

Committee/Meeting: Council	Date: 18/9/13	Classification: Unrestricted	Report No: Agenda item 9.1 Addendum Report
Report of: Corporate Director / Head of Paid Service Stephen Halsey Originating officer(s) David Tolley – Head of Consumer and Business Regulations		Title: Statement of Licensing Policy Review including the Cumulative Impact Zone for the Brick Lane area and proposed ‘no casino’ resolution. Wards Affected: All	

Lead Member	Cllr Ohid Ahmed
Community Plan Theme	A Safe and Cohesive Community
Strategic Priority	Focusing on Crime and ASB

1. **SUMMARY**

- 1.1 All local authorities have to review their existing Statement of Licensing Policy and adopt a new policy by the end of 2013. This is one of their responsibilities they have to enable the administration of licences under the Licensing Act 2003.
- 1.2 The purpose of the Statement of Licensing Policy is to define how the responsibilities under the Act are going to be exercised and administered.
- 1.3 A statutory consultation process has taken place for the review of the Statement of Licensing Policy and the introduction of a Cumulative Impact Zone for the Brick Lane area.
- 1.4 The Council can have a special policy whereby it can designate an area within the Borough a “Cumulative Impact Zone” if it feels that the number of licensed premises is having an adverse impact on any of the Licensing Objectives (crime and disorder, noise / nuisance, public safety and harm to children).
- 1.5 The future licenses that are potentially affected by the proposed Cumulative Impact Policy are alcohol ‘on’ sales (pubs and restaurants) and ‘off’ sales of alcohol (off licenses) and late night refreshment licenses, the sale of hot food or drink after 11.00pm.
- 1.6 The revised Statement of Licensing Policy, if adopted will be published and have effect from the 1st November 2013 until 31st October 2018. The current policy would be revoked on the 31st October.

- 1.7. A consultation has also been carried out to enable a 'No Casino' resolution to be passed, that would amend the Gambling Policy 2013. The consultation showed a majority in favour of the resolution. If the resolution is passed, the Gambling Policy would be amended and republished.

2. **DECISIONS REQUIRED**

The Council is recommended to:-

- 2.1 To agree the adoption of the Statement of Licensing Policy including the Cumulative Impact Zone for the Brick Lane area.
- 2.2 That the Statement of Licensing Policy will take effect from 1st November 2013 until 31st October 2018. The existing Statement of Licensing Policy will be rescinded on the 31st October 2013.
- 2.3 To agree the adoption of the 'no casino' resolution to amend the Gambling Policy 2013.

3. **REASONS FOR THE DECISIONS**

- 3.1 The Council is statutorily required to review its Statement of Licensing Policy every three years. As part of the review a statutory consultation must take place.
- 3.2 The Council has the power to consider the cumulative impact of licensed premises in any part of the Borough and make special provision for this in its Statement of Licensing Policy.
- 3.3 The draft policy consultation results for the cumulative impact zone demonstrated high levels of community support for the introduction of such a policy.
- 3.4 If the Council wishes to have a 'no casino' declaration a consultation had to be undertaken and a resolution needs to be passed at full Council.

4. **ALTERNATIVE OPTIONS**

- 4.1 Council does have the option not to review its Statement of Licensing Policy but the Authority will be open to legal challenge for not having a properly consulted and adopted Policy.
- 4.2 Council could choose not to progress the introduction of a Cumulative Impact Policy. This option would be inconsistent with the achievement of the licensing objectives .i.e. reducing crime and disorder and nuisance.
- 4.3 The adoption of the Cumulative Impact Policy will enable the current licence holders to carry on their business as they currently do. The creation of the zone will require any new licence applicants to demonstrate that they will not

have an adverse impact on the area and to successfully address a rebuttal presumption against additional licenses established by the supporting policy.

4.4 Council could decide not to pass a 'no casino' resolution.

5. BACKGROUND

Statement of Licensing Policy Review

5.1 The Council's current Statement of Licensing Policy was adopted by full Council in December 2010.

5.2 Tower Hamlets Council is defined as a Licensing Authority under the Licensing Act 2003. As a Licensing Authority we must review our Licensing Policy every three years and publish the outcome of that review.

