

CABINET

17 January 2017

Title: Licensing Act 2003 – Draft Statement of Licensing Policy 2017-2022	
Report of the Cabinet Member for Enforcement and Community Safety	
Open Report	For Decision
Wards Affected: All	Key Decision: No
Report Author: Theo Lamptey, Service Manager Public Protection	Contact Details: Tel: 0208 227 5655 E-mail: theo.lamptey@lbbd.gov.uk
Accountable Director: Jonathon Toy, Enforcement Services	
Accountable Strategic Director: Clare Symonds, Chief Operating Officer	
Summary <p>The Council, as the local licensing authority under the Licensing Act 2003, is required to publish a statement of the principles (a 'policy') by which it will abide when carrying out its licensing responsibilities under the Act – these responsibilities relate to alcohol, regulated entertainment and late night refreshment. The Council is also required to review that policy every five years and to carry out public consultation as part of that review.</p> <p>A draft statement of policy has been prepared in consultation with the Responsible Authorities named under the Act (these include police, fire authorities, health and safety authorities, local planning authorities, environmental health and bodies responsible for protecting children from harm). It has also been subject to a public consultation exercise through October and November 2016. The draft policy has been further developed, where appropriate, in the light of the responses received.</p> <p>This report provides a copy of the draft revised statement of licensing policy for the period 2017-2022 together with a copy of the summary of consultation responses. The draft policy is to be reported to the Assembly on 25 January 2017 for formal adoption.</p>	
Recommendation(s) <p>The Cabinet is asked to:</p> <p>(i) Consider the draft Statement of Licensing Policy 2017-2022 at Appendix A to the report, produced in accordance with the Licensing Act 2003, which includes provisions that:</p> <ul style="list-style-type: none">- Sound limiting devices shall be required where appropriate and where they provide the best means of noise control; and- Establish a number of additional control measures, as recommended practice, for off-licences, convenience stores and supermarkets located within 400 metres of schools and colleges, including meeting the standards set out in "Challenge 25".	

- (ii) Note the process for formal adoption of the Policy, as set out in section 5 of the report; and
- (iii) Recommend that the Policy be adopted by the Assembly at its meeting on 25 January 2017.

Reasons

The adoption of the draft policy fulfils the Council's statutory requirement to establish a licensing policy and to review that policy every five years. The review of the Council's licensing policy is overdue.

The draft policy, compiled in conjunction with the relevant responsible authorities, promotes best practice management controls in promotion of the four licensing objectives under the Act.

The draft policy also supports the Council's priorities, in particular

- Encouraging civic pride – 'Building pride, respect and cohesion across our borough' and 'promoting a welcoming, safe and resilient community' by working together with responsible premises management and residents to provide well managed, safe venues which enhance the community
- Enabling social responsibility – 'Supporting residents to take responsibility for themselves, their homes and their community' by promoting involvement in the licensing system. 'Protecting the most vulnerable keeping adults and children healthy and safe' by giving detailed consideration to appropriate venue management controls.

1. Introduction and Background

1.1 The Licensing Act 2003 introduced the licensing regime for:

- The supply of alcohol
- The provision of regulated entertainment
- The provision of late night refreshment

1.2 Under the Act the Council is the local licensing authority for the area, responsible for the issuing of:

- Premises licences
- Club premises certificate
- Personal licences
- Club premises certificates
- Temporary Event Notices (TENs)

1.3 When determining licence applications, the Council must promote the four stated licensing objectives set out in the Act. These are:

- The prevention of crime and disorder
- Public safety

- The prevention of public nuisance
- The protection of children from harm

1.4 The Council must also have regard to:

- The Act
- Secondary regulations
- Guidance published by the Home Office (current version is the 5th Edition published March 2015)
- The Authority's own statement of licensing policy

1.5 The Council is required to develop and publish a statement of the principles ('a policy') by which it will abide while carrying out its licensing function. That statement of policy must be reviewed every five years. The Council's current statement of policy is due for renewal.

1.6 A draft policy revision was prepared in consultation with partner 'responsible authorities' named under the Act. The primary intention of the draft revision was to update the policy to ensure that it is consistent with current law and guidance and that it reflects current best practice.

1.7 The draft statement of policy has been subject of public consultation through October and November 2016 and the responses received from the consultation have been considered. The draft statement of policy has been further revised in the light of responses received. A copy of the further revision is attached as Appendix A with a summary of the responses received provided as Appendix B.

1.8 The draft statement of policy was considered by the Corporate Strategy Group on 15 December 2016. The Group approved the policy to go forward for consideration by the Cabinet with only minor amendment, requiring appropriate references to be made to the Council's commitment to the Gender Equality Charter (Section 72 of Appendix A) and the need to consider the protection of vulnerable people alongside children and young people (Section 155 to 157 of Appendix A).

1.9 The Cabinet is asked to recommend the formal adoption of this draft revised policy to the Assembly.

2. Proposal and Issues

2.1 The policy aims to:

- Promote the licensing objectives
- Ensure the Council fulfils its licensing responsibilities in a way that benefits all sections of the Barking and Dagenham community
- Boost the local economy
- Encourage a broad range of licensed premises across the borough
- Support consistent licensing decisions
- Support licensing decisions that may be subject of appeal.

2.2 The consultation exercise received a low level of response. This was expected given that the revision of the policy was primarily an updating of the existing

document to ensure consistency with current law and guidance, both of which have been subject of piecemeal development.

