

# STATEMENT OF LICENSING POLICY

<b>Cabinet Member(s)</b>	Councillor Douglas Mills
<b>Cabinet Portfolio(s)</b>	Community Commerce and Regeneration
<b>Officer Contact(s)</b>	Daniel Ferrer, Residents Services
<b>Papers with report</b>	<b>Appendix 1</b> – Statement of Licensing Policy Consultation Response Summary <b>Appendix 2</b> – Statement of Licensing Policy for recommendation to Council

## 1.0 HEADLINE INFORMATION

<b>Summary</b>	<p>The Statement of Licensing policy has been reviewed in accordance with legislative requirements and the Council's objectives.</p> <p>The formal consultation period commenced on 5<sup>th</sup> October 2020 and ended on 22<sup>nd</sup> November 2020.</p> <p>This report seeks a recommendation to be made to full Council for the adoption of the updated Statement of Licensing Policy which is deemed as 'Policy Framework'.</p>
<b>Putting our Residents First</b>	This Policy contributes to the Council's key objectives of: Our People; Our Built Environment; Our Heritage and Civic Pride.
<b>Financial Cost</b>	There are no additional costs to the Council in respect of approving the Statement of Licensing Policy.
<b>Relevant Policy Overview Committee</b>	Residents', Education and Environmental Services
<b>Relevant Ward(s)</b>	All

## 2.0 RECOMMENDATION

- 2.1 That Cabinet considers the consultation responses and recommends to full Council the updated Statement of Licensing Policy in Appendix 2 for adoption.**

### Reasons for recommendation

- 2.2 Relevant stakeholders have been consulted and feedback has been incorporated in the proposed version of the Statement of Licensing Policy.

### Alternative options considered / risk management

- 2.3 To not make a recommendation for the adoption of the Statement of Licensing Policy would mean the Council would not be able to meet its statutory obligations and legal challenges may follow.

## 3.0 SUPPORTING INFORMATION

- 3.1 The Council is required to review its Statement of 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 revised draft Statement of Licensing Policy has been produced. This has been consulted upon and the consultation has now closed. Consultation responses have been summarised and appear in Appendix 1 of this report.

A number of typographical errors have been identified during the consultation. These have been amended and any proposed amendments resulting from the consultation to the draft policies have been included in the appendices.

Appendices to this report are:

- **Appendix 1** - Statement of Licensing Policy – Consultation Response Summary,
  - **Appendix 2** – Updated Statement of Licensing Policy following consultation.
- 3.3 This Policy has been subject to an Equalities Impact Assessment, previously considered by the Cabinet.

## 4.0 RESIDENT BENEFIT & CONSULTATION

- 4.1 The revised Statement of Licensing Policy has been drafted to include updates in legislation and reflect current working practices. This will provide residents and service users with up to date and fit for purpose policy documents.

### Consultation Carried Out or Required

- 4.2 The public consultation was carried out between 5<sup>th</sup> October 2020 to 22<sup>nd</sup> November 2020. The consultees included statutory consultees, partner authorities and agencies, residents and businesses. The consultation was also featured on the Council's website.

A total of three responses were received from:

- Northwood Residents Association
- Hayes Town Partnership
- Eastcote Conservation Panel & Eastcote Resident's Association

These responses have been summarised in Appendix 1.

### **Comments from the Licensing Committee**

- 4.3 The Licensing Committee met on 14<sup>th</sup> October and noted that these updates were not major or significant changes to the Statement of Licensing Policy. Members raised comments concerning the reference to Business Improvement Districts, Best Bar None and Purple Flag initiatives in Section 6. Also, clarification of “agreed problem and high-risk premises” stated at 21.3 in the Enforcement Section was required. These comments and responses are detailed in Appendix 1.

### **Policy Overview Committee & Members' comments**

- 4.4 In accordance with the Council's Constitution, the policy framework documents were considered by the Residents', Education & Environmental Services Policy Overview Committee on 15 October 2020. Following the meeting, Members submitted a number of written comments and queries. These have been included in Appendix 1 together with their responses. Members have indicated that they are satisfied with the proposed amendments and responses.

## **5.0 CORPORATE CONSIDERATIONS**

### **Corporate Finance**

- 5.1 Corporate Finance has reviewed this report and notes that there are no material financial implications associated with implementation of the revised Statement of Licensing Policy attached to this report. No amendments to the cost of licences for individual businesses or the overall income receivable by the Council are expected to arise from these amended Policy.