5.3 We must, as a minimum carry out the statutory consultation laid down in the Act.

5.4 The Licensing Act 2003 gives local authorities a range of responsibilities relating to licensing. The Statement of Licensing Policy states how the Council will exercise its authority.

5.5 This policy covers the following:

- How the Licensing Authority will use its regulatory powers in relation to applications and reviews of the activities it regulates, to the extent it is allowed by statute.
- The main licensing objectives for the authority which are set by legislative requirements.
- The Licensing Authority approach to regulation
- The scheme of delegation

5.6 The Statement of Licensing Policy is prescribed by central government in its guidance to Local Authorities. The policy produced has to comply with guidance issued by central government. The current policy is compatible with this advice and guidance.

Cumulative Impact Policy

5.7 Under the Licensing Act 2003 the Council in its role as a Licensing Authority may consider introducing saturation policies (known under the guidance to local authorities as "Cumulative Impact Policies").

5.8 These policies can be introduced where there is a combined impact or cumulative effect of licensed premises on one or more of the four Licensing Objectives, namely crime and disorder, the protection of children from harm, public safety or public nuisance.

- 5.9 There is a requirement to specifically identify the area to be the subject of such a policy and to bring forward sufficient evidence to justify adoption of it. This work was completed and presented as part of the rationale to move to the public consultation stage.
- 5.10 A consultation has taken place and the results show that there is support for a Cumulative Impact Policy in the Brick Lane area. The Council could now introduce a policy that creates a presumptive rebuttal against any new and varied licences being granted.
- 5.11 The proposals do not stop applications being submitted and considered on their merits. Any applicant may be successful if it can be demonstrated to the satisfaction of the Responsible Authorities and Licensing Sub Committee that their business will not add to any of the problems that have been identified.

'No Casino' Resolution

- 5.12 When the Gambling Policy 2013 was being adopted, Cabinet and Council requested that a 'no casino' resolution be considered. A statutory consultation exercise has taken place to enable a 'no casino' resolution to be passed and for the Gambling Policy to be amended to reflect this.

6. BODY OF REPORT

Statement of Licensing Policy Review

- 6.1 Under the Licensing Act 2003, the Council as the Borough's licensing authority must review its Statement of Licensing Policy and publish the outcome of that review.
- 6.2 The current review has taken into account the legislative changes that will affect the policy. The changes respond in the main to guidance and regulatory change from central government during the course of the last three years.
- 6.3 The statutory consultation requirements consist of consulting:-
- The Chief Officer of Police for the Licensing Authority area
 - The Fire Authority for the area
 - Such persons as the Licensing Authority consider to be representative of holders of existing licences
 - Such persons as the Licensing Authority considers to be representative of holders of existing clubs
 - Such other persons as the Licensing Authority considers to be representative of businesses and residents in its area
- 6.4 The full list of consultees is detailed in Appendix One. All licence holders were written to. General comments from groups and forums have been summarised in Appendix Two. The online submissions are summarised in Appendix Three.

- 6.5 The statutory changes are outlined in Appendix Four and the revised policy for adoption is detailed in Appendix Five.
- 6.6 The consultation documents have been presented to the Licensing Committee and noted by them.
- 6.7 The following are relevant issues that have been raised in the consultation process:

Late Night Levy: This enables a levy to be placed on businesses that operate past a set terminal hour past midnight. Some limited exemptions can be applied. The extra funds paid by businesses would require 70% net being paid into the Metropolitan Police at a regional level for use on Policing in the capital. The remaining 30% can be spent on the late night economy in Tower Hamlets. This has been estimated to be £74,000. A consultation exercise would need to be undertaken if this provision was to be used.

Early Morning Restriction Orders: This would enable the Council to determine if part or all off the Borough could be restricted in selling alcohol from midnight and 6am. An evidence base would need to be determined and a consultation exercise undertaken.

