



Report for:	Licensing, Health & Safety and Enforcement Committee
Date of meeting:	28 October 2020
PART:	I
If Part II, reason:	

Title of report:	Review of Statement of Licensing Policy - Licensing Act 2003
Contact:	Nathan March – Licensing Team Leader, Licensing Team Leader, Corporate and Contracted Services
Purpose of report:	To report the results of consultation on draft revision to the Council's Statement of Licensing Policy (Licensing Act 2003)
Recommendations	1. That the Committee endorse the revised draft Statement of Licensing Policy under the Licensing Act 2003 for the period 2016 – 2021, and refer it to Full Council for approval and adoption.
Corporate objectives:	<ul style="list-style-type: none"> • A clean, safe and enjoyable environment • Building strong and vibrant communities • Ensuring economic growth and prosperity • Delivering an efficient and modern council

Implications:	<p><u>Equalities Implications</u> A Community Impact Assessment has been prepared and will be circulated separately.</p> <p><u>Financial / Value for Money / Risk / Health And Safety Implications</u> None identified.</p>
Consultees:	<p>The draft policy was published on the Council's website and comments invited for an 8-week period between August and October. Notifications were sent directly to responsible authorities, borough and county councillors, town and parish councils, local community groups, licensed trade representative bodies, and representatives of licence-holders. Comments were also invited via the Council's social media accounts.</p> <p>10 responses were received, which are reproduced at Annex A.</p>
Background papers:	Draft Statement of Licensing Policy 2021-2026
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. The licensing of alcohol supplies, regulated entertainment and late night refreshment under the Licensing Act 2003 is one of the most significant regulatory regimes under which the Council has statutory responsibilities.
- 1.2. The Act requires licensing authorities (district councils or unitary authorities) to publish a written policy, setting out how they intend to exercise the licensing and enforcement powers conveyed to them; the principles that they will follow, and their expectations of licensees. The policy must be periodically reviewed, so as to ensure that they reflect the current legislation, and are relevant to the issues arising in the authority's area.
- 1.3. Dacorum last reviewed its Statement of Licensing Policy in 2016. It is due for review and replacement by January 2021, in order to satisfy the statutory requirements in the Acts.

2. CONSULTATION RESULTS

- 2.1. At the Committee's meeting on 21 July 2020, consultation was approved on draft versions of policy. The report considered at that meeting detailed the major changes made to each policy.

- 2.2. Consultation took place over an 8-week period in August and September 2020. Notification was sent by email to: the responsible authorities, borough and county councillors, town and parish councils, local MPs, local community groups, multiple licence-holders (companies holding two or more premises licences), representative trade bodies and licensing-focussed legal firms.
- 2.3. The consultation was also publicised via the Council's website and social media accounts.
- 2.4. A total of 10 written responses were received to the consultation, all of which are reproduced at Annex A. The responses break down as follows:
- Three from parish councils
 - One from an interested charity/partnership
 - Six from local residents/other individuals
- 2.5. A number of further changes have been made to the draft policy after considering the consultation responses, and these are detailed within Annex A, after each response.
- 2.6. The final decision to adopt or revise a licensing policy under the Act must be made by Full Council. The Committee are now asked to resolve to recommend the adoption of the revised policies (with the additional revisions) by Full Council.

3. RECOMMENDATION

- 3.1. That the Committee endorse the revised draft Statement of Licensing Policy under the Licensing Act 2003 for the period 2021 – 2026, and refer it to Full Council for approval and adoption**

Annex A – Consultation responses

1) Kat Rolle

Hertfordshire Modern Slavery Partnership Coordinator, Shiva Foundation.

From: Kat Rolle <kat@shivafoundation.org.uk>

Sent: 21 September 2020 12:00

To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>

Cc: Nathan March <Nathan.March@dacorum.gov.uk>; Sue Warren <Sue.Warren@dacorum.gov.uk>; Alex Care <Alex.Care@dacorum.gov.uk>

Subject: Licensing Act 2003 - review of Dacorum BC Licensing Policy Consultation (Feedback)

To whom it may concern,

I would like to submit comments on the draft licensing policy, which is currently out for consultation.

