

# Licensing Act 2003 Committee Agenda



10.00 am Tuesday, 23 February 2021  
Via Microsoft Teams

In accordance with Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held on a virtual basis. Members of the Public can view a live stream of the meeting at:

<https://www.darlington.gov.uk/livemeetings>

Members of the public wanting to raise issues/make representations at the meeting can do so by emailing [Allison.hill@darlington.gov.uk](mailto:Allison.hill@darlington.gov.uk) 24 hours before the meeting begins.

1. Attendance at Meeting
2. Declarations of Interest
3. To confirm the Minutes of the meeting of this Committee held on 8 September 2020 (Pages 3 - 4)
4. Update Relating to Licensing Act Policy Review – Report of the Director of Economic Growth (Pages 5 - 10)
5. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
6. Questions

A handwritten signature in black ink, appearing to read "Lisa Smith".

**Luke Swinhoe**  
**Assistant Director Law and Governance**

**Monday, 15 February 2021**

**Town Hall**  
**Darlington.**

**Membership**

Councillors Clarke, Crumbie, Donoghue, Dulston, Haszeldine, C L B Hughes, B Jones, Lee, Newall, K Nicholson, A J Scott and Snedker

If you need this information in a different language or format or you have any other queries on this agenda please contact Allison Hill, Democratic Officer, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays Email: [allison.hill@darlington.gov.uk](mailto:allison.hill@darlington.gov.uk) or telephone 01325 405997

## LICENSING ACT 2003 COMMITTEE

Tuesday, 8 September 2020

**PRESENT** – Councillors , Clarke, Crumby, Donoghue, Dulston, Haszeldine, C L B Hughes, B Jones, Lee, Newall, A J Scott and Snedker

**APOLOGIES** – Councillor K Nicholson

**OFFICERS IN ATTENDANCE** – Allison Hill (Democratic Officer), Colin Dobson (Licensing Manager), Brian Murray (Assistant Licensing Manager) and Bethany Symonds (Lawyer)

### LA1 APPOINTMENT OF CHAIR FOR THE MUNICIPAL YEAR 2020/21

**RESOLVED** –That Councillor B Jones be appointed Chair of this Licensing Act 2003 Committee for the Municipal Year 2020/21.

### LA2 APPOINTMENT OF VICE-CHAIR FOR THE MUNICIPAL YEAR 2020/21

**RESOLVED** –That Councillor A Scott be appointed Vice Chair of this Licensing Act 2003 Committee for the Municipal Year 2020/21.

### LA3 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

### LA4 MINUTES

Submitted – The Minutes (previously circulated) of the meeting of this Licensing Act 2003 Committee held on 23 April 2019.

**RESOLVED** – That the Minutes be approved as a correct record.

### LA5 UPDATE RELATING TO LICENSING ACT POLICY REVIEW

The Director of Economic Growth submitted a report (previously circulated) to update Members on the current position of the Licensing Act Policy Review due January 2021 in light of the Covid-19 pandemic.

The submitted report highlighted that it is a requirement of the Licensing Act 2005 to review every five years the Statement of Licensing Policy and this authority's policy is due to be renewed January 2021. It was reported that work had commenced on this review however the Covid-19 regulations had had an enormous impact on the hospitality trade, in particular with those premises licences that had been compelled to close.

It was also reported that a recent meeting of the North East Strategic Licensing Group (NESLG) had expressed its concern that due to the closure of many licensed premises and the fact that it may take many months to establish business anywhere close to what had been experienced before the Covid-19 lockdown, it would be

impossible to adequately consult with an industry that has been deeply damaged.

With these concerns expressed, clarity was sought by the Local Government Association (LGA) with the Home Office on whether scheduled Licensing Act Policy Reviews could be delayed to allow for such a time that adequate consultation with the hospitality industry on the new policies could take place, which under the current circumstances was acceptable by the LGA.

**RESOLVED** – That this Licensing Act 2003 Committee retain the current Licensing Act Policy until April 2021 to allow sufficient consultation time with the hospitality trade and stakeholders once Covid-19 Regulations have been sufficiently relaxed.

