

Environment Directorate
Public Protection and Regulatory Services
222 Upper Street
London N1 1RE

Report of: Service Director -Public Protection and Regulatory Services

Meeting of: Licensing Committee

Date: 17 November 2022

Ward(s): All

Subject: Licensing Policy 2023-2027

1. Synopsis

- 1.1. Under the Licensing Act 2003 the council is required to publish a statement of licensing policy every 5 years. The purpose of the Licensing Policy is to inform applicants and residents about the way in which the Licensing Authority intends to make decisions about licence applications for the sale of alcohol, regulated entertainment and late-night refreshment and how licenced premises are likely to be permitted to operate.
- 1.2. Over the last nine months the current policy has been reviewed, a revised draft policy has been published and feedback from residents, businesses and partners has been sought through public consultation.
- 1.3. A key component of the Licensing Policy is the designation of 6 cumulative impact areas. These are areas of the borough where the combined effects of a significant number of licenced premises concentrated in one area is likely to undermine the licensing objectives. The council is required to review its cumulative impact policy, consult stakeholders every three years.
- 1.4. The approval of the licensing policy can only be exercised by full Council.

2. Recommendations

- 2.1. To note and confirm the following recommendations to council:
 - 2.1.1. The result of the consultation feedback and to confirm the council's response as detailed in Appendix C
 - 2.1.2. The review of the cumulative impact policy in appendix B and confirm the continuation of its cumulative impact policy for a further 3 years
 - 2.1.3. The amended and revised policy statements in appendix D
 - 2.1.4. Adopt the Licensing Policy 2023-2027 for Islington, attached in Appendix A.
 - 2.1.5. Agree that the Policy shall apply to all applications for a premises licence or club certificate submitted after 1 January 2023

3. Background

- 3.1. The Licensing Policy applies to activities that are licenced under the Licensing Act 2003 which include:
 - the retail sale of alcohol
 - the supply of alcohol by or on behalf of clubs
 - the provision of late-night refreshment
 - the provision of regulated entertainment in for an audience in excess of 500 or provided after 11pm.
- 3.2 Regulated entertainment includes late night or large premises providing:
 - recorded music
 - live music
 - films
 - performance of dance or plays
 - indoor sporting events
- 3.3 As a Licensing Authority, the council has a statutory duty to make licensing decisions, including determination of licensing policy, that are consistent with one or more of the following licensing objectives:
 - Preventing crime and disorder
 - Securing public safety
 - Preventing public nuisance
 - Protecting children from harm
- 3.4 Since the council became responsible for licencing premises under the Licensing Act 2003 there has been a gradual year on year increase. The following tables provide data on the number and types of premises and applications during the period covered by the 2018-2022 Licensing Policy

The table below shows the number of licence premises in 2018 and 2022:

Licence Type	2018	2022	% increase
Alcohol sales	1169	1365	17%
Late night refreshment or regulated entertainment only (not alcohol)	119	122	2.5%
Total Number of Licence Premises	1288	1487	15%

3.5. The table below shows the number, type of new and variation applications received during the period 1 April 2017 and 31 March 2022 and the outcome

Applications	Numbers
New Applications	388
Variation Applications	94
Granted	482
Refused	42

The Licensing Policy Review Process

3.6 The review process has been led by the Executive Member for Community Safety and the Chair of Licensing Committee and Members of the Licensing Committee. The Police, Trading Standards, Environmental Health (Noise and Public Safety), Public Health and Community Safety have also been consulted and invited to contribute to the policy review.

3.7 Members and partners were satisfied that licensing policies had achieved both council and licensing objectives and that the majority of policies should remain in place for a further five years, subject to formal consultation with businesses and residents, but recognised that a number of changes were required to reflect current and emerging trends.

Key Licensing Policy Changes

3.8 The consultation process sought views on making the following changes to the Licensing Policy:

- Amending policy 6 covering opening hours to remove special status given to Archway and Clerkenwell as their needs can be considered within the existing framework.
 - Amended policy 8 to update the standards of management we expect from licensees.
 - Suggesting a new policy 9 to encourage applicants to include in applications how they will support equality and inclusion.
 - Updating policy 21 to reflect the changes in approach we as a licensing authority have adopted to secure the safeguarding of young adults, women, and vulnerable people.
 - Amending policies 22 and 25 to reflect the need for applicants planning to deliver food and alcohol from licensed to take account of the nuisance to residents
 - Amending Policy 26 to include measures that we expect applicants to put in place if they are proposing to use outside space or public land
 - Suggesting a new Policy 28 to indicate how applicants can support climate emergency and the council's ambition to make Islington a net zero carbon zone by 2030.
- 3.9 Prior to including Licensing Policies 9 (Equality and Inclusion) and 28 Environmental Best Practice in Licenced Premises in the draft 2023-2027 policy Legal Service sought counsel opinion. The specialist Licensing QC advised that these inclusion and wording of these two statements was reasonable and appropriate.
- 3.10 For ease of reference the amended and revises policy statements are in appendix D

Review of the Cumulative Impact Policy

- 3.7 An integral part of Islington's Licensing Policy are the 6 cumulative impact areas. When the council receives an application for a licence in a cumulative impact area there is a presumption that the council will refuse or impose limitations on applications which are likely to add to the cumulative impact unless the applicant can demonstrate that there will be no negative cumulative impact on the licensing objectives. In cumulative impact areas the onus is on the applicant to demonstrate that their venue will not add to existing problems being experienced by residents, businesses and public services.
- 3.8 The existence of a cumulative impact policy does not affect the Licensing Authority's duty to consider each application on its merits, it cannot refuse applications outright and it can only refuse or impose limitations where representations are received from residents, businesses, or responsible authorities. Where no representations are received the Licensing Act 2003 requires the Licensing Authority to grant the licence.
- 3.9 In 2018 there was an amendment to the Licensing Act 2003 which now requires the council to review its cumulative impact policies every three years, to consult stakeholders on the outcome of the review and publish its reasons for maintaining cumulative impact area.