Although the new draft of the **Draft Statement of Licensing Policy 2021-2026 (PDF 2.24MB)** references ‘*child sexual exploitation*’, it makes no reference to modern slavery and/or human trafficking.

Through day-to-day work with local businesses, a range of council regulatory services may be able to identify cases of modern slavery. In line with regulatory services like Trading Standards and the Fire and Rescue Service, relevant council services may encounter victims or perpetrators whilst inspecting premises such as nail bars and restaurants, regulating other businesses, such as gambling premises, taxis and private hire vehicles and/or in the inspections of houses in multiple occupation (HMOs). The Council of Europe Convention on Action against Trafficking in Human Beings, GRETA underlined ‘the significant role of workplace inspections, including on health and safety, compliance with labour standards and revenue laws, in deterring instances of human trafficking for forced labour and identifying possible victims of MS.’

In addition, these services have several enforcement tools and powers of entry that may be helpful in targeting perpetrators modern slavery, alongside other types of rogue business. Licensing and environmental health departments have a responsibility to engage with licensed premises that can be unwitting or willing hosts to modern slavery: 1) Victims and their traffickers visiting such establishments can be identified by staff, 2) local business staff can be recruited through unscrupulous means and/or through an exploitative recruitment agency, leaving them trapped and/or indebted to a trafficker.

Content Proposal: See modern slavery content added to [Hertsmere Borough Council’s Statement of Licensing Policy](#) in 2018.

- . Add a definition on what modern slavery is
- . Cite relevant offences/legislation/guidance
- . Outline the relevance to licensed premises, include a summary of key things that can be done to mitigate risk
- . Signpost to relevant materials
- . Outline the process of reporting that these entities should follow in

suspected cases and the consequences if licensed premises are found to be complicit in modern slavery.

Additional Proposal:

1) Training

- Ensure that licensed premise owners attend basic safeguarding training, which includes modern slavery (Labour, Sexual, Criminal Exploitation + Domestic Servitude), and as a condition of receipt of a licence.

2) Resources

- As with CSE, relevant departments should seek to promote knowledge and understanding of modern slavery amongst those in the licensed trade, including signposting to relevant resources e.g. Agency Worker Welfare Questionnaire. (Template available from HMSP Coordinator).
- Consider establishing a Dacorum equivalent of Hotel Watch e.g. Oxfordshire

Please do not hesitate to get in contact with me if you have any questions/would like further support. I have cc'd in Nathan and Sue as I already work closely with them.

Thanks,

Kat

Officer comments

Content added to policy, inserted as Section 19 (found in Part B), page 34 and in Annex B (Useful Resources), Page 57 as proposed within response as a 'content proposal'. Whilst the positive intentions of the suggested additional proposal are recognised, it is not possible for the Licensing Authority to require more of applicants/licensees than the law stipulates. This means it is not possible to require the training described. The resources and knowledge described in Section 2 may be progressed by The Council more generally, but are not appropriate for this policy and would fit better within a Community Safety related policy or action plan.

2) Local Resident

From: *redacted*
Sent: 18 September 2020 17:00
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: Licensing Act 2003 - review of licensing policy consultation

Good afternoon

I have read through the consultation papers and am disappointed to note that there are no changes to the existing policy whereby all licensed premises can hold live or recorded music events for up to 500 people between the hours of 8am to 11pm, including outdoor events, even if the premises are located in a residential area.

As I understand it, licensed premises are free to do this without the need for any additional licenses.

I understand that this policy was changed 'quietly' some years ago from licensed premises having to apply for a license to hold such events.

I and my husband live in a residential area which is approximately 300 metres from a pub. Presumably because of the Covid situation the pub is making use of its outside space to hold live music events, particularly when the weather is good. Although we are 300+ metres away we can clearly hear the songs/music which I do not think is acceptable in a residential area. In addition, guests of the pub are likely having to shout over the music which is against government guidelines.

