 5(3) of the Licensing Act 2003 places a statutory duty on the Authority to consult. Consultation must be carried out with the following parties;

- (a) the chief officer of police for the licensing authority's area,
- (b) the fire and rescue authority for that area,
- (c) each Local Health Board for an area any part of which is in the licensing authority's area,
- (d) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
- (e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- (f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- (g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- (h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

#### **5. Proposal**

It is recommended that the Licensing Committee establish a member/officer working group to review the policy to ensure it meets Bristol's needs and takes into account the experience of operating under the policy since its adoption in 2015.

It is anticipated that the working group will hold information gathering sessions with key stakeholders, for example the Police, licence holders, industry representatives and interested organisations, as well as researching good practice and evaluating how the current policy has operated.

The Working Group could be tasked with preparing a draft policy for consultation which would need to be agreed by Full Council. Once agreed formal consultation would take place on the draft policy with a view to bringing back to Full Council a revised policy informed by the consultation process. The table below sets out a possible timescale. Members will note it is

proposed the final policy is taken for approval at Full Council on 11 February 2020 despite the new policy not needing to be published until August 2020. This timescale is necessary as a result of the Mayoral election taking place on 7 May 2020.

<b>Activity</b>	<b>Date</b>
Licensing Committee – Agree review process and establish working group membership	February 2019
Working group established and first meeting held in order for officers to start drafting amended policy	February 2019
Policy and model operating schedules drafted by Licensing Team	February/March 2019
Working group meeting to discuss draft policy	March 2019
EDM and member briefings	April/May 2019
Full Council	21 May 2019
Full public consultation	July – September 2019
Working group – consultation and final report presented to group	November 2019
EDM and member briefings	December 2019/January 2020
Full Council	11 February 2020

## **6. Other Options Considered**

The policy must be reviewed and published by August 2020. As Scrutiny boards no longer exist, officers consider the establishment of an officer/member working group as the only viable option.

## **7. Risk Assessment**

The risk of not proceeding with the recommendation is that it may not be possible to review the Council’s Statement of Licensing Policy within the required legislative time frame.

## **Public Sector Equality Duties**

- 8a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.

- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to -
  - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
  - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
  - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
  - tackle prejudice; and
  - promote understanding.

8b) A full equalities impact assessment will support any proposals arising from the review.

## **Legal and Resource Implications**

### **Legal**

The proposals set out in the report are lawful. The proposed working group will mirror the work that was previously undertaken by the Licensing Scrutiny Board, namely to undertake a review of the Council's Statement of Licensing Policy in order to assist full Council in the development of the policy.

In accordance with section 5 of the Licensing Act 2003 Determination and publication of the Statement of Licensing Policy, following consultation are functions that are reserved to full Council. These functions cannot be delegated to committee or officers

Similar principles should be applied as those that relate to the scrutiny board under the Council's constitution in that membership of the proposed officer/working group should not comprise Councillors who are on the Executive.

## **Financial**

This report requests approval to commence the process of review of the Council's Statement of Licensing Policy. This review is required to take place every 5 years and the next policy is due to be published by 1 August 2020.

Regulatory Services have confirmed that this review will be undertaken within existing resources per the current MTFP. Consequently no additional financial implications – either to Revenue or Capital – are expected to arise from this review process.

*Jemma Prince – Finance Business Partner 29/01/19*

**(a) Revenue – no impact**

**b) Capital – no impact**

## **Land**

Not applicable

## **Personnel**

Not applicable

## **Appendices:**

Appendix A – Current Statement of Licensing Policy

## **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

### **Background Papers:**

1. Licensing Act 2003.