



## CABINET

**Subject Heading:**

Consultation on Statement of Licensing Policy  
2021-2026

**Cabinet Member:**

Councillor Viddy Persaud  
Lead Member for Public Protection and Safety

**SLT Lead:**

Barry Francis  
Director of Neighbourhoods

**Report Author and contact details:**

Louise Watkinson Group Manager Public  
Protection  
01708 432771  
  
Keith Bush Public Protection Manager  
Licensing & Trading Standards  
01708 433425

**Policy context:**

The Licensing Act 2003 requires the Licensing  
Authority to consult on and publish a  
Statement of Licensing Policy. This document  
must be reviewed every 5 years.

**Financial summary:**

It is anticipated that the cost of the  
consultation will be less than £0.01m which is  
currently budgeted for and will be funded from  
existing budgets. It will be funded from  
A26210.651780

**Is this a Key Decision?**

Yes, Significant impact on two or more Wards.

**When should this matter be reviewed?**

The Policy needs to be reviewed every 5  
years. A policy review is needed by 2026.

**Reviewing OSC:**

Towns and Communities

### The subject matter of this report deals with the following Council Objectives

Communities making Havering  
Places making Havering  
Opportunities making Havering  
Connections making Havering

[X]  
[X]  
[X]  
[]

## **SUMMARY**

To authorise the commencement of a consultation on the Draft Statement of Licensing Policy 2021-2026

## **RECOMMENDATIONS**

Part 3, Section 2.1 General Functions of Cabinet

### **Policy matters**

(c) To determine all substantial policy matters and strategic decisions and those minor matters which are referred by the Leader at the request of an individual Cabinet Member as being particularly contentious.

## **REPORT DETAIL**

Section 5 of the Licensing Act 2003 (hereafter termed 'the 2003 Act') requires all Licensing Authorities to prepare and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act during the five year period to which the policy applies.

The current policy expires on the 6<sup>th</sup> January 2021 and therefore a new policy will need to be adopted.

The Statement of Licensing Policy is the primary document for setting out the Council's local approach to regulation of the 2003 Act and ensuring that the licensing objectives are met. The licensing objectives are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Nothing in the Statement of Licensing Policy will override the right of any person to make an application under the 2003 Act and have that application considered on its individual merits. Equally, nothing in the Statement of Licensing Policy will undermine the right of any person to make representations to an application, or seek a review of a licence where there is a legal power to do so.

Before the Statement of Licensing Policy can be adopted Section 5(3) of the 2003 Act requires the licensing authority to undertake a statutory consultation. This requires the authority to consult with:

- The chief officer of police for the licensing authority's area
- The fire and rescue authority for that area
- The Local Health Board for an area
- 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.
- Such persons as the licensing authority considers to be representatives of holders of premises licences issued by that authority
- Such persons as the licensing authority considers to be representatives of holders of club premises certificates issued by that authority
- Such persons as the licensing authority considers to be representatives of holders of personal licence holders
- Such other persons as the licensing authority considers to be representative of businesses and residents in its area.

There is no statutory time period for the consultation process. The proposed policy is a review and update to the existing policy and the amendments are relatively small. However due to the large number of premises that are licensed under the 2003 Act across the borough (approximately 600) the draft Statement of Licensing Policy will be subject to a 12-week consultation period. All comments will be carefully considered and appropriate amendments made.

The Statement of Licensing Policy will then go to Full Council for final approval.

A copy of the draft Statement of Licensing Policy to be consulted on is included as Appendix 1.

The main changes proposed are:

- Havering's vision has been added to the updated policy.
- An equalities and diversity section has been added
- A section on the use of remote hearings has been added
- The cumulative impact zone for Romford has been reviewed but remains unchanged
- The cumulative impact zone for Hornchurch has been reviewed and amended.
- The cumulative impact zone for Gooshays ward has been reviewed and amended.
- A section on mental health and wellbeing has been added
- A section on counter terrorism has been added
- A section on COVID 19 has been added
- Some additional model conditions have been added

The main changes in the document are highlighted in yellow.

## **REASONS AND OPTIONS**

To undertake a consultation on the proposed Draft Statement of Licensing Policy. No other options were considered as the Licensing Act 2003 requires that the local authority has a Statement of Licensing Policy.

## **IMPLICATIONS AND RISKS**

### **LEGAL IMPLICATIONS AND RISKS**

The Council is required by section 5 of the Licensing Act 2003 to have an adopted Statement of Licensing Policy for each 5 year period and to review the policy from time to time.

