

STATEMENT OF LICENSING POLICY FOR CONSULTATION

Cabinet Member(s)	Councillor Douglas Mills
Cabinet Portfolio(s)	Community Commerce and Regeneration
Officer Contact(s)	Daniel Ferrer, Residents Services
Papers with report	Overview of proposed policy changes - Appendix A Draft Statement of Licensing Policy - Appendix B (circulated separately) Equality Impact Assessment - Appendix C (circulated separately)

1.0 HEADLINE INFORMATION

Summary	<p>The Council's Statement of Licensing Policy is being reviewed, in accordance with legislative requirements and the Council's objectives. This report seeks Cabinet approval to undertake a six week public consultation on the updated draft of this Policy.</p> <p>The Statement of Licensing Policy is deemed as 'Policy Framework' under the Council's constitution and so requires approval by full Council.</p>
Putting our Residents First	This Policy contributes to the Council's key objectives of: Our People; Our Built Environment; Our Heritage and Civic Pride.
Financial Cost	The resources required for the consultation can be met from existing budgets.
Relevant Policy Overview Committee	Residents', Education and Environmental Services
Relevant Ward(s)	All

2.0 RECOMMENDATIONS

2.1 That the Cabinet:

- a) **Agrees to a public consultation for the draft Statement of Licensing policy to take place between 5th October 2020 and 22nd November 2020.**
- b) **Notes that a further report will be submitted to Cabinet, post consultation, highlighting any consultation responses for Cabinet to consider for inclusion in the final policies.**
- c) **Notes that the Statement of Licensing Policy will be referred to the full Council for final adoption.**

Reasons for recommendation

- 2.2 The review of the Statement of Licensing Policy and the accompanying consultation support effective and efficient delivery of licensing functions, in accordance with legislation and the Council's objectives, and allow for stakeholder views to be taken into account.

Alternative options considered / risk management

- 2.3 To not review the Policy nor undertake a consultation. If the policy was not reviewed and consulted on as required then the Council would not meet its statutory obligations in this respect and legal challenges may follow.

Policy Overview Committee comments

- 2.4 None at this stage, comments will be sought during the consultation process.

3.0 SUPPORTING INFORMATION

- 3.1 The Council is required to review its Licensing Policy at regular intervals to ensure 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.
- 3.2 A draft Statement of Licensing Policy has been produced. This Policy now needs to be consulted upon, prior to final consideration by full Council. An overview of this Policy and the reasons behind the review are detailed below.

Statement of Licensing Policy

- 3.3 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 2016 and is therefore due for review, and subsequent approval by January 2021, before it expires.
- 3.4 There have been some legislative changes under the Licensing Act, This has been incorporated into the revised policy.
- 3.5 Relevant appendices are:

An overview document detailing the proposed changes is attached at Appendix A. The draft policy can be found at Appendix B and the Equality Impact Assessment can be found at Appendix C. Appendix B and C have been circulated separately.

Financial Implications

- 3.6 The consultation on the draft policy has no direct financial implications. The resourcing of the consultation process can be met from existing budgets.

4.0 RESIDENT BENEFIT & CONSULTATION

- 4.1 The recommendations will give residents and businesses the opportunity to provide feedback to the Council on the proposed policy through the consultation process.
- 4.2 This report requests Cabinet approval for a public consultation on the policy. Following approval by Cabinet, the policy may be considered by the Licensing Committee, sub-committees of which make licensing decisions with reference to the policy.
- 4.3 As a policy framework document, the Residents', Education and Environmental Services Policy Overview Committee (REESPOC) will have the opportunity to submit comments on the policy prior to resubmission to Cabinet for consideration of responses received.
- 4.4 The draft policy will be sent to statutory consultees, Members of the Authority and any person on request. The draft policy will also be displayed on the Council's website. It is anticipated that Cabinet will be advised of the outcome of the consultations and presented with proposed final drafts of the policies at its December 10th 2020 meeting.

5.0 CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed the report and concur with the Financial Implications set out above, noting that there are no financial implications arising from the report recommendations.

Legal

The Borough Solicitor confirms that the legal implications are included in the report. Further, more detailed legal advice will be given as necessary when the outcome of the Consultation is reported back to Cabinet.

6.0 BACKGROUND PAPERS

Current Statement of Licensing Policy
Revised Government Guidance issued by the Home Office under Section 182 of the
Licensing Act 2003 - last updated 24 April 2018

Appendix A - Overview of proposed policy changes

Draft Statement of Licensing Policy

The Council is required by the Licensing Act 2003, to review the Statement of Licensing Policy every five years. The current policy was revised in 2016 and adopted by Full Council in January 2016.