### **Legal**

- 5.2 In accordance with the requirements of the relevant legislation and as previously authorised by the Cabinet on 24 September 2020, the Council conducted a formal consultation for the draft Statement of Licensing Policy as detailed in the body of this report.
- 5.3 Decision-makers must ensure there is full consideration of all consultation responses including those which do not accord with the draft policies proposed by officers. Cabinet Members must be satisfied that responses from consultees are conscientiously taken into account when recommending the Statement of Licensing policy to full Council for adoption

- 5.4 Legal Services have reviewed the revisions to the draft policies as detailed in the report and appendices and there are no legal implications that need to be brought to the specific attention of the Cabinet.
- 5.5 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. Pursuant to this statutory time frame, the Cabinet is advised that the current Statements of Licensing Policy will expire in January 2021.

## 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

Report to Cabinet – 24<sup>th</sup> September 2020

Equalities Impact Assessment – Cabinet 24 September 2020

## Appendix A – Statement of Licensing Policy – Consultation Response Summary

<b>Response received from Licensing Committee</b>	
<b>Comments</b>	<b>Outcome &amp; Proposed Amendment</b>
Section 6 – ‘Partnership Working & Initiatives’ Members asked for more information to be included for Business Improvement Districts (BID’s) at 6.4, Best Bar None at 6.5 and Purple Flag at 6.7. Suggestion for hyperlinks to be included.	Proposed changes included
Section 21 – ‘Enforcement’ - Members asked for clarification in relation to 21.3 which states, “agreed problem and high risk premises”.	Proposed changes included and 21.3 updated to add wording:  “Factors to be taken into account when determining whether a premises is considered high risk or not include: the history of compliance from pro-active licensing inspections, history of complaints, information or referrals from Responsible Authorities and confidence in management at the premises.”

<b>Responses received Residents’, Education &amp; Environmental Services Policy Overview Committee and Members afterwards</b>	
<b>Comments</b>	<b>Outcome &amp; Proposed Amendment</b>
2.6 states, “Determining and publishing a statement of its policy is a licensing function and so the Licensing Authority must have regard to the Guidance issued under Section 182 of the Act. The Licensing Authority may depart from this policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. However, if this done then the Licensing Authority shall give full reasons for departing from its policy.”  Should there be a review of these decisions, and if so, who should review these decisions?	No amendments to be made.  Response provided:  In practice we do not expect the Licensing Sub-committee to regularly make decisions that depart from the Policy. However, if it is felt that it is appropriate in unique occasions to promote the licensing objectives then this allows the LSC scope to do so. These decisions are checked and reviewed at the time of the formal decision by the legal adviser to ensure that these decisions are appropriate, reasonable and proportionate. If there was a complaint made by the applicant about any such decision then ultimately the Magistrates Court would review this decision.

<p>7.6 continues, “merit such a decision in the interests of the promotion of the licensing objectives. However, if this done then the Licensing Authority shall give full reasons for departing from its policy.”</p> <p>Please check the gramma of the last sentence. “However, if this done...”</p>	<p>Proposed change included.</p>
<p>7.3 states, “This Policy has been subject to an Equalities Impact Assessment and it does not have an adverse effect on equality issues”.</p> <p>Suggest re wording this, as rather blunt, and leaves us open. Suggest: “Local Authority has considered the Equality and Diversity issues that may arise from this policy. The Local Authority considers that this policy does not raise any concerns with regards to equality and diversity.”</p>	<p>Proposed change included.</p>
<p>8.2 states, “Where an individual holding a Premises Licence within the Borough ceases to be entitled to work in the United Kingdom on or after 6th April 2017, the Premises Licence lapses immediately, and will lapse completely unless transferred or an Interim Authority lodged within 28 days”</p> <p>Within 28 days of what?</p>	<p>Response: 28 days from when the individual’s right to work came to an end.</p> <p>This has now been amended to clarify this point.</p>
<p>10.12 states, The Licensing Authority recommends the Metropolitan Police Promotion / Event Risk Assessment Form 696 and the After Promotion / Event Debrief Risk Assessment Form 696A as useful and effective tools for this purpose. ...(N.B Form 696 scrapped in Nov. 2017</p> <p>This point is not required in the final version.</p>	<p>Proposed change included. Section 10.12 deleted.</p>
<p>10.13 The Licensing Authority strongly encourages applicants to carry out a detailed and thorough risk assessment when carrying out promotions or events. Where the risk assessment identifies significant risks for an event or promotion then the Licensing Authority would normally expect the applicant to consult with the Police and the Licensing Authority.</p> <p>What happens if the applicant refuses to or does not consult with the police or the Licensing Authority?</p>	<p>No amendment required. Response provided:</p> <p>Then the Police and the Licensing Authority could potentially look at formally Reviewing the Premises Licence where they felt the licensing objectives were not being fully promoted. Equally, the Responsible Authority responsible for the functions</p>

