

LICENSING AND REGULATION COMMITTEE
13 October 2025

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: **ADOPTION OF A STATEMENT OF LICENSING POLICY
REQUIRED BY VIRTUE OF SECTION 5 OF THE LICENSING
ACT 2003**

REPORT OF: **THE LICENSING AND COMMUNITY SAFETY MANAGER**

EXECUTIVE MEMBER: **REGULATORY**

COUNCIL PRIORITIES: **THRIVING COMMUNITIES**

1. EXECUTIVE SUMMARY

The purpose of this report is for the Licensing and Regulation Committee to consider the draft policy prepared by officers and any public consultation responses in order to recommend the adoption of a Statement of Licensing Policy to Full Council.

2. RECOMMENDATIONS

2.1. That the Committee be recommended to:

- (a) Consider the responses to the public consultation
- (b) Support the proposed Statement of Licensing Policy attached as Appendix C, subject to any amendments
- (c) Recommend the adoption of the Statement of Licensing Policy to Full Council

3. REASONS FOR RECOMMENDATIONS

- 3.1 Licensing authorities are required to publish a policy every five years by virtue of section 5 of the Licensing Act 2003 ("the Act").
- 3.2 A new policy must be published by 7 January 2026 to comply with this statutory requirement.
- 3.3 The proposed policy builds on the success of the previous and existing versions of the policy, whilst reflecting legislative changes and the Council's priorities.
- 3.4 Responses to the public consultation were limited and raised no significant opposition to any of the proposals.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The only alternative option would be a policy that differs in content and/or extent.
- 4.2 An alternative policy has not been considered as the proposed policy strikes a balance between the protection of the public and not being so burdensome that it inhibits a vibrant and diverse night-time economy.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 The Act requires the licensing authority to consult with the following persons in relation to the proposed policy:
- the chief officer of police for the licensing authority's area
 - the fire and rescue authority for that area
 - each Local Health Board for an area any part of which is in the licensing authority's area
 - 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
 - such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority
 - such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority
 - such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority
 - such other persons as the licensing authority considers to be representative of businesses and residents in its area
- 5.2 To comply with these requirements, the licensing authority published its proposed policy on a dedicated webpage on the Council's website with details of the consultation period and an explanation of how to make a representation. All proposed amendments were highlighted in red for ease of reading.
- 5.3 The public consultation ran from 28 July 2025 to 19 September 2025.
- 5.4 An email was sent to all premises licence holders and statutory consultees outlining the consultation with a link to the relevant page of the website.
- 5.5 The Council's Communications Team consulted with the Council's Citizens Panel.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 The responsibility for the licensing of the retail sale of alcohol, the supply of alcohol to members and guest in members clubs, the provision of regulated entertainment and the provision of late-night refreshment was transferred to local authorities on 24

November 2005. For the purpose of undertaking its responsibilities under the Act, the Council are acting as the licensing authority for North Hertfordshire.

- 7.2 In preparation for this new responsibility, licensing authorities had to publish a policy by 7 January 2005 in accordance with section 5 of the Act.
- 7.3 The Act requires the policy to be kept under regular review and formally reviewed by way of public consultation, including adoption by Full Council, initially every three years but now every five years due to a recent change to the Act.
- 7.4 The policy was last adopted with effect from 7 January 2021 therefore the statutory five-year period expires on 6 January 2026.
- 7.5 The policy seeks to strike a balance between the interests of licence holders, applicants and residents in the promotion of the four licensing objectives defined by the Act. Additionally, it outlines the licensing authority's expectations of licence holders in promoting the licensing objectives, whilst outlining the licensing authority's vision for licensing in North Hertfordshire.
- 7.6 It is the licensing authority's intention that the policy offers appropriate protection for residents and a streamlined approach to regulation that eases unnecessary burdens on businesses, thus maintaining the diverse and vibrant night-time economy in the district's town centres. It should also offer the same protection for residents in the district's villages whilst encouraging licensed premises to remain at the heart of the community.

8. RELEVANT CONSIDERATIONS

Current policy

- 8.1. The current policy has worked well enabling consistent decision-making by the licensing sub-committees so no significant amendments are proposed.
- 8.2 No significant issues have arisen relating to the policy and there have been very few decisions challenged in Court, all of which have been upheld.

Local area profile

- 8.3 In order for an applicant to be able to assess the impact of an application on the four licensing objectives, a local area profile was added to the previous policy. This has been updated to reflect the current district profile and should assist applicants to understand any specific issues they should be aware of and reflect in their operating schedule.

