

Licensing Act Draft Licensing Policy Consultation Responses

Formal consultation commenced on 10 July 2024, with a request that responses be received by 21 August 2024. The consultation exercise involved in the following elements:-

- a) The despatch of an explanatory email to all known licensed premises and a selection of registered clubs, and the solicitors and consultants who represent the licensed trade, advising of the review and the availability of the draft document.
- b) An explanatory email and link to the draft revision was sent to the statutory "responsible authorities", and to relevant services within the Council.
- c) Officers met individually with the responsible authorities, where requested
- d) The policy was placed on the 'Your Say' consultation page on the Council website. It was highlighted in the newsletter for some 6000 subscribers to that page, mainly comprising residents' and tenants' groups within the City. There were 178 visits to this page during consultation and 67 downloads of the draft policy
- e) Approximately 500 individuals and organisations were invited to comment. As well as those listed above, including, local representative groups such as business and resident Focus Groups, Faith Groups, Equality Groups and other voluntary organisations, the Citizens Advice Bureau, and organisations which have an influence on the night time economy.
- f) Officer presentations to specific groups, including the Night Time Economy & Purple Flag Group and the Pub watch groups for Leigh and Southend.
- g) Continuing response to enquiries, and requests for copies of the draft revision.
- h) Posts on the Council's various social media platforms highlighting the consultation.
- i) The issuing of a press release at the start of and during the course of the consultation process. Press coverage included an article in the Echo newspaper
- j) A round-up presentation to the Licensing Committee, prior to finalising this report.

As a result of this process 5 written responses have been received, 2 of which were from responsible authorities prescribed by The Act. In addition, the views of the Place Scrutiny Committee were incorporated.

The response from the Police supported the policy and suggested some minor additions and amendments. These were incorporated in line with the Home Office Guidance.

The response from the Council’s Environmental Protection team recommended some improvements to the Public Nuisance section of the policy and some additional model conditions to assist applicants.

A presentation was given to the Licensing Committee on 21 August 2024. The committee examined the proposed policy, and a number of points were clarified by the licensing officer. It was resolved that the policy should be recommended for approval at Cabinet and Council in its present form.

Comments	
Scrutiny Committee	Licensing Authority (LA) Response
<p>The Committee made a number of suggestions that could be included within the proposed draft revised Licensing Policy Statement as follows:</p> <ul style="list-style-type: none"> • When an application is made for a licence for any premises located in a zone where consumption of alcohol in a public place is not permitted, the applicants are advised to undertake a risk assessment and include control measures to address the promotion of the licensing objectives such as a suitably sized notice should being clearly displayed at the exit point(s) of the premises advising patrons that alcohol cannot be consumed in public place in that area; • References should be included to measures to address other forms of spiking; • Clarification that the 28-day consultation period referred to in Appendix C (Glossary of Terms) are calendar days not working days; • Links to the relevant websites for the various bodies, groups and associations etc. referenced in the Statement of Licensing Policy should be included where possible; 	<p>All these suggestions are accepted. Outcome – The final policy has been amended and these points reflected therein.</p>

<p>With reference to Minimising Waste under paragraph 12.7, consideration should be given to the development of a leaflet advising on measures to minimise waste and its impact.</p>	<p>This matter stands outside of the policy and will be considered separately. Outcome – No Change</p>
<p>Essex Police Licensing Hub (Responsible Authority)</p>	<p>Licensing Authority (LA) Response</p>
<p><i>“Paragraph 15.3 Personal data etc. and public hearings. This paragraph is potentially misleading and may prevent individuals making relevant representations. Regulation 14(2) of The Licensing Act 2003 (Hearings) Regulations 2005 provides that the licensing authority may exclude the public from all or part of a hearing in certain circumstances, additionally Paragraphs 9.29 and 9.30 of the Guidance issued under Section 182 of the 2003 Act provide mechanisms for the identity of those making representations to be protected in certain circumstances”.</i></p>	<p>Agreed – Outcome, this section has been reworded to remove any ambiguity</p>
<p><i>“Paragraph 16.5 relating to when a business representation may be considered. I do not believe this paragraph is appropriate anymore. Whereas the Guidance previously permitted representations only from immediate residents and businesses etc., this ‘neighbour’ requirement no longer exists”.</i></p>	<p>This paragraph refers to the potential effect an application can have on a business rather than their right to object. Outcome – No Change</p>
<p><i>“Paragraph 14 Advice & Guidance. Thank you for adding an appendix with model conditions”.</i></p>	<p>Many of the model conditions were based on Police advice and we are grateful for this input. Outcome – No Change</p>
<p><i>“Paragraph 18.5 and title (Summary Review etc.). I do not believe that this section should include reference to the Violent Crime Reduction Act which should be omitted in the sake of accuracy. Summary reviews are a feature of the 2003 Act (The Violent Crime Act merely inserted these sections into the 2003 Act). Also, I believe the wording of the paragraph should be re-worded on the grounds of accuracy as currently the wording suggests it is a police</i></p>	<p>Agreed. Outcome – Reworded accordingly</p>

<p><i>superintendent who must make the application (whereas this is not the case, but instead the police may make application provided a superintendent's certificate has been produced). Likewise, the wording does not make it clear that this power relates only to those premises licensed to sell alcohol. Perhaps reworded as, 'Where, in the opinion of a senior police officer (Superintendent or above) a premises, licensed to sell alcohol, are associated with serious crime or serious disorder, or both, the police may apply for a summary review of the premises licence'.</i></p>	
<p>Environmental Protection (Responsible Authority)</p>	<p>Licensing Authority (LA) Response</p>
<p>Suggested additional wording in the public nuisance section</p>	<p>Agreed – Policy updated</p>
<p>Suggested additional conditions for the model conditions at appendix E</p>	<p>Agreed – Policy updated</p>
<p>Resident</p>	<p>Licensing Authority (LA) Response</p>
<p><i>"I would like wheelchair access to be part of the requirements for shops, bars, restaurants and places of entertainment. It is over 25 years since the disability discrimination act was passed and yet very many businesses in Southend still refuse to provide wheelchair ramps or toilets. I would simply like all businesses that refuse to provide wheelchair access to have their licence ended or refused"</i></p>	<p>The Home Office Guidance to the LA specifically states at section 1.16, that licence conditions should not replicate offences set out in the 2003 Act or other legislation. The Equality Act 2010 imposes the responsibility of 'reasonable adjustment' on all service providers and public bodies to accommodate those with limited mobility. Accordingly, the Licensing Policy and the Legislation which governs it cannot be used to address this issue. Outcome – No Change but the response has been highlighted to our equalities officer and the individual has been contacted and asked if they would like to provide more specific information.</p>

Resident	Licensing Authority (LA) Response
<p>Comment disagreeing with a Licensing Sub-Committee decision on an individual application</p>	<p>The policy directs how all applications are determined and individual outcomes cannot be addressed via this medium. The proper recourse for aggrieved parties to a hearing is via a magistrates' court appeal. In accordance with the Act all persons who are a party to a hearing are advised of this when the decision of the sub-committee is sent to them. Outcome – No Change.</p>