

Report for: Overview & Scrutiny Committee 15th October 2020

Title: Licensing Act 2003 Review of Licensing Policy 2021-2026

Report

authorised by : Eubert Malcolm Interim Assistant Director Stronger Communities & Waste

Lead Officer: Daliah Barrett – Licensing Team Leader

Ward(s) affected: All wards

Report for Key/

Non Key Decision: N/A

1. Describe the issue under consideration

1.1 The Licensing Act 2003 (the Act) came into effect on 25th November 2005. The Act introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshments, to be administered by the local licensing authority within Haringey, this council.

1.2 Section 5 of the Act requires each licensing authority to prepare, consult and publish a statement of licensing policy every five years. The policy statement is expected to set out, how the authority intends to approach its licensing responsibilities. Each Authority is also required to keep the statement of policy under review throughout its term and make appropriate revisions as necessary. The purpose of this report is to seek approval for consultation to be undertaken on the draft Statement of Licensing Policy 2021/2026 at Appendix 1.

1.3 The current statement of Licensing Policy is due for review and to be published by Jan 2021. This report seeks permission to consult on a revised statement.

2 Recommendations

This report recommends that the Committee:

2.1 Review the draft Statement of Licensing Policy and provide any comments on the policy for recommendation onto Full Council for adoption.

3 Alternative Options Considered

3.1 This is a statutory requirement and the Council has no discretion to do otherwise.

3.2 Consideration was given to extending the existing policy due to the COVID -19 pandemic situation making the ability to consult challenging, however following Legal advice the fact that the consultation would be carried out online this concern was discounted. The Local Government Association (LGA) have also advised Authorities to use online methods of engaging with residents and licence holders on licensing matters.

4 Reasons for decision

- 4.1** The Council's current Statement of Licensing Policy expires in January 2021 and the Council has to comply with its statutory duty to prepare, consult and publish a statement of licensing policy every five years.
- 4.2** Members should note that the Statement of Licensing Policy must not be inconsistent with the provisions of the 2003 Act and must not override the right/s of any individual as provided for in that Act. Nor must the statement of licensing policy be inconsistent with obligations placed on the council under any other legislation, including human rights legislation. Members should also note that the council has a duty under Section 17 of the Crime and Disorder Act 1998, when carrying out its functions as a licensing authority under the 2003 Act; to do all it reasonably can to prevent crime and disorder within the borough.

5 Background information

- 5.1** Central to the Statement of Licensing Policy is the promotion of the four licensing objectives established under the Act. These are:

- **The prevention of crime and disorder**
- **Public Safety**
- **The prevention of public nuisance**
- **The protection of children from harm**

- 5.1** Since the commencement of the current Statement of Licensing Policy, there have been a number of issues that have arisen at licensing sub-committee meetings where members, responsible authorities and applicants have requested clarification. The amendments in this revision seek to clarify Haringey's position and are believed to be appropriate and necessary.

- 5.2** There have been a number of changes to the Licensing Act 2003 and also to the Section 182 Guidance issued for licensing authorities (the current version was issued by the Home Office in April 2018). In recognition of the various changes work has been undertaken to update the Haringey policy and make it consistent with the legislation and the latest guidance. The majority of changes have been automatically incorporated into the policy document. Some are highlighted for the committee's information, before going to public consultation. A summary of some of the changes are listed below. these changes are outlined in Appendix 1 and summarised in 5.3 below.

5.3 Summary of the main amendments – Table 1

Section of policy	Reason for change /update	Page ref
All about Haringey	Information updated to reflect most up to date data and policies. State of the Borough Borough Plan and Priorities. Licensed premises have an impact on the community the information sets the scene of the challenges facing Haringey as well as the aspirations.	4
Alcohol harm and	Updated wording.	

