

REPORT TO:	FULL COUNCIL 14 DECEMBER 2022
SUBJECT:	LICENSING ACT 2003 – REVIEW OF LONDON BOROUGH OF CROYDON STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT AREAS WITHIN THE LONDON BOROUGH OF CROYDON STATEMENT OF LICENSING POLICY
LEAD OFFICER:	Corporate Director, Sustainable Communities, Regeneration and Economic Recovery Department
CABINET MEMBER:	Cllr. Scott Roche, Cabinet Member for Streets & Environment
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT: Statutory review of policy document.	
<p>FINANCIAL SUMMARY:</p> <p>The Licensing Act 2003 became fully operational on 24 November 2005. The local authority has been processing applications with regard to this legislation since 7 February 2005, which was the start of the conversion period under the Act.</p> <p>There are no financial implications associated with this report, save for those set out in the body of the report with regard to decision making by the Licensing Sub-Committee, the substantive licensing committee and full Council.</p> <p>The costs of administering the functions associated with this report will be met from existing resources.</p>	

For general release

<p>1. RECOMMENDATIONS</p> <p>On recommendation from the Licensing Committee, Full Council is recommended to:</p> <p>1.1. Adopt the revised Statement of Licensing Policy 2023-2028 under the Licensing Act 2003 as set out at Appendix 1 to this report and that this revised policy be operative as of 1 February 2023.</p>

2. EXECUTIVE SUMMARY

2.1 The Licensing Act 2003 came into force on 24 November 2005 and made local authorities, as licensing authorities, responsible for the administration of licences and certificates for:

- The sale/supply of alcohol
- The provision of regulated entertainment and
- The provision of late night refreshment

There are four licensing objectives which underpin the legislation and these are:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety and
- The protection of children from harm

All decisions under the Act must be taken with a view to promoting these licensing objectives.

2.2 In addition to processing applications, the Act requires each licensing authority to determine and publish a Statement of Licensing Policy setting out how it will exercise its functions under the Act. The first London Borough of Croydon Statement of Licensing Policy was published on 1 December 2004. The Council has to keep its policy under review and revise it as considered necessary. Originally the Council was required to review and revise the policy at least once in each 3 year period after its first introduction. Due to a subsequent legislative change in 2012, this review must now take place every 5 years. The Council may, however, review its policy at any time within that 5 year period should it see fit.

2.3 The Council last reviewed its Statement of Licensing Policy in 2017 and approved and published the revised policy in February 2018 and is therefore required to undertake the statutory review and adopt its updated Statement of Policy at this time.

2.4 The Statutory consultation, as detailed below, has been undertaken and the outcome of that consultation reported to the Licensing Committee along with recommended changes. The draft Policy, as attached at Appendix 1, has been considered by the Licensing Committee at their meeting on 29 November 2022 and having had due regard to the consultation outcomes and the equalities impacts, the Licensing Committee has recommended it for approval by Full Council. The full report to Licensing Committee, as well as the supporting documentation, equalities considerations, consultation outcomes and proposals for the Statement of Licensing Policy can be viewed here: [Agenda for Licensing Committee on Tuesday, 29th November, 2022, 6.30 pm | Croydon Council](#)

3. DETAIL

3.1 A report was brought to Licensing Committee on 26 September 2022 requesting authority to commence consultation on the statutory review of the Statement of Licensing Policy, including consultation on a review of existing cumulative impact areas and a proposed new cumulative impact area which, if adopted, would be set

out within the Statement of Licensing Policy. For ease of reference, the report and supporting documentation can be viewed here: <https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=135&MId=3055&Ve r=4>.

- 3.2 As detailed in Section 4, on 4 October 2022, a six week statutory consultation was commenced with the statutory consultees. In addition, all available council communication channels were used to promote the consultation and encourage people to complete the survey giving their views, including via social media and the Council's website and this led to a significant increase in the volume of responses and public participation compared to previous reviews.
- 3.3 At their meeting on 29 November 2022, the Council's Licensing Committee considered responses to the consultation and agreed that the Statement of Licensing Policy at Appendix 1 to this report be recommended for adoption by Full Council. The full report to Licensing Committee, as well as the supporting documentation, consultation outcomes and proposals for the Statement of Licensing Policy can be viewed here: [Agenda for Licensing Committee on Tuesday, 29th November, 2022, 6.30 pm | Croydon Council](#) . In addition, the equalities impact assessment, which has been updated subsequent to the consultation outcome, is attached at Appendix 2.