Framework Hours: The current framework hours in the Policy give an indication of the desired opening hours of premises, however each case is considered on its merits. The current hours are:

Sunday	0600hrs to 2230hrs
Monday to Thursday	0600hrs to 2330hrs
Friday and Saturday	0600hrs to midnight

Two of the groups that have responded have suggested a later start to the framework hour;

On licences	
Sundays	1200hrs
Monday to Thursday	1000hrs
Friday and Saturday	1000hrs
Off Licences	
Monday to Saturday	0800hrs
Sundays	1000hrs

Guidance has been published under section 182 of the Licensing Act 2003 that addresses the issue of framework hours. They should operate in such a way that does not restrict discretion and recognise that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good, evidential reasons to restrict these hours. There must be a justification provided if change is considered appropriate.

The current responses do not justify the change from a locality perspective but compare the hours to that of Westminster City Council.

Increase the voluntary consultation area carried out by the Council: Three groups have responded that they would like to have a greater consultation area of more than 40 meters from the applicant premises. Only one group has stipulated a distance of 100 meters. There would be resource implications to run licensing consultations over larger areas.

Touting: There were some concerns regarding the Touting elements within the Policy and some businesses have expressed a desire to improve trade without compromising the Licensing Policy and the welfare of residents and visitors to the area. It is claimed that the touting policy is having a negative impact on business.

Some restaurateurs would like to introduce a 'Meeters and Greeters' scheme to regulate on street business promotion by;

- Developing a jointly agreed Code of behaviour and standards with Councilors, Businesses and local residents
- Ensure any on street staff wear identifiable badges making clear their name and the business (with contact details) they represent
- Restrict on street promoters or marketing staff to a certain number to avoid congestion
- Provide professional training so frontline workers and business owners/managers are clear on what is expected both in terms of customer engagement and dealing with other businesses/traders
- The need for a robust process of constant and effective monitoring to and police the scheme

A scheme of this type falls outside the scope of the Statement of Licensing Policy and can be instigated and managed by the restaurateurs, providing the conditions detailed in the Statement of Licensing Policy are not contravened.

Health Considerations: The Public Health Team has made recommendations for two conditions that relate back to the Licensing objective of Public Safety. Guidance made under section 182 of the Licensing Act 2003 states that blanket conditions on premises are not suitable and that such conditions should be considered as 'pool conditions'

However, there are currently mandatory conditions that could cover the 'pool conditions' proposed by Public Health. The condition suggested by Public Health states:

For off licences, there shall be no promotional sales of alcoholic drinks at the premises at a price lower than normally sold at the premises. This will include offers that encourage the purchase of multiple alcoholic drinks products for a reduced price such as 'two for the price of one', 'three for the price of two', 'buy-one-get-one-free' & 'buy six get x% off'

This is more detailed than the current corresponding mandatory condition:

The responsible person must take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

The proposed condition from Public Health goes beyond irresponsible promotions and is seeking to stop any promotion at all. The condition cannot be applied to current licences retrospectively; therefore new premises would be put at a disadvantage.

The second condition relates to:

There shall be no sale of alcoholic drinks at a price lower than £0.50 per unit (where a unit of alcohol is defined as 10ml by volume or 8g by weight, of pure alcohol (ethanol)).

This condition does not retrospectively apply to all licences, thus this could put new premises at a disadvantage.

- 6.8 The following recommendations are put forward for consideration in relation to the non-statutory changes to the Statement of Licensing Policy and are included in the draft Statement of Licensing Policy attached at Appendix Five.

Proposed Change	Recommendation
Late Night Levy	The Council may impose a levy but is required to consult before doing so. The Statement of Licensing Policy should recognise this power but indicate that the Council would only carry out consultation if some justification for a levy is brought forward. Justification would probably come from a responsible authority.
Early Morning Restriction Orders	The Council may make an early morning restriction order but is required to consult before doing so. The Statement of Licensing Policy should recognize this power but indicate that the Council would only carry out consultation if some justification for an order is brought forward. Justification would probably come from a responsible authority. Restrictions on problem premises may presently be imposed via the current review process.
Framework hours	The supporters of moving the frame work hours to midday (Sunday only) and 10.00hrs for on licences and 10.00hrs (Sunday only) and 0800hrs for off licences has not been justified. It also will not be retrospective to current licence holders. The Licensing Sub Committee judges each case on its merits and is not bound by these hours.
Increase in the	The Council's statement of licensing policy presently

