

# Statement of Licensing Policy

**Licensing Committee**

**Date: 13 January 2016**

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Author:	Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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## **1. Purpose and Reasons**

- 1.1 Section 5(1) of the Licensing Act 2003 provides that each Licensing Authority must determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy for each 5 year period. The policy must be kept under review and amendments made when considered necessary.
- 1.2 A draft policy was considered by the Licensing Committee on January 8 2015 which is attached as **Appendix A**.
- 1.3 The draft policy was subject to a full consultation with statutory stakeholders and revised Statement of Licensing Policy requires determination by the Licensing Committee and ratification by the full Council.

## **2. Recommendations**

- 2.1 It is recommended that the Committee:
  - 2.1.1 Take into account the comments received from the consultation process and to recommend approval of the Statement of Licensing Policy, as amended if considered necessary, to Full Council.

## **3. Detail**

- 3.1 Swindon Borough Council determined its first Statement of Licensing Policy (SLP) on 18 November 2004. This was reviewed in 2011 and the latest review being 2015 which has recently been subject of the consultation.
- 3.2 Section 5 of the Licensing 2003 Act (as amended by the Police Reform and Social Responsibility Act 2011) requires that the Council determines the policy at intervals of no greater than 5 years.
- 3.3 The Licensing Act 2003 has been amended by the Police Reform and Social Responsibility Act 2011, the Live Music Act 2012 and The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 since the policy was last determined.
- 3.4 The changes introduced are summarised in paragraphs 3.5-3.7 below.

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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113, email: [kashton@swindon.gov.uk](mailto:kashton@swindon.gov.uk).

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- 3.5 On 25 April 2012, the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 as follows:
- 3.5.1 The Licensing Authority and Local Authority responsible for public health became responsible authorities;
  - 3.5.2 The vicinity test for those who make a representation was removed and 'interested parties' became 'other persons';
  - 3.5.3 The test which Licensing Authorities must apply when considering the steps taken for the promotion of the licensing objectives has changed so that it is no longer whether the steps are 'necessary' but rather whether they are 'appropriate' to the promotion of the licensing objectives;
  - 3.5.4 A Late Temporary Event Notice may now be accepted up to 5 working days prior to the event instead of 10 working days, and the Environmental Protection Team are now a consultee for all Temporary Event Notices received by Swindon Borough Council. The time limits for temporary event notices have also been relaxed such that an event may last for up to 168 hours instead of 96 hours and events may now take place on no more than 21 days in a calendar year, instead of 15 days;
  - 3.5.5 A Premises Licence or Club Premises Certificate must be suspended for non-payment of the statutory annual fee unless the amount payable is disputed, or non-payment is due to an administrative error in which case, a 21 day grace period is provided; and
  - 3.5.6 The Statement of Licensing Policy must now be reviewed at 5 yearly intervals instead of 3 yearly intervals.
  - 3.5.7 The Licensing Authority can determine a late night levy that applies to all premises or clubs that supply alcohol for consumption on the premises between a period that begins no earlier than midnight and ends no later than 6 am, as set by the Licensing Authority
  - 3.5.8 The Licensing Authority can determine that an early morning restriction order will apply to one or more areas of the Borough that requires premises to close no later than midnight and not reopen until no earlier than 6 am, with the time set by the Licensing Authority.
- 3.6 On 01 October 2012, the Live Music Act 2012 also amended the Licensing Act 2003 by changing the definition of regulated entertainment:
- 3.6.1 Entertainment consisting of a performance of live music is no longer considered regulated entertainment if it is performed between 8:00am and 11:00pm and:
    - 3.6.1.1 The live music is unamplified;
    - 3.6.1.2 The live music is amplified but the audience is no greater than 200 people and it is performed in a work place (as defined in

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regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992) other than a premises that is licensed for the supply of alcohol or regulated entertainment;

3.6.1.3 The live music is amplified but the audience is no greater than 200 people and it is performed in a premises or club premises that is authorised by a premises licence or club premises certificate to supply alcohol for consumption on the premises and the premises or club is open for purposes of being used for the supply of alcohol for consumption on the premises at the time that the entertainment is provided.

3.6.2 Any condition attached to a premises licence that relates live music ceases to have effect until such time as the premises licence is reviewed and the condition varied to include a statement that section 177A of the Licensing Act 2003, which relates to the suspension of conditions relating to live music, does not apply.

3.7 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 also changed the definition of regulated entertainment such that the following activities provided between 8:00am and 11:00pm are not considered regulated entertainment:

3.7.1 Performance of a play or performance of a dance where the maximum number of people who are in the audience does not exceed 500 people

3.7.2 Indoor sporting events (excluding boxing/wrestling or boxing/wrestling with one or more martial arts) where the audience consists of no more than 1000 people.

3.8 The Statement of Licensing Policy which has been subject to the consultation takes into account all the statutory changes summarised and also has included more detailed information to assist applicants and Premises Licence Holders.

3.9 Any revision to the Statement of Licensing Policy must undergo statutory consultation and as a result the statement was subject to 12 weeks consultation in accordance with the Government's Code of Practice on Consultation. This period was considered appropriate in view of the content of the policy and the potential impact on residents and business in the Borough of Swindon and also the length of time that the policy may be effective.

3.10 Responses have been received from Wiltshire Police who in principle are in agreement with the Policy. These comments are attached as **Appendix B**

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- 3.11 Comments have been received from Trading Standards and these are attached as **Appendix C**.
- 3.12 Comments have been received from Public Health and these are attached as **Appendix D**
- 3.13 Comments have been received from Swindon Pubwatch and these are attached as **Appendix E**

## **4 Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 4.1 There is a cost associated with any consultation. However, it is proposed to minimise expenditure by consulting via electronic means where possible.
- 3.2 As the consultation is a statutory requirement, it must be undertaken by Swindon Borough Council and will be done using existing resources.

### Legal and Human Rights Implications

- 4.3 The Secretary of State has certified that the Act is compatible with the European Convention on Human Rights.
- 4.4 Determining the Statement of Policy is a statutory function that must be carried by Swindon Borough Council and consultation must be undertaken prior to determining the final policy. Failure to determine the policy may lead to judicial challenges.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 3.5 The consultation will be undertaken using existing staffing resources.
- 4.6 There are no other implications associated with this report.

### Diversity Impact Assessment

- 4.7 No diversity impact assessment has been undertaken at this stage.

### Risk Management

- 4.8 Failure to determine the policy or adequately consult may lead to judicial review proceedings. Commencing the consultation will avoid this.

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## 5 Consultees

- 5.6 The Board Director Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## 6 Background Papers

- 6.6 [Licensing Act 2003](#)
- 6.7 [Police Reform and Social Responsibility Act 2011](#)
- 6.8 [Live Music Act 2012](#)
- 6.9 [The Licensing Act 2003 \(Descriptions of Entertainment\) \(Amendment\) Order 2013](#)
- 6.4 [Revised Guidance issued under section 182 of the Licensing Act 2003 \(published October 2014\)](#)

## 7 Appendices

- Appendix A - Draft Statement of Licensing Policy
- Appendix B - Response from Wiltshire Police
- Appendix C - Response from Trading Standards
- Appendix D - Response from Public Health (to be reported orally)
- Appendix E - Response from Swindon Pubwatch