Statement of Licensing Policy:

- 3.4 In reviewing and adopting a Statement of Licensing Policy, Full Council must have regard to the following fundamental principles which are reflected in Appendix 1:
- All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to the Statutory Guidance and give appropriate weight to the views of consultees.
 - While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.
 - Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.
 - Statements of policy should make clear that:
 - licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and
 - conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.
 - A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and

licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

3.5 Licensing Committee has recommended to Full Council that it approve the below summarised changes be made to the Statement of Licensing Policy and that in light of the outcome of the consultation and having due regard to the equalities impact assessment and the Council's public sector equalities duty, the revised Statement of Licensing Policy at Appendix 1 be adopted.

3.6 A summary of the recommended changes are as follows:

- Retain the four current Cumulative Impact Areas as listed in the existing licensing policy (Cumulative Impact Areas 1-4)
- Introduce a new, fifth Cumulative Impact Area for High Street and Portland Road, South Norwood into the licensing policy (Cumulative Impact Area 5)
- Remove the two 'special stress areas'– High Street & Portland Road, South Norwood and Lower Addiscombe Road
- Update general details in the policy such as borough population, committee and board names and responsibilities. This includes changes to incorporate the new governance structure of the Council with the election of an Executive Mayor and reflects the aspirations for the borough.
- Additional wording included regarding Equalities duties for the Council and operators
- Updates to references to relevant guidance documents

3.7 The Council when acting as Licensing Authority and approving the Statement of Licensing policy must and has had regard to the Licensing Act, secondary regulations, the Home Office Guidance issued to Local Licensing Authorities under s182 of the Act (April 2018 edition) and the outcome of the consultation.

4. CONSULTATION

4.1 Section 5(3) of the Licensing Act 2003 specifies which parties must be consulted with as part of any review of a Statement of Licensing Policy or in respect of cumulative impact area reviews or the introduction of new cumulative impact areas and these are –

- the chief officer of police for the licensing authority's area
- the fire and rescue authority for that area
- each Local Health Board for an area any part of which is in the licensing authority's 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 representative of holders of premises licences issued by that authority,
- such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and

- such other persons as the licensing authority considers to be representative of businesses and residents in its area.

- 4.2 In terms of selecting “such other persons” as are referenced in paragraph 4.1 above, the Council also consulted a wide range of community organisations, relevant trade associations, all Croydon ward councillors and the three borough MP’s. In addition, all available council communication channels were used to promote the consultation and encourage people to complete the survey.
- 4.3 The consultation commenced on 4 October 2022. A copy of the current licensing policy together with information setting out the proposed amendments to the policy was circulated to statutory consultees and a number of interested parties under the definition of “such other persons”. In addition, all available council communication channels were used to promote the consultation and encourage people to complete the survey, including via social media and the Council’s website.
- 4.4 The statutory consultees and interested parties were asked for their comments and views on the proposed amendments to the policy. The Council undertook an online consultation and survey which invited residents and those working in the borough to give their views on the proposals. A copy of all information and documentation included in the consultation can be found at the following link: <https://www.getinvolved.croydon.gov.uk/licensing-policy> . In addition, consultees were also invited to contact the Council’s Licensing Team direct with comments at licensing@croydon.gov.uk
- 4.5 The consultation period was 6 weeks, ending on 15 November 2022. A copy of the consultation documentation can be found as part of the papers presented to Licensing Committee accessible here: [Agenda for Licensing Committee on Tuesday, 29th November, 2022, 6.30 pm | Croydon Council](#) . This includes a copy of the consultation survey questions.
- 4.6 Would Council please note that if the revised Statement of Licensing Policy is approved by Full Council, officers will make arrangements to ensure that the Statement of Licensing Policy is published in accordance with statutory requirements. It is proposed that the revised policy will be operative from no later than 1 February 2023.
- 4.7 The timetable leading up to the Licensing Policy being republished is as follows:

DATE	ACTION
15.11.22	Deadline for consultation responses.
29.11.22	Licensing Committee
14.12.22	Full Council
16.12.22	Publication
01.02.23	Operative Date of new Statement of Licensing Policy

5 FINANCIAL CONSIDERATIONS

1 Revenue and Capital consequences of report recommendations

There are no direct financial implications associated with this report, subject to the risks at 2 & 3 below. This matter is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

2 The Effect of the Decision

Decisions of the Licensing Sub Committee, the substantive licensing committee and full Council may be subject to appeal and/or Judicial Review.