consultation area	provides that it will notify residents and businesses within a 40 meter radius of the premise the subject of the application. This is discretionary and considered to be good practice. If the area was to be extended this would create an administrative burden for the Licensing Team, which it would lack the resources to meet. It is proposed that the applications placed on the website for interested parties to review, along with retaining current arrangements
Touting	It is recommended that the work around Touting continues and that the conditions on current licences are maintained.
Health Considerations	<p>The Public Health condition concerning promotions goes further than the current mandatory condition and could not be retrospective, leading to inconsistency and unfairness. It is recommended that this condition is not adopted as a pool condition.</p> <p>The condition concerning the price per unit of alcohol would be contrary to Government guidance and lacks the required justification as to why this would be a proportionate means of achieving the licensing objectives. It is recommended that this condition is not adopted as a pool condition.</p>

Cumulative Impact Policy

6.9 There has been an on-going dialogue between the Police and the Council concerning the creation of a Cumulative Impact Policy. Considerable evidence has been established and presented in the “Proposal for Cumulative Impact Policy for Brick Lane” document which is in Appendix Six of this report.

6.10 The proposal explains in detail:-

- What a Cumulative Impact Zone (CIZ) is
- The powers the Council has to introduce a CIZ
- The limitations of a saturation policy
- The area suggested in and around Brick Lane for the CIZ
- The Brick Lane demographics
- The detailed evidence that provides the justification for a CIZ.
- Details of other saturation policies in the rest of London
- Conclusions and recommendations

6.11 The justification for a saturation policy in Brick Lane can be summarised as:-

- a. There are already over 207 Licensed Premises within this small area.
- b. The continuing high levels of violent / alcohol related in the Brick Lane Area (2011 Violent Crime 30% of all Alcohol Related Crime)
- c. It is responsible for 8% of all crime within Tower Hamlets.
- d. It is responsible for the highest level of complaints about street drinking

- e. 22% of all police calls to licensed premises are in the Brick Lane Area
- f. There are clear demonstrable links between violence against the person offences and alcohol related violence in the Brick Lane Area.
- g. LBTH has the second highest level of ASB in London
- h. The highest rates of ASB in the Borough are in the Brick Lane Area
- i. ASB is now decreasing in the Borough and Brick Lane Area but it still is at levels that continues to give rise to complaints from local residents
- j. LBTH has significantly worse alcohol related harm indicators compared with regional and national averages
- k. There is a steady increase in ambulance call outs in the Brick Lane Area
- l. The Brick Lane Area has a vibrant and expanding night time economy which has led to a sizeable and steady increase in visitors to the area.
- m. Considerable tensions have been built up because of the conflicting demands of the night time economy and the local residents.

6.12 It is therefore contended that the numbers of licensed premises have reached saturation point and there is a need to stop any further licences being issued or variations resulting in intensification being allowed in the identified area if they demonstrably add to the anti-social behaviour and social problems being experienced.

6.13 The consultation took place between the 21st December 2012 and 22nd March 2013. Licence holders, residents groups, responsible authorities and interested networks/forum were consulted. A public event was held in Toynbee Hall to enable interested parties to discuss the proposed policy. The Council's Licensing Committee was also consulted as to the scope and effect of the proposed policy.

6.14 The consultation results summary is at Appendix Seven and a map of the proposed zone is within the draft Statement of Licensing Policy at paragraph 8.5. The total number of responses received was 165. However, not all responses answered all the questions. A total of 81.4% responses showed positive support for a Cumulative Impact Policy.

6.15 The key part of the Cumulative Impact Policy is the presumptive rebuttal for licences that involve on and off sales of alcohol and the sale of hot food after 11pm. The following positive responses were received to support the presumptive rebuttal of issuing licences for:

- a) The sale of alcohol for consumption within a premises e.g. restaurants, clubs – 69.9%
- b) The sale of alcohol for consumption off the premises e.g. off licences and some pubs - 80%.
- c) The sale of hot food after 11pm e.g. restaurants and take aways – 69.2%

6.16 During the consultation period a joint letter of support for the Cumulative Impact Policy was received from the Chief Officer of Tower Hamlets Clinical

Commissioning Group, Public Health Director from Barts Health NHS Trust and the Interim Director of Public Health.