Council's vision for licensing

- 8.4 The vision has worked well however additional rationale has been included.
- 8.5 The rationale has been expanded to build on the link between appropriate disposable income and the need for leisure activities, which in turn can assist in forming vibrant, cohesive communities. Economic vitality and community wellbeing can lead to increased investment in the district.

Variation applications

- 8.6 In light of the appeal against the Bygrave Planation application, an additional paragraph D10.6 has been added clarifying that conditions can only be added to the part of a licence that is subject to the variation application.

Noise nuisance

- 8.7 The policy has been amended to remind licensing sub-committees that environmental protection officers' evidence is based on professional standards and guidelines therefore it should be given appropriate weight in determining applications.
- 8.8 An additional paragraph G8.8.7 has been added to the large -scale outdoor events section stating that the Council expects noise management plan conditions to include the consequences of failure to comply with the condition. This removes the situation whereby a noise management condition can be breached but only dealt with after the event.

Closed-circuit television

- 8.9 Section E1.4 details when CCTV is appropriate and that it should not be used to address matters outside the remit of the licensing objectives or issues specifically related to the premises in question. An additional paragraph has been added at E1.4.8 stating that CCTV is not appropriate for premises where no public access is permitted, for example online sales premises.

Women and Girls Safety Charter

- 8.10 A new section has been added outlining the Charter and that the Council strongly recommends licensed premises to sign up.

Drink spiking

- 8.11 A new section has been added stating that licence review hearings will apportion significant weight to evidence that management failure allows drink spiking to take place on a licensed premises, and that suspension or revocation of the licence is the likely outcome.

Conflicts with planning permission

- 8.12 A new paragraph F5.8 has been added explaining that the licensing authority will add an informative to a licence where appropriate planning permission has not yet been secured, and the need to comply with existing planning permission.

Duplication of existing public nuisance legislative requirements

- 8.13 To prevent duplication of legislative requirements covered by pavement licensing, a new paragraph F6.1.5 has been added stating that conditions prohibiting tables and chairs outside a premises on the highway will not be permitted.

Large-scale outdoor events

- 8.14 New paragraphs have been added as G7.3.6 and G7.4.3 stating the Council's expectations regarding food traders and water supplies at these events. This will assist applicants in understanding expectations when submitting operating schedules.

Virtual licensing hearings

- 8.15 For transparency, new paragraphs N1.9 and N1.10 have been added clarifying that virtual hearings are the Council's default but outlining how a decision to hold an in-person hearing will be reached.

Consultation responses

- 8.16 Comments from members of the Citizens Panel were generally supportive with some suggested amendments, all of which re addressed in Appendix A.
- 8.17 A licence holder sent a detailed response referring to hospitality zones and the agent of change principle. More detail is included in Appendix A, however these are possible future amendments to the Licensing Act 2003 arising from a government working party review. Any recommendations from the working party will either need legislative amendments or updated statutory guidance therefore cannot be included within our policy at this time.
- 8.18 Bygrave Parish Council sent a detailed response, predominately in relation to its experience at recent Bygrave Plantation hearings. More detail and officer comments are included in Appendix A.
- 8.19 Herts County Council Healthy Places and Communities sent a representation welcoming the amendments and requesting that the Council considers a cumulative impact policy for areas where there is evidence that a saturation of licensed premises is having a cumulative impact on the locality. There is no evidence of such a problem currently but is something that we keep under review and can revisit if problems arise.

9. LEGAL IMPLICATIONS

- 9.1 Section 4 of the Act states that in carrying out its licensing functions, a licensing authority must have regard to its Statement of Licensing Policy and any Guidance issued by the Secretary of State under section 182 of the Act.
- 9.2 The Guidance issues by the Secretary of State under section 182 of the Act states that in determining applications a licensing authority may depart from its own policy if the individual circumstances of the case merit such a decision however, they should give full reasons in their decision notice for such a departure.
- 9.3 The policy should make it clear that each application will:
- be determined on its own merits
 - only have appropriate, reasonable, proportionate and enforceable conditions imposed if relevant representations are received in relation to the licensing objectives

- be granted as applies for, save for conditions volunteered in the operating schedule by the applicant, if no relevant representations are received.

