

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Full Council

Date: 13/07/2022

Subject: Adoption of the 2022 Revised Statement of Licensing Policy

Report of: Cabinet Member for The Economy – Councillor Andrew Jones

Report author: Adrian Overton, Licensing Policy and Enforcement Manager

Responsible Director: Sharon Lea, Interim Chief Executive and Strategic Director of Environment

SUMMARY

The Licensing Act 2003 (“The 2003 Act”) requires every Council to have a Statement of Licensing Policy (SLP). The Council’s SLP must be reviewed via public consultation, formally adopted and published every five years. The current SLP was adopted in July 2017 and therefore any revised policy must be adopted by Full Council and published in July 2022, to meet this statutory requirement.

RECOMMENDATIONS

1. That Full Council adopt the Statement of Licensing Policy 2022 - 2027 at Appendix 2.

Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	The SLP welcomes and encourages responsible licensing operators to the borough and encourages late licences in non-residential areas. This could bring new business investment, new employment opportunities and more visitors to enjoy their leisure time.
Creating a compassionate council	The revised statement of licensing policy supports a vibrant night-time economy that is sensitive to residents’ needs.
Doing things with local residents, not to them	Residents have been consulted. The responses received from residents will be taken into consideration to help minimise any significant adverse impact

	on their enjoyment of their homes and local amenities.
Being ruthlessly financially efficient	The consultation has mainly been carried out electronically to minimise postal costs and the impact on the team budget.
Taking pride in H&F	The SLP helps to consistently manage licensed premises and to uphold the four licensing objectives relating to public safety, crime and disorder, the safety of children and public nuisance.
Rising to the challenge of the climate and ecological emergency	The consultation has mainly been carried out electronically to minimise the use of paper, when compared to using a postal process.

Financial Impact

There are no direct financial implications associated with the recommendations in this report. Any financial impact arising as a result of this policy e.g. public consultation, will be managed as part of the normal budget monitoring process.

*Comments provided by Kellie Gooch, Head of finance (environment), 11 May 2022
Verified by Emily Hill*

Legal Implications

Approval of the Statement of Licensing Policy requires the approval of Full Council in accordance with Article 4 of the Council's Constitution. The draft Policy was considered by Members of the Licensing Committee on 27 June 2022.

Section 5 of the Licensing Act 2003 requires a Licensing Authority to determine its Statement of Licensing Policy at least every five years and this includes the requirement to carry out a statutory consultation.

Prior to adoption of the Statement of Licensing Policy Members of Full Council must carefully consider the consultation responses at Appendices 6 & 7.

Comments provided by Jane Astbury, Chief Solicitor (Planning, Property, Licensing and Highways) 1 July 2022

Background Papers Used in Preparing This Report

None.

DETAILED ANALYSIS

Introduction and Background

1. The Council's SLP provides advice and guidance to the Licensing Authority when exercising its functions under the Licensing Act 2003. It also provides guidance to licence applicants and any objectors.
2. A SLP may last for a maximum of five years and can be reviewed and revised by the Council at any time, within that 5-year period.
3. The SLP could be reviewed, for example, in two years' time. The Council may decide that specific areas of the borough would benefit from a more flexible or different approach; to encourage regeneration and community cohesion and to address the needs/concerns of local residents and businesses, as appropriate.
4. There is a clear intention that the SLP should be a balance of encouraging regeneration and nightlife business in the borough, whilst helping the Police and other responsible authorities to regulate problem premises and operators.
5. The [Current statement of licensing policy 2017 to 2022](#) has been updated to reflect the council's commitment to supporting businesses, more late-night licences in non-residential areas and a vibrant night-time economy that is sensitive to the needs of residents.
6. A copy of the Draft Statement of Licensing Policy 2022 to 2027 that was sent out for consultation is attached at Appendix 1, and the Final Draft of LBHF Statement of Licensing Policy 2022 - 2027 is attached at Appendix 2 to this report.
7. Full Council are asked to adopt the final Draft Statement of Licensing Policy (SLP 2022 - 2027) at Appendix 2.

Proposals and Analysis of Options

Reviewing the Statement of Licensing Policy

8. In reviewing, updating and revising the Council's Statement of Licensing Policy, Officers have sought the views of key stakeholders via our H&F Night-time Economy Working Group and Responsible Authorities about what they would like to see in the revised council's Statement of Licensing Policy.
9. Officers have engaged extensively with local residents, businesses and councillors before formal statutory consultation and reporting to Full Council.
10. The review process begun in July 2021 and involved the following:
 - a) **Cumulative Impact Policy review:** *An 8-week consultation about the Cumulative Impact Policies in Shepherds Bush and Fulham Broadway.*