- 6.17 A 220 signed petition was also received from SPIRE, a local residents group, in favour of the Council adopting a Cumulative Impact Policy for the Brick Lane Area.
- 6.18 Cllr John Pierce and Cllr M Abdul Mukit provided a joint written response to the consultation supporting the Cumulative Impact Policy but having consulted the Weavers Safer Neighbourhood Team Panel would like to see the saturation zone to include the Boundary Estate and include Boundary Street, Virginia Road, Swanfield Street, Brick Lane and Shackwell Street.
- 6.19 The Licensing Committee was consulted and expressed concerns that the proposed zone might be too large by extending too far into the City fringe. It is important to note however that the licensing Committee would be entirely free to grant licences in the city fringe area if they considered the application would not result in additional problems.
- 6.20 The Cumulative Impact Policy forms part of the Council's Statement of Licensing Policy. If the Statement of Licensing Policy is adopted, then Members of the Licensing Committee, when sitting on the Licensing Sub-committee will be the decision makers in respect of new or variation applications falling within the cumulative impact area. The effect of adopting a cumulative impact policy is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused. The Licensing Sub-committee will consider whether the rebuttable presumption has been addressed sufficiently well by the applicant to allow a license to be granted.
- 6.21 The current Statement of Licensing Policy remains current until December 2013. It is proposed that this policy is replaced on the 1st November 2013 with the reviewed policy to enable the cumulative impact policy to be brought in early. The new policy cannot be brought in earlier due to then need to advertise and publish it.

'No Casino' Resolution

- 6.22 The consultation for the review of the statement of Licensing Policy also covered the request to consult on a 'No Casino' resolution that would amend the Gambling Policy. This consultation received a small majority endorsement from those that completed the online consultation. Appendix Eight sets out a suggested text for amendment to the Gambling Policy.
- 6.23 The justification for the 'no casino' policy can be drawn from the fact that the Borough already hosts 77 Betting Shops and 5 adult gaming centers. According to the NHS there is a link between gambling and alcohol abuse. Many gambling addicts are also addicted to alcohol. Rates of depression and attempted suicide among gambling addicts are around double the national

average. Gambling addicts are also more likely to go to prison as a result of criminal activity. This is almost entirely through theft and fraud. (NHS Choices: Your health your choices)

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 There are no specific financial implications emanating from the adoption of the Statement of Licensing Policy including the Cumulative Impact Zone for the Brick Lane area.
- 7.2 There is however non statutory changes within the recommendations put forward for consideration. The only proposed change that will have a financial impact if introduced is the Late Night Levy. This will impact on businesses operating past a set terminal hour after midnight. A limited number of exemptions will be applied. The anticipated income generated from the levy would be shared out 70% net to Metropolitan Police and the remaining 30% net to the Council estimated at £74,000.
- 7.3 The additional income generated from the levy will provide an opportunity for re investment into the late night economy in Tower Hamlets which will need to be considered alongside the Medium Term Financial Plan savings targets as part of the budget process.

8. LEGAL COMMENTS

- 8.1 The Council is a licensing authority under the Licensing Act 2003. Section 5(1) of the Licensing Act requires the Council to determine and publish its policy with respect to the exercise of its licensing functions. Since 25 April 2012, the requirement is for the Council to prepare and publish its statement of licensing policy in respect of each 5 year period. Once the licensing policy is in place, the Council is required to have regard to the policy in the exercise of its licensing functions.
- 8.2 Pursuant to the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the determination of the statement of licensing policy under section 5 of the Licensing Act 2003 cannot be a function of the council's executive. Consistent with this requirement, the policy has been brought to full council for adoption.
- 8.3 The Licensing Act specifies a minimum level of consultation which the Council must carry out before determining its licensing policy for a 5 year period. This requires specified persons to be consulted, as referred to in the body of the briefing paper.
- 8.4 When determining its licensing policy, the Council is required to have regard to the following –

