

TRAFFORD COUNCIL

Report to: Council
Date: 8 December 2020
Report for: Decision
Report of: Executive Member formerly for Public Safety, Governance and Reform.

Report Title

Licensing Act 2003 – Statement of Licensing Policy – 2021-2026

Summary

The Council is required to prepare, consult on and publish a Statement of Licensing Policy every five years.

The policy has five main purposes:

- 1) To inform elected members of the Licensing Committee of the powers attributed to them by the Act and to highlight the boundaries within which to make decisions.
- 2) To inform applicants of the parameters within which the Licensing Authority will make decisions and how licensed premises are likely to be able to operate within the borough.
- 3) To inform residents and businesses of the considerations which the Licensing Authority will take when making licensing decisions.
- 4) To inform Responsible Authorities of their powers under the Act to promote the four licensing objectives.
- 5) To support decisions made by the Council when these decisions are challenged in a court of law.

The Council's current policy has been updated to reflect changes in legislation and best practice since it was last reviewed in 2016. This includes practice on including local ward Councillors in consultations for a new premises licence or full variation applications; expanded detail on measures to promote the licensing objectives; a section on Child Sexual Exploitation advice; promotion of other strategies including a 'Reduce the Strength' strategy; expectations for organisers of White Collar Boxing Events; Counter Terrorism Measures; a new Pool of Conditions to assist applicants and members of the Licensing Sub-Committee; guidance on the Immigration Act; and detail on the pre-application consultation service with officers of the Licensing Authority.

As part of the review of this policy, consideration is required on whether, or not, to keep the special licensing policy on cumulative impact.

In accordance with Government Guidance, a full consultation process was undertaken from 29th June 2020 to 18th September 2020.

The Council received six responses to the consultation, which includes three individual responses, a response from Public Health, the ward Councillor for Gorse Hill, and the Altrincham Town Centre Partnership & Altrincham Bowdon Civic Society.

Attached to this report is the draft report for consideration by Full Council, together with the proposed Statement of Licensing Policy 2021-26, a schedule of amendments to the policy and full details of all representations received during the consultation, this includes the consultation responses and the consultation summary report.

Recommendation(s)

It is recommended that the Council:

- Note the recommendation of the Executive on the 26th October to approve the revised Statement of Licensing Policy; and
- Approve the revised Statement of Licensing Policy as attached at **Appendix F**.

Contact person for access to background papers and further information:

Name: Joanne Boyle – Licensing Team Leader
Keiran Hinchliffe – Senior Licensing Officer
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Background Papers: None

Appendices:

Appendix A	Statement of Licensing Policy – 2016-2021
Appendix B	Summary of Amendments
Appendix C	Consultation Document Statement of Licensing Policy 2021-26
Appendix D	Consultation Summary Report
Appendix E	The Council's Response to the Consultation Summary
Appendix F	Statement of Licensing Policy 2021-26 for Approval
Appendix G	Equality Impact Assessment

Relationship to Policy Framework/Corporate Priorities	<i>Having a Policy on how the Council will administer its functions under the Licensing Act 2003 makes the processing of applications more efficient by giving residents, applicants and decision makers clear guidance on what factors will be taken into</i>
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	<i>consideration when making decisions.</i>
Relationship to GM Policy or Strategy Framework	<i>None</i>
Financial	<i>The revised Statement of Licensing Policy is not expected to have any financial implications for the Council.</i>
Legal Implications:	<i>Section 5 of the Licensing Act requires the Council to publish a Statement of Licensing Policy and review it every 5 years.</i>
Equality/Diversity Implications	<i>An Equality Impact Assessment was undertaken – Copy attached at Appendix G. The assessment identified no adverse impacts of adopting the revised policy.</i>
Sustainability Implications	<i>None</i>
Staffing/E-Government/Asset Management Implications	<i>None</i>
Risk Management Implications	<i>None</i>
Health and Wellbeing Implications	<i>The revised policy is intended to address issues in relation to living well, and is intended to help strike the right balance between the development of the night time economy and its potential adverse impact on local residents.</i>
Health and Safety Implications	<i>None</i>

