

## ASSEMBLY

26 January 2022

<b>Title:</b> LBBB Statement of Licensing Policy 2022-2027	
<b>Report of the Cabinet Member of Enforcement and Community Safety</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
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<b>Accountable Strategic Leadership Director:</b> Fiona Taylor, Strategic Director, Law and Governance	
<b>Summary</b>	
<p>The Licensing Act 2003 establishes the Council as the local licensing authority for alcohol, regulated entertainment and late-night refreshment. As the Licensing Authority, the Council is required to prepare and publish a statement of licensing policy and to review that policy every five years. The policy is intended to set out how the Authority intends to approach its licensing responsibilities under the Act.</p> <p>The Council's Statement of Licensing Policy was first published in 2005 and has been reviewed and updated at regular intervals since. The current version of the policy covering the period 2017-2022 is due for renewal.</p> <p>A draft revision of the policy has been prepared through the summer of 2021 in consultation with other key services and partner agencies. The draft has also been taken to public consultation during October and November 2021.</p> <p>A final draft has now been prepared having regard to contributions received and consultation responses. This report provides a summary of the main changes to the latest revision of the policy.</p> <p>The Cabinet is to consider this report at its meeting on 18 January 2022 (the date of publication of this Assembly agenda). Any issues arising from the Cabinet meeting will be reported at the Assembly meeting.</p>	
<b>Recommendation(s)</b>	
<p>The Assembly is recommended to adopt the London Borough of Barking and Dagenham Statement of Licensing Policy 2022-2027, as set out at Appendix A to the report.</p>	

## **Reason(s)**

To accord with the requirements of the Licensing Act 2003.

### **1. Introduction and Background**

- 1.1 The Licensing Act 2003 establishes this Council as the local licensing authority for the following licensable activities:
- the retail sale of alcohol
  - the supply of alcohol by or on behalf of a club, to club members
  - the provision of regulated entertainment
  - the provision of late-night refreshment
- 1.2 Each licensing authority is required to prepare and publish a statement of licensing policy which is intended to set out how that authority intends to approach its licensing responsibilities and to review that policy every five years. This Authorities statement of licensing policy was first published in 2005 and it has been regularly updated since. The current version of the policy covers the period 2017-2022 and is due for renewal next year.
- 1.3 In anticipation of this, draft revised policy has been prepared for consideration. The draft has been revised in consultation with other key services and partner agencies and following public consultation.

### **2. The Licensing Act 2003**

- 2.1 Under the Act, the Council as Licensing Authority is responsible for determining applications for:
- Premises licences (required to enable any of the licensable activities to be provided at a specific premises)
  - Club premises certificates (required to enable bona fide members clubs to purchase on behalf of club members and supply that alcohol to them)
  - Personal licences (to enable specified individuals to authorise alcohol sales in conjunction with a premises licence)
  - Temporary Event Notices (to enable specific low-level one-off or time-limited events to take place at community or smaller premises)
- 2.2 The Act places a duty on each licensing authority to consider all applications for relevant licences and consents put to it and establishes the process and timescale for determining those applications. It requires decisions to be taken in accordance with:
- The Licensing Act itself
  - Secondary regulations
  - The Guidance for local licensing authorities published by the Home Office and
  - The Authority's own statement of licensing policy

- 2.3 Each licensing authority is also required to promote the four licensing objectives stated in the Act in its decision-making. The four objectives are:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 2.4 While this Authority has ability to grant, part-grant or refuse applications, each application must be considered upon their own merits with all relevant matters considered. Applicants for premises licences have an entitlement to a licence unless there is good reason in law not to grant it and the licensing process provides for licence terms, conditions, and restrictions to be (at least partly) defined by the applicant themselves, albeit they may be refined through the consultation and determination process.
- 2.5 Within this prescriptive framework, the local licensing statement of licensing policy is an important document providing an opportunity for local approach and considerations to influence decision-making.
3. **The Barking and Dagenham Statement of Licensing Policy**
- 3.1 The aim of the policy is to
- Promote the four licensing objectives.
  - Benefit 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.
- 3.2 As such the policy intends to ensure that
- Applicants for new licences and consents understand the Authorities approach to licensing and can prepare considered risk-assessed applications and related operating schedules for submission
  - Licensed operators are best placed to run successful safe, secure and well managed venues that are of benefit to the local community
  - Local residents understand how to take part in the licensing process and the protections afforded to them in law
- 3.3 This Authorities approach to licensing is well-established, with licensing process and policy having now been in place for approaching 20 years.
- 3.4 As such this latest revision of the policy has not required any drastic overhaul. This revision, instead, intends to ensure that:
- The content of the policy remains consistent with changes in law, regulations and guidance
  - All references, contact details, links and statistics quoted are up to date
  - The policy reflects current best management practice

- 3.5 A copy of the revised draft policy is provided as Appendix A to this report. It is divided into seven main sections, as follows:
- Section 1 (pages 6-8) provides an **Introduction to Barking and Dagenham** and to the Council
  - Section 2 (pages 9-12) sets out the **purpose and scope** of the policy
  - Section 3 (pages 13-20) deals with **administration, process and delegation**
  - Section 4 (pages 22-23) sets out to explain **preparing an operating schedule being** the most important part of the premises licence application as this defines the intended operation and proposed management controls intended to be put into place in order to promote the licensing objectives
  - Section 5 (pages 24-38) deals with each of **the licensing objectives** in turn setting out considerations to be taken into account in preparing an operating schedule
  - Section 6 (pages 39-40) deals with how **licence terms, conditions and restrictions** may be determined
  - Section 7 (page 41) explains this Authorities approach to licensing **enforcement**
- 3.6 The policy also includes with an executive summary and a range of appendices providing contact details, references, links and, importantly on pages 49-57, a **set of model conditions** to which applicants may refer when considering their operating schedule and an example **safeguarding risk-assessment** from page 60.

