

<p>Cabinet</p> <p>31 October 2017</p>	
<p>Report of: Ann Sutcliffe, Acting Corporate Director, Place</p>	<p>Classification: Unrestricted</p>
<p>Statement of Licensing Policy Review 2018</p>	

Lead Member	Councillor Asma Begum Cabinet Member for Community Safety
Originating Officer(s)	David Tolley, Head of Environmental Health and Trading Standards
Wards affected	All wards
Key Decision?	No
Community Plan Theme	A Safe and Cohesive Community

Executive Summary

All local authorities have to review their existing Statement of Licensing Policy every five year's, the Council must adopt a new policy by October 2018, as one of the responsibilities that they have to administer licences under the Licensing Act 2003.

The purpose of the policy statement is to define how the responsibilities under the Act are going to be exercised and administered.

A statutory consultation process will take place and there will be the opportunity for the local community to comment on the proposed Statement of Licensing Policy.

Following consultation the reviewed policy will ultimately go to full Council for adoption.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Agree the forward programme for consulting on the proposed Statement of Licensing Policy.
2. Agree, if appropriate, that the consultation should be based on the proposed changes detailed in Appendix Two.
3. Delegate to the Corporate Director of Place authority to make any pre consultation amendments to the policy deemed necessary following consultation with the Corporate Director Governance.

4. To consult whether to retain the current Cumulative Impact Zone in the Brick Lane area at Appendices 1 and 3.
5. To consider whether to consult on a further Cumulative Impact Zone for Bethnal Green Road/ Cambridge Health Road to Old Bethnal Green Road that forms part of the Licensing Policy.

1. REASONS FOR THE DECISIONS

- 1.1 The Council is statutorily required to review its Statement of Licensing Policy every five years. As part of the review a statutory consultation must take place. This includes any Cumulative Licensing zone.
- 1.2 The proposed Statement of Licensing Policy which reflects changes to the current version of the policy is at Appendix Two. This will enable the new statutory provisions to be reflected in the reviewed Statement of Licensing Policy.

2. ALTERNATIVE OPTIONS

- 2.1 The Council does not have the option not to review its Statement of Licensing Policy as it would be open to legal challenge for not having a properly consulted and adopted Policy.
- 2.2 The Council also has the option of not retaining the Cumulative Impact Zone, which forms part of the Licensing Policy

3. DETAILS OF REPORT

- 3.1 The Council's current Statement of Licensing Policy was adopted by Full Council in November 2013.
- 3.2 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 five years and publish the outcome of that review.
- 3.3 We must, as a minimum carry out the statutory consultation laid down in the Act.
- 3.4 Following consultation, Cabinet must consider the revised Statement of Licensing Policy and full Council must adopt the Statement of Licensing Policy.
- 3.5 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.

3.6 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

3.7 Each Local Authority must have a Statement of Licensing Policy. The policy has to comply with guidance issued by central government. The current policy is compatible with this advice and guidance.

3.8 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 by central government during the course of the last five years.

3.9 The Statutory Consultation requirements consist of:-

- 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 premises or personal licences
- Such persons as the Licensing Authority considers to be representative of holders of existing club premises certificates issued by the authority
- Such other persons as the Licensing Authority considers to be representative of businesses and residents in its area
- Director of Public Health

3.10 The current review considers legislative changes. The changes respond, in the main, to guidance and regulatory changes by central government and operational changes during the course of the last five years:- They include

- Addition of Home Office Immigration Enforcement Unit as a responsible authority under the Immigration Act 2016
- The consideration of West Ham United having the Olympic Park as a home ground
- Consideration to maintain the Cumulative Impact Zone
- Removal of 'pool conditions' but add in reference to home office website
- Linking in street furniture and fly posting into the licence
- Consideration of fixed penalty notices and cautions as criteria for previous history of applicants.
- Clarification of the protection of children through underage sales
- To include the determination of the Late Night Levy consultation
- To append the Sexual Entertainment Venues Policy and Gambling Policy as part of the Licensing regime.
- Clarification on the rules and procedures involving Temporary Event Notifications
- Update of mandatory conditions

3.11 The time table for the draft policy for consultation is:

Date	Process
October 2017	Cabinet agrees consultation
December 2017	Licensing Committee consulted
January 2018 – March 2018	Public/statutory consultation
April 2018- May 2018	Consultation feedback reviewed
June 2018	Mayors Advisory Board
July/August 2018	Cabinet to consider new policy
September/October 2018	Full Council agreement

3.12 The Public Health Team will be consulted and will be in a position to add a further considerations in relation to maximum strength alcohol and pricing strategies.

3.13 At the conclusion of the consultation process a resource analysis will be undertaken to estimate any additional cost to the Licensing Service when implementing the new policy.

3.14 The existing Policy is attached at Appendix One , the proposed changes to the Policy and the proposed revised version of the Policy are outlined in Appendix Two.