If I were to play music at a volume which could be heard over 300 metres away my neighbours would quite rightly call the police and I would be told in no uncertain terms to turn my music down.

It seems madness to me to automatically allow licensed premises the right to hold this type of event in a residential area and I would urge you to reconsider this policy as a matter of urgency.

Please note, I do not give you the authority to publish my name or email address in any connection with this or other matters.

I look forward to hearing from you.

Officer comments

The issues that raised with regards to live and recorded music are out of scope of any local policy as these are changes made to the law by The Government through the Live music act 2012 (which was later amended to incorporate other entertainment including recorded music). Therefore, the Council cannot override the law by incorporating anything to control this in such local policies.

If a premises is causing a nuisance, powers do exist which enable the Council to tackle this via our Environmental Health department, and the respondent has been advised to contact them if they wish to make a complaint so they can be advised on the process to resolve any such nuisance. The Environmental Health team are also

responsible for leading on the Council's response to any Covid related concerns, and will be able to investigate any concerns raised in regards to this, licensing officers may be able to support Environmental Health in this regard should details of the premises be provided.

**3) Andrew Farrow
Nettleden with Potten End Parish Council**

From: Andrew Farrow <nettledenwithpottenendpc@yahoo.co.uk>
Sent: 18 September 2020 08:57
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: Licensing Act 2003 - review of licensing policy consultation

Thank you for giving Nettleden with Potten End Parish Council the opportunity to review the proposed changes. The council has no comments.

Andrew Farrow
Clerk to the Nettleden with Potten End Parish Council
nettledenpottenendpc.org.uk

Officer comments
No changes necessary

**4) Andrew Farrow
Great Gaddesden Parish Council**

From: Andrew Farrow <ggparishcouncil@gmail.com>
Sent: 18 September 2020 08:54
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: Licensing Act 2003 - review of licensing policy consultation

Thank you for giving Great Gaddesden Parish Council the opportunity to review the proposed changes. The council has no comments.

Andrew Farrow
Clerk
Great Gaddesden Parish Council
M: 07512 192188

Officer comments
No changes necessary

5) **Nikki Bugden**
Nash Mills Parish Council

From: Nikki Bugden <clerk@nashmillsparishcouncil.gov.uk>
Sent: 17 September 2020 19:45
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: current consultation

Hello

NMPC have considered the current licensing proposal and wanted to raise an observation please. Council have asked me to to ask about noise emanating from pub gardens playing music.

I think that this is perhaps covered under sections 5.1 public nuisance but they have asked me to obtain clarity. If a pub should be using their outside space more than usual due to current Covid-19 issues how is the license application appraised if loud music is being played in the pub garden-is it subject to usual noise nuisance constraints via environmental health or is there another methodology please?

Thank you so much for your help with this

Kind regards



Nikki Bugden
Clerk To Nash Mills Parish Council

Officer comments

No changes necessary

6) **Local Resident**

From: *Redacted*
Sent: 15 September 2020 09:35
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: Licensing Policy

Dear Sir /Madam,

I am contacting you regarding your licensing policy as it is under consultation.

In particular I have been advised that a licenced premise is automatically allowed to hold outdoor music events for up to 500 people.

We live in a residential area and now a pub located in the area has decided that it would be a great idea to have live music performed outdoors when it is sunny. We live about 300 meters away, but as result of the noise one now cannot enjoy the sun in the garden due to the noise. We have complained to pub - who are obviously are not interested - the police (not our problem) - MP (MIA) and the local environmental officer, who has been very helpful, but says these are the rules.

It seems ludicrous to automatically grant a licence to licence premises to hold outdoor music events in a residential area.

Surely, the onus should be on the landlord to apply for the licence and justify why it would not be a public nuisance to play loud music on a regular basis in a residential area?

I look forward to hearing from you.

Kind regards

Officer comments

No changes necessary:-

The issue raised with regards to music is out of scope of any local policy as these changes were made to the law by The Government through the Live music act 2012 (which was later amended to incorporate other entertainment including recorded music). Therefore the Council cannot override the law by incorporating anything to control this in such local policies.