There have been a number of changes in legislation, most notably the introduction of the Immigration Act 2016 and significant legislation related to the Coronavirus Pandemic in 2020. In addition, case law and updated Government guidance is also constantly influencing the interpretation of the legislation and shapes the way in which the Licensing Authority makes its decisions.

This policy relates to the Licensing Act 2003 only, which regulates alcohol sales, regulated entertainment and late night refreshment.

There are a number of changes to the layout and format of the policy document in order to make the document easier to read. Additional sections have also been included.

The Policy additions and changes are as follows:

Front Page

Amendment of relevant dates.

Contents Page

New sections have been added which include: 6. Partnership Working and Initiatives , 8. Immigration Act, 9. Modern Day Slavery and 24. Mobile, Remote and Internet Sales. Amendments have been made to section 7 from “Promotion of Equality” to “Equality Duty”. Therefore, there is a renumbering of the contents page.

Section 1 - Introduction & Background

1.2 has been updated for approximate figures for premises licences and personal licences.

Section 2 - Policy Statement

Addition at 2.4 to clarify when the Section 182 Government Guidance was last updated. Addition of 2.6 to state that the Licensing Authority may depart from this Policy in some circumstances but must give the reasons why.

Section 3 - Consultation

Addition to list at 3.1 of the Home Office - Immigration.

Section 4 - General Principles and the Role of the Licensing Authority

Minor amendment at 4.2 to clarify that conditions attached to premises licences or club premises certificates will relate to the licensing objectives.

Section 5 - Integration of Strategies and Avoidance of Duplication

Addition at 5.2 to clarify that conditions will be attached where “appropriate, reasonable and proportionate”. At 5.4 an updated list of pieces of legislation that the licensing authority should be mindful of to avoid duplication.

Section 6 - Partnership Working and Initiatives

This is a new section to highlight the importance of collaboration with other relevant authorities and recognition of valuable initiatives such as Pubwatch schemes, Business Improvement Schemes, Best Bar None and Purple Flag.

Section 7 - Equality Duty

This section has been retitled from “Promotion of Equality” and parts 7.1, 7.2 and 7.3 have been provided to stress that any Public Authority must now exercise its functions consistent with the Equalities Act 2020.

Section 8 - Immigration Act

This is a new section that takes into account the Immigration Act which came into force in 2016. 8.1 to 8.4 provides details of the main requirements for licence holders to have the right to work and the implications where they do not,

Section 9 - Modern Day Slavery

This is a new section that acknowledges the Modern Day Slavery Act 2015. 9.2 summarises the practical ways that the licensing authority can prevent modern day slavery whilst carrying out its licensing functions.

Section 10 - Licensing Objectives - The Prevention of Crime and Disorder

This section was previously at Section 7. Minor changes at 10.6 to amend phrases, “objections” to “representations” and “necessary” to “appropriate”. This follows updates to the Act to change the test from necessary to appropriate. The original paragraph at 7.12 has been deleted which concerns the reference to Form 696. This has now been replaced with a paragraph at 10.13 advising applicants to still carry out a thorough risk assessment. This is because Form 696 was scrapped in November 2017. 7.14 has been deleted in full as the subject of Pubwatch schemes has now been inserted at 6.2 under the new section, “Partnership Working and Initiatives”.

Section 11 - Licensing Objectives - Public Safety

This is a duplication of Section 8 of the current policy. The wording remains unchanged.

Section 12 - Licensing Objective - The Prevention of Public Nuisance

This section was previously at section 9. An additional sentence at 12.1 has been added to state that outside customers and the dispersal of customers may give rise to public nuisance issues. Additional bullet point at 12.4 has been inserted which concerns relevant signage being displayed prominently at the premises.

Section 13 - Licensing Objectives - Protection from Children from Harm

Renumbering of section as this was previously section 10. An additional paragraph has been submitted at 13.12 to confirm our expectations that all refusals for the sale of alcohol shall be recorded in a refusals log or incident log book. Furthermore, that this log shall be made available to the Police or authorised officers of the Council.

Section 14 - Public Health & Licensing

Renumbering of this section as this was previously section 11. The previous section 11.2 has been deleted and insertion of new paragraphs 14.2, 14.4 and 14.5 to reflect and be consistent with the Section 182 Government Guidance.

Section 15 - Licensing Committee

Renumbering of this section as this was previously section 12. The wording of this section remains unchanged.

Section 16 - Authorisations and Applications

Renumbering of this section as this was previously section 13. Minor additions have been submitted at 16.5 to clarify circumstances when an application may be returned to an applicant. For example, an incomplete operating schedule and also where regulations concerning Plans are not fully met. More information is provided at 16.13 to clarify the role of the Designated Premises Supervisor.

