

MUNICIPAL YEAR 2014/2015 REPORT NO. **155**

MEETING TITLE AND DATE:

**Council - 28 January
2015**

REPORT OF:

Director - Regeneration &
Environment

Agenda – Part: 1

Item: 10

**Subject: Licensing Policy Statement under
the Licensing Act 2003**

Wards: All

Key Decision No:

Cabinet Member consulted: Cllr. Bond

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1. EXECUTIVE SUMMARY

The Council has a statutory duty, under the Licensing Act 2003, to determine and publish a licensing policy statement every five years.

2. RECOMMENDATION

To approve the new edition of the licensing policy statement, attached as Appendix A.

3. BACKGROUND

- 3.1 On its implementation, the Licensing Act 2003 provided that the Council must determine and publish a licensing policy statement every three years.
- 3.2 Accordingly, Council approved the licensing policy statement on 17 November 2004 (1st Edition), 7 November 2007 (2nd Edition) and 26 January 2010 (3rd Edition).
- 3.3 On 28 March 2012 Council approved a cumulative impact policy to take effect on 1 April 2012. This policy was inserted into the licensing policy statement without otherwise amending the extant policy (4th Edition).
- 3.4 On 25 April 2012 the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to instead provide that the Council must determine and publish a licensing policy statement every five years.
- 3.5 Accordingly, Council should approve a new edition of the licensing policy statement in January 2015.
- 3.6 On 9 July 2014 the Licensing Committee approved the scope and extent of the consultation that should take place in respect of the new edition of the licensing policy statement.
- 3.7 Accordingly, between 8 August and 31 October 2014 (twelve weeks) a borough-wide public consultation was conducted. The consultation invited responses on whether the four existing cumulative impacts policy areas should be retained and, if so, whether the existing terminal hours within those cumulative impact policy areas should be retained. The consultation was advertised on the Council's website and, in addition, consultation letters/emails were sent to 956 recipients. A total of 27 consultation responses were received, which is a 2.7% return.
- 3.8 On 19 November 2014 the Licensing Committee considered the responses to the public consultation. The Committee agreed to:
 - 3.8.1 the retention of the cumulative impact policy within the licensing policy statement;
 - 3.8.2 the retention of the four cumulative impact policy areas;
 - 3.8.3 the retention of the midnight terminal hour for restaurants, take-aways, plays, films and indoor sports within the cumulative impact policy areas;
 - 3.8.4 the extension of the terminal hour for pubs/bars, off licences & music and/or dancing within the cumulative impact policy areas from 11pm to midnight.

3.10 The Licensing Committee recommends that Council approve the new edition of the licensing policy statement, attached as Appendix A.

3.11 The changes between the current and the new editions of the licensing policy statement comprise:

3.11.1 the removal of Section 15 (Olympics & Paralympics) from the current edition, as these historical matters are no longer relevant; and

3.11.2 the extension of the terminal hour for pubs/bars, off licences & music and/or dancing within the cumulative impact policy areas from 11pm to midnight.

4. ALTERNATIVE OPTIONS CONSIDERED

None.

5. REASONS FOR RECOMMENDATIONS

To ensure that the Council is able to discharge its statutory obligations and promote its four licensing objectives.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

None.

6.2 Legal Implications

6.2.1 The council has the power to retain & vary the Cumulative Impact policy and to remove administratively the reference to the Olympics (as this is no longer relevant) within the Licensing Policy Statement under the Licensing Act 2003 and supporting legislation.

6.2.2 Although if there were any doubt about the power to adopt these policies, the Localism Act 2011 (Commencement No. 3) Order 2012 (*SI 2012/411*) brought the general power of competence into force for principal local authorities. The introduction of the general power of competence means that the well-being power no longer applies to English Local Authorities and as such the general power of competence will provide the Council with the power to adopt the 2 policies and to refuse to adopt the Sexual Entertainment Venues provisions outlined within this report.

6.2.3 The general power of competence is set out in s. 1.1 of the Localism Act 2011 and states that "a local authority has power to do anything that individuals generally may do. " Ss (2) states that "Subsection (1)

applies to things that an individual may do even though they are in nature, extent or otherwise— (a) unlike anything the authority may do apart from subsection (1), or (b) unlike anything that other public bodies may do.” Where the authority can do something under the power, the starting point is that there are to be no limits as to how the power can be exercised. For example, the power does not need to be exercised for the benefit of any particular place or group, and can be exercised anywhere and in any way. Section 2 sets out the boundaries of the general power, requiring local authorities to act in accordance with statutory limitations or restrictions.

6.3 Property Implications

6.3.1 The implementation of the licensing policy places restrictions on activities and uses that could be undertaken at certain premises. These restrictions are aimed at safeguarding local amenities and in doing so, the Council is conscious of the need to ensure it supports a thriving and safe economy and an environment which enhances the quality of life for its residents and visitors.

6.3.2 Consequently, every application considered by the Council under this policy is to be considered on its merits.

7. KEY RISKS

7.1 The Council is at risk of public challenge if it does not promote its licensing objectives.

7.2 The Cumulative Impact Policy reduces risk around four key objectives and also tackles the risk of cumulative impact in identified areas.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

This report ensures that the Council’s Licensing Policy meets its statutory obligations and is able to prevent licensable activity that is not in the public interest and to reduce crime and antisocial behaviour arising from concentrations of licensed premises operating in areas affected by such disorder.

8.2 Growth and Sustainability

These recommendations do not restrict growth and by reducing crime and disorder will promote sustainable business.

8.3 Strong Communities

The recommendations in this report fully support this Council priority.

9. EQUALITIES IMPACT IMPLICATIONS

- 9.1 Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment/analysis is neither relevant nor proportionate for the approval of this report.
- 9.2 A predictive equalities impact assessment was completed for the introduction of the Cumulative Impact Policy in 2012.
- 9.3 The main finding of that assessment was that the licensing policy statement has no adverse/specific impact on different disadvantaged groups in the community or on staff.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The effectiveness of these policies will be assessed through the Council's performance at reducing crime and antisocial behaviour associated with licensed premises and in particular the public perception of people being drunk or rowdy in public spaces, measured by the Residents Survey.

11. PUBLIC HEALTH IMPLICATIONS

Alcohol has both negative and positive health implications, often related to availability and price and their impact on consumption. Public Health will therefore continue to monitor alcohol related conditions in the borough.

Background Papers

None.