



# Report to Council

27 OCTOBER 2010

**LEADER**

*Councillor  
Stephen Greenhalgh*

**TITLE:** Review of Statement of Licensing Policy 2010

**WARDS**

**All**

**SUMMARY:**

This report seeks approval for the Council's Statement of Licensing Policy 2010, which has been publicly consulted upon.

The Licensing Act 2003 requires each Licensing Authority to review its Statement of Licensing Policy every three years.

It was last reviewed in 2007 and this will be our third edition which must be published by January 2011.

This report outlines the review and consultation process, issues for consideration and the proposed amendments which were subject to public consultation.

**CONTRIBUTORS**

Environmental Services

Legal and Democratic Services

Finance and Corporate Services

**RECOMMENDATION::**

Council is asked to approve the Council's Final Statement of Licensing Policy 2010 as set out in Appendix 1 of this report.

## **1. BACKGROUND**

- 1.1 Section 5 of the Licensing Act 2003 requires each licensing authority to determine and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act during the three year period to which the licensing policy applies.
- 1.2 The current Statement of Licensing Policy 2007 at Appendix 5 was adopted by the London Borough of Hammersmith and Fulham in November 2007. The Draft revised Statement of Licensing Policy 2010 is the Council's third since the Act came into force and must be published by 31 January 2011.
- 1.3 The proposed amendments to the Draft revised Statement of Licensing Policy 2010 are detailed in section 2.4 of this report.

## **2. REPORT**

### **2.1 Introduction**

- 2.1.1 The Licensing Act 2003 sets out four licensing objectives which the licensing authority has a duty to promote. These are:

- the prevention of crime and disorder,
- public safety,
- the prevention of public nuisance, and
- the protection of children from harm.

- 2.1.2 This Authority currently has 901 licensed premises which include the following:

- Pubs, Bars and Clubs
- Restaurants
- Shops (Off Licences)
- Social Clubs, Halls and Staff restaurants
- Hotels
- Cinemas and Theatres
- Take Aways selling hot food or hot drink between 11pm and 5am

- 2.1.3 Individuals engaged in making and authorising the sale of alcohol require a personal licence issued by the authority in whose area they reside.

- 2.1.4 The Act also allows events for less than 500 people to proceed without a premises licence providing that written notification is given to the police and the Council with a minimum of 10 working days notice. Premises are limited to a maximum of 12 such events per calendar year which may not exceed a period of 15 days and there must be at least 24 hours between events.

## **2.2 Review Process**

2.2.1 The Council's Statement of Licensing Policy 2007 was reviewed in consultation with the respective responsible authorities as defined by the Licensing Act 2003 and consideration was given to the following guidance and policies:

- The guidance issued under Section 182 of the Licensing Act 2003,
- The current Statement of Licensing Policy 2007
- The Council's parks and open spaces, events, and economic development strategies
- The Strategic assessment from the Crime and Disorder Reduction Partnership (CDRP)
- The Council's Disability Equality Scheme (DES) and Single Equality Scheme (SES)

## **2.3 Consultation process**

2.3.1 The 12 week consultation took place between 8 June 2010 to 30 August 2010. The Draft revised Statement of Licensing Policy 2010, together with the consultation letter and the consultation questionnaire were sent to over 2400 stakeholders, advertised with H&F News, on the Council website and placed on the Council's consultation portal.

2.3.2 The Draft revised Statement of Licensing Policy 2010 was also considered at the Environment and Residents Services Select Committee, and the Licensing Committee.

2.3.3 Section 5(3) of the 2003 Act requires the licensing authority to consult on its statement of licensing policy with the police, the fire authority and such person's representative of:

- Holders of premises licences issued by that authority
- Holders of club premises certificates issued by that authority,
- Holders of personal licences issued by that authority, and
- Businesses and residents in its area.

2.3.4 In addition to the statutory consultees, others were also consulted, including;

- Residents;
- Responsible Authorities: Police, Fire Authority, Environment Protection Team, Commercial Services Team, Trading Standards Team, Planning Team, and the Area Child Protection Committee;
- Councillors;
- Resident groups, tenants associations and societies;
- Health service including PCT, Accident and Emergency and the London Ambulance service;
- British Transport Police;
- London Underground;
- Neighbouring authorities;
- British Institute of Inn keeping;
- Chamber of Commerce;

- Drug and alcohol action team;
- Crime and Disorder Reduction Partnership; and
- Trade unions.