3.10 Appendix B summarises the review of the cumulative impact policy that was carried out in April 2022. The review considered:

- The impact of cumulative impact policies on applications and outcomes
- Alcohol related crime and disorder
- Complaints about Licenced Premises
- Alcohol Related Ambulance Callouts
- Views of stakeholders and partners

3.11 The conclusion of the review was that the cumulative impact policies had achieved the following objectives:

- To promote the four licensing objectives in a borough which has one of the highest concentrations of licenced premises in England and where there is no delineation between residential and commercial areas
- To enable to Licensing Authority to balance the needs of residents, businesses, and the local economy

The 2022 cumulative impact policy review indicated that the underlying reasons for selecting areas for cumulative impact still existed: there remains a high concentration of licenced premises in specific parts of the borough and these areas continue to be hotspot areas for antisocial behaviour, crime, disorder, licensing complaints and ambulance callouts.

Consultation Responses

3.12 The Licensing Act 2003 specifies who the Licensing Authority must consult with before publishing its Licensing Policy. The statutory consultation and resident engagement programme ran from 18 August 2022 to 4 October 2022.

3.13 The council received 10 responses to the consultation: 6 responses using the online consultation response questionnaire and 4 email responses.

3.14 Overall people who responded to the consultation generally supported the proposals however two changes have been made to the proposed 2023-2027 policy:

3.14.1. Licensing Policy 21 Safe and Secure Venues includes reference to LGBTQ+

3.14.2. Licensing Policy 26 Smoking, drinking and eating outside includes recognition that the use of outdoor spaces helps to ensure the resilience of business's

3.15 The consultation responses and the council response are attached as appendix C

4. Implications

4.1. Financial Implications

4.1.1 The cost of preparing and publishing the revised policies has been met from the existing budget.

4.2. **Legal Implications**

4.2.1 Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy every five years. Before determining its policy, the licensing authority must consult:

- The chief officer of police for the area
- The fire and rescue authority for the area
- The local authority's Director of Public Health
- Persons/bodies representative of local premises licence holders
- Persons/bodies representative of local club premises certificate holders
- Persons/bodies representative of local personal licence holders
- Persons/bodies representative of businesses and residents in the area

4.2.2 In determining its policy, the licensing authority must have regard to the Home Office Guidance and give appropriate weight to the views of consultees.

4.2.3 The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement. Once adopted, cumulative impact policies should be reviewed every three years to assess whether they are still needed or if they should be amended in accordance with s5A of the Licensing Act 2003 (as inserted by the Policing and Crime Act 2017).

4.2.4 The Licensing Act 2003 provides that the licensing authority cannot delegate the determination of its licensing policy to the licensing committee. The Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) provide that this function cannot be discharged by the Executive and should be determined by the full Council

4.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

4.3.1. The Licensing Policy identifies issues associated with the consumption of alcohol which have environmental implications – noise, odours, littering and street fouling. The policy seeks to ensure these issues are minimised when granting licences

4.3.2. The new Licensing Policy 28 encourages applicant to

- to provide evidence as to how they will promote environmental protection

- join the council in working towards net zero carbon by implementing a variety of measures listed in the policy

4.4. Equalities Impact Assessment

4.4.1. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

4.4.2. An Equalities Impact Assessment is not required in relation to this report, because the Equalities Impact Assessment Screening Tool indicated that the Licensing Policy 2023-2027 and Cumulative Impact Policy will have a neutral impact on people with identified protected characteristics

5. Conclusion and reasons for recommendations

5.1. The council is required to review and adopted its statement of licensing policy every 5 years. The current policy has been reviewed and a revised draft policy has been the subject of a consultation exercise. The Council is now invited to adopted the Licensing Policy for 2023-2027.

5.2. The council is required to review its cumulative impact policy every three years, consult and then publish its Cumulative Impact Policy

Appendices:

- A Draft Licensing Policy 2023-2027
- B Cumulative Impact Policy and Reasons for Publishing
- C Consultation Feedback
- D New and amended policy statements

Background papers:

- None

Final report clearance:

Signed by:



Besserat Atsebaha
Service Director - Public Protection and Regulatory Services

Date: 8th November 2022

Report Author: Janice Gibbons Head of Regulatory Services
Tel: 020 7527 3212
Email: Janice.gibbons@islington.gov.uk

Financial Implications Author: Steve Abbott, Head of Finance
Tel: 0207 527 7269
Email: steve.abbott@islington.gov.uk

Legal Implications Author: Marina Lipscomb, Chief Litigation Lawyer
Tel: 020 7527 3314
Email: marina.lipscomb@islington.gov.uk