Public Health	Police no longer gather in data on various crime that allows for alcohol markers to be flagged. Wording on the impact of alcohol on young people and borough expectations on preventing harm.	7
Borough Plan	Updated wording to Borough Plan and priorities.	10
Relationship with Planning	Wording updated to make clear close working but separate regimes	12
Modern Day Slavery	Reflect how licensing plays a role. Raise awareness of this issues in the licensed trade across the borough	12
Community Safety Strategy	Wording on the six point plan to deliver and how late night economy and protection of women and vulnerable will impact.	13
Sustainability wording	Links in with Haringey Climate change agenda and raise awareness	14
LA ability to revoke or suspend Personal Licences	New Powers that came into effect in 2017, opportunity to insert methodology and delegation info into policy.Change to legislation and Section 182 Guidance	18
Council position on the use of multiple TENs	Use of TENs for large warehouses to get around the 499 limit. New wording makes clear that as an Authority we will not agree to this practice	21
Large events Council position on transport capability for simultaneous events	Wording updated on expectations of management of large events. Wording inserted to say that matters of this nature will be done under a public safety concern by the Safety Advisory Group on a case by case basis	21
Schedule of delegation	Table updated to make reference to Sec of State	24
Transferring licences to avoid review process	Council position on not permitting transfers to take effect when premises is under review.	25
Smuggled goods	Updated guidance on seriousness of the offence and strong approach-learning from matters arising from LSC hearings	31-32

Council position on strong management of premises	Expectations of responsible management from licence holders.	27
Multiple licences	Clarity that a review on one licence held on a specific premises does not automatically affect any other licences held by other organisations for the same premises.	28
Cessation of Form 696	Removal of wording of the need for Form 696 but still the need to risk assess an event	33

5.4 Impact of Covid 19

5.5 The impact of the measures put in place to fight the virus nationally saw licensed premises such as pubs, clubs and restaurants having to close their doors to restrict entry by the public to prevent the spread of the virus. As the UK is being brought out of the lockdown measures and businesses are able to be opened up again we are faced with the need to support changes to the way in which the licensed premises will need to operate for a period of time. There are a range of issues licence holders need to be aware of such as:

- The need for licensing additional space, most likely outdoors
- The need to review licensing conditions that might restrict trading
- flexibility
- A review of licensed hours to adapt to a new way of trading

5.5 Haringey will aim to support business wishing to make these changes by way of a variation application where possible.

6. Contribution to strategic outcomes

6.1 **The Borough Plan 2019-23** sets out a four-year vision to make Haringey one of London's greatest boroughs where families can thrive and succeed. The Haringey Council Community Wealth Building approach will create an economy that is rooted in the community.

6.2 **Priority-2 People** - Our vision is a Haringey where strong families, strong networks and strong communities nurture all residents to live well and achieve their potential. The protection of children and the vulnerable from harm within the licensing objective will contribute to this priority.

6.3 **Policy 3 – Place** - Our vision is for a place with strong, resilient and connected communities where people can lead active and healthy lives in an environment that is safe, clean and green. As the borough continues to grow, becomes better connected and continues to be a destination for many Londoners, we will need to ensure Haringey remains a safe and pleasant environment for all. We want to work with partners and the local community to achieve this and to define and shape how the borough looks and feels, both now and in the future. Residents engaging in the licensing process will contribute to this priority and allow them to have a say in how premises operate. The expectations set out the Policy will inform applicants for licences of the kind of best practice and responsible management expected for well run premises in the borough.

6.4 Policy 4 – Economy - Our vision is for a growing economy that provides opportunities for all our residents and supports our businesses to thrive. We want to build the strength, depth and wealth of our local economy and will create safe and attractive environments for both businesses and our residents to thrive. We will make sure that investment and development has the interests of our communities at its heart and is undertaken for the benefit of our local residents and businesses. Haringey offers a lot of opportunity for new businesses and attracts entrepreneurs who wish to start up their first business in the hospitality trade in the borough. The Regeneration Team have made use of ‘Meanwhile Spaces’ in the East of the borough that have provided welcome alternatives to regular pubs and clubs.

6.5 The above Priorities and objectives are underpinned by a number of cross – cutting principles namely:

- Prevention and early intervention – preventing poor outcomes for young people and intervening early when help and support is needed.
- A fair and equal borough – tackling the barriers facing the most disadvantaged and enabling them to reach their potential;
- Working together with our communities – building resilient communities where people are able to help themselves and support each other.
- Value for Money – achieving the best outcome from the investment made;
- Customer focus – placing our customers needs at the centre of what we do;
- Working in partnership – delivering with and through others.

