

## Licensing Committee

01 July 2021

### Licensing Act 2003. Revised Statement of Licensing Policy 2021 - 2026.

Sarah Ireland Executive Director, Corporate and Communities

Relevant Portfolio Holder Cllr John Sweeney Portfolio Holder for Business and Leisure

#### **Purpose of Report**

To consider the outcome of the consultation on the draft revised Statement of Licensing Policy under the Licensing Act 2003 and recommend the revised Statement of Licensing Policy for 2021-2026 to Council at its meeting on 20 July 2021 to approve.

#### **Recommendation(s)**

##### **The Committee is asked to RESOLVE that:**

1. The draft revised Statement of Licensing Policy be approved, subject to any amendments agreed at the meeting;
2. To recommend the revised Statement of Licensing Policy to Council at its meeting on 20 July 2021 to approve.

#### **Benefits to the Community:**

The Statement of Licensing Policy under the Licensing Act 2003 whilst being a Statutory Duty of the Council, helps to deliver the Council's strategic outcomes in promoting a safer borough whilst protecting the health of residents by helping to ensure that a licensed social economy that is safe, controlled, and promoted.

#### **Key Points**

- A. As a Licensing Authority, the Council is required under the Licensing Act 2003 to prepare, at a minimum of every five years, a Statement of Licensing Policy setting out its approach to licensing and how this will inform and influence its decisions on individual licence applications. The Council's current Statement of Licensing Policy was approved by the Committee and subsequently Council in July 2016.
- B. A public consultation process has been conducted seeking views and opinions on the proposed revised policy.
- C. A final draft Statement of Licensing Policy has been developed, taking into consideration the responses made during the consultation period.
- D. The Committee is invited to recommend the Statement of Licensing Policy to be adopted at Council on 20 July 2021

#### **Context**

1. The Council in its capacity as Licensing Authority has responsibility under the Licensing Act 2003 (the 'Act') to draft, consult on, approve and publish a

Statement of Licensing Policy (the Licensing Policy), which must be reviewed a minimum of every 5 years.

2. The Licensing Policy sets out the arrangements the Licensing Authority will normally follow in carrying out its functions under the Act, particularly when making decisions on licence applications made in respect of Premises Licences, Club Premises Certificates, Personal Licences and Temporary Event Notices.
3. The current Licensing Policy was published in July of 2016, so a new policy must be prepared and published before the end of July 2021.
4. The current Licensing Policy contains a Special Policy on Cumulative Impact, this was introduced in November 2011. In the subsequent years the Borough has changed. A number of large venues have permanently closed and whilst Kingston still has a thriving late night economy provided predominantly by the remaining night clubs, bars and pubs, the offer has broadened in recent years to a much more diverse all day social offering.
5. Given the change in the Borough's social attractions, as well as the low crime rates, it is proposed that the Special Policy on Cumulative Impact be removed from the Statement of Licensing Policy. Instead applicants and operators could be encouraged to consider the application that they are making in relation to the set of guideline hours clearly set out in the Policy. They will also be provided with a framework for considerations to be included in any operating schedule by way of model conditions.
6. Removal of the Special Policy and replacement with guideline hours would ensure that all parts and district centres of the Borough are considered equally. Whilst there is a higher concentration of licensed premises within Grove ward (Kingston Town Centre), recent and proposed developments have and will see a significant increase in residential accommodation in Surbiton, Chessington, Tolworth and New Malden district centres. The removal of the special policy allows the Council greater scope to ensure an appropriate balance of resident and operator needs across the Borough as a whole.
7. The revised policy aligns with the emerging Kingston Local Plan as well as other relevant strategies and policies which are well embedded, such as the Safer Kingston Partnership Plan and the Kingston Health and Care Plan. As well as reflecting current best practice and legislative updates, new guidance and information in relation to concerns related to Public Health and counter terrorism has been provided for applicants and operators' consideration

## Proposal and Options

8. Having considered the findings of the engagement process the Licensing Committee is invited to approve the draft revised Statement of Licensing Policy provided at **Annex 1**. This approval would be subject to any amendments agreed at this meeting.
9. To recommend the revised Statement of Licensing Policy to Council at its meeting on 20 July 2021 to approve.
10. If approved, the draft policy will stay in force for 5 years. However should the Licensing Authority consider it necessary the Licensing Policy can be reviewed at any point during this 5 year period. This could include revisiting the need for a new special policy on cumulative impact.

## Consultations and Engagement

11. An engagement proposal was drawn up in consultation with the Portfolio Holder for Business and Leisure and the Chair of the Licensing Committee. A copy of the consultation carried out is summarised in **Annex 2**.
12. A communications strategy ensured that the consultation was widely promoted across the website, social media channels, and public noticeboards designed to capture residents, businesses and council employees. Letters advising of the consultation were sent to all existing licence holders and stakeholders, statutory consultees as set out in the Act, and persons and bodies representative of businesses and residents in the Borough.
13. The consultation was made available on the *Kingston: Let's Talk* website - the council's engagement portal between 15 March and 09 May 2021.
14. A number of meetings were held with responsible authorities, for example the council noise team and the police, as well as other interested parties for example Kingston First.
15. The consultation portal was visited 402 times, with 296 participants visiting at least one page. 139 downloaded the draft policy and the overview of changes and 4 participants took part in the survey. In addition we received 1 additional response by email. A summary of the responses to the consultation portal is given at **Annex 3**, with a summary of all responses received provided at **Annex 4**.