9.4 It is important to be aware that there is case law in respect of a successful judicial review of the Statement of Licensing Policy for Canterbury City Council by the British Beer & Pub Association and others¹. Mr Justice Richards made it clear that local policies should not:

“prescribe or dictate the contents of an application, or give the impression that the Council will assess, and exercise substantive discretionary powers in relation to, all applications and not just to those that come through for a decision under section 18(3)...

The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or to exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision making function under section 18(3) is engaged.

If a policy creates a different impression, and in particular if it misleads an applicant into believing that he lacks the freedom accorded to him by the Act and Regulations, the policy is contrary to the legislative scheme and is unlawful ...”

The proposed policy contains some specific guidance for applicants in relation to certain types of applications (i.e. large-scale outdoor events, garages, etc.) however, the policy makes it clear that applications will be granted as applied for in the absence of relevant representations and so these specific sections are not precluded by this judgement.

9.6 Under the Constitution, the terms of reference of the Licensing and Regulation Committee states at section 8.2.3 (a) that the committee is able:

“to consider all licensing matters with the exception of the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005 and those matters delegated to the Licensing Sub-Committee and the Service Director: Regulatory.”

9.7 Section 8.2.3 (b) of the Constitution states that the committee is able:

“to make recommendations to Council on the statements of licensing policy under the Licensing Act 2003 and the Gambling Act 2005.”

9.8 Schedule 1 Part B Regulation 14A of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 states that any function of a licensing authority under the Licensing Act 2003 cannot be the responsibility of the Executive.

9.9 By virtue of section 7 (2) of the Licensing Act 2003, the Statement of Licensing Policy is a matter reserved for Full Council.

9.10 Section 4.2.1 (e) of the Constitution states that Full Council can adopt:

“Licensing Policy statements under Licensing Act 2003 and Gambling Act 2005.”

¹ *R (on the application of the British Beer and Pub Association) v Canterbury City Council [2005] EWHC 1318 (Admin)*

10. FINANCIAL IMPLICATIONS

- 10.1 The Government has previously indicated that it expects the centrally-set licensing fees, based on the non-domestic rateable value of premises, to fully cover the cost to licensing authorities of administering the licensing regime. It is clear however that the cost of the licensing function, despite recently reviewed and streamlined working practices, is in excess of the licensing fee income. Government has undertaken a consultation on locally-set licensing fees however no indication of a likely implementation date has been given; indeed, the Local Government Association had been tasked with undertaking further analysis of the licensing regime to assist the Government in its deliberations. Further updates from the Government are still awaited.
- 10.2 This policy will not place any new financial resource implications on the Council.

11. RISK IMPLICATIONS

- 11.1 If a policy is not published by 7 January 2026 in accordance with section 5 of the Act, the Council would be at risk of a judicial review.
- 11.2 The risk to the Council of not periodically reviewing and amending policy is that the Policy may become outdated and no longer fit for purpose. Given that the Policy is a fundamental element of consistent decision making, a policy that was not fit for purpose would increase the risk of legal challenge.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 The proposed policy does not place any barriers or unique requirements on any person on the grounds of ethnicity, gender, religion or any other protected characteristic. Officers work with all applicants and licence holders, where appropriate, to ensure that the Council's duty under the Equality Act 2010 is met.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and "go local" requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. One of the key considerations of the new proposals is to support the Council's declaration of a Climate Emergency and Climate Change Strategy.
- 14.2 Policy and decision-making under the Licensing Act 2003 is restricted to the four licensing objectives and should not seek to duplicate other existing legislative requirements however there are environmental considerations that can be highlighted, particularly in relation to large-scale events.
- 14.3 The policy includes measures that the Council strongly recommends such as:

- Requiring appropriate recycling provision
- Reusable non-glass drinking vessels rather than single-use plastics
- Compostable non-glass drinking vessels
- Compostable and/or biodegradable cutlery and food trays
- Encouraging car sharing
- Provision of shuttle buses from train stations
- Discounted parking for environmentally friendly vehicles

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 The policy will not place any new human resource implications on the Council.

16. APPENDICES

- 16.1 Appendix A Summary of consultation responses with officer comments
- 16.2 Appendix B Full consultation responses
- 16.3 Appendix C Proposed policy

17. CONTACT OFFICERS

- 17.1 Steve Cobb, Licensing and Community Safety Manager
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18. BACKGROUND PAPERS

- 18.1 The Licensing Act 2003
- 18.2 Statutory Guidance issued by the Home Office