6.6 Licensing is about regulating the carrying on of licensable activities within the terms of the Act. The statement of licensing policy should make it clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business carrying on licensable activities. However, the guidance also states that licensing law is a key aspect of such control and should always be part of a holistic approach to the management of the evening and night-time economy. It is therefore desirable that the statement of licensing policy is in line with the council’s wider objectives and consistent with other policies.

7 Consultation process

7.1 The revision of the Haringey Statement of Licensing Policy is intended to be undertaken with public consultation in accordance with section 5(3) of the Licensing Act 2003. As such, it is proposed that consultation will take place as set out below.

7.2 The policy will be introduced by circular letter sent electronically to:

- The chief officer of the police
- The fire authority
- Representatives of holders of premises licences, club premises certificate holders and personal licence holders
- Representatives of businesses and residents
- All responsible authorities specified under the Act.

7.3 The consultation will also be introduced on the council web site with the draft policy together with an online questionnaire for easy response.

7.4 Consultation questionnaire - It is suggested that the following questions be posed under the public consultation exercise.

Whether the amendments to the policy are clear and easily understood?
 Whether the amendments to the policy are balanced, fair and reasonable?
 Any other comments on the draft Policy?

7.5 In each case, respondents will be offered the opportunity to expand on their answer and provision for general comments will be made.

7.6 Consultation timetable - The following timetable for the public consultation on the draft policy amendments and for final approval of the 2021 – 2026 policy document is proposed:

Action	Timeline
Report taken to Overview & Scrutiny	October 2020
Consultation ends. Consideration of consultation responses and further revision of the policy	October responses compiled and preparation of reports to Place Board and Regs Committee to report on outcomes.
Outcome report back to AD/ Place Board	Late October
Report back to the Regulatory Committee asking the committee to consider the further draft policy revision and make recommendation for adoption of a final policy by Full Council	November TBC
Report prepared for Full Council with recommendation to adopt	November TBC
4 weeks public notice period.	December TBC
New policy takes effect	Jan 2021 TBC

8 Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1 Finance

This report seeks approval for a consultation exercise for the Haringey Licensing Policy 2021-2026, which is a statutory requirement. The existing policy expires in January 2021.

The consultation exercise will be conducted online and therefore at minimum cost, This cost, relates to materials and officers time which is already accounted for within the existing budgetary resources.

The results of this will be brought back to the regulatory committee, prior to Full Council.

The times laid out are reasonable and achievable to ensure an updated policy will be ready in time to ensure the Council have a continued policy in force.

Procurement

N/A

9 Legal -Michelle Williams - Principal Lawyer Litigation

9.1 The Assistant Director of Corporate Governance has been consulted in the preparation of this report and confirms that the legal implications are set out in the body of the report.

In the case of R (Moseley) v Haringey the Supreme Court endorsed the following principles of consultation:

- That consultation must be at a time when proposals are still at a formative stage;
- That the proposer must give sufficient reasons for any proposal to permit intelligent consideration and response;
- That adequate time must be given for consideration and response; and
- That the product of consultation must be conscientiously taken into account in finalising any proposals.

The consultation timetable for the SOLP is in accordance with the Mosley principles.

- 9.2** Under the Council's Constitution at Part Three, Section B, Section 7 – Regulatory Committee - Protocol para 2(b) the Regulatory Committee has the responsibility for formulating, reviewing and approving for consultation the Statement of Licensing Policy and (following consultation) recommending it and any revisions to it, to Full Council for adoption.

10. Equality

- 10.1** The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

- 10.2** A draft equality impact assessment has been completed (Annex 2). A draft equality impact assessment has been completed (Annex 2). The policy equally recognises that irresponsible business operators who fail to provide good management practices are likely to have negative impacts on the community. As such, the statement of policy sets out to achieve a necessary balance between providing a platform upon which responsible business operators may contribute toward a thriving business and late night economy while ensuring that the quality of life of those who live and work in the borough is protected and enhanced through the licensing system.

The consultation will include an equalities questionnaire which will have findings reported back and any impact identified updated in the final policy.

11 Use of Appendices

Appendix 1 Draft Statement of Licensing Policy

Local Government (Access to Information) Act 1985
The Licensing Act 2003 and secondary regulations