## 2.4 Summary of Key Responses

The amendments to the Draft revised Statement of Licensing Policy 2010 and responses together with the officers' comments are summarised below. A summary of the consultation responses can be seen at Appendix 2 of this report.

### 2.4.1 GENERAL/PURPOSE

**Summary of Consultation Responses:** The majority of consultees indicated that they considered the Draft revised Statement of Licensing Policy 2010 was clearly written and easy to understand and felt the length of the policy was 'about right'.

**Officers Comments:** By its nature, the Licensing Act 2003 and the guidance issued under Section 182 of the Act covers a wide range of complex areas. The aim of this Draft revised Statement of Licensing Policy 2010 was to have one all encompassing policy which provided all the relevant information for all stakeholder in one document which they could refer to.

### 2.4.2 LICENCE CONDITIONS

**Summary of Consultation Responses:** Over 86% of consultees considered it useful to include a section on 'licence conditions' under section 4 and a pool of conditions under Annex 3 in the Draft revised Statement of Licensing Policy 2010.

**Officers Comments:** The aim of the section was to help to ensure consistency and make sure that licensed premises in the vicinity of football grounds do not become crime and disorder hot spots during match days. In addition the 'Pool of Conditions' will make it easier for applicants, residents, Councillors, and agencies such as the Police to understand and request consistent conditions for each type of premises when making, commenting on or considering applications.

Following consultation the existing mandatory conditions have been included as well. See Annex 1 in the Final Statement of Licensing Policy 2010 at Appendix 1 of this report. The pool of conditions has been reviewed and a statement has been added to clarify that conditions should only be used where it is considered necessary and proportionate to the promotion of the licensing objectives. Conditions in relation to litter and cigarette bin provisions have been inserted. An additional statement has been added to advise that further conditions may be added in the future and to check the Councils website for the most current pool of conditions. The changes have been made under Annex 3 in the Final Statement of Licensing Policy 2010 at Appendix 1 of this report.

### 2.4.3 CUMULATIVE IMPACT

**Summary of Consultation Responses:** Over 88% of the consultees were supportive of the possible adoption of further special licensing policies. The full response from the Police can be seen at Appendix 3 of this report.

**Officers Comments:** The Council has adopted a special licensing policy for the Fulham Broadway Area as it considered that the cumulative effect of many licensed premises within the vicinity was resulting in problems of public disorder and nuisance to the surrounding area. This included low level crime, such as littering, shouting, vomiting and urinating in residential streets. Details of the special licensing policy for the Fulham Broadway Area have been included as Annex 4 in the Final Statement of Licensing Policy 2010.

### 2.4.4 PREVENTION OF CRIME AND DISORDER

**Summary of Consultation Responses:** 88% of consultees were in favour of the inclusion of a non-exhaustive list of measures to prevent crime and disorder, and over 83% supported the requirements to comply with the control of illegal drugs and weapons.

**Officers Comments:** The purpose of the list was to make it easier for applicants to address crime and disorder issues when preparing their Operating Schedule. In addition the proposals in relation to the control of illegal drugs and weapons on the premises was to make sure that applicants took responsibility for the activities that took place on their premises and liaised with the Council and Police to have the correct systems in place in dealing with these issues.

### 2.4.5 IRRESPONSIBLE DRINKS PROMOTIONS

**Summary of Consultation Responses:** 88% of consultees were in favour of the inclusion of guidance and examples of irresponsible drink promotions under Section 15.6 and Annex 2 of the Draft revised Statement of Licensing Policy 2010.

**Officers Comments:** New mandatory conditions came into force on 6 April 2010 which ban irresponsible drinks promotions such as “all you can drink for £10” offers or the dispensing of alcohol directly into the mouth. The new mandatory conditions also include the requirement to have free tap water available to customers.

These new conditions were included in the policy as well as further conditions that will become mandatory from 1 October 2010 to raise awareness in order to achieve compliance.

