Consultation on a revised Statement of Licensing Policy: May 2015

Purpose

To seek views from individuals, groups and organisations on the key themes that should be considered and addressed as part of a review of the Council’s Statement of Licensing Policy under the Licensing Act 2003.

The consultation includes some specific questions but please feel free to comment on any of the issues and themes raised.

Setting the scene

The Council’s role as a Licensing Authority is the principle means by which, working in partnership with the Police and other bodies it can manage the night-time economy. Other legislative processes also have a bearing on the management of the night time economy, most notably planning where proposals for new leisure facilities or extended hours for existing facilities are controlled by the need for planning permission.

As a Licensing Authority, the Council is required to approve and publish a Statement of Licensing Policy, setting out arrangements we will normally follow in carrying out our functions under The Licensing Act 2003. It provides a policy framework for councillors on our Licensing Sub-Committee that makes decisions on licence applications. The current Policy is attached at ANNEX 1.

The Act says that we must review and publish our Policy at least once every 5 years but we can review it whenever we feel it is appropriate within that period. In October 2014, the Licensing Committee commissioned such a review. Initially, this was a desk-top review and, in February 2015, the Committee agreed to go out to broad consultation on a range of key issues and themes to test its understanding of the concerns of residents, businesses and other authorities, such as the police,

In October 2011, the Council also adopted a Special Policy on Cumulative Impact in respect of an area incorporating parts of Grove, Canbury and Tudor wards. This creates a presumption of refusal of new licenses (or variations to existing) within this defined area, unless the applicant can demonstrate that there will be no negative cumulative impact arising from their proposals. This special policy forms part of the Statement of Licensing Policy and is therefore included within the overall review.

This review of Licensing Policy comes at a time of significant population increase across London as a whole that requires a substantial increase in the provision of housing and employment opportunities that could have implications for issues such as licensing policy. The growing population means that by 2021 the Borough will need an additional 4,500 new homes and by 2026 4,000 additional jobs.

Growth will not stop there, and linked to future major infrastructure investments such as Crossrail 2 there will be further need to identify opportunities to increase housing and employment provision. In response to this challenge the Council’s Kingston Futures strategy seeks to harness the new development to deliver improvements in the attractiveness of the Borough,

The focus of the growth agenda will be on the Borough’s town centres, and on Kingston town centre in particular where there is most scope to deliver sustainable growth in jobs
and housing and also to deliver environmental enhancements. Kingston Futures will manage new development to drive increases in prosperity and improvements in the well-being of Borough residents, those working in the Borough and those visiting the Borough’s many leisure and retail attractions.

A key element of Kingston Futures role is to maintain the prosperity of the borough and the wellbeing of its residents during this time of great expansion. A vital strand of that work is the ‘quality of place’ and we must use every effort to maintain and, where possible, improve that. Effective liaison between licensing officers and strategic planning officers will be required to promote the night time economy in town centres that are increasingly becoming residential.

The consultation will last until the 31 May and any feedback received will be considered and taken into account in a draft revised Statement of Licensing Policy to be considered by the Licensing Committee in June and then by the full Council in October. Depending on the level of response, these dates may move to October and November respectively.

Background
1. The Council is responsible under the 2003 Act for licensing a range of activities related to the sale and supply of alcohol, the provision of regulated entertainment and late night refreshments. Licensing of these activities is through four different types of authorisations or permissions:
   - Premises license
   - Club premises certificate
   - Temporary event notice
   - Personal licence

2. The Act focuses on the promotion of four statutory objectives that the Council must address when considering licensing applications. These are:
   - the prevention of crime and disorder
   - public safety
   - the prevention of public nuisance, and
   - the protection of children from harm

3. Guidance, largely binding on the Council, is clear that each objective is of equal importance and the Council is expected to consider their promotion as being a ‘paramount consideration at all times’.

4. As well as the statutory objectives, the Act and guidance support a number of other key aims and purposes linked to the licensable activities that are considered to be vitally important. They include:
   - protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises
   - giving the police and licensing authorities the powers they need to effectively manage and police the (so-called) ‘night-time economy’
   - recognising the important role that pubs and other licensed premises play in our communities by minimising the regulatory burden on them
   - encouraging innovation and supporting responsible premises
   - providing a regulatory framework for alcohol that reflects the needs of local communities and empowers them to make and enforce decisions about the most responsible licensing strategies for their local area, and
encouraging greater community involvement in licensing decisions and
giving local residents the opportunity to have their say regarding licensing
decisions that may impact on them.

