

## REVIEW OF LICENSING POLICIES

<b>Committee</b>	Licensing Committee
<b>Officer Contact</b>	Stephanie Waterford, Residents Services
<b>Papers with report</b>	Appendix 1 - Summary of changes to each policy Appendix 2 - Draft Street Trading Policy Appendix 3 - Draft Markets Policy Appendix 4 - Draft Statement of Licensing Policy Appendix 5 - Draft Statement of Gambling Policy
<b>Ward(s) affected</b>	All

### HEADLINE

To notify Committee Members on the current consultation taking place in relation to four key licensing policies and invite Members to make any comments in response.

### RECOMMENDATION

**That the Committee:**

- 1. Provide their comments on the draft policy documents, noting that they will set the framework for future Licensing Sub-Committee decisions;**
- 2. Request the Senior Manager, Democratic Services drafts the Committee's proposed response to Cabinet, subject to being circulated to Committee Members and final agreement by the Chairman and Labour Lead.**

### SUPPORTING INFORMATION

- 1.1 The Council is required to review its licensing policies at regular intervals to ensure that it is carrying out licensing functions in accordance with current legislation. During this review, consideration has been given to how changes might improve the way in which services are being delivered, to make them more efficient and customer friendly.
- 1.2 Draft policies have been produced for key pieces of licensing legislation. These policies now need to be consulted upon, prior to final consideration by Cabinet or adoption by full Council. An overview of each policy, and the reasons behind each review, are detailed below.

#### Street Trading Policy

- 1.3 The current policy was introduced in September 2011 and combined licensing processes for street trading activity and street markets. These are two distinct areas of licensing. The approval considerations and legalities are different and during the

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review of the current policy, it was decided to separate street trading and market licensing elements to provide a simpler approach and so more concise policy documents.

- 1.4 The review proposals seek to reduce administrative burdens on applicants and businesses by reducing application documentation to the minimum required by legislation.
- 1.5 In order to reduce administrative burdens on applicants and processing costs, it has also been proposed to licence street traders on a yearly basis, compared to the six-monthly basis under the current arrangements.
- 1.6 The draft policy is attached at appendix 2

#### Markets Policy

- 1.7 As detailed above, the Street Trading and Markets Policy has been split into two separate policies.
- 1.8 Changes are proposed for the layout, format and wording of this document in order to improve readability and to reduce jargon. However, overall, the provisions are not proposed to be changed substantially.
- 1.9 The draft policy is attached at appendix 3.

#### Statement of Licensing Policy

- 1.10 The Licensing Act 2003 controls sales of alcohol, regulated entertainment and late night refreshment. The Council is required by Section 5 of the Licensing Act 2003 to review the Statement of Licensing Policy every five years. Hillingdon's current policy was adopted by Full Council in January 2011 and is therefore due for review, and subsequent approval by January 2016, before it expires.
- 1.11 There have been a number of legislative changes under the Licensing Act, most notably, the deregulation of entertainment. This has been incorporated into the revised policy.
- 1.12 The draft policy is attached at appendix 4.

#### Statement of Gambling Policy

- 1.13 The Gambling Act 2005 regulates gambling activity such as betting shops, bingo halls and gaming machines. The Gambling Act 2005 requires the Council to review its Gambling Policy every three years. The last policy was adopted in January 2013 by Full Council and is therefore due for review and approval by January 2016, before it expires.
- 1.14 There has been little change to gambling legislation since 2013 and so very few changes are proposed to the policy. However, further changes to legislation are due to come into force next year. Once these are in place, a further review of the policy may be necessary.

1.15 The draft policy is attached at appendix 5.

## **Legal implications**

### Licensing Act Policy

- 1.16 The Council has a statutory duty under Section 5 of the Licensing Act 2003 to review and republish its Statement of Licensing Policy every 5 years. The Licensing Act 2003 also specifies that a consultation be held prior to adoption, including specifying statutory consultees. The current policy needs to be formally reviewed consulted upon and republished by the end of January 2016. Failure to do so will be a breach of the Council's statutory duty.
- 1.17 The draft revision of the Policy reflects changes in legislation and statutory guidance since the last statement was published, in particular the changes made by the Police and Social Responsibility Act 2011, and are also consistent with the current guidance issued by the Secretary of State under Section 182 of the 2003 Act. However, apart from these legislative updates and making the policy more “user friendly”, the Licensing Statement remains broadly the same.
- 1.18 The revised Statement of Licensing Policy is part of the Council’s policy framework under the Constitution and will need to be formally approved and adopted by both Cabinet and full Council prior to January 2016.

### Gambling Act Policy

- 1.19 The Council has a statutory duty under Section 349 of the Gambling Act 2005 to review and republish its Statement of Gambling Policy every 3 years. As is the case with the Licensing Act 2003, the Gambling Act also specifies that a consultation be held prior to adoption, including specifying statutory consultees. The current policy needs to be formally reviewed consulted upon and republished by the end of January 2016. Failure to do so will be a breach of the Council's statutory duty.
- 1.20 The draft revision of the Policy reflects changes in legislation and statutory guidance since the last statement was published, in particular the changes made by the introduction of Local Area Profiles and compulsory risk assessments by operators. However, apart from these legislative updates and making the policy more “user friendly”, this policy remains broadly the same.
- 1.21 The legislation requires that the revised Statement of Gambling Policy should be formally approved and adopted by both Cabinet and full Council prior to January 2016. The revised policy is in draft form and may be amended subject to responses during the consultation period. Further regulations and procedures with regard to Local Area Profiles will become operative from May 2016. This may result in a further review of the policy in 2016.

### Street Trading Policy

- 1.22 The London Local Authorities Act 1990 (as amended) requires that a public consultation be held for a minimum of 28 days before a draft policy can be adopted

as a final policy. The legislation specifies that details of the consultation should be published in the form of a notice in both the London Gazette and a local newspaper. The proposed policy is in draft form and may be amended subject to responses during the consultation period.

### Markets Policy

- 1.23 The Food Act 1984 does not require a policy to be adopted. As such general principles of consultation should be followed in respect of this policy. Consultation must be undertaken when proposals are still at a formative stage, must give sufficient reasons to permit the consultee to make a meaningful response, must allow adequate time for consideration and response, and the results of the consultation must be conscientiously taken into account in finalising any proposals.
- 1.24 It is noted that this draft policy was previously part of a joint Street Trading and Markets Policy. As such consultation in line with the Street Trading Policy would be suitable in this case. This draft revision, to create a separate policy for Markets, accords with the requirements of the legislation.

### **Timetable**

- 1.25 The proposed timetable for policy implementation is set out below:

24 <sup>th</sup> September 2015	Draft Policies agreed by Cabinet
5 <sup>th</sup> October to 20 <sup>th</sup> November 2015	Public & Statutory consultation period.
15 <sup>th</sup> October 2015	RESPOC
15 <sup>th</sup> October 2015	Licensing Committee
17 <sup>th</sup> December 2015	Final set of proposed policies to Cabinet post-consultation (Street Trading and Market Policies may be approved by Cabinet at this meeting)
14 <sup>th</sup> January 2016	Statements of Licensing and Gambling Policies considered at Full Council

### **Financial Implications**

None at this stage.

### **Background Papers / Further Reading Material**

Current Street Trading & Markets Policy  
Current Statement of Licensing Policy  
Currently Gambling Policy