#### 2.4.6 OFF LICENCES

**Summary of Consultation Responses:** 79% of the consultees agreed with including tighter controls for off licences around the sale of alcohol.

**Officers Comments:** Street drinking, football crime and disorder and underage sales of alcohol continue to be an issue around various parts of the Borough. Tighter controls would help to promote responsible management in these licensed premises.

#### 2.4.7 CONSIDERATION OF OUR RESIDENTS

**Summary of Consultation Responses:** 81% of consultees were supportive of this new section outlining the responsibilities of licence holders and the impact of their activities on crime and disorder and public nuisance.

**Officers Comments:** This section was included as a result of the concerns and complaints raised by residents over the last three years in relation to noise and disruption from people leaving premises late at night.

#### 2.4.8 ANNUAL MAINTENANCE FEES

**Summary of Consultation Responses:** 81% of consultees agreed with the proposal of the Licensing Authority to pursue any unpaid annual maintenance fees.

**Officers Comments:** Approximately 80 licence holders are presently in arrears and debt recovery measures are in place, however pursuing these debts takes up much time and resource from the Council. Each licence holder is required to pay an annual fee and the vast majority of licence holders pay their fees on time. For this reason to ensure that all businesses receive fair treatment, those who simply choose not to pay will be pursued as often non payment of fees can be an indicator of other licence irregularities.

#### 2.4.9 MINOR VARIATIONS

**Summary of Consultation Responses:** 75% were supportive of the clarification on the difference between minor and full variations of existing licences.

**Officers Comments:** The amendment was made to provide greater clarity for all stakeholders.

#### 2.4.10 PERSONAL LICENCES

**Summary of Consultation Responses:** 81% were supportive of Personal Licence Applicants endorsing the back of photographs with their name, date of birth and contact number.

**Officers Comments:** The change was made to speed up the processing time for applications.

#### **2.4.11 TEMPORARY EVENTS NOTICES (TENs)**

**Summary of Consultation Responses:** 60% were supportive of the guidance for holders of Large Outdoor Events, and the Police were supportive of the inclusion of the risk assessment forms regarding specific events.

**Officers Comments:** It is recommended in the Draft revised Statement of Licensing Policy that in general the Licensing Authority and police be given at least 28 calendar days notice of the event to allow them to help organisers plan their events safely.

The police were very supportive of this amendment as it allows them to consult with applicants and ensure that the opportunity for crime and disorder is minimised at the planning stage.

#### **2.4.12 DESIGNATED PREMISES SUPERVISOR (DPS) IN COMMUNITY PREMISES**

**Summary of Consultation Responses:** 56% were supportive of the guidance on the recent changes in the 2003 Act in relation to community premises.

**Officers Comments:** Community premises are now allowed to apply to have the standard mandatory condition under Section 19 of the Licensing Act 2003 removed from their premises licence. The alternative licence condition will be that *'every supply of alcohol under the premises licence must be made or authorised by the management committee'* as opposed to being authorised by a DPS who holds a personal licence.

#### **2.4.13 INTERESTED PARTIES**

**Summary of Consultation Responses:** 75% felt it was useful to include information on the recent changes in the 2003 Act in relation to the amendment to the definition of 'interested parties'.

**Officers Comments:** It was important to clarify this change in the Draft revised Statement of Licensing Policy 2010 to remind and encourage Councillors to make representations where they felt that one or more of the four licensing objectives were not being upheld to support local residents.

#### **2.4.14 FURTHER COMMENTS**

Consultees were asked for any additional comments. The following table details the further changes adopted from the suggestions made by our consultees. These changes have been inserted in the Final Statement of Licensing Policy 2010 for approval at Appendix 1 in this report.