5. A key consideration that must be borne in mind from the outset is that the Licensing
Sub-committee can only consider whether an application adequately supports the
licensing objectives when 'relevant representations' have been made. This means
that there is no discretion to refuse applications or to impose conditions on granting
new licenses (or variations) unless representations directly relevant to the licensing
objectives are made by local residents, businesses or other authorities. In the
absence of representations, the committee has a duty to approve the application
(however it is expected that applicant will have regard to the policy when preparing
their applications.

6. The Council must set out how it will promote the statutory objectives and support
the other key aims and purposes in a Statement of Policy and this must strike a
reasonable balance between different, and sometimes competing, aims.

7. To highlight some of these competing aims, we know that Kingston has a significant
night-time economy, centred mainly in and around the town centre and it also
serves a large student population during term time. As a result, it is estimated that
1.5% of employees in Kingston are in the beverage industry, compared with 0.9%
nationally and 1% across London. (source: Safer Kingston Partnership Strategic
Assessment 2014/15).

8. We also know from the All in One Survey that 18% of respondents listed ‘drinking or
drunken behaviour’ as one of the three issues of most concern to them and 25% thought ‘people being drunk or rowdy in public places’ was a ‘very big’ or ‘fairly big’
problem in their local area. This relates to behaviour outside or away from licensed
premises, and would not be directly regulated by licensing law, but there is an
obvious link between the consumption of alcohol at licensed premises and
subsequent behaviour off the premises. This can be highlighted in our Policy.

9. Further research suggests that around 49% of offenders committing violent crime
nationwide were under the influence of alcohol (Crime survey of England and Wales
2012-2013) and, in Kingston, there were 4.27 alcohol related violent crimes per
1,000 of the population in 2012/13 (source: Public Health England – Local Alcohol
Profiles), compared with 5.67 across or London. This is set against a background
estimate that 27,000 people (33%) in the borough consume levels of alcohol that
place them in the increasing risk category for alcohol related harm (source: Alcohol

10. A high proportion of ‘violence against the person’ offences are closely linked to the
night-time economy, with peaks in the early hours of the morning. The decisions
taken by the licensing sub-committee may therefore have a direct impact on
people’s lives and well-being. These decisions are framed and guided by the
Statement of Licensing Policy so it is vital that the Statement is fit for purpose.

Current Statement of Licensing Policy

11. The current Statement of Licensing Policy was approved by Council on 27 February
2014, having been reviewed every year since the original Statement was approved
in 2010. The Chair of the Licensing committee has led a further review of the
current policy to determine whether it promotes the licensing objectives in a fair and
reasonable manner i.e. whether the balance is right having regard to the Council’s
wider aspirations for the borough, and the town centre in particular, where we have a higher density of licensed premises.

Review of current policy – key issues and themes for consultation

12. An initial desk-top review has highlighted that the current policy does not clearly and effectively articulate a vision for the borough, in licensing terms, to set the appropriate tone and provide a context for licence applicants. The Preface (page 8) states that 'the Council believes that a fair balance must be struck between all the stakeholders involved.....’, but the policy does not helpfully explore what is meant by ‘fair’ so does not describe the outcome that the Council is seeking.

13. Paragraph 8 highlighted the level of public concern about drinking and drunken behaviour in public places (and especially in residential areas) and the fact that this is not reflected in the current statement. The Committee may feel that, in the absence of a clear vision, that public concerns will not receive appropriate attention and weighting. In the light of this, a possible vision statement that might focus on the Council’s aspirations could be:

“The Council wants to make sure that Kingston offers a wide choice of high quality and well managed entertainment and cultural venues and other premises that serve and sell alcohol within a safe, orderly and attractive environment that is valued by those who live and work in or visit the borough.”

Views are invited as to the value of including a vision statement, as suggested above, and to agree the most appropriate wording if a vision statement is to be included as part of a revised Statement of Licensing Policy.

14. The elements of the Statement that relate to the handling and processing of applications and the organisation and management of hearings are considered appropriate and they have operated successfully for a number of years.

Are there any suggestions for improvements to our application and hearing processes?

15. A noticeable feature of the current Statement is that it doesn’t set out how it relates to other relevant Council strategies and initiatives that help to promote the licensing objectives. This includes measures to tackle anti-social behaviour, noise, and degradation of the street environment, problems often associated with late night entertainment. Examples include the Kingston Town Centre Action Plan, Core Strategy and the Anti-social Behaviour Action Plan being developed by the Safer Kingston Partnership, Purple Flag/After Dark Strategy, Kingston BID3, Best Bar None and the Designated Public Place Order zones (‘No drinking Zone’) in Kingston.