- b) **Night surgery with Amy Lamé’s GLA team:** *Involved council officers from the Licensing Team, Economic Growth, Law Enforcement Team, business reps, the police and a local resident.*
- c) **Two overnight audits:** *Conducted with Night-Time Economy Solutions and involved council officers from the Licensing Team, Law Enforcement Team, business reps, the police and a local resident.*
- d) **Stakeholder engagement with the H&F Night-Time Economy Working Group:** The group has representation from officers from council teams including: Licensing, Environmental Health, Community Safety, Highways, Economic Growth, Planning, Business Intelligence, Digital Services, Communications, the Police and Business Improvement Districts.
- e) **Conducted a Mayor’s Office for Policing and Crime (MOPAC) Statement of Licensing Policy Audit:** This looked at a wide range of strategic and policy areas and has been included in the revised policy so that it can be proactively used to strengthen future policy reviews and assessments.

A summary of the key changes to the Statement of Licensing Policy

- 11. The Final Draft of LBHF Statement of Licensing Policy 2022 - 2027 now has a different style, with three distinct sections and three new themes to make it more business friendly. Key changes to the [Current statement of licensing policy 2017 to 2022](#) are summarised in Appendices 3 and 7.

Timetable for formal adoption

- 12. The timetable followed for formal adoption is detailed in the table below:

Activity	Date(s)
Statutory public 6-week consultation started	13 May 2022
Strategic Leadership Team (SLT) meeting	25 May 2022
Political Cabinet	6 June 2022
Statutory public 6-week consultation ended	24 June 2022
Licensing Committee	27 June 2022
Council	13 July 2022

Economic growth, regeneration and support for businesses

- 13. The Council remains committed to be a major contributor to London’s economic growth over the next decade and being the most inclusive, smartest economic hotspot. Providing infrastructure in the public realm, that supports the economy.
- 14. Policy 12 reinforces the council’s ‘Support for Local Businesses’ and highlights our commitment to regeneration and economic growth. The draft revised SLP encourages businesses to seek our support and advice at an early stage.
- 15. The SLP is clearer about encouraging and supporting businesses that are unlikely to have an adverse effect on our residents, visitors and businesses.

16. Theme 1 supports the revival of nightlife, with more late licences in non-residential areas to make H&F an even more attractive place to live and work.
17. The SLP aims to encourage a well-managed and considerate night-time economy; and attract retailers and hospitality outlets that provide new artistic, cultural, retail and recreational opportunities.

Area Specific Cumulative Impact Policies

18. Policy 4 relates specifically to cumulative impact. It states that: '*The Licensing Authority will have regard to cumulative impact generally during the duration of this policy*'.

'To ensure that residents are protected from the negative impact of late-night local licensing activities the Licensing Authority may decide to adopt an Area Specific Cumulative Impact Policy in relation to a specific area; where the number, type and density of premises providing licensable activities is having a serious negative impact on the local community and local amenities'.

19. This makes it explicit that the Council, as the Licensing Authority has the freedom and the flexibility to introduce special area cumulative impact policies, *at any time* throughout the lifetime of the policy.
20. New premises licences applications or any licence variation requests within the CIP areas that may add to the existing cumulative impact will normally be refused where a relevant representation has been made.
21. The applicant must demonstrate that there will be no negative cumulative impact on one or more of the Licensing Objectives, relating to public safety, crime and disorder, the safety of children and public nuisance.
22. Refusal is *not* absolute; the circumstances of each application will be considered on its merits, where a relevant representation has been made.

Cumulative Impact Policies and approaches in other inner London boroughs

23. Officers have looked at how the council's policy and approach to cumulative impact compares to other London Boroughs. Generally, there is a current trend towards the removal of CIPs from business-friendly licensing policies. The rationale is it could help support business recovery. Local high streets are struggling to compete with the rapid increase of online shopping and services.
24. Islington, Tower Hamlets, Hackney and Camden already have Cumulative Impact Policies (CIPs) within their boroughs. Islington has a total of six CIPs covering the following areas: Clerkenwell, Bunshill, Kings Cross, Angel and Upper Street, Holloway and Finsbury Park and the Junction area of Archway. Tower Hamlets has two CIPs covering the Bethnal Green and the Brick Lane areas. Hackney has two CIPs covering the Dalston and Shoreditch areas. Camden has two CIPs covering the Seven Dials and Camden Town areas.