The Council is also required by section 5A of the Licensing Act 2003 to review its Cumulative Impact Assessment every 3 years.

The Statement of Licensing Policy must set out the how authority will give effect to the 4 licensing objectives of the 2003 Act and must have regard to the Statutory Guidance published under section 182 of the Act.

### **Public Consultation**

The Statement of Licensing Policy must be reviewed every 5 years and the Council must undertake statutory consultation as required by section 5 of the 2003 Act. The consultation must include the prescribed individuals and organisations and anyone else that the Council considers to be representative of businesses and residents in its area. Government Guidance recommends a wide ranging consultation in addition to the statutory consultees.

This consultation will fulfil the Council's statutory duty. Once responses are received these will have to be carefully considered before any decision is taken

Some of the usual consultation methods may not be possible to carry out in the face of the current coronavirus pandemic.

However, the courts are unlikely to interfere with policy decisions if the best practical means are used to reduce prejudice to any party the council correctly follows central government policy and regulations. These may include maintaining a Licensing page on the Council's website with a public consultation section or a link to a separate page where people and organisations can make their observations. This could be advertised on local newspaper' websites

### **Remote Hearings**

The coronavirus pandemic has necessitated the use of remote licensing hearings. However, the Licensing Act 2003 (Hearings) Regulations 2005 apply equally to hearings held “in person” and remote hearings. Therefore under Regulation 14(1) a remote hearing shall still take place in public and the local authority shall determine the procedure to be followed at the hearing under Regulation 21. A participant may also still be excluded on the grounds of public interest (Regulation 14(2)) and if they are disruptive (Regulation 25)

In addition *The Local Authorities and Police and Crime Panels (Coronavirus) Flexibility of Local Authority and Police and Crime Panel meetings (England and Wales) Regulations 2020* (“Flexibility Regulations”) make it clear that licensing hearings can be both public and remote.

Regulation 5(1) of the Flexibility Regulations states that a meeting (which under Regulation 3 includes a meeting of a local authority sub-committee) is not limited to a meeting of persons all of whom, or any of whom, are present in the same place. Any reference to a “place” where a meeting is held, or to be held, includes more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.

The Statement of Licensing Policy is a Council function and may only be approved and adopted by Full Council.

### **FINANCIAL IMPLICATIONS AND RISKS**

It is anticipated that the cost of the consultation will be less than £0.010m (£10,000) which is budgeted for and will be met from existing budgets. Fees are set by statute under the Licensing Act 2003 to cover the costs of processing licence applications. The fee levels are intended to provide full cost recovery of all licensing functions including the preparation and publication of a statement of licensing policy. It will be funded from A26210.651780

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no direct Human Resources implications arising from this report.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;

(iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An Equality and Health Impact Assessment (EqHIA) has been undertaken and we will collect information during the consultation however it is anticipated that the policy, if adopted, will have a positive effect on the borough by encouraging operators to consider the impact of their premises on the local area and conducting local area risk assessments before they apply for new licences to ensure the protection of vulnerable residents from harm.

There are no negative impacts against any protected characteristics by the consultation on this policy. The decision to award a licence will be guided by the main aims and principles of the legislation which ultimately seek to protect vulnerable persons.

### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

The legislative framework for the Licensing Act 2003 recognises the sale of alcohol by retail, late night refreshment and regulated entertainment such as music and dance as a legitimate leisure activity that many people enjoy. It can be social, fun and as such might have positive impacts on wellbeing. In addition, it generates income, employment and tax revenue, creating employment, which is an important determinant of health and wellbeing.

However, set against this, it can generate significant dis-benefits such as working days lost through alcohol misuse, or the cost of treatment for ill-health. Less easily measured are potentially very significant impacts such as the negative effects of some alcohol addiction on family relationships, and the psychological and social development of children.

The proposed statement of licensing policy is intended to address this negative issue by promoting responsible retailing.

It expects the applicant to have considered:

- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children congregate.
- Any risk posed to the local area by the applicants' proposed licensable activities;

- Steps to protect vulnerable residents
- Any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- Any other relevant policies that the local authority has adopted.

The policy also requires applicants to take appropriate measures to protect children from harm including considering the location of the premises in relation to premises frequented by children.

<b>BACKGROUND PAPERS</b>
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None