Do you support linking the statement with these strategies and initiatives and are there any others that you would particularly like to see included?

16. Since the Statement was last reviewed the Anti Social Behaviour, Crime and Policing Act 2014 has also come into effect so it would be prudent to ensure that the aims and implications of this legislation are reflected in a revised Statement.
17. The Statement could be strengthened by highlighting that a combination of licensing regulation and planning powers and the effective management of the street environment are required to promote the licensing objectives.

18. Nuisance and crime and disorder are clearly shared concerns of both planning and licensing. The Planning process is directed at the development of premises and their overall use whereas Licensing is directed at individual licensable activities, their management and their impact on the licensing objectives. This is not explained in the current Statement.

19. There are limitations on both regimes in terms of the impact they can have in shaping and influencing the night-time economy and, therefore, the overall 'feel' of the borough at night. For example, planning concerns relating to the character and function of an area and aspects of amenity that fall short of being a public nuisance are outside the scope of the licensing regime. The current Statement does not recognise these issues and therefore appears to be disconnected to other key policies, strategies and plans.

20. Related to this, it is vital that the Council’s plans and aspirations for Kingston town centre are reflected as far as possible in the Statement to set an appropriate context and framework for the licensing objectives. For example, if the Council sought to promote a more mixed use in the town centre with a larger component of residential properties, this may generate further opportunities for leisure use but create potential conflicts with premises licensed for late night use, especially the larger venues.

**How should the Council’s licensing objectives be framed to strike an appropriate balance between residential and leisure use in the town centre?**

21. The Statement should also clearly emphasise that the Council regards licensing as the most appropriate tool to ensure that the licensing objectives are promoted through premises being properly managed and operated, and, where necessary, the types, number, location and hours of premises being controlled when this cannot be done adequately or appropriately through other legislation.

22. A revised Statement along these lines would support future decisions taken by our Licensing Sub-Committee as it would have a clearer reference point e.g. to be able to justify and defend restricted licensing hours where there is residential use in close proximity. It would also provide a solid basis from which potential applicants can identify the key areas on which they need to focus when preparing their applications.

23. Another key council activity that is omitted from the current Statement is work to support public health by reducing harm from alcohol consumption. Surprisingly perhaps, this is not one of the statutory licensing objectives or even one of the further aims and purposes set out in paragraph 4. It does seem sensible to make links with the Alcohol Strategy for Kingston 2014-2016 and the Councils Public Health team, as a Responsible Authority under the Act, is able to bring useful information to the licensing process.

**How should the Council reflect public health concerns about the consumption of alcohol in a revised statement and what positive impact might this have?**
24. One of the overarching aims for the alcohol strategy is ‘to protect individuals and communities from alcohol-related crime and anti-social behaviour’ and this is clearly a good fit with the licensing objectives.

25. Whilst, the current statement does address the protection of children in licensed premises, particularly at events held in the borough, it does not make clear links with Achieving for Children (AfC), commissioned to deliver children’s services on behalf of Kingston and Richmond upon Thames. The risks to children will vary depending upon the nature of the premises, the style and character of an event, the audience profile, the type of activities taking place, the age of the children and whether they are accompanied and supervised by a responsible adult. Potential risks include:

- children being vulnerable to sexual or criminal predators;
- consumption of alcohol;
- children witnessing or being involved in substance misuse;
- anti-social behaviour;
- accidental harm;
- bullying;
- children who are unaccompanied/unsupervised;
- involvement in employment, entertainment or performance;
- witnessing or being involved with inappropriate or dangerous adult behaviour.

AfC is planning to issue guidance on the protection of children in licensed premises in the light of the findings of the Independent Enquiry into Child Sexual Exploitation in Rotherham and any review of the statement should seek to highlight and support this guidance.

**How should the protection of children in licensed premises be strengthened through a revised statement of licensing policy?**

26. As previously set out, the Council introduced a Special Policy on Cumulative Impact (CI) that took effect in November 2011 and the area to which it relates was extended in December 2013. As part of this review it has been noted that the integrity of the policy relies on historic evidence from the police and local residents and, given the potential commercial impact of the policy as well as the benefits to the community, this evidence should be rigorously challenged and tested on a regular basis.

**Do you have any evidence to offer that may support proposals to continue or alter the area covered be the Special Policy on Cumulative Impact?**

Please provide responses by 31 May 2015 to:

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