#### 4. **Main changes to the policy**

- 4.1 The main significant changes to the policy, other than updating that has taken place, includes the following:
- Page 13 – New section included on **Entitlement to work in the UK** which sets out the direction in law that applications made by individuals without entitlement to work in the UK must be rejected
  - Page 17 – Clarification provided under section on **payment of annual licence fee** that non-payment of due annual licensing fees results in automatic suspension of the licence
  - Page 19 – Replacement of section on the now defunct Designated Public Places Order with a new section on **Public Spaces Protection Orders** which replace it.
  - Page 27 – A new section on **illegal working** and the responsibility now placed on operators to ensure that all employers carry out right to work checks on employees.
  - Pages 31-33 – A new section on ‘safe for all’ which incorporates references to several important initiatives promoting safe and inclusive venues to which operators are directed to. In turn for signing up to these schemes’ operators receive training support to enable staff to identify and deal with cases of harassment and sexual violence, discrimination and hate crime
    - The Mayor’s **Women’s Safety Charter**
    - The Metropolitan Police ‘**Ask for Angela**’ scheme and supporting WAVE training
    - The **Ask for Clive** scheme

- Page 32 – A new section on **Covid-19** which emphasises the need for operators to continue to regularly update covid risk-assessments in line with government guidance or changing circumstances
- Page 33 – A new section on **security and terrorism** which introduces the ACT Awareness e-learning tool providing counter-terrorism awareness training for organisations and individuals.
- Page 33 – A revised section on the third licensing objective of preventing public nuisance which reflects the current approach of the Council's Environmental Health Noise team
- Page 34 – Associated with this is a new section on **outside areas** highlighting the extra considerations that need to be afforded to local residents with the movement toward outside eating and drinking following the coronavirus pandemic

## 5. Consultation

5.1 As part of the consultation undertaken review of the policy, the following statutory consultees and other parties were contacted directly:

- Responsible authorities (including the police and fire service)
- Representatives of Premises Licence and Club Premises Certificate holders
- Representatives of Personal Licence holders
- Representatives of the local community
- Ward councillors
- Other known stakeholders and interest groups

5.2 The consultation was also advertised on the council's web site and in the borough e-newsletter 'One Borough Voice'. An electronic questionnaire was provided on the web site for ease of response.

5.3 All responses received were considered in the preparation of the final draft. A summary of the matters raised in consultation responses is provided at Appendix B.

5.4 Under the consultation through 'One Borough Voice' some 46 individuals viewed or downloaded part or all the consultation papers. However, only 5 individuals completed the online survey provided. These comprised three licensed operators and two local residents. Respondents generally agreed the policy was fair, clear and easy to understand.

5.5 The Council's Licensing and Regulatory Committee considered and endorsed the draft policy at its meeting on 23 June 2021. The matter is also to be considered by the Cabinet at its meeting on 18 January 2022 and any issues arising from that meeting will be reported at the Assembly meeting.

## 6. Options Appraisal

6.1 The option to approve the document will ensure the Council as licensing authority retains an updated and relevant policy to support future licensing decisions.

6.2 The option not to approve the policy could mean that the Council as licensing authority is able to place less reliance on the policy to support future licensing

decisions as the policy document becomes older. This raises the potential for challenge in the appeal courts.

## **7 Timetable for Implementation**

- 7.1 Once adopted by the Assembly, the policy is then required to be advertised in the local press giving one month's notice of the date that it comes into force.

## **8. Financial Implications**

Implications completed by: David Folorunso, Finance Business Partner

- 8.1 The policy provides a framework for the delivery of LBBD's regulatory services. This revision is to bring the policy in line with relevant legislation, and best practice guidance and will improve transparency around enforcement processes.
- 8.2 The costs resulting from the adoption and implementation of this policy will be met from existing budgets.

## **9. Legal Implications**

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

- 9.1 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 five years. Licensing process and practice is established under the Licensing Act 2003 and secondary regulations. Guidance to local licensing authorities is provided by the Home Office.
- 9.2 The policy must be prepared with public consultation undertaken in accordance with the provisions of the Licensing Act 2003. Finally, it is a legal requirement that final approval is a full Council Assembly function.

## **10. Other Implications**

- 10.1 **Staffing Issues** – The content of the draft revised policy does not have a direct significant negative impact on existing and future staff or staffing levels.
- 10.2 **Corporate Policy** – The licensing policy supports the key strategic priorities of the Council. In particular
- Inclusive growth – by providing a broad range of safe and secure leisure and entertainment facilities. By working together with responsible business operators to provide successful licensed operations. By ensuring effective action is taken against irresponsible operators
  - Participation and engagement – Ensuring that an accessible process is provided to enable community participation in the licensing process
  - Well run organisation – Ensuring that the Council provides an accessible, responsive and efficient service.
- 10.3 **Equality Impact Assessment** – An EIA has been prepared and is attached as Appendix C.

- 10.4 **Safeguarding Adults and Children** – At the heart of the licensing process are the licensing objectives of public safety and the protection of children from harm. Both matters receive significant scrutiny through the licensing process and are dealt with in detail in the policy. Public health is not yet a licensing objective, but the licensing service consults with public health colleagues on licence applications.

**Public Background Papers Used in the Preparation of the Report:**

**The Guidance for Local Licensing Authorities issued by the Home Office April 2018 version** (<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>)

**List of appendices:**

**Appendix A** – Draft LBBB Statement of Licensing Policy 2022-2027

**Appendix B** – Summary of consultation responses

**Appendix C** – Equality Impact Assessment