Brick Lane Cumulative Impact Zone

3.15 As part of the Statement of Licensing Policy review, the impact of the Cumulative Impact Zone in the Brick Lane area has been considered. The Cumulative Impact Zone was introduced in November 2013 and is referred to in Appendix 3.

3.16 Since its introduction incidents of crime and antisocial behaviour linked to licensed premises within the Cumulative Impact Zone have seen an overall reduction despite the fluctuating figures .The figures below show the fluctuations in the numbers of crime and anti-social behaviour linked with licensed premises. .

Year	Number of ASB complaints in CIZ	Increase/Decrease in complaints (+=increase)
2012	510	-
2013	591	+ 81 more than 2012
2014	786	+195
2015	736	-50
2016	459	-177

- 3.17 The hotspot maps at Appendix 3 reflect the distribution of incidents of crime and antisocial behaviour (ASB) in the area linked to licensed premises from December 2012 to December 2016.
- 3.18 In addition there has also been a reduction in total number of complaints received by Licensing and the Noise Team shown below:
- 01/12/2010 to 29/10/13 – 520 total complaints received by Noise and/or Licensing Teams (before the CIZ was introduced)
 - 06/11/2013 to 01/11/16 – 190 total complaints received by Noise and/or Licensing Teams after the CIZ was introduced
- 3.19 Furthermore there are fewer premises licenses being granted within the Brick Lane Cumulative Impact Zone, 190 between 3rd August 2005 and 1st November 2013, and 63 granted between 25th November 2013 and 15th September 2016.
- 3.20 Part of the Spitalfields and Banglatown areas fall within the Brick Lane CIZ. The incidents referred to in the table below occur in Spitalfields and Banglatown ward.

Year	Number of ASB complaints borough wide linked to licensed premises	Increase/Decrease in complaints (+=increase)
2012	622	-
2013	686	+64
2014	838	+152
2015	774	-64
2016	559	-215

- 3.21 Based on the number of incidents, consideration was given to proposing an expansion of the Brick Lane CIZ to encompass the whole of Spitalfields and Banglatown. However in producing our own hotspot maps of this area, which can be found in Appendix 5 (Hot Spot Maps a to e), shows there was insufficient evidence to support expanding the CIZ to encompass all of this ward.
- 3.22 Maps from the Metropolitan Police website (see Appendix 4) also show that the whole of Spitalfields and Banglatown Ward (part of which is included in the CIZ) is categorised as high for antisocial behaviour, although it should be noted that this map is based on all incidents of antisocial behaviour and not necessarily those linked to licensed premises.
- 3.23 Therefore it is proposed to keep the current CIZ. Evidence detailed above in paragraphs 3.16 and 3.20 and the appendices supports the retention of the CIZ in its current form. Retention of the current CIZ will assist the Council in

reducing the cumulative impact on crime and antisocial behaviour linked to licensed premises within this area.

- 3.24 To enable the retention of the Brick Lane CIZ in its current form a consultation of businesses and other interested groups that may be affected by the CIZ must be carried out, this will form part of the consultation for the Statement of Licensing policy. Appendix 6 shows a hot spot map of the whole Borough identifying licensed premises and the reports of anti-social behaviour or crime linked to licensed premises between April 2016 and March 2017. Nearly 16% of these incidents occurred in the current cumulative impact zone.
- 3.25 It is possible to make an argument for an additional cumulative impact zone to be brought in to being within the Borough, along Bethnal Green Road from Valence Road to Cambridge Health Road and up to Old Bethnal Green Road as shown in the hot spot map at Appendix 7 Such a zone would capture approximately 52 licensed premises. Based on data from 999/101 calls to Police in 2016/17 there was 382 incidents linked to licensed premises, however, it should be noted that 15 of these were abandoned calls. This data detailed on Appendix 8 breaks down this data type of incident and the number of them recorded between April 2016 and March 2017. From this data the most common type of incident reported linked to licence premises in the area was "Violence Against the Person".
- 3.26 As this proposed new zone (see Appendix 9) represents a small area, it could be argued that there is little point in creating a new cumulative impact zone for this area and the Council could rely upon current initiatives as Best Bar None, Pub Watch and Community Alcohol Partnerships to ASB address issues.
- 3.27 The consideration of Cumulative Impact Zones within the Licensing Policy Review draws the links between other strategies and reviews that the Council has approved with regards to the *Anti-social behaviour – A blue print for local action in Tower Hamlets*, the current consideration of the adoption of the late night levy and the report back on the Late Night Economy Scrutiny review. These strategies and reviews look at strengthening the action that can be taken to deal with anti-social behaviour and the consideration of having Cumulative Impact Zones will compliment these initiatives.
- 3.28 An Equalities Impact Assessment on the consultation and policy has been undertaken and is in Appendix 10.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The report sets out for agreement the forward programme for consultation on the Statement of Licensing Policy. The Licensing Service has a gross expenditure budget of £352,500 for the administration of the service. The cost of the service is met by the fees received from the licences. Income for 2017/18 is budgeted at £473,762 which is in line with the level of income achieved in previous years.