1. Background

- 1.1 Section 5 of the Licensing Act 2003 requires that all local authorities review their Statement of Licensing Policy every five years.
- 1.2 In order to determine the review of policy, a licensing authority must consult with:-
- The Chief Officer of Police for the licensing authority's area.
 - The Fire Authority
 - Such persons as the Licensing Authority consider being representative of holders of premises licences issued by that authority.
 - Such persons as the Licensing Authority considers to be a representative of holders of club premises certificates issued by that authority
 - Such persons as the Licensing Authority considers to be a representative of holders of personal licences issued by that authority
 - Such persons as the Licensing Authority consider being representative of businesses and residents in the area.
- 1.3 In accordance with Government Guidance, a full consultation process was undertaken from 29 June 2020 to 18 September 2020. The existing Statement of Licensing Policy is attached as **Appendix A**. Detail of the changes contained within the draft policy is included as a Summary of Amendments at **Appendix B** and this accompanied the published consultation. The Draft

Statement of Licensing Policy 2021-26 which was put out for consultation is attached as **Appendix C**.

- 1.4 A Consultation Summary has been produced as **Appendix D**. And the Council's response to the Consultation Summary is at **Appendix E**.
- 1.5 If approved the policy will come into force on **07 January 2021**, and will remain in force for a period not exceeding five years, and will be subject to review and further consultation before **07 January 2026**. The Council will keep the policy under review, making any amendments as it considers appropriate to support the licensing objectives.

2. **Summary of Key Amendments**

Special Saturation Policy 17.11 – 17.16

- 2.1 A Cumulative Impact Area is a designated zone where evidence has indicated that the number, type or density of licensed premises is impacting adversely on the licensing objectives, namely, crime and disorder, public safety, public nuisance and the protection of children from harm
- 2.2 The Council's current policy includes reference to two Cumulative Impact Areas under its Special Saturation Policy; namely – Altrincham and Sale Town Centres.
- 2.3 When the policy was published in January 2016 cumulative impact was a concept introduced in the Government's Section 182 Guidance issued under the Licensing Act 2003. The Policing and Crime Act 2017, with effect from 6 April 2018, introduced cumulative impact policies into law so that they now have a legal footing.
- 2.4 The Licensing Act 2003 now states a licensing authority may publish a document (a Cumulative Impact Assessment) stating that it considers that the number of premises licences or club premises certificates is at such a level that it would be inconsistent with the promotion of the licensing objectives to grant any further licences or certificates in that area and restrict changes to licensable activities of existing licences.
- 2.5 A Cumulative Impact Assessment must set out the evidence for the authority's opinion and before publishing the assessment the authority must consult with those affected, including the public, businesses and responsible authorities. The assessment must be reviewed every three years.
- 2.6 The Council consulted on its Special Saturation Policy as part of the review of its Statement of Licensing Policy. The consultation did not provide substantial evidence to maintain a saturation policy for the areas of Altrincham Town Centre or Sale Town Centre. Further, of the responses received only 17% believed that the Cumulative Impact for Sale would promote the licensing

objectives and only 33% believed the same for Altrincham Town Centre. By contrast 67% of the same consultees felt that the new model conditions will help promote the licensing objectives.

- 2.7 It is also worth noting that since the Saturation Policy was included in the Statement it has never been used to object to the grant or variation of a premises licence application in either Altrincham or Sale.
- 2.8 Therefore, the most significant decision to be highlighted is that the proposed policy, which has been amended following the consultation, has removed the special licensing policy on cumulative impact for both Altrincham and Sale Town Centre areas.

