

Title of Report	Timetable for the Review of the Statement of Licensing Policy and Cumulative Impact Assessment
For Consideration By	Licensing Committee
Meeting Date	8 December 2022
Classification	Open
Ward(s) Affected	All wards
Group Director	Rickardo Hyatt

1. Summary

- 1.1 This report provides the Licensing Committee with relevant information on the Licensing Act 2003 (“the Act”) and an update on the work to review the Statement of Licensing Policy (“the Policy”) and the undertaking of a cumulative impact assessment prior to these becoming effective in 2023.

2. Recommendation(s)

- 2.1 There are no formal recommendations set out in this report. This report is for informative purposes, in order to provide the Licensing Committee with an update on the work to review the Statement of Licensing Policy (“the Policy”) and the undertaking of a cumulative impact assessment. Licensing Committee can note: the proposed timetable for the review of the Policy and to undertake a Cumulative Impact Assessment (CIA).

3. Background

Statement of Licensing Policy

- 3.1 The Licensing Act 2003 requires each local authority to publish a Statement of Licensing Policy and review it at least once every five years. This Statement must establish the principles to be applied when determining applications under the Act, such as applications for the sale/supply of alcohol, regulated entertainment and the provision of late night refreshment.
- 3.2 The Act specifies that in drafting and implementing the Policy, it must promote the four licensing objectives. These are:
- The prevention of crime and disorder.
 - Public safety.
 - The prevention of public nuisance.
 - The protection of children from harm.

- 3.3 Home Office Guidance issued under section 182 of the Licensing Act 2003 (the “Guidance”) provides local authorities with direction on the discharge of their functions under the Act. Licensing Authorities must have regard to the Act and the Guidance when preparing its Policy.
- 3.4 The Council first published its Statement of Licensing Policy (‘Policy’) in January 2005. This sets out the decision-making principles when licensing premises for alcohol, regulated entertainment and late night refreshment. Full reviews of the Policy took place in 2007 and 2010. A further review took place in 2013 to include a Special Policy Area (SPA) in Dalston that was introduced in January 2014. Further reviews took place in 2015 and 2017. The current iteration of the Policy became effective in August 2018.

Cumulative Impact Assessment

- 3.5 A CIA may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.
- 3.6 Section 5A of the 2003 Act sets out the steps a licensing authority needs to carry out in order to publish a CIA and review it, including the requirement to hold a public consultation. Any CIA published by a licensing authority must be summarised in its Policy.
- 3.7 There are currently two cumulative impact areas as set out in the Policy which are referred to as Special Policy Areas (SPAs). These apply to parts of Shoreditch and Dalston and require the applicant to demonstrate that the proposed activity and the operation of the premises will not add to the cumulative impact that is currently being experienced in these areas.

4. Proposed Timetable

- 4.1 The table below provides an outline of the timetable to implement the revised Policy.
- January- Draft Licensing Policy presentation to the Policy Steering Group.
 - 8 March 2023 - Draft Policy for consultation presented to the Licensing Committee.
 - March to May 2023 - Consultation on the draft Licensing Policy.
 - June/July 2023 - Licensing Committee recommends draft Licensing Policy for approval by Full Council.
 - June/July 2023 - Licensing Committee considers Cumulative Impact Assessment for consultation.
 - July 2023 - Full Council approves the Licensing Policy.

- 31 July 2023 - Licensing Policy comes into effect.
- September 2023 - Licensing Committee considers Cumulative Impact Assessment to be published following public consultation.
- October 2023 - Full Council considers Cumulative Impact Assessment to be published.

5. Comments of the Group Director of Finance and Corporate Resources

- 5.1 This report informs Members of the proposed review of the Licensing Policy and Cumulative Impact Assessment. There are no immediate financial implications. The activities leading up to the adoption of the Policy may have a financial impact, which will need to be met from within existing budgets.