<b>Consultees Comments</b>	<b>Further Changes to Final Statement of Licensing Policy 2010 (at Appendix 1)</b>
Residents wanted a fair chance to learn about new applications.	The Final Policy includes information on the email alert system under Section 16 and 21. The email alert system is on the Councils website enabling residents, and other interested parties to make representations if they wish to do so.
The Police suggested adding their contact details in the Policy.	The generic police mailbox email address has been inserted under Section 18.
Planning suggested applicants are reminded to obtain the correct planning permission when applying for a licence and to provide a website link to the planning portal for further guidance and application forms.	These points have been inserted under section 14 and in addition the Final Policy contains information to remind applicants of the consequences of non compliance.
The Greater London Authority, City Operations 2012 Team wanted the Council to show their commitment to a safe and successful Olympic and Paralympic Games by advising licence holders to give due consideration to public safety and security risks.	A paragraph has been inserted under Section 18 to clarify the points raised.
The Environment Protection Team suggested further guidance be provided to prevent disturbance by customers arriving and leaving the premises.	Section 10 has been amended to provide further guidance and clarity.
The Environment Protection Team suggested further considerations in relation to risks associated with the public nuisance objective be added.	Further risks have been inserted under Section 15 which includes deliveries, waste, odour, ventilation, vibrations, and light pollution.

## **2.5 Comments**

### **2.5.1 Environment and Residents Services Select Committee**

A report was presented to the Committee, on 7 September 2010, where it was resolved that the revised Final Statement of Licensing Policy 2010 be endorsed.

### **2.5.2 Licensing Committee**

This report was presented to the Committee on 12 October 2010 where it was resolved that the Final Statement of Licensing Policy 2010 be endorsed.



### **3 RISK MANAGEMENT IMPLICATIONS**

- 3.1 The licensing authority can only consider matters within the scope of the Licensing Act and relevant guidance documents and cannot become involved in the moral issues relating to licensing.
- 3.2 Considerations must be given to the four licensing objectives as well as providing the necessary protection to residents, whilst promoting greater choice and flexibility to businesses and their customers.
- 3.3 The review of the Statement of Licensing Policy 2007 will be added to the Public Protection and Safety Divisional Risk Register to ensure that the risks are managed.

### **4 CONCLUSION**

- 4.1 Careful consideration has been given to the consultation responses that have been made in response to the consultation exercise and amendments have been made to the revised Statement of Licensing Policy 2010.
- 4.2 The key responses have been summarised in section 2.4.4 of this report. The Final Statement of Licensing Policy 2010 at Appendix 1 of this report includes all the changes made following the consultation responses.

### **5. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES**

- 5.1 There are approximately 900 premises issued under Licensing act licences that have to pay an annual charge due on the anniversary of the initial grant of the licence.
- 5.2 The main amendment that will impact financially will be the proposal to introduce more robust procedures to pursue any unpaid licence fees. Premises may also have their licences time limited if they owe any annual maintenance fees. This amendment will provide for improved debt recovery across licensing activities. Better use of time and resource will also result as a consequence of time limiting licensed premises where a proportion of annual fees remain outstanding.
- 5.3 Time limiting licences will also reduce the overall risk of bad debt by taking corrective action earlier in the process.

### **6. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC) SERVICES**

- 6.1 The Council has a duty in respect of each three year period to determine its policy with respect to the exercise of its licensing functions and publish a statement of licensing policy before 7 January 2011. The Council is under a duty to undertake a consultation as set out in section 2.3 of this report.

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1	Guidance Issued under section 182 of the Licensing Act 2003	Sanju Manji Ext 3392	PPS/ENV
2	List of consultees	Sanju Manji Ext 3392	PPS/ENV
3	Consultation Letter	Sanju Manji Ext 3392	PPS/ENV
4	Consultation Questionnaire	Sanju Manji Ext 3392	PPS/ENV
5	Draft revised Statement of Licensing Policy 2010	Sanju Manji Ext 3392	PPS/ENV
6	Online and Postal Responses to the Consultation	Sanju Manji Ext 3392	PPS/ENV
7	Minutes of the Environment and Residents Services Select Committee Meeting	Sanju Manji Ext 3392	PPS/ENV
<b>CONTACT OFFICER: Sanju Manji</b>		<b>EXT : 020 8753 3392</b>	

**APPENDICES**

- Appendix 1 Final Statement of Licensing Policy 2010 for approval
- Appendix 2 Summary of Consultation Responses
- Appendix 3 Response from the Metropolitan Police
- Appendix 4 Response from the Environmental Protection Team
- Appendix 5 Current Statement of Licensing Policy 2007