	for Health & Safety could consider Review proceedings.
<p>10.15 The Council recognises that effective Pub Watch schemes can contribute greatly to the prevention of crime and disorder objective in licensed premises. (Now dealt with in 6.2)</p> <p>This point is not required in the final version.</p>	<p>This section has now been deleted as it is covered in 6.2.</p>
<p>12.4 states, “Licensees will take all reasonable steps to discourage smoking on the public highway close to residential premises, particularly after 10pm. This could include measures such as a ban on customers taking drinks outside on to the public highway”.</p> <p>Should this not be standard? Surely we do not permit drinks purchased from a licensed premises to be consumed on public highway</p>	<p>No amendment required. Response provided :</p> <p>This will depend on the individual premises licence for the premises. Most of the premises who have submitted variations to their licence since the 2003 Act came into force will have conditions and controls that deal with this issue. However, there will be some premises that will not formally have these conditions placed on them and still retain a licence that was converted since the original 1964 Act. These licences will be silent on the matter.</p> <p>In practice, most responsible operators will take these reasonable steps to promote the licensing objectives of Public Safety and Prevention of Public Nuisance and take the appropriate steps as standard. The issue of outside drinking tends to arise in the summer.</p>
<p>13.12 states, “It is expected that all refusals of alcohol shall be recorded by the operator in a Refusal or Incident Log. This Log should be made available for inspection to a Police Officer or authorised officer from the Local Authority.”</p> <p>Is this feasible?</p> <p>Spelling mistake on last sentence.</p> <p>Should the words ‘On Demand’ be added to the last sentence.</p>	<p>Response provided:</p> <p>Yes, I believe so. A responsible operator should record all refusals and this will be mandatory where they have a specific condition on their licence.</p> <p>Spelling mistake on last sentence has been amended.</p> <p>The words, “when requested to produce it” have been added to 13.12.</p>



<p>14.4 states, “Public Health may record data where intoxication of patrons at specific premises has led to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. This information can be relevant to the public safety and crime and disorder objectives.”</p> <p>First sentence, add the words ‘including those’ between violence, resulting in. Also consider adding nuisance to this point.</p>	<p>Proposed change made.</p>
<p>14.5 states, “The Licensing Authority recognises the potential for Public Health to participate in the licensing process in relation to the protection of children from harm. This objective concerns the physical safety of children and also their moral and psychological wellbeing. Public Health may be able to present evidence relating to under 18’s alcohol- related emergency department attendance, hospital admissions and underage sales of alcohol linked to a specific premises and their practices.”</p> <p>Last sentence does not make sense. Perhaps the last 2 words should read Licensed Premises and not premises licences.</p>	<p>Proposed change made</p>
<p>17.6 states, “Where the Licensing Authority does act as a responsible authority and wishes to submit a representation, they may do so by assessing the application, visiting the premises if they feel it is appropriate to do so and look at the potential impact the application will have on the Licensing objectives. In addition, the Licensing Authority shall review their records to check the history of the premises and confidence in management and the level of compliance with conditions attached to the premises licences.”</p> <p>Last sentence does not make sense. Perhaps the last 2 words should read Licensed Premises and not premises licences.</p>	<p>Response:</p> <p>The last sentence has been amended to read,</p> <p>“In addition, the Licensing Authority shall check the history of the premises, assess the level of confidence it has with management and the compliance with conditions of the licence.”</p>
<p>18.6 states, “Councillors must not be members of the licensing sub-committee if they are involved in campaigning about the particular application”</p> <p>Surely, this should read Councillors must declare an interest and not be involved in the item.</p>	<p>Proposed change made to para. 18.6 to clarify.</p>



