

**REPORT FOR: Licensing and General
Purposes Committee
(NON-EXECUTIVE)**

Date of Meeting: 25 January 2017

Subject: Revised Statement of Licensing Policy under
the Licensing Act 2003

Responsible Officer: Tom McCourt – Corporate Director
Community

Exempt: No

Wards affected: All Wards

Enclosures: Appendix 1 - Draft Statement of Licensing
Policy under the Licensing Act 2003
Appendix 2 - Consultation responses
Appendix 3 – Equality Impact Assessment

Section 1 – Summary and Recommendations

The Council in its capacity as the licensing authority for Harrow under the Licensing Act 2003 is required to publish and keep under a review a Statement of Licensing Policy (SLP). A proposed revised SLP is attached at appendix 1 for consideration.

Recommendations:

1. The Committee is requested to consider the draft SLP and consultation responses.
2. Subject to any comments or amendments, recommend the SLP to full Council for approval.

Section 2 – Report

- 2.1 As the licensing authority for Harrow under the Licensing Act 2003 (the Act) the council is responsible for licensing
- (a) the sale and supply of alcohol;
 - (b) regulated entertainment such as live and recorded music, performances of theatre, dance, cinema and indoor sports;
 - (c) the sale of hot food and drink between 11 pm and 5 am.
- 2.2 Members of the Licensing and General Purposes Committee form the Licensing Panels that hear applications under the Act. The Council acts as the full licensing authority in order to adopt the Statement of Licensing Policy (SLP) set out at appendix 1.
- 2.3 Under section 5 of the Act, a licensing authority must prepare a SLP which effectively sets out the principles they propose to apply in exercising their functions under the Act. It cannot be inconsistent with the provisions of the Act.
- 2.4 In exercising its' duties under the Act the licensing authority must act in accordance with the general principles of public administration, and is under a duty to promote the statutory objectives of preventing crime and disorder; preventing public nuisance; protecting public safety; and protecting children from harm.
- 2.5 It is a requirement that the authority reviews its SLP at least every five years. The current SLP was approved by full Council on 3 December 2015.
- 2.6 Officers have been able to review the Policy in more detail since the beginning of 2016, with the aim of producing a clearer, more consistent and concise Policy.
- 2.7 In drawing up the SLP the licensing authority must have regard to statutory guidance issued by the Secretary of State, and should indicate if the SLP departs from that guidance.
- 2.8 This edition of the SLP contains the following key changes from the current version:
- (1) greater detail of the context within which the SLP has been adopted
 - (2) measures the licensing authority may want to be considered in licensed premises in order to promote the licensing objectives
 - (3) an acknowledgement of the other duties the licensing authority is under including the Crime and Disorder Act 1998 and the Regulators' Code
 - (4) detail about the approach to be taken in specific circumstances such as

when licensing premises that might be attractive to children; commentary around the times that shops and supermarkets can sell alcohol alongside other goods; and when the licensing authority has to classify films for public viewing

(5) the approach to be taken when dealing with petitions and template (or “round robin”) letters about licence applications

(6) clarifying which licensing decisions are delegated to officers including classifying otherwise unclassified films;

(7) clarifying which decisions are delegated to Licensing Panels and officers including determining objections to new Community and Ancillary Sales Notices (when they are introduced) and whether community premises should be required to appoint a Designated Premises Supervisor for alcohol sales

(8) setting out the licensing authority’s indicative approach to contraventions under the Licensing Act 2003

(9) setting out guidelines for licensing panels to consider aggravating and mitigating factors when determining applications to review licences

Applying the SLP

- 2.9 The licensing authority receives approximately thirty applications for new premises licences, ten applications to vary licences, twenty applications to make minor variations, and two applications to review licences a year. The SLP will have the most direct impact on those applicants – most of whom are businesses – when (a) preparing their Operating Schedules that form part of their applications; (b) when responsible authorities or residents want to make representations about an application; (c) when developing appropriate conditions to be included in a licence; or (d) when a Licensing Panel is considering relevant representations as to whether or not a licence ought to be granted or varied.
- 2.10 In the majority of the cases referred to in the above paragraph the consideration of the factors set out at paragraph 6.3 of the policy will support members in considering applications before them but subject to ensuring the link to, and promoting, the licensing objectives. Any conditions or decisions arising from those factors must be reasonable, proportionate and appropriate to the licensing objectives and may be subject to appeal to the magistrates’ court.
- 2.11 Officers have developed a separate set of model conditions to ensure consistency when conditions are attached to licences, which is referred to in paragraph 9.1 of the SLP. The document setting out the conditions is not part of the SLP itself, allowing officers to update and amend it in light of changing circumstances and experience.
- 2.11 It is likely that the considerations in section 8 will only apply to very specific types of applications. Only paragraph 8.9 (child protection and safeguarding) seeks to impose additional and proportionate conditions in relation to risk

assessments at events for those under 18 and child protection policies in places where a premises is open after 11 pm or may be attractive to children.