6. Comments of the Director of Legal, Democratic and Electoral Services

Licensing Policy

- 6.1 The Licensing Act 2003 ('the Act') confers various powers to the Council when discharging the licensing functions for the sale and supply of alcohol, regulated entertainment and late night refreshment.
- 6.2 Part of the functions requires the Council to produce and review a Statement of Licensing Policy ('the Policy'). Section 5 of the Act now allows the Policy to be reviewed every 5 years, following the changes brought in by the Police Reform and Social Responsibility Act 2011 (PRSRA 2011).
- 6.3 The existing Policy came into force on 1 August 2018 and expires on 31 July 2023. The Council must have a revised Policy in place by 1 August 2023.
- 6.4 The Act does not set out any review processes to be adopted. It will be a matter for the Council to decide the process of review, unless further regulations are produced pursuant to Section 5(7) of the Act.
- 6.5 The drafting of any revised policy must be done in line with the Act and the Section 182 Government Guidance ('the Guidance').
- 6.6 Since the current policy took effect there have been a number of legislative changes affecting the Act. This must be reflected in any revised Policy where appropriate. Examples of the legislative changes that require the Policy to be updated include:
- Policing and Crime Act 2009.
 - Police Reform and Social Responsibility Act 2011.
 - Live Music Act 2012.
 - Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order
 - Licensing Act 2003 (Mandatory Conditions) Order 2014.
 - Immigration Act 2016.
 - Business and Planning Act 2020.

- 6.7 The revised Policy must also re-assess the Special Policy Areas (“SPAs”) in place and the need for any others. The Guidance allows for the adoption of an SPA where the evidence justifies that the licensing objectives around crime and disorder and public nuisance is, or will be, undermined due to the concentration of licensed premises in an area.
- 6.8 There is no maximum or minimum level of evidence needed to introduce an SPA.
- 6.9 Notwithstanding paragraph 6.8 above, the Guidance refers to good evidence which should provide a reasonable and rational decision for the adoption of any SPA within the borough.
- 6.10 Within the terms of reference for the Licensing Committee, it is the responsibility of the Licensing Committee to maintain an overview of the Council’s statement of licensing policies and recommendations to Full Council as appropriate during review.

Cumulative Impact Assessment

- 6.11 Under section 5A of the Licensing Act 2003 A licensing authority may publish a document (“a cumulative impact assessment”) stating that the licensing authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts.
- 6.12 A cumulative impact assessment must set out the evidence for the authority's opinion as set out in the assessment in accordance with subsection.
- 6.13 For the purposes of this section, “relevant authorisations” means—
- (a) premises licences;
 - (b) club premises certificates.
- 6.14 A cumulative impact assessment may relate to all relevant authorisations or only to relevant authorisations of a kind described in the assessment. Before publishing a cumulative impact assessment, the licensing authority must consult the persons mentioned in section 5(3).
- 6.15 For the purposes of the consultation, the licensing authority must provide the persons mentioned in section 5(3) with the following information—
- (a) the reasons why it is considering publishing a cumulative impact assessment;

- (b) a general indication of the part or parts of its area which it is considering describing in the assessment;
 - (c) whether it considers that the assessment will relate to all relevant authorisations or only to relevant authorisations of a particular kind.
- 6.16 Where a licensing authority publishes a cumulative impact assessment, it must, before the end of each relevant period, consider whether it remains of the opinion stated in the assessment. The relevant period is three (3) years beginning with the publication of the cumulative impact assessment or a revision of the cumulative impact assessment.
- 6.17 Before deciding whether it remains of that opinion, the licensing authority must consult the persons mentioned in section 5(3).
- 6.18 If the licensing authority is no longer of that opinion—
 - (a) it must publish a statement to that effect, and
 - (b) the duties in section 5(6D) and (6E) and subsection (7) of the Licensing Act 2003 cease to apply in relation to the assessment.
- 6.19 If the licensing authority remains of that opinion, it must revise the cumulative impact assessment so that it—
 - (a) includes a statement to that effect, and
 - (b) sets out the evidence as to why the authority remains of that opinion.
- 6.20 A licensing authority must publish any revision of a cumulative impact assessment.
- 6.21 This report is for informative purposes only in order to provide the Licensing Committee with relevant information on the Licensing Act 2003 (“the Act”) and an update on the work to review the Statement of Licensing Policy (“the Policy”) and the undertaking of a cumulative impact assessment. There are no further legal implications arising from this report.

Appendices

None

Exempt

Not applicable.

Background Papers

None

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