## **LICENSING ACT 2003 COMMITTEE 23 February 2021**

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### **UPDATE RELATING TO LICENSING ACT POLICY REVIEW**

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**Responsible Cabinet Member – Councillor Jonathan Dulston  
Stronger Communities Portfolio**

**Responsible Director – Ian Williams, Director of Economic Growth**

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### **SUMMARY REPORT**

#### **Purpose of the Report**

1. To update Members with the current position of the Licensing Act Policy Review that was due in January 2021 but extended to April 2021 by the Licensing Act 2003 Committee on the 8 September 2020 in light of the Covid-19 pandemic.

#### **Summary**

2. Section 5 of the Licensing Act 2003 requires that each Local Authorities Statement of Licensing Policy is reviewed every five years and Darlington Borough Council's policy was scheduled to be renewed in January 2021. Work had commenced on this review early in 2020, however the ongoing Covid-19 regulations has had an enormous impact on the hospitality trade, particularly those with premises licences, and many were compelled to close. When these restrictions were partially relaxed the dynamics of drinking alcohol changed considerably, with many businesses having reduced capacity and working practices significantly altered. The Business and Planning Act announced in July 2020 was introduced to assist the hospitality trade with ongoing restrictions, however in the autumn further, more stringent regulations were introduced until the trade was placed in full lockdown once again before Christmas.
3. The North East Strategic Licensing Group (NESLG) expressed concerns during 2020 that due to the closure of many licensed premises it was impossible to adequately consult with the hospitality industry that has been extremely damaged, and may never recover to the level it used to operate. With these concerns in mind, clarity was sought by the Local Government Association (LGA) from the Home Office, whether the scheduled Licensing Act Policy Reviews could be delayed to such a time that adequate consultation could take place with the hospitality industry for new policies to be developed. Under the circumstances at that time this was considered acceptable by the LGA, provided work was progressed once some level of normality had returned.
4. On the 8 September 2020 the Licensing Act 2003 Committee approved the proposal to retain its current Statement of Licensing Policy until the implementation of a revised policy in April 2021, following the guidance available from the LGA at

that time. This was to afford the Licensing Authority an opportunity for meaningful consultations with the hospitality industry as it gradually regained some degree of normality.

5. On the 1 October 2020 a letter was sent to all Licensing Authorities by Kit Malthouse MP, Minister of State for Crime and Policing, offering further guidance to Local Authorities following legal consultation over the issue of policy (**Appendix 1**). It should be noted that in this letter the subject of Cumulative Impact Assessments was included. Darlington does not have Cumulative Impact Policy in place and there are no plans for one to be introduced.
6. Whilst this offered a degree of clarity, it was still the aim of Darlington Licensing to complete the consultation process and seek approval for a revised policy in April 2021, however following the most recent lockdown of the hospitality trade it has proved impossible to adequately consult with key stakeholders and the target date for completion is now considered unrealistic. At the time of writing this report there is still no indication when Covid-19 regulations will be eased and reports suggest they may continue for some time to come. Even when these restrictions are eased, it is unlikely that the hospitality trade in Darlington will be the same as before the Covid-19 regulations were introduced in March 2020.
7. Whilst offering a great deal of sympathy, the Minister highlighted that it is unlikely the licensing legislation will be changed, so we still have a legal obligation to review our Statement of Licensing Policy. He did however invite licensing authorities to explore a pragmatic approach to reflect these exceptional circumstances.
8. It is proposed, in line with guidance from the Minister, to further extend our current policy until such a time there is an opportunity for meaningful consultation with the hospitality industry to take place and when there will be a greater understanding the impact this pandemic has had on our community. This can be no more than five years, however it is anticipated that it will be completed well within that time and probably no more than the two years originally requested by the LGA. In line with Section 182 Guidance to the Act, Licensing will consult as far as possible with responsible authorities and business representatives to provide our rationale for this decision and be cognisant of any representations. Following this consultation, if agreed by this Licensing Act 2003 Committee, approval will be sought from Full Council to ensure transparency within our communities.