3 Risks

An appeal against a decision of the Licensing Sub-Committee or a Judicial Review of the application and/or policy making processes, including a Judicial review in respect of the Statement of Licensing Policy or adoption or retention of cumulative impact areas may present financial risks to the Council with regard to undertaking litigation and any award of costs against it which might arise as a result.

4 Options

There are no other options available to the Council. The Council is required to review its statement of Licensing Policy in the statutory time frame. In addition, the Council is required to review existing Cumulative Impact Areas to consider whether or not it is of the view that they ought to be retained. The Council has the power to consider the introduction of further cumulative impact areas subject to the necessary evidence.

5 Savings/Future Efficiencies

None identified

(Approved by: Darrell Jones, Acting Head of Finance Sustainable Communities, Regeneration & Economic Recovery)

6. COMMENTS OF THE SOLICITOR TO THE COUNCIL

6.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Legal Services and Monitoring Officer that the Statement of Licensing Policy provides the framework under which the licensing function is administered and the Council's approach under the Licensing Act 2003.

6.2 The Licensing Act 2003 requires the determination and publication of a Statement of Licensing Policy for each successive five year period. The current policy expires in 2023. The Council must review and publish a revised Licensing Policy before the expiry of the current 5-year period, by virtue of subsection 5(1) of the Licensing Act 2003. It would be unlawful for the Licensing Authority to fail to comply with that mandatory requirement. The Council must keep the policy under review during the five year period and make such changes as are considered necessary.

6.3 In accordance with the Licensing Act 2003 the Statement of Licensing Policy must be determined by Full Council after consultation has been undertaken

with prescribed bodies. These prescribed bodies are detailed in section 4 above as is the consultation exercise undertaken.

- 6.4 The Licensing Authority must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 when drafting its policy and in undertaking any reviews of existing cumulative impact areas or seeking to remove or introduce new cumulative impact areas. The latest version of the Statutory Guidance was issued by the Home Office in April 2018.

Approved by: Sandra Herbert Head of Litigation and Corporate Law on behalf of Stephen Lawrence-Orumwense, Director of Legal Services and Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 The workload associated with the review of the Licensing Policy will be undertaken within existing resources.

8 EQUALITIES IMPACT

- 8.1 The council has an obligation under the Public Sector equality duty, which is a duty to have due regard, in the exercise of its functions to the need to eliminate unlawful discrimination, to advance equality of opportunity and to build better relationships between groups with protected characteristics.
- 8.2 An equality impact assessment was completed during the policy drafting, and has been reviewed regularly as the policy has developed, including following public consultation. This has shown significant support for the proposals, with no negative equality implications raised.
- 8.3 As set out in the EQIA, it is expected that this policy will have a number of positive impacts on groups with protected characteristics.

Approved by: Gavin Handford (Director of Policy, Programmes and Performance)

9 ENVIRONMENTAL IMPACT

- 9.1 The provisions of the Licensing Act 2003 include consideration of the environmental impact of licensed premises.

10 CRIME AND DISORDER REDUCTION IMPACT

- 10.1 Three of the four licensing objectives in the Act relate to the prevention of crime and disorder and public nuisance and the protection of children from harm. The licensing policy is a document that the Council, as licensing authority, should have regard to when deciding licence/certificate applications.

11 DATA PROTECTION IMPLICATIONS

11.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

Whilst personal data may be processed as part of the consultation, the information will not be shared any further. A DPIA is mandatory where data processing “is likely to result in a high risk to the rights and freedoms of natural persons”. In this instance the information that may be processed has been categorised as low risk and therefore a DPIA is not required.

(Approved by: Steve Iles, Director of Sustainable Communities)

CONTACT OFFICER: Michael Goddard, Head of Environmental Health, Trading Standards and Licensing

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APPENDICES:

Appendix 1: Revised Statement of Licensing Policy

Appendix 2: Updated Equalities Impact Assessment

SUPPORTING DOCUMENTATION:

[Agenda for Licensing Committee on Tuesday, 29th November, 2022, 6.30 pm | Croydon Council](#)

BACKGROUND DOCUMENTS: None