

**Report for: Licensing and General
Purposes Committee**

Date of Meeting: 8 February 2023

Subject: Revised Statement of Licensing Policy
(Licensing Act 2003)

Responsible Officer: Dipti Patel - Corporate Director of Place

Exempt: No

Wards affected: All

Enclosures: Appendix A - Revised Licensing Policy
(Statement of Principles)
Appendix B – Revised 2022 Licensing
Policy Consultation responses
Appendix C – Equalities Impact
Assessment (EqIA)

Section 1 – Summary and Recommendations

The Council in its role as the licensing authority for Harrow under the Licensing Act 2003 ('the Act') is required to publish and keep under review a Statement of Licensing Policy. This report encloses the latest proposed Statement of Licensing Policy which has been revised since it was last approved by Council.

Recommendations:

The Licensing and General Purposes Committee is requested to:

1. Consider the revised Statement of Licensing Policy, the consultation responses, and the Equalities Impact Assessment, as set out in the appendices.
2. Subject to any comments or amendments, recommend the revised Statement of Licensing Policy to Council for approval.

Section 2 – Report

2.1 Background & Current Situation

It is the responsibility of a Licensing Authority to issue licences for premises seeking to carry out any licensable activity under the Licensing Act 2003. Any application must meet the requirements of the legislation, and the applicant must demonstrate they will promote and uphold the four licensing objectives. Responsible Authorities for the purpose of the Licensing Act are defined in Section 13 of the Act and includes the police, the fire authority, local planning authority etc. A Licensing Authority can authorise a variation to a licence, reject a licence application or issue a licence (amongst other responsibilities) and these functions should take into account the Licensing Policy as well as other provisions including the duty to promote the statutory objectives (preventing crime and disorder; preventing public nuisance; protecting public safety; and protecting children from harm).

Under Section 5 of the Licensing Act 2003, a licensing authority must prepare a statement of the principles (the policy) that they propose to apply in exercising their functions under this Act. The current Licensing Policy was published in 2017 and it is a requirement of the Licensing Act that the Authority reviews this at least before each successive period of five years. A review of the policy took place in 2017, and subsequently now in 2022.

The proposed policy is a refresh of the old policy with minor changes made to:

- Update the scheme of delegation
- Provide more information in relation to representations
- Provide more information relating to temporary events

- Removal & replacement of obsolete terminology and previous organisational names
- Amendments to grammar to allow for Policy to be more succinct.

The revised Statement of Licensing Policy attached to this report as Appendix A was under consultation for 28 days.

The responses to that consultation are attached to this report as Appendix B.

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.

2.2 Main Options

The London Borough of Harrow, as licensing authority, has a duty to prepare, consult and publish a statement of licensing policy (and to review) this at least every five years. Failure to approve this policy (with or without changes) could leave London Borough of Harrow susceptible to a challenge over the enforceability of the current policy and/or its failure to comply with statutory requirements.

The options (for the Licensing and General Purposes Committee) are therefore to recommend the proposed Statement of Licensing Policy to Council (as drafted, or with amendments), or to not do so. The latter is not recommended for the reasons stated above.

2.3 Consultation

A consultation on the proposed Licensing Policy took place for a period of 28 days.

The consultation was carried out in accordance with the Licensing Act 2003, which requires the licensing authority (under section 5) to consult the following on the policy statement or any subsequent revision to it:

- (a) the chief officer of police for the licensing authority's area,
- (b) the fire and rescue authority for that area,
- (ba) each Local Health Board for an area any part of which is in the licensing authority's area,
- (bb) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
- (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,

(e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and

(f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

This Authority consulted with the above, including a selection of premises carrying out licensable activities in Harrow,. Furthermore, the consultation and proposed licensing policy were published on the Council's website so that anyone who wished to comment could do so .

Responses to the consultation can be found in Appendix B.

2.4 Legal Implications

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.

As noted above, section 5(3) of the Act lists those persons that must be consulted by a licensing authority in relation to a proposed Statement of Licensing Policy and section 5(4) of the Act requires an authority to keep this policy 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 policy itself if revisions are made and approved. The proposed policy will apply after the date it is adopted by the licensing authority.

2.5 Equalities Impact

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.

The 'protected characteristics' are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation, and marriage and civil partnership.

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) was therefore not required.

2.6 Financial Implications

The cost of carrying out the duties under the Licensing Act will be met from within the service budget.

2.7 Risk Management

Risks included on corporate or directorate risk register? **No**

Separate risk register in place? **No**

The relevant risks contained in the register are attached/summarised below.
N/A

The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
Failure to approve a new Licensing Statement of Policy and/or for this not to occur within the relevant statutory periods could leave the authority susceptible to challenges.	<ul style="list-style-type: none"> ▪ Licensing Act 2003 and revised guidance on preparation of the Statement has been fully followed and complied with in the preparation of this Statement ▪ The current Licensing Statement of Policy was published in 2017 and once approved the revised policy will come into immediate effect in compliance with the Licensing Act 2003 which states that the Statement must be reviewed at least every five years. 	Green
Failure to fully consult with residents, businesses and relevant organisations in the borough affected by the Licensing Statement of Principles (Policy)	<ul style="list-style-type: none"> ▪ Consultation on the proposed Licensing Statement of Principles (Policy) took place in the borough for a period of 28 days ▪ The consultation was carried out in accordance with Guidance and under the Licensing Act 2003 ▪ Consultation undertaken included consultation with the Chief Officer of Police for the Harrow area, and a selection of local premises carrying out licensable activities in Harrow and also a selection of resident's associations. The consultation exercise and the proposed licensing policy have also been both published on the Council's website in advance of this decision for anyone to comment 	Green

2.8 Procurement Implications

There are no procurement implications associated with this Report.

2.9 Resource Implications

There are no resource implications associated with this Report.

Council Priorities

The Council priorities are:

- 1. A council that puts residents first**
- 2. A borough that is clean and safe**
- 3. A place where those in need are supported**

The policy will support well run and compliant premises, therefore helping to achieve safe Borough

The Licensing Objectives will be upheld by the policy, which are:

- Prevention of Crime & Disorder
- Prevention of a Public Nuisance
- Protection of Children from Harm
- Promoting Public Safety

Section 3 - Statutory Officer Clearance

Statutory Officer: Dawn Calvert

Signed by the Chief Financial Officer

Date: 06 11 2022

Statutory Officer: Paresh Mehta

Signed on behalf of the Monitoring Officer

Date: 23 1 2023

Head of Procurement: Nimesh Mehta

Signed by the Head of Procurement

Date: 07 11 2022

Head of Internal Audit: Susan Dixon

Signed by the Head of Internal Audit

Date: 07 11 2022

Chief Officer: Dipti Patel - Corporate Director of Place

Signed by the Corporate Director

Date: 07 11 2022

Mandatory Checks

Ward Councillors notified: No, as it impacts on all Wards

Section 4 - Contact Details and Background Papers

Contact: Ally Darwood, Team Leader Licensing,
Ally.Darwood@harrow.gov.uk

Background papers: None

Does the report include the following considerations?

- | | |
|-----------------|-----|
| 1. Consultation | YES |
| 2. Priorities | NO |