### Key findings

16. Of those completing the survey 100% felt that the draft policy adequately explains the proposed changes.
17. On the matter of whether the draft policy struck the right balance between residents and licensed venues 40% agreed this was the case, of those that did not agree there was an equal split between those that considered the proposal as relaxing standards and those that were concerned that the proposed guideline hours could overly restrict operators.
18. 40% of respondents believed the draft would help further promote the licensing objectives whilst supporting a diverse range of businesses and activities. There was concern raised that much of the proposals appeared to be self regulated, for example when it came to conditions, and that applicants would be able to choose how they wished to operate whilst others raised concerns that the proposal would the draft policy could hinder business particularly at a time when businesses are beginning to adapt to people's new working patterns and a move away from office hours and locations.
19. 50% of respondents believed replacing the special policy of cumulative impact would help promote the licensing objectives. There was concern raised that removing special policy would see a rise in issues, respondents mention the lack of police presence in the town centre of an evening and how venues were not always to blame when an issue occurs on the highway.
20. Members are invited to consider that we have not received any representations from the responsible authorities raising any concerns with the proposed changes to the policy.
21. The engagement process generally provided a positive endorsement of the need to change the policy. A number of conclusions could be drawn from the low number of responses received. However the statutory requirements contained

within the legislation meant that we had delayed the consultation process as long as we could. The high number of residents and businesses viewing the consultation demonstrates the engagement plan worked and interested parties were aware of the proposals.

### **Timescale**

22. Approval of the draft Licensing Policy at this meeting will ensure that it can be adopted at the Council meeting on 20 July 2021 for immediate implementation.

### **Financial Context**

23. The Council is operating in an increasingly challenging financial environment. Kingston faced a number of financial challenges in the medium to longer term - even before the COVID-19 outbreak, which has further added to these challenges. The economic and financial consequences of the pandemic, growing demand for services, and limited government grant funding make it difficult to find adequate funds to meet the borough's needs.
24. The future of local government finance faces a significant level of uncertainty. The impact of the Fair Funding Review and a future review of business rates is currently unknown, and the lasting effects of COVID-19 on our residents, local businesses and the Council itself remain uncertain.
25. Despite these challenges the council has a drive and commitment to ensure it is doing the best for residents and communities

### **Resource Implications**

26. There are no additional resource implications arising from this Consultation; resources required to fulfil the Council's duties in respect of the Licensing process are met from the existing budget.

### **Legal Implications**

27. The licensing authority is required by the Licensing Act 2003 (as amended by section 122 of the Police Reform and Social Responsibility Act 2011) to approve and publish a Statement of Licensing Policy at intervals of not more than 5 years, and to keep the Policy under review and undertake revisions as it considers appropriate. This function must be undertaken by full Council as it is defined in section 3 of the Licensing Act 2003 as the Licensing Authority and cannot be delegated to the Licensing Committee or officers (sections 5 and 7 of the Licensing Act 2003).
28. The Licensing Authority is required by section 5A of the Licensing Act 2003 (as amended by Section 141 of the Policing and Crime Act 2017) to approve and publish a Cumulative Impact Assessment (CIA) at intervals of not more than 3 years, and to keep the CIA under review and undertake revisions as it considers appropriate. This function must be undertaken by full Council as it is defined in section 3 of the Licensing Act 2003 as the Licensing Authority and cannot be delegated to the Licensing Committee or officers (sections 5 and 7 of the Licensing Act 2003). The CIA is set out in Part C and Annex 3 of the Statement of Licensing Policy.

29. Any Policy adopted will aim to be as robust as possible in the face of any challenge.
30. Section 5 of the Licensing Act 2003 requires the Licensing Authority to consult on any revision to its Policy and our consultations and engagement set out above demonstrates our compliance with this obligation.

### **Risk Assessment**

31. To delay the review process would leave the Council at risk of not having a valid policy framework in the event of a relevant application being made under the Licensing Act 2003..

### **Equalities Analysis**

32. The Licensing Policy sets out the framework within which decisions are made that affect crime and disorder and the protection of children and other vulnerable people from being harmed or exploited by gambling.
33. A relevance test to identify whether an Equalities Impact Assessment (EQIA) is required for this Policy has been carried out and this has established that the Policy is unlikely to present a detrimental impact on the protected character groups. A full EQIA is therefore not required for this policy.

### **Health Implications**

34. The guidance issued under section 182 of the Licensing Act 2003 outlines the role of Public Health as a responsible authority. Each responsible authority brings unique expertise and experience to the promotion of the licensing objectives and contributes to the administration of the licensing regime in its local authority area.
35. One of the primary reasons for including Public Health as a responsible authority is that they may have access to information that is unavailable to other responsible authorities, which help the licensing authority exercise its functions.
36. The role of Public Health is to help promote the health and wellbeing of the local population. Similarly the licensing regime is concerned with the promotion of the licensing objectives, which collectively seek to protect the quality of life for those who live, and work in the vicinity of licensed premises and those who socialise in licensed premises This focus on the wellbeing of the wider community via licensing is an important addition to public health teams' existing work to promote the wellbeing in their localities.

### **Background papers**

- Emailed response to consultation x1
- Let's Talk. full survey response

### **Background reports held by author**

### **Author of report**

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