Evidence required to support Area Specific Cumulative Impact Policies

25. The evidence to support the Licensing Authority's decisions in respect of the two special area cumulative impact policies in Fulham Broadway and Shepherd's Bush expired on the 6 April 2021.
26. The Licensing Authority needs to assure itself that there is robust and sufficient evidence to support and to justify a particular area having a special area cumulative impact policy in place. *This evidence would typically include data from the police, ambulance service, noise complaints, antisocial behaviour reports, etc.*
27. The evidence to renew the Council's two cumulative impact policies (CIPs) was due to be collected in the summer of 2020. This was delayed due to Covid-19 affecting the re-opening of licensed premises and hospitality venues.
28. Evidence was gathered to see if the existing geographical areas covered by the policies were still relevant, or if they need to be extended, altered or removed.
29. The evidence gathered during the review process included: reports from the overnight audits, noise reports, police and community safety and licensing data. This has been included in Cumulative Impact Assessment for Shepherd's Bush and Fulham Broadway at Appendix 4.
30. Officers have noted that the police and local authority evidence currently available is not as robust as when it was first introduced. The ASB and crime data indicates that these problems may not be concentrated in the CIP areas and therefore it would be prudent to take a more holistic approach.
31. The police in their response have indicated that their approach to combatting offences in licensed premises will evolve over time in line with crime methods/patterns. Their view is that the emphasis should be put on licensees to adapt their approach to this risk, based on their premises individual changing environment. this will adapt over time. They have said:

It is appreciated, that there is a balancing act between both supporting businesses and shaping a safe enjoyable community landscape. There should always be the flexibility within the policy (outside of any defined CIA) that exceptions can be made based on type of venue including community/cultural significance, locality, resident density or nearby infrastructure.
32. The Licensing Authority have been operating without effective CIPs in the SLP, since the evidence expired in April 2021. The committee have still been able to take cumulative impact into account when making decisions. Additionally, the Licensing Authority have now reinforced this approach, by including Policy 4 - Cumulative Impact in the revised SLP – which is applicable to the whole borough.
33. Based on the above and emerging issues from recent reports, officers would currently recommend keeping the current situation under review; and to carry

out a further focussed study on off-licences and late-night refreshment houses, to take account of the changing and current crime trends.

Other considerations

34. The approach to licensing enforcement by council officers is to target individual problematic premises that pose the highest risk. This approach is in line with the Regulators' Code and our enforcement policy.
35. The Council's current SLP expires in July 2022. If the Licensing Authority do not adopt the SLP in July, the licensing committee should still have regard to the expired SLP, otherwise the council would be in breach of its obligation under section 4(3) of the 2003 Act.
36. The revised 2022 SLP reinforces our clear intent about working together to support and create a safe 24-hour business environment where people can work in more creative ways and benefit from a range of services, facilities, opportunities and amenities.
37. In view of the above, the following options have been proposed in respect of the SLP:

Option 1 To adopt the draft, revised 2022 SLP, attached as Appendix 2.
Recommended Option

Option 2 Do nothing and delay or extend the review. This option is not recommended as there is a legal requirement for the Statement of Licensing Policy to be reviewed and published at least every five years. Any delay will create a risk of challenge to the Council and therefore impact on the ability to make lawful licensing determinations.

Reasons for Decision

38. The Council's adoption of the SLP is a legal requirement and will ensure that the council complies with the provisions of section 5 of the 2003 Act.
39. The revised SLP, is a much-improved version than our current policy.
40. If the Licensing Authority do not adopt the revised SLP in July, the licensing committee can only treat the expired SLP as a material consideration. It is given less weight in law due to its expiry.
41. Whilst there has been resident support to retain the CIP areas, our initial analysis of the detailed consultation responses indicated that there are other factors that the Licensing Authority may wish to consider and explore.
42. One suggestion was to consider the CIP limitation on the density of licensed premises and their types based on household / resident numbers locally. It

would be good for us to have an opportunity to better understand the new census data and the new resident, new ward and licensed premises profiles.

43. The general view from the business respondents was the more restrictions put on businesses the more they will go out of business and impact the local area.
44. Re-adopting the CIPs now, could have an adverse effect on some very well-established music and hospitality premises, who have experienced two years of little or no trade.
45. The same could be said about the potential adverse effect on the opportunities for new investment and employment opportunities in the borough.

Equality Implications

46. The Council, when taking decisions in relation to any of its functions, must comply with its public sector equality duty as set out in section 149 of the Equality Act 2010 (“the 2010 Act”) to consider how the decisions they make, and the services they deliver, affect people who share any one of the nine protected characteristics as defined under section 149 (1) (7) of the 2010 Act in relation to age, race and disabilities etc. A screening for the equalities impact assessment has been carried out on the effect of the policy.
47. The policy has low relevance in relation to its impact on the areas under the statutory duties contained in the equalities impact assessment, but contributes towards the corporate priorities of the Council, in relation to having due regard to the three aims of the duty, namely:
 - to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
 - to advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
 - to foster good relations between people who share a protected characteristic and people who do not share it.

Risk Management Implications

48. In line with the exercise of functions under the Licensing Act 2003, the proposed policy seeks to provide a balance between encouraging regeneration and nightlife business in the Borough, whilst helping the Police and other Responsible Authorities to regulate problematic operators. The revised policy seeks to reflect the council’s commitment to supporting businesses and a vibrant night-time economy that is sensitive to the needs of residents.
49. The failure to meet new and existing statutory requirements is specifically addressed in the Environmental Health and Regulatory Services’ risk register. Internal controls in place to mitigate this risk include forward planning, training, internal auditing and monitoring, periodic updates of the scheme of delegation and the business planning process.