4.2 The report also considers the retention of the current Cumulative Impact Zone (CIZ) and introduction of a smaller CIZ along Bethnal Green Road to Cambridge Heath Road, where a total of up to 33 licensed premises will be impacted. The report is in favour of retention of the CIZ and highlights the role it has played helping to address anti-social behaviour issues within the Borough. The result of any decision made will not have an impact on the income budget. However, before a decision can be made consultation will need to be carried. It is proposed that this is completed as part of the consultation on the Statement of Licensing Policy. The costs of the consultation and proposed changes to the Policy can be met from the Licensing Services Budget.

5. LEGAL COMMENTS

5.1 The Council is a Licensing Authority under the Licensing Act 2003 (“the Act”). Section 5(1) of the Act requires the Licensing Authority to determine and publish its policy with respect to the exercise of its licensing functions. The requirement is for the Council to prepare and publish its statement of licensing policy in respect of each 5 year period. The Council is required to have regard to the policy in the exercise of its licensing functions, to keep the policy under review.

5.2 The Act specifies a minimum level of consultation which the Council must carry out before determining its licensing policy for a 5 year period. Section 5(3) of the Act requires specified persons and bodies to be consulted, as referred to in paragraph 3.9 of the body of the report.

5.3 When determining its’ licensing policy, the Council is required to have regard to the following:

- Promoting the four licensing objectives, (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 in accordance with S182 of the Act (April 2017)

5.4 The Licensing Policy of the Authority may include a statement that there is a potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The community impact assessment (CIA) must set out the evidence for the authority’s opinion. Within 3 years of publication or on review of the CIA, the Authority must consult with the bodies referred to in Section 5(3) of the Act to consider whether there has been a change in its opinions. Any revision of the CIA must be published. There is an obligation to regularly review any special policy included in the Licensing Policy to assess whether it is still needed. This will include the Cumulative Impact Policy. Therefore the report invites Members to consider whether to retain the current CIZ in the Brick Lane area, to expand the CIZ for the whole of the Spitalfields and Banglatown area or to create a

new CIZ along Bethnal Green Road from Valence Road to Cambridge Heath Road and up to Old Bethnal Green Road .

- 5.5 The following changes in legislation are included in the proposed new policy:
- 5.6. With effect from 6.4.2017 the Immigration Act 2016 amended Section 2A Licensing Act 2003 so that any individual applying for a personal licence must be entitled to work in the UK. The application will be rejected if they are not entitled to work in the UK. The licensing authority must be satisfied that an individual who applies for a premises licence is entitled to work.
- 5.7 If an applicant's immigration permission to live or work in the UK is time limited, a personal licence may be granted but becomes invalid when the immigration permission expires.
- 5.8. Since 1.4.2017, the Secretary of State has been a Responsible Authority in respect of premises licensing to the sale of alcohol or late night refreshment. Enforcement of this role will be undertaken by the Home Office Immigration Enforcement on behalf of the Secretary of State. The enforcement powers will be in respect of the prevention of crime and disorder licensing objective.
- 5.7 Since 1.4.2017, businesses which sell alcohol will need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registrations Scheme (AWRS).
- 5.9 In accordance with the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities (England) Regulations 2000, functions relating to licensing are to be exercised by Full Council. Full council has delegated some of these functions to the Licensing Committee and officers but the adoption of the of licensing policy is a matter for full council.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 An initial equalities analysis has been undertaken and no adverse impacts have been identified

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The Council is fulfilling its best value duty by ensuring that staff resources are targeting the higher risk licensed premises. The report details how the Service will operate its statutory function under the Licensing Act 2003 ensuring that licence holders are held to account whilst reducing burdens on well-run businesses. The statement of Licensing Policy allows Officers to use a range of interventions to seek compliance.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no adverse impacts identified.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The Council will be at risk of legal challenge if a properly consulted and adopted Statement of Licensing Policy is not in place by Autumn 2018.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 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.

11. SAFEGUARDING IMPLICATIONS

- 11.1 There are no efficiency issues relating to this report.

Linked Reports, Appendices and Background Documents

Linked Report

NONE

Appendices

Appendix 1 – Current Statement of Licensing Policy
Appendix 2 - Proposed Changes to the Statement of Licensing Policy
Appendix 3 – Current Cumulative Impact Zone hot spots over time
Appendix 4 – Metropolitan Police crime map
Appendix 5 – Spitalfields and Banglatown Ward hot spot map over time
Appendix 6 – Borough-wide antisocial behaviour complaints linked to licenced premises
Appendix 7 – Hot Spot map of Bethnal Green Road, Cambridge Health Road to Old Bethnal Green Road
Appendix 8 – 999/101 calls within the proposed CIZ
Appendix 9 – Outline of proposed CIZ for Bethnal Green
Appendix 10 – Equalities analysis

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

NONE

Officer contact details for documents:

N/A