- Promoting the four licensing objectives, namely: (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.
 - Statutory guidance issued by the Secretary of State.
- 8.5 It is proposed that the licensing policy should include a cumulative impact zone. Cumulative impact is not mentioned specifically in the Licensing Act 2003. The Secretary of State has, however, issued guidance under section 182 of the Act, which deals with cumulative impact. The Council must have due regard to the statutory guidance in exercising its licensing functions (Licensing Act 2003, section 4(3)).
- 8.6 According to the statutory guidance, cumulative impact means “the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Council to consider in developing its licensing policy statement. The statutory guidance gives an indication of types of cumulative impact, which focus on nuisance, disorder and crime in areas where the number, type or density of premises selling alcohol is high or exceptional, resulting in a concentration of large numbers of drinkers.
- 8.7 The statutory guidance provides that there should be an evidential basis for the decision to include a special policy within the statement of licensing policy. In that regard, local community safety partnerships and responsible authorities, such as the police and the local authority exercising environmental health functions, may hold relevant information which can be used to establish the evidence base for introducing a special policy relating to cumulative impact into their licensing policy statement. Evidence to show cumulative impact of licensed premises on the promotion of the licensing objectives may include:
- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 - Statistics on local anti-social behaviour offences;
 - Health-related statistics such as alcohol-related emergency attendances and hospital admissions;
 - Environmental health complaints, particularly in relation to litter and noise;
 - Complaints recorded by the local authority, which may include complaints raised by local residents or residents’ associations;
 - Residents’ questionnaires;
 - Evidence from local councillors; and
 - Evidence obtained through local consultation.
- 8.8 Relevant evidence has been gathered and the material relied upon in preparation of the cumulative impact statement is set out in Appendix 6. Paragraph 4.3 of the report summarises the material considered to justify the

making of the policy. The Council may conclude that this material justifies the making of a cumulative impact statement in the terms proposed.

- 8.9 It is proposed that the statement of licensing policy refer to the fact that the Council may impose a late night levy or an early morning restriction order, but that in each case the Council would first have to carry out consultation which it will not undertake unless justification is first provided by a responsible authority. If the Council is not itself aware of a justification for either a late night levy or an early morning restriction order, then it seems reasonable to defer consultation until such time as a justification becomes apparent.
- 8.10 The late night levy is a charge on persons licensed to sell alcohol late at night, which is a means of raising a contribution towards the costs of policing the late-night economy. Section 125 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) empowers the Council to decide that the late night levy is to apply in Tower Hamlets. The 2011 Act specifies matters which the Council must consider at the time of making that decision. The procedure to be followed in relation to a proposal to apply the late night levy is specified in the Late Night Levy (Application and Administration) Regulations 2012. The Council must consult with the relevant local policing body, the relevant chief officer of police, and holders of relevant late night authorisations. The Council must publish notice of its proposal to apply the late night levy. This procedure is separate from that which is being followed to revise the licensing policy. If reference to the late night levy is to be included in the licensing policy, then the decision to apply the levy should be completed prior to, or at the same time as, adoption of the revised licensing policy.
- 8.11 Section 172A of the Licensing Act 2003 permits the Council to make an order effectively preventing the sale of alcohol in a specified period between midnight and 6 am (an early morning alcohol restriction order, or EMRO). Section 172B of the Licensing Act and the Licensing Act 2003 (Early Morning Alcohol Restriction Orders) Regulations 2012 set out procedural requirements to be followed when making an early morning alcohol restriction order. The proposal must be advertised. If relevant representations are made, the Council must hold a hearing to consider the representations, unless all parties agree that a hearing isn’t necessary. There are prescriptions as to the content of EMROs and as to the manner and form in which they are to be made.
- 8.12 There was a suggestion during consultation that the Council might extend the framework hours referred to in its statement of licensing policy. This is not recommended in the report. The framework hours give a guide to the level of scrutiny the Council will apply in considering licence applications. Consistent with Government guidance, the framework hours are not in any sense “normal” or “usual” and every application has still to be considered on its merits. Any change to the framework hours would need to be considered by reference to the need to promote the licensing objectives, for which no justification has been provided.