Implications verified by: David Hughes, Director of Audit, Fraud, Risk and Insurance, 24 April 2022

Climate and Ecological Emergency Implications

50. The changes to the current licensing policy are technical in nature and the overall change in style of the policy would have no significant foreseen climate implications. The new sub policies with the proposed policy mainly relate to best practice and procedures (in terms of vulnerable adults or drink spiking for example) and would therefore have very limited effect. There are potential positive climate implications in relation to the retention of two separate cumulative impact policies in Shepherd's Bush and Fulham Broadway, as these policies would limit any new licensed premises in the area or restrict later opening hours for existing premises.
51. The business-friendly style of the policy may attract new operators to H&F, which could result in increased energy use if premises are newly brought into use or changed to a more energy intensive use (such as longer operating hours). The council's main levers to mitigate this are in planning policy, and enforcement of minimum energy efficiency standards, rather than licensing. However, cumulative impact policies should consider impacts on emissions and pollution, and licensing of new businesses should be used as an opportunity for engagement on energy efficiency and joining the council's Climate Alliance.

*Implications verified by Jim Cunningham, Climate Policy & Strategy Lead
25 May 2022*

Consultation

52. The Act states that, when reviewing its SLP, a Licensing Authority must consult:
 - (a) the chief officer of police for the licensing authority's area,
 - (b) the fire and rescue authority for that area,
 - (c) each Local Health Board for an area any part of which is in the licensing authority's area,
 - (d) 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,
 - (e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
 - (f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - (g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - (h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
53. In addition to the organisations listed above, copies of the draft were sent to:
 - Ward councillors

- Residents' Associations
- Neighbouring authorities
- Community Safety Team
- All Responsible Authorities

Details of this consultation was also included on our Licensing pages on our website web site on this page:

<https://www.lbhf.gov.uk/business/licensing/licensing-policy>

54. On the 13 May 2022 officers commenced public consultation on the draft amended policy. The public consultation continued for a 6-week period until the 24 June 2022. Please see Appendix 5 - Consultation questions for the draft revised Statement of Licensing Policy 2022 – 2027.
55. A total of **88 online consultation responses** and **5 email responses** have been received, with 229 unique visits to the consultation webpage and 131 downloads of the SLP. There has been a mix of responses: 56% residents and 36% businesses. The remaining 8% comprised owners and employees of non-licensed premises and 'other'.
56. During the consultation period it was noted that the cumulative impact assessment (CIA) was not published with the online survey information. The CIA was subsequently added to the online survey on the 31 May 2022 and the consultation deadline was extended to the 24 June 2022.
57. Over 55% of the respondents either agreed or strongly agreed that:
 - (a) H&F had a good balance between the regulation of licensed business and the needs of residents. **(56%)**
 - (b) H&F had a diverse, cultural entertainment offer for its residents and visitors. **(70%)**
 - (c) The three new themes were a good focus for the policy (**>80%**)
 - (d) The new proposed policy is clear. **(55%)**
 - (e) The draft policy was clear how underage sales will be prevented and enforced if and when it occurred. **(71%)**
 - (f) There was sufficient information concerning vulnerable people working in and/or visiting licensed premises. **(59%)**
 - (g) The council should continue to keep a Cumulative Impact Policy in Fulham Broadway **(86%)** and in Shepherd's Bush **(85%)**. 43% of the respondents felt that the Shepherd's Bush Cumulative Impact Policy should specifically relate to off licensed premises only.
58. A statistical breakdown of the responses received is included at Appendix 6. A table listing the relevant points raised in the responses received, can be found at Appendix 7.
59. The responses from the 'Responsible Authorities', i.e. the Metropolitan Police, the Council's Environmental Health teams, support the proposals. Both of these responses can be seen at Appendix 8 and 9 respectively.

LIST OF APPENDICES

Appendix 1	Draft Statement of Licensing Policy 2022 – 2027 (consultation version)
Appendix 2	Final Draft of LBHF Statement of Licensing Policy 2022 - 2027
Appendix 3	Key changes for the Statement of Licensing Policy 2022 – 2027
Appendix 4	Cumulative Impact Assessment for Shepherd's Bush and Fulham Broadway
Appendix 5	Consultation questions for the draft revised Statement of Licensing Policy 2022 – 2027
Appendix 6	Statistical consultation results received for the public 6-week statutory consultation
Appendix 7	Statement of Licensing Policy 2022 - 2027 - Record of responses and comments to public consultation
Appendix 8	Police consultation response
Appendix 9	Environmental health licensing policy response