## **Recommendation**

9. It is recommended that :-

The Licensing Act 2003 Committee agree that the current Statement of Licensing Policy be carried forward to allow sufficient time to fully consult with the hospitality trade and stakeholders once Covid-19 regulations have been sufficiently relaxed.

## **Reason**

10. This recommendation is supported by the following reason:-

To provide a pragmatic and fair approach to all those working within the hospitality industry, which is in a current state of confusion and uncertainty, to ensure that a full, meaningful consultation process takes place for the public to continue to be safe within the Borough of Darlington.

**Ian Williams**  
**Director of Economic Growth**

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Councillor Rachael Robathan, Leader, Westminster City Council  
Councillor Ian Ward, Leader, Birmingham City Council  
Councillor Judith Blake, Leader, Leeds City Council  
Sir Richard Leese, Leader, Manchester City Council

**By email only**  
via [cleader@westminster.gov.uk](mailto:cleader@westminster.gov.uk)

01 October 2020

Dear All,

Thank you for your letter of 19 August requesting a two year pause of the statutory requirements to review statements of licensing policy and cumulative impact assessments (CIA).

COVID-19 is causing disruption to all businesses across the country and I appreciate that those in the hospitality sector have been particularly hard hit. I am grateful for the measures that your councils and others across England and Wales are taking to support the recovery of this sector.

I do understand and am sympathetic to your concerns about the difficulties of undertaking a five-yearly review of the statement of licensing policy and the three-yearly review of relevant CIAs during this pandemic. These review requirements are statutory ones set out in the Licensing Act 2003 and, I am afraid they cannot be altered by regulations. Section 5(7) of that Act, which applies only in respect of statements of licensing policy under section 5, would not cover altering the review period. Primary legislation would be necessary in order to pause these reviews and, given other competing demands for legislation, I do not believe there is an imminent prospect of that, but I will of course consider acting should a suitable opportunity arise.

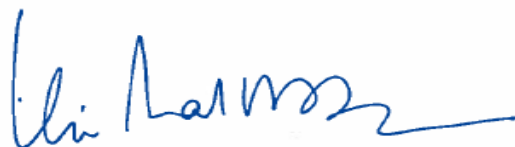
It is, of course, a matter for you as licensing authorities to determine how you exercise these duties and to satisfy yourselves that whatever approach you adopt is compatible with your legal obligations, including under the Licensing Act 2003, taking into account the statutory guidance under section 182 of that Act. However, you may want to explore whether you can adopt a pragmatic approach to reduce the burden on already hard-pressed stakeholders and to reflect the exceptional circumstances in which we currently find ourselves.

In particular, when consulting on your statement of licensing policy, you could consider if it would be appropriate to undertake the statutory consultation on the basis that you propose to roll forward your existing statement of licensing policy in its current form and consider any representations that you receive in response. As you know, statements of licensing policy last for a maximum of five years but you are required to keep your statement under review during that period, and to make revisions if appropriate before that period has expired. You may, therefore, want to consider committing to a further review when it is feasible to do so after the pandemic has passed.

You could also consider if a similar approach would be appropriate in respect of CIAs. CIAs do need to take account of all the evidence and, of course, the evidence from the last six months may paint a rather different picture to the preceding two-and-a-half years. It will be up to the authority how much weight it should ascribe to any particular evidence bearing in mind the disruption to the hospitality sector which has occurred as a result of COVID-19 and the fact that it may only be temporary.

As the statutory guidance (paragraph 14.44) makes clear, CIAs are not absolute. Each application for a licence should be treated on its merits, notwithstanding the existence of a CIA, taking account of the particular circumstances.

I do appreciate that this position is not ideal, but I believe that the legislation, which was clearly enacted without consideration to the kind of events that we are now experiencing, and the guidance allows you to adopt a light touch and pragmatic approach which reflects the current circumstances in which we find ourselves.

A handwritten signature in blue ink, appearing to read 'Kit Malthouse', with a long horizontal flourish extending to the right.

**Kit Malthouse MP**  
**Minister of State for Crime and Policing**