<p>19.9 states, “It is important for the licensing authority and its committee to ensure that there is neither actual nor an appearance of bias in its decision-making”</p> <p>Consider amending the wording to incorporate decisions made where a bias is unforeseen.</p>	<p>Response:</p> <p>This has been considered and wording has been amended to:</p> <p>“It is important for the licensing authority and its committee to ensure that there is no unforeseen biasness in its decision- making”</p>
<p>20.3 states, “Conditions imposed by the Licensing Authority shall be appropriate, proportionate and should be determined on a case-by-case basis.”</p> <p>Missing word, Reasonable. As per 5.2, page 4</p>	<p>Proposed change has been made.</p> <p>This has been amended to add the word, “reasonable” as suggested.</p>
<p>21.1 states, “The Licensing Authority expects all responsible licence holders to adhere to conditions attached to their premises licence and to fully promote the licensing objectives. This is also expected from holders of Club Premises Certificates, users of Temporary Event Notices and Personal Licence holders of the Borough.”</p> <p>What is the difference between a responsible licence holder and a licence holder? Suggest removing the word “responsible”.</p>	<p>Proposed change has been made.</p>
<p>21.5 states, “It is a criminal offence under section 136 of the 2003 Act to carry on any of the licensable activities other than in accordance with a licence or other authorisation under the 2003 Act. <b>It is also an offence for a person to knowingly allow the licensable activity to be carried on.</b> The fine for this offence is unlimited. The local authority, the Police and other authorised persons under the Act have powers to take action in relation to premises carrying on unauthorised activities.”</p> <p>Does not make sense. The wording in bold requires rewording.</p>	<p>Proposed change has been made.</p> <p>Sentence now amended to read,</p> <p>“It is also an offence for a person to knowingly carry out this unauthorised licensable activity.”</p>
<p>12.41 states, “The Licensing Authority may receive applications for the sale of alcohol where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract. This situation occurs when sales are made online, by telephone, or mail order. The sale of alcohol is to be treated as taking place where the</p>	<p>The first sentence has been amended to read,</p> <p>“The Licensing Authority may receive applications for the sale of alcohol where payment is not necessary taken at the same place where the</p>

<p>alcohol is appropriated to the contract. It will be the premises at this location which need to be licensed.”</p> <p>The first sentence does not make sense around the wording takes place.</p>	<p>alcohol is appropriated to the contract.”</p>
<p>24.3 states, “Operators who run premises providing ‘alcohol delivery services’ should advise the licensing authority that they are operating such a service in their operating schedule. This ensures that the licensing authority can properly consider what conditions are appropriate to attach to their premises licence.”</p> <p>Ambiguity on the last sentence, who’s licence?</p>	<p>The applicant.</p> <p>Therefore, the word “their” has been replaced by “the applicant’s”</p>

<b>Response received from Northwood Residents Association</b>	
<b>Comments</b>	<b>Outcome &amp; Proposed Amendment</b>
<p>I am happy with the amendments.</p> <p>One suggestion - the closing time should be earlier where the Licence is to be granted in a substantially residential road. For instance, High Street, Northwood where the entire opposite side of the road is residential, compared to Green Lane where both sides of the road are shopping, albeit with flats over.</p> <p>This is on the basis of noise and the like when customers leave the restaurant late at night.”</p>	<p>No amendments or changes to be made as matter dealt with in Section 20, Licensing Objectives – The Prevention of Public Nuisance”. In particular 12.7 states that “Applications referred to the Licensing Sub Committee will be determined on the individual merit of each case”.</p>

<b>Response received from Hayes Town Partnership</b>	
<b>Comments</b>	<b>Outcome &amp; Proposed Amendment</b>
<p>Overall the Policy is very comprehensive and has stood the test of time. There are therefore no observations on the general provisions and comments are limited to matters of detail as set out below:</p> <p><u>Shisha</u></p> <p>The new section 12 on Prevention of Public Nuisance makes reference in various paragraphs to the steps that need to be taken to minimise the nuisance from smoking outside the premises. The availability of</p>	<p>Response to be made. Shisha is not a licensable activity under the Licensing Act 2003. It is more appropriate for Shisha to dealt with by the Health Act 2006.</p>



shisha in licensed premises raises a slightly different set of issues but experience in Hayes suggests that this practice may well grow and it is considered that there would be benefit in spelling out the duties of the licence-holder in relation to the management of shisha smoking.

#### Training of staff

The new section 13 on the Protection of Children from Harm emphasise the importance of training staff on the proof of age policy. This is welcomed but it raises the question about whether there should be a more general provision elsewhere in the policy about the importance of training on other subjects such as the prohibition on the sale of alcohol to drunks. This has been an issue in Hayes in the past.