Main Options

- 2.12 The options are limited as the requirement for such a policy is set out in the legislation, although there is considerable discretion as to the content of the statement.
- 2.13 The options (for the Licensing and General Purposes Committee) are to recommend the SLP to full Council as drafted or with amendments, or to not approve it. The latter is not recommended as the proposed Policy aims to bring greater simplicity and clarity to all to whom it will apply.

Consultation

- 2.14 In assisting to formulate the SLP, copies of the draft SLP were circulated to the police and the Public Health team. The draft revised SLP was publicly consulted on between 16 September 2016 and 3 October 2019, (which was subsequently extended to 9 December 2016) on the website and by way of written consultation with:
- (a) the “responsible authorities” under the Act – the Police, Fire Service, Public Health, Trading Standards, Local Planning Authority, Local Childrens’ Safeguarding Board and Environmental Health
 - (b) all premises in the Borough licensed under the Act
 - (c) licensed premises’ representatives such as solicitors and licensing agents
 - (c) residents’ and tenants’ associations.

Amendments to the draft policy

- 2.15 The results of the consultation and officers’ response are set out at appendix 2.
- 2.16 Officers believe the comments from Public Health relating to alcohol consumption add more to the policy context and should be included in an edited form as a new paragraph 3.3, and an additional factor should be added to the public safety objective in paragraph 6.3 to take into account:
- “Identifiable high levels of alcohol consumption in the vicinity of the premises that might be increased by the grant of an authorisation”
- 2.17 Two respondents commented on the proposed condition relating to planning permission at paragraph 7.6 Officers consider these comments have merit and as a result propose wording about issuing an informative to the premises licence holder as to the need to obtain appropriate planning permission.

- 2.19 The above amendments are highlighted in bold in the respective parts of the draft SLP.

Legal Implications

- 3.1 Section 5 of the Licensing Act 2003 requires a licensing authority in respect of each five year period to determine its licensing policy with respect to the exercise of its licensing functions and to publish this before the beginning of the period.
- 3.5 As noted earlier in this report, section 5(3) of the Act lists those persons that must be consulted by a licensing authority in relation to a proposed SLP. Section 5(4) of the Act requires an authority to keep its SLP under review and to make such revisions to it, at such times, as it considers appropriate, again subject to the same consultation requirements. The authority must publish a statement of the revisions (to the policy) or the revised SLP itself if revisions are made and approved.
- 3.6 The proposed SLP set out at appendix 1 will apply to applications made after the date it is adopted by the licensing authority, subject to any amendments.

4 Equalities Impact

- 4.1 Under section 149 of the Equality Act 2010, the Council (as a public authority) has a duty to have 'due regard' to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act,
 - advance equality of opportunity between persons with a protected characteristic and those without
 - foster good relations between persons with protected characteristics and those without.
- 4.2 The 'protected characteristics' are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation.
- 4.3 An initial Equalities Impact Assessment (EqIA), carried out in line with the Corporate Equalities Policy, established that there were no adverse impacts on any of the protected groups arising out of the proposed policy and a full (EqIA) is not required.
- 4.4 The EqIA did show the SLP may have positive impacts in terms of age, by proposing specific measures to prevent under-age sales and child protection measures.

5 Financial Implications

- 5.1 The costs of undertaking the statutory duties as a licensing authority are met within the budget of Public Protection.

6 Risk Management

- 6.1 The authority is required to publish a SLP at least every five years and to keep it under review. Where this is not achieved, the authority could face challenge by persons dissatisfied with decisions made in accordance with the existing policy.

Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

The Licensing Act 2003 is built around the four licensing objectives which are: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

Each objective is of equal importance and in promoting these objectives, it will make a difference to the most vulnerable, communities, families and businesses.

Section 3 - Statutory Officer Clearance

Name: Jessie Mann	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 4 January 2017		

Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 13 January 2017		

Ward Councillors notified:	No
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Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib (Principal Licensing Officer) Ext 7667

Background Papers:

Equalities Impact Assessment (Sept 2016) – Statement of Licensing Policy