If a premises is causing a nuisance and is not willing to take action following direct engagement between the complainant and the licensee, powers exist which enable the Council to tackle this via the Environmental Health department, If Environmental Health receive a complaint about noise nuisance, they normally advise the complainant how to progress the case and following the provision of sufficient evidence of the nuisance should be able to take action to resolve this.

7) Local Resident

From: *Redacted*
Sent: 29 August 2020 12:00
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: Licensing Policy Draft Comments

The draft seemed comprehensive.

As previous sufferers from incredibly invasive noise from Boxmoor Lodge, which were resolved, thank you, a few comments:

- . Hemel is hilly and sound travels not just to adjacent neighbours. Many have experienced late night disco boom, boom, from right across Dacorum.
- . Felden Lodge used to have discos for their young residents, not a bad thing in itself. Its position would not suggest that would keep people awake at lower Felden Lane. We could tell the tunes, it kept the young grandchildren awake and worse, their tired parents. I did write to them to advise them of the issue and did not experience it again.
- . Boxmoor Lodge held weddings with loud music in a marquee with no thought for others. I assume that now even a one off Temporary licence would not be granted to loud music with no sound proofing.
- . Most families go to bed before 11pm.

Regards,

Redacted

Officer comments

No changes necessary:-

It is positive to receive a response showing that issues have been resolved. However, it would not be possible to refuse to accept any Temporary Events Notices referred to, which must be objected to be Environmental Health or the Police as this is required in the legislation. 11pm is a common expectation for the night time economy to cease each evening, but the Licensing Act 2003 allows for applications to be made for such activities to take place at any time throughout any day, and it is for individuals with concerns about hours to raise these either via representations (at time of application), or via relevant complaints processes/review if necessary once a licence has been granted.

8) Individual respondent

From: *Redacted*
Sent: 28 August 2020 11:12
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: Licensing Act 2003 - review of licensing policy consultation

Hi,

There is a statement about having a suitable excuse when found driving a vehicle on the playing fields etc. This should be removed as unless DBC has authorised the vehicular access, there should be no suitable excuse otherwise.

Cheers

Officer comments

No changes necessary:-

The statement referred to does not seem to appear in the policy that this consultation refers to, so this appears to be a mistake on behalf of the consultee.

9) Individual Respondent

From: *Redacted*
Sent: 25 August 2020 15:46
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: Fw: Review of Licensing Policy for public consultation

Dear Dacorum Borough Council

I've read your Draft Statement of Licensing Policy 2021-2026 and didn't notice any radical changes!

My one appeal is that, in the current climate and going forward, during and post Covid-19, there are so many small businesses struggling to keep going that I feel it needs overtly stating that applications should be approved wherever possible. A beer festival on a village green would generate business for local breweries, outdoor performances of music and drama provide untold benefits to the well-being of the audience apart from providing employment to cast and crew. I'd leave the rest of your document as it is, but please think about putting in something that makes it clear that you will support these small enterprises whenever possible.

I'm writing as a resident; I'm not a licence holder.

Best wishes
Redacted

Officer comments

No changes necessary:-

Whilst this response is well-intentioned, and it is important that the Council seeks to license responsible operators, it would be superfluous to state something along the lines of 'applications should be approved wherever possible', as applications have to be permitted unless objected to, and when objections are received the process required is laid down in the legislation. And in fact it is felt that the intentions of the resident are already well supported by the Council's vision as below and within the policy:

"To regulate the operation of a diverse range of safe, well-managed and enjoyable licensed leisure and retail outlets throughout the Borough, offering a variety of entertainment, cultural and community activities while also ensuring the promotion of the licensing objectives".

10) Individual Respondent

From: *Redacted*
Sent: 13 August 2020 18:09
To: Licensing Policy Mailbox <licensingpolicy@dacorum.gov.uk>
Subject: Review of Licensing Policy

Dear Reviewers,

Being familiar with the broad aspects of licensing as a public policy matter, both in historical terms and in the present context, my general reaction to this document is that it is unduly wordy and would benefit from a degree of pruning to remove repetition and unnecessary verbiage. It strays from time to time into general social areas which may indeed be affected by licensing, but which are barely likely to be influenced by any of the provisions the document contains, having been included largely as a tick-box exercise, to demonstrate the writer's familiarity with topical concerns. The contribution it might make to issues like child abuse or gender discrimination is minuscule and barely justifies the ink.