- 8.13 There was a suggestion during consultation that the Council might notify people of licence applications in a wider area from the premises. The Council's statement of licensing policy presently provides that it will notify residents and businesses within a 40 metre radius of the premise the subject of the application. This is discretionary and not required by the Licensing Act 2003.
- 8.14 Representations were made during consultation regarding the Council's approach to enforcement action against touting. The Mayor has agreed an Enforcement Policy, which provides that the Council's approach to enforcement is founded on firm but fair regulation around the principles of :
- raising awareness of the law and its requirements;
 - proportionality in applying the law and securing compliance;
 - consistency of approach;
 - transparency about the actions of the Council and its officers; and
 - targeting of enforcement action.
- 8.15 There is no requirement for touting enforcement to be addressed within the Council's statement of licensing policy.
- 8.16 Two licensing conditions have been proposed by Public Health. The first concerns drink promotions. There is already a mandatory condition applying to all licences, which is in the following terms: "The responsible person must take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange, or participate in any irresponsible promotions in relation to the premises." The mandatory condition is targeted at irresponsible promotions. By contrast the condition proposed by Public Health seeks to stop all promotions. There is no indication of why such a condition would be a proportionate means of achieving the licensing objectives and in the absence of such a justification it should not be adopted as a pool condition.
- 8.17 The second condition proposed by Public Health seeks to impose a minimum price for alcoholic drinks. This is not consistent with Government guidance. There is no indication of why such a condition would be a proportionate means of achieving the licensing objectives and in the absence of such a justification it should not be adopted as a pool condition.
- 8.18 It is proposed that the Council makes a "no casino" resolution. Section 166(1) of the Gambling Act 2005 ("the 2005 Act") permits the Council to resolve not to issue casino premises licences and section 166(2) provides that in passing a resolution under subsection (1) a licensing authority may have regard to any principle or matter. Any resolution: (a) must apply to the issue of casino premises licences generally, (b) must specify the date on which it takes effect, (c) may be revoked by a further resolution, and (d) shall lapse at the end of the period of three years beginning with the date on which it takes effect (without prejudice to the ability to pass a new resolution).
- 8.19 A resolution under section 166(1) is required to be published by being included in a revision of the Council's three year statement of gambling policy.

This is required by section 166(5) of the Gambling Act. The Council is required to consult before revising the gambling policy, which the report indicates has been carried out.

8.20 The making of a “no casino” resolution and amendment of the gambling policy are both matters which may not be the responsibility of the Council’s executive, by virtue of regulations 2(1) and 4(4) and Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The Council’s Constitution includes the making of such a resolution in the terms of reference of the Licensing Committee, but amendment of the gambling policy is a matter for full council. As both need to be dealt with, it is convenient for full council to deal with both at the same time.

8.21 When preparing and determining its statement of licensing policy, or considering a “no casino” resolution, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don’t. This will require equality analysis, which is provided in Appendix 9 of the report.

9. ONE TOWER HAMLETS CONSIDERATIONS

9.1 An equalities impact assessment has been undertaken for the Statement of Licensing policy, and specifically the Cumulative Impact Policy (appendix nine and ten) and no adverse impacts have been identified. The “no casino” resolution will amend the Statement of Gambling Policy. The equalities impact assessment detailed in Appendix nine concludes that there are no adverse impacts.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

10.1 There are no adverse impacts identified.

11. RISK MANAGEMENT IMPLICATIONS

11.1 The Council will be at risk of legal challenge if a properly consulted and adopted Statement of Licensing Policy is not in place by the end of 2013.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

12.1 One of the key licensing objectives is to prevent licensed premises from being a source of crime and disorder. The policy supports and assists with crime and disorder reduction by controlling those who manage premises open to members of the public and imposing conditions on relevant premises licences.

13. EFFICIENCY STATEMENT

13.1 There are no efficiency issues relating to this report.

14. APPENDICES

- Appendix One: Organisations consulted on Statement of Licensing Policy
- Appendix Two: Summary of written responses – Licensing Policy
- Appendix Three: Summary of on line responses – Licensing Policy
- Appendix Four: Proposed Changes to the Statement of Licensing Policy
- Appendix Five: Draft Statement of Licensing Policy
- Appendix Six: Proposal for Cumulative Impact Policy for Brick Lane Area
- Appendix Seven: Consultation Results Summary
- Appendix Eight: Statement of Gambling Policy amendment
- Appendix Nine: Equality Impact- Licensing Policy
- Appendix Ten: Equality Impact- Cumulative Impact Policy

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
None	