- 2.3 In all 13 responses were received. Of these 9 responses were detailed responses (primarily from Responsible Authorities) and 4 responses were received using the online questionnaire (comprising licence holders, a representative and a local resident).
- 2.4 The online questionnaire asked whether the policy was clear and easy to understand and whether the Council's approach to the promotion of the licensing objectives and to enforcement was supported. All the four responses either supported the approach taken or were non-committal.
- 2.5 The 9 detailed responses provided a range of clarifications and additional information for inclusion. Generally, these contributions have been incorporated into the further revision.
- 2.6 The draft policy has been the subject of some re-arrangement to aid the logical flow of the content. The main additions to the further revision of the policy are:
- An introductory section intended to provide context
 - Further clarification provided around issues such as
 - The principles the Council relies upon within its decision-making process
 - Direction for applicants on compiling the operating schedule (which forms a central part of the licence application) in setting out the measures the applicant proposes in promotion of the licensing objectives
 - How licences may be conditioned
 - Extended sections on the promotion of the four licensing objectives, including information around the expectations of the responsible authorities intended to support robust risk-assessment of licensed business operation and the preparation of effective operating schedules. These include new sections on
 - Responsible management
 - Working in partnership
 - Third party hire of venues
 - Illicit goods
 - Risk-assessment for safeguarding of children

3. Options Appraisal

- 3.1 The consultation generated little opposition. The only two areas which gave rise to some difference of opinions related to:
- The use of sound-limiting devices (promoted as a potential tool for dealing with nuisance generated by live music) but opposed by the Musicians Union. The Union considers sound-limiting devices to be disruptive and potentially damaging where they cut-out sound equipment mid performance. However, officers' view is that, used correctly in the right circumstances, they remain a viable option for helping control the impact of live music performance. Equipment is now widely available which does not impact in the way envisaged by the Musicians Union. It is recommended that the policy recommends sound limiting devices are used where appropriate and where they provide the best

means of noise control (Section 136 of Appendix A and Page 57 of Appendix 6 to Appendix A, Page 57);

- The fourth licensing objective deals with the protection of children from harm. The policy sets out a series of additional control measures recommended as good practice, including meeting the standards set out in Challenge 25, for off-licences, convenience stores and supermarkets located within 400 metres of schools. While they may not be necessary in all circumstances, where applied, these increased control measures will ensure that the promotion and accessibility of alcohol is limited, thereby promoting the objective of protecting children from the harm caused by alcohol (Sections 150-153 of The Licensing Policy – Appendix A)

4. Consultation

4.1 The public consultation exercise took place through October and November 2016. It comprised:

- Promotion of the consultation exercise on the Council's web site together with background information and an e-questionnaire for easy submission of comments
- Direct notifications provided to the range of statutory consultees which include:
 - The Metropolitan Police
 - The Fire Service
 - Representatives of premises licence holders
 - Representatives of club premises certificate holders
 - Representatives of personal licence holders
 - Representatives of the local community
- Additional direct notifications given to
 - Responsible authorities named under the Act
 - Other relevant partner agencies
 - Other known stakeholders
 - Ward Councillors
- Promotion of the consultation through the borough e-newsletter

5. Adoption Process

5.1 As noted, the full Council (the Assembly) must formally adopt the policy. The matter is currently scheduled for the 25 January 2017 Assembly meeting.

5.2 If adopted, the policy must be published on the Council web site and a public notice must be placed in a local newspaper raising awareness that the new policy has been adopted and the date that it comes into effect. This date should be one month after the decision to adopt the policy.

5.3 Alongside this, all current licence holders will be made aware of the new policy and provided with a web link to the document. Any points of clarification required will be answered. Officers will take all opportunities to make both existing operators and new applicants aware of its content.

5.4 An awareness session will be staged for members of the Council's Licensing and Regulatory Board.

6. Financial Implications

Implications completed by Katherine Heffernan, Group Finance Manager

- 6.1 The resources for the review of the policy were contained within the Regulatory services budget. The administration costs will also be met from this budget.
- 6.2 The Licensing and other fees associated with this policy are reviewed regularly and agreed by cabinet as part of the council's standard annual Fees and Charges review process.

7. Legal Implications

Implications completed by: Dr Paul Feild, Senior Corporate Governance Lawyer

- 7.1 The Council, as the Licensing Authority, is required by Section 5 of the Licensing Act 2003 to prepare and publish a Statement of Licensing Policy every 5 years.
- 7.2 The policy must be prepared with public consultation undertaken in accordance with the provisions of the Licensing Act 2003. Finally, as observed in the Report it is a legal requirement that final approval is an Assembly function.

8. Other Implications

- 8.1 **Corporate Policy and Customer Impact** – The draft policy is intended to promote the four statutory licensing objectives. It attempts to do so in a way that acknowledges and supports the broader Council vision and priorities. The policy has been subject of an Equalities Impact Assessment.
- 8.2 **Safeguarding Children** – The fourth licensing objective specifically deals with the protection of children from harm. As such, the policy includes detailed best practice management advice around child protection issues, compiled in conjunction with expert responsible authorities. This deals with issues such as age-verification; film classification and child sexual exploitation. Child Protection are a statutory responsible authority under the Act and are consulted on all new and varied premises licence applications.
- 8.3 **Health Issues** – Although public health is not a licensing objective, the draft policy takes the opportunity to promote socially responsible premises management and through this responsible consumption of alcohol. Public Health are a statutory responsible authority under the Act and are thereby consulted on all new and varied premises licence applications.
- 8.4 **Crime and Disorder Issues** – The first licensing objective specifically deals with the prevention of crime and disorder. As such, the draft policy includes detailed best practice management advice around crime and disorder prevention issues, compiled in conjunction with the expert responsible authorities.
- 8.5 **Property / Asset Issues** – None directly, although the Council run licensing venues will be subject to the same controls as other commercially run venues or facilities.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- **Appendix A** – Draft London Borough of Barking and Dagenham Statement of Licensing Policy 2017-2022
- **Appendix B** – Summary of Consultation Responses