



CABINET

Subject Heading:

Adoption of Statement of Licensing Policy
2021-2026

Cabinet Member:

Councillor Viddy Persaud
Lead Member for Public Protection and Safety

SLT Lead:

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Policy context:

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

Financial summary:

The cost for preparing, consulting and adopting the policy are built into the fees set by central government under the Licensing Act 2003.

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 at least 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]
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SUMMARY

1.1 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.

1.2 A draft policy was subject to a twelve week consultation, opening on 17th August and closing on 9th November 2020.

1.3 This report provides the proposed Statement of Licensing Policy 2021-2026 which has incorporated the comments following the public consultation.

RECOMMENDATIONS

2.1 Cabinet is recommended to:

Adopt the Statement of Licensing Policy 2021-2026.

REPORT DETAIL

3.1 Section 5 of 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.

3.2 The current policy expired in January 2021 and therefore a new policy needs to be adopted.

3.3 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

3.4 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.

3.5 This report provides a copy of the revised Havering Statement of Licensing Policy for the period 2021- 2026, for adoption. A copy is included as Appendix 1.

3.6 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

3.7 The main changes in the document are highlighted in yellow.

3.8 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.

3.9 The authority undertook a consultation which was open for twelve weeks, opening on 17th August and closing on 9th November 2020.

3.10 The Council's proposed updates to the Statement of Licensing Policy were shared on the consultation pages of the Council's website. Responses to the proposals were invited via an online survey and through individual written reply by letter or email.

3.11 The consultation received 30 responses. The licensing team considered all responses carefully and each was responded to as set out in section 4 of the report. Where indicated the policy was updated further to take account of the comments made. A copy of the consultation report is included in Appendix 2.

REASONS AND OPTIONS

4 Reasons for the decision:

4.1 It is a legal requirement under Section 5 of the 2003 Act for 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 expired in January 2021 and we are legally required to adopt a new policy.

5 Other options considered

5.1 No other option was considered as the authority is required by law to have a Statement of Licensing Policy under the 2003 Act.

IMPLICATIONS AND RISKS

6 LEGAL IMPLICATIONS AND RISKS

6.1. Under Section 5 (1) of the Licensing Act 2003 ('the Act') the Council as the Licensing Authority is required to determine and publish its statement of policy in respect of exercising its functions under the Licensing Act 2003 at least once every five years. In this time period the policy must be kept under review. When preparing the policy the Council is required to have regard to the four statutory licensing objectives under Section of the Licensing Act 2003 which are: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The Licensing Authority also must consider the statutory guidance under Section 182 of the Licensing Act 2003.

6.2. Under Section 5A of the Act the Council is also required by review its Cumulative Impact Zone (CIZ) Assessment every 3 years. The effect of adopting a special policy of this kind would be to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact would normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Paragraph 14.34 of the statutory guidance details the steps to be followed in considering whether to publish a CIZ policy. These are:

- Identify concern about crime and disorder; public safety; public nuisance or protection of children from harm in a particular location.
- Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
- If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
- Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
- Consult those specified in section 5(3) of the 2003 Act. As with consultations in respect of the licensing policy statement as a whole, it is for each licensing authority to determine the extent of the consultation it should undertake in respect of a Cumulative impact assessment (CIA) (subject to the statutory requirements).
- For the purposes of the consultation provide the persons specified in section 5(3) with the following information: the reasons why it is considering publishing a CIA
- a general indication of the part or parts of its area which it is considering describing in the assessment;
- whether it considers that the assessment will relate to all premises licence and club premises certificate applications and variation applications, or only to those of a particular kind described.

6.3 Cumulative impact zones are proposed in the policy where the Licensing Authority is of the view that the number, type and density of premises selling alcohol for consumption on and off the premises and the provision of late night refreshment is having a cumulative impact on the licensing objectives. Due to the nature of the evidence for crime and disorder, this is largely held by the police and is referred to in the draft policy.

6.4. 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.

6.5 Consultations should be carried out in a proportionate, fair, and inclusive manner following the principles in *Gunning*. The principles are that consultation must take place when the proposal is still at a formative stage, sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response, adequate time must be given for consideration and response to allow consultees to comment meaningfully and the responses must conscientiously be taken into account by the decision maker. The details of the statutory consultation is set out in the body of this report. All responses have been carefully considered and where appropriate changes have been made to the Licensing Policy.

6.6. An equalities impact assessment was carried out and the draft policy will not adversely affect existing premises licence holders, responsible authorities, the community and those who wish to apply for premises licences in the future.

6.7 The Statement of Licensing Policy must be approved by Full Council and published before the authority carries out any functions or determines any applications etc. under the terms of the Act.

7 FINANCIAL IMPLICATIONS AND RISKS

7.1 The fees and charges for licence applications are set by statute and are based on a cost recovery basis. The cost for preparing, consulting and adopting the policy are built into these fees set.

8 HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

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

9 EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

9.1 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.

9.2 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.

9.3 An Equality and Health Impact Assessment (EqHIA) has been undertaken and is included in Appendix 3. It is anticipated that the policy, if adopted, will have a positive effect on the borough by placing a greater emphasis on equality and diversity and the inclusion of a health and wellbeing section to ensure the protection of vulnerable residents from harm.

10 HEALTH AND WELLBEING IMPLICATIONS AND RISKS

10.1 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.

10.2 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.

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

10.4 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.

10.5 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.

11 Appendices

1. Statement of Licensing policy 2021-26
2. Consultation Results Report
3. Equality and Health Impact Assessment

BACKGROUND PAPERS

None