I am concerned that the authority has continued where the Bench left off, in regarding the supply of alcohol as by definition wrong, inherently harmful and a nuisance to be clamped down upon. Admittedly, the legal context gives you little choice in this, but there is very little recognition of the benefit which pubs confer on the life of the community, in both economic and social terms. You may remember last year's buzzword, 'wellbeing', to which pubs make a net contribution. Para 5.4 states that the licensing authority recognises that licensed entertainment 'can' provide a valuable contribution towards the economy of the Borough. Why not admit willingly that it does?

Para 16.2 makes the point that 'need' is a matter for market forces and the planning system, not for the licensing authority. This was always a hot topic in the days of the licensing justices, and remains a pertinent consideration. It requires careful handling, however, because it can work both ways. While it was sometimes used to justify the grant of a licence in a new housing area, for example, it was just as likely to be used to prevent the grant, using some arbitrary formula, often in the process helping to entrench the interests of existing businesses such as monopolistic brewers. You might not remember, as I do, the time when the overwhelming majority of pubs in

Dacorum belonged to Allied Breweries. The inevitable renewal of their licences, plus their objection to any proposed competition on the grounds that there was no need, made everything fine and dandy for them, but conflicted with the principle of choice for the consumer. Thankfully, those days are gone. While I applaud the principle of a presumption in favour of the grant of a licence *unless* this or that, I would wish to be certain that any alleged *absence* of need would not be used as a justification for refusal.

Let us imagine (God forbid) that in years to come 1,000 houses were to be built between Tring Station and New Mill, as one recent planning document has suggested. In the past, there would have been an assumption that such a development ought to have a pub (as in Bennett's End, Chaulden etc). To go by recent housing developments elsewhere, there would be little likelihood now that a pub would automatically be included. Your proposals imply that the 'need' for a pub there would not be a proper consideration for the licensing authority. Fair enough - but you should accept, and state with equal force, that the authority would not be persuaded against granting a licence by the argument that pubs exist in Tring town centre, nearly two miles away.

Yours,
Redacted

Officer comments

No changes necessary:-

The structure of the Policy is largely directed by the Statutory Guidance, and so must be presented in this way. Whilst the respondent describes this as a 'largely tick box exercise, it is always likely to appear like this when a document is statutorily prescribed. The use and reliance on the policy when applications are determined is what brings the document to life, and cannot be judged from the contents of the document itself. Some more detail has been provided within the draft in regards to Modern Day slavery, following the response received in regards to that issue, but as an overarching policy it should not be a surprise that it is broad brush in regards to these issues which will have their own policies where appropriate for the Council.

Whilst the respondent is concerned that the Policy views the policy as adopting the stance that 'supply of alcohol as by definition wrong, inherently harmful and a nuisance to be clamped down upon', The policy has been drafted with balance in mind, and as the vision states the Council aims "To regulate the operation of a diverse range of safe, well-managed and enjoyable licensed leisure and retail outlets throughout the Borough, offering a variety of entertainment, cultural and community activities while also ensuring the promotion of the licensing objectives". It is therefore felt that the use of the word 'can' rather than 'does' when in regards to a possible valuable contribution of entertainment to local economy is appropriate, as it is important that these are well regulated for this to be the case, as otherwise the opposite can be true.

The paragraphs that refer to section 16.2 of the Policy and 'need' not being a factor in decision making, supports the approach of the Policy, and requirement of the legislation, and the concerns raised are more a matter of the application of the Policy rather than the contents of the Policy itself. The example given in the final paragraph is dealt with in law, if a development includes an application for a pub, the application will not be determined on whether one is necessary, but would be based on the

promotion of the licensing objectives. Any decision made on the basis of 'need' would overturned on appeal as would be an ultra vires decision