Promotion of Other Strategies – Reduce the Strength 13.1- 13.4

- 2.9 To coincide with the Council's Public Spaces Protection Order (PSPO) consultation which proposes to ban alcohol being consumed in designated public spaces, this Policy introduces a 'Reduce the Strength' strategy.
- 2.10 This strategy is promoted in the Statement of Licensing policy to encourage new applicants to voluntarily sign up to the scheme which aims to restrict the availability of beer, lager and cider which has an ABV of 6% or above.
- 2.11 This is to promote the licensing objectives of prevention of public nuisance and prevention of crime and disorder that is associated with Illegal Street drinking in the borough.
- 2.12 Although the scheme is voluntary, should it be the case that, if there is evidence of street drinking in the area of the premises application, the Licensing Sub-committee now has the option to add a condition that the premises will not sell any beer, lager, or cider that is equal to or greater than 6% ABV.

Promotion of Other Strategies – White Collar Boxing 13.5 – 13.6

- 2.13 The rise in the popularity of White Collar Boxing has raised concerns over the safety of events. Trafford Council has developed guidance to encourage safe events in the borough, which will apply to all regulated boxing entertainment and includes such measures as:
- Will there be a Registered Doctor and a Paramedic as a minimum? Has the facility of providing an ambulance been considered for the event?
 - The medical checks that will be carried out on the boxers before and after the fight. It will be expected that all boxers taking part would have a medical card and competition record book. This should detail previous bouts, medical history etc.;
 - How boxers will be matched up for the event. All boxers will be expected to be evenly matched and fall in the same weight category.

Model Conditions 14.8 – 14.9 & Appendix C

- 2.14 The Policy introduces a new Appendix C which gives details on the Council's Model Pool of Licensing Conditions which will provide a level of consistency to the attachment of conditions to licences.
- 2.15 The Model Conditions will assist applicants to draft their operating schedules which is a document that shows what measures the applicant will put in place to address the four licensing objectives; and which can ultimately become conditions on the licence. The Model conditions will also assist Responsible Authorities when making representations against applications and Members of the Licensing Sub-Committee when deciding what, if any, conditions should be added to a licence if granted.

Immigration Act 2016 39.1 – 39.5

- 2.16 The Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017.
- 2.17 The Policy provides guidance on the Immigration Act and how this now applies to Licensing. The Licensing Authority will now work in partnership with the Home Office (Immigration Enforcement) and Greater Manchester Police with a view to preventing illegal working in premises licensed for the sale of alcohol and/or late night refreshment.
- 2.18 A more detailed summary of all the proposed amendments to the Policy is attached at **Appendix B**.

3. Options

- 3.1 A copy of the Statement of Licensing Policy 2021-2026 incorporating all of the proposed changes is attached at **Appendix F**.
- 3.2 The Council has two options:
- it could decide to accept the proposed amendments, in whole or in part; or
 - it could decide not to accept the proposed amendments.
- 3.2 The amendments reflect best practice and changes to relevant legislation introduced since the policy was last reviewed in 2016. If the Council decides not to accept the proposed amendments this would not prevent it from continuing to carry out its statutory licensing functions; however, it would open up the possibility of challenges to the policy on the basis that it is not consistent with current legislation.
- 3.3 It is the view that to adopt the policy as amended in whole would be the best approach for Trafford given that the proposals focus on best practice for promoting the licensing objectives and any updates to legislation since the last review.

3.3 It is appreciated that Members may not be completely in favour of removing the Special Saturation Policy for Altrincham and Sale because of the fine balance between maintaining a safe borough and delivering a thriving town centre. Members can, if considered appropriate, request the Licensing Section carry out a separate consultation on the special licensing policy at any time during the next 3 years, this would be in keeping with the S182 Guidance and the legislation on reviewing special saturation policies.

4. Consultation

4.1 A Consultation Summary has been produced as **Appendix D**.
A further Summary of Responses from the Council is at **Appendix E**.

5. Recommendation

5.1 It is recommended that the Council:

- Note the recommendation of the Executive on the 26th October to approve the revised Statement of Licensing Policy; and
- Approve the revised Statement of Licensing Policy which is attached at **Appendix F**.

Finance Officer Clearance *PC*
Legal Officer Clearance *SL*

[CORPORATE] DIRECTOR'S SIGNATURE *(electronic)*



To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.