Section 17 - Representations

Renumbering of this section as this was previously section 14. 17.2 has been slightly amended to clarify the position of interested parties and to take account of the removal of the vicinity test. Inclusion of new paragraphs 17.4-17.8 to be consistent with the Section 182 Government Guidance regarding the position of the licensing authority.

Section 18 - The Role of the Ward Councillor

Renumbering of this section as this was previously section 15. Minor amendments found at 18.2 and 18.3 to clarify that Ward Councillors may initiate Review proceedings and that individual Councillors may publicise an application in addition to the applicant advertising their application. Further clarification is added at 18.5 to confirm that Ward Councillors may make a representation in writing to the Head of Service and that this representation shall also be forwarded to the Licensing Authority. 18.6 has been added to clarify that Councillors must not be members of the licensing sub-committee where they have been involved in campaigning about a particular application.

Section 19 - Decision Making and Licensing Hearings

Renumbering of this section as this was previously section 16. 19.1 has been amended to clarify that where there are no representations against an application then the licence will be granted under delegated authority with conditions attached to it that are consistent with the operating schedule. 19.2 has been added to take into account mediation between the applicant, licensing authority and other responsible authorities. 19.7 to 19.12 are new paragraphs and have been added to highlight general principles such as Members following their codes of conduct, ensuring no biasness, rules of natural justice and parties given a full and fair hearing. 19.8 makes reference to hearings being recorded on the Council's YouTube channel. A minor addition has been added at 19.13 to confirm that a Decision Notice will be sent out to all parties.

Section 20 - Licence Conditions

Renumbering of this section as this was previously section 17. 20.2 is a new paragraph and has been added to confirm that where measures are proposed in the operating schedule by the applicant, then these will become conditions of the licence and will be consistent with the

operating schedule. An additional sentence has been added at the bottom of 20.3 to clarify that the licensing authority shall only impose conditions that are appropriate, proportionate and determined on a case by case basis.

Section 21 - Enforcement

Renumbering of this section as this was previously section 18. 21.1 to 21.5 are new paragraphs and have been added to clarify the licensing authority's expectations of licence holders or premises uses once their authorisations have been granted. Furthermore these paragraphs detail how the licensing authority will inspect, check and ensure compliance. 21.7 to 21.9 contain minor amendments and make reference to current enforcement policies and codes.

Section 22 - Reviews

Renumbering of this section as this was previously section 19. Minor amendment to 22.6 has been made to confirm that the licensing authority will publish a Notice concerning Reviews on the Council's website in accordance with the 2003 Act. Additional information has been provided at 22.8 in relation to Expedited Reviews and interim steps, specifically that they can be made by the licensing sub-committee via telephone or other remote means. Further clarification has been added at 22.9 to confirm that the licensing authority must hold a full Review within 28 days from the date when the Expedited Review application was submitted.

Section 23 - Cumulative Effect

Renumbering of this section as this was previously section 20. The wording of this section remains unchanged.

Section 24 - Mobile, Remote and Internet Sales

This is a new section. Paragraph 24.1 to 24.5 have been added to provide information on how the licensing authority will deal with these types of applications and reflects the Section 182 Guidance.

Section 25 - Licensing Hours

Renumbering of this section as this was previously section 21. The wording of this section remains unchanged.

Section 26 - Exemptions

Renumbering of this section as this was previously section 22. The wording of this section remains unchanged.

Appendix A - Licensing Functions

The wording of this section remains unchanged.

Appendix B - Prevention of Crime & Disorder

Deletion of the first bullet point regarding capacity limits as this will now be located in Appendix C - Public Safety. Additional details and measures have been added to this list which include the following: Publicising permitted times for licensable activities, CCTV, incident logs and having a personal licence holder on duty at the premises. It should be noted that information at the end of this Appendix concerning Form 696 has been deleted. This is because these forms were scrapped in November 2017 as previously stated in the main body of the Policy at Section 10 - Licensing Objectives - Prevention of Crime & Disorder.

Appendix C - Public Safety

Additional examples have been added to the list at the start of this Appendix. These include: capacity limits (moved from Appendix A), clear and unobstructed escape routes, approved safety arrangements and measures related to outside drinkers and smokers.

Appendix D - Prevention of Public Nuisance

The wording of this section remains unchanged.

Appendix E - Protection from Children from Harm

The wording of this section remains unchanged.

Appendix F - Responsible Authorities

This table has now been updated to provide the current contact details for the responsible authorities. In addition, the Home Office - Immigration has been added.

Appendix G - Mandatory Conditions

The wording of this section remains unchanged.

Annex A - Ward Councillors making representations

Further information added here to clarify that representations shall be forwarded to the Licensing Authority and that it should address the licensing objectives. This issue has also been added to the main body of the Policy at 18.5.