#### Public health and licensing

The new section 14 makes reference to public health but there is nothing about cooperating with the NHS and alcohol charities to raise awareness of the dangers of excess consumption of alcohol. In view of the long-term damage that can be done by alcohol and the high local prevalence of obesity, diabetes and heart disease there seem to be good grounds for placing some level of responsibility on licence-holders.

Proposed change made and the sale of alcohol to intoxicated persons is added to 21.4 in the Enforcement section to now read;

“The Licensing authority reminds operators of licenced premises that it is incumbent on them to provide appropriate training for their staff to ensure the promotion of the licensing objectives. For example, this includes training in relation to age verification and the prohibition of the sale and supply to intoxicated persons”.

Propose change made to 14.6 in the Public Health & Licensing Section to read;

“The Licensing Authority will work with the Director of Public Health and staff to identify and utilise relevant public health data within the licensing process. In addition, the Licensing Authority will support the NHS and alcohol charities to raise awareness of the dangers of excess consumption of alcohol.”



**Response received from Eastcote Conservation Panel & Eastcote Residents Association**

Comments	Outcome & Proposed Amendment
<p>This is a joint response to the licensing consultation from Eastcote Conservation Panel &amp; Eastcote Residents' Association.</p> <p>We consider the changes to wording and the new layout acceptable. Especially welcome is the new Section 24 covering mobile, remote and internet sales.</p> <p>We fully appreciate that the London Borough of Hillingdon is tightly bound by Government legislation, therefore has limited powers in the area of licensing.</p> <p>With regard to some of the new sections and changes of wording, it would be greatly appreciated if some clarification could be given on the following.</p> <p>Section 2. Policy Statement.</p> <p>2.6 Determining and publishing a statement of its policy is a licensing function and so the Licensing Authority must have regard to the Guidance issued under Section 182 of the Act. The Licensing Authority may depart from this policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. However, if this done then the Licensing Authority shall give full reasons for departing from its policy.</p> <p>For what reasons would the Authority be able to depart from the policy?</p> <p>Section 6. Partnership and working initiatives.</p> <p>In this section many schemes are mentioned, 'Pub Watch Scheme', 'Best Bar None' and 'Purple Flag Status'.</p> <p>It is stated that establishments will be encouraged to join these schemes.</p> <p>Is there an initiative in current use to encourage both long standing licence holders as well as new applicants to join these schemes?</p>	<p>Response provided to the Association to clarify the matters raised.</p> <p>Section 2 – Policy Statement</p> <p>In practice we do not anticipate that the Licensing Authority will depart from its Policy but this section does give the Licensing Authority scope to do so where the individual circumstances merit such a decision and to promote the licensing objectives. This view is reflected in the Government's Section 182 Guidance to the Licensing Act. The immediate example that comes to mind are enforcement actions such as the formal Review of the Premises Licence. There may be cases where breaches are so serious that the matter may be escalated much faster than in usual cases. We are aware of cases from other Local Authorities where swift enforcement action has been taken during the pandemic where the licensing objectives were not being fully promoted and Public Safety and the Prevention of Crime &amp; Disorder were major areas of concern. The main thing to note is that if departure from the Policy is considered then full reasons must be given.</p> <p>Section 6 – Partnership &amp; Working Initiatives</p> <p>Again, we feel this is an important section. Collaboration with our stakeholders is key to the licensing process, enforcement and the day to day running of licensed premises.</p>



Where can lists of members of these schemes be found?

Other Members have also raised the points about Pub Watch, Best Bar None and Purple Flag Status initiatives Therefore, we will be looking at providing additional information regarding these schemes and implementing them into the draft Policy. We mention these schemes as a way of improving our collaboration and the standards of businesses in the Borough. We currently have the Uxbridge Pub Watch which is working well and looking at establishing other Pub Watch schemes in other parts of the Borough. Mike Crane is the Uxbridge BID Manager and will be able to provide a list of their members. Best Bar None and Purple Flag initiatives are interesting initiatives that we are considering in the future and as I say this is something that we can aim for with a view to looking at accreditation schemes and improving quality and standards in the hospitality sector.

Further information to be included in the Policy for Business Improvement Districts (BID's) at 6.4, Best Bar None at 6.5 and Purple Flag at 6.7. Suggestion for hyperlinks to be included.