

Full Council

16 July 2019



Report of:	Strategic Director, Growth and Regeneration
Title:	Review of the Council's Statement of Licensing Policy and Cumulative Impact Assessment Policy
Ward:	Citywide
Member Presenting Report:	Councillor Mike Langley

Recommendation

Full Council approve a consultation in relation to the Council's Statement of Licensing Policy and Cumulative Impact Assessment Policy.

Summary

The Licensing Authority has a statutory responsibility to review its Statement of Licensing Policy every five years. The new policy will take effect from August 2020. With effect from 6 April 2018 the Licensing Authority may also publish a Cumulative Impact Assessment Policy. If published this policy would also take effect from August 2020.

The significant issues in the report are:

- Licensing policy context and role of Full Council (paras.1 – 5)
- Consultation proposal (para 6)



Policy

1. The report recommends a new five year Statement of Licensing Policy following consultation and consultation on whether a Cumulative Impact Assessment Policy should be published.

Consultation

2. **Internal**
The licensing working group has consulted with officers from the Council's legal services and licensing teams
3. **External**
The report recommends formal consultation on the draft new policy under Section 5 of the Licensing Act 2003 and consultation under Section 5A on whether a Cumulative Impact Assessment Policy should be published.

Context

4. The Licensing Authority must in respect of each five year period determine and publish a statement of Licensing Policy. Before determining such a policy section 5(3) of the Licensing Act 2003 places a statutory duty on the Authority to consult. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each five-year period. Section 5(3) applies in relation to any review of an Authority's policy as it applies in relation to the determination of that policy. Where revisions are made the authority must publish a statement of the revisions or the revised licensing statement. Only the Full Council can make these decisions, no delegation is permitted to committees or officers of these tasks. The Licensing Committee established an officer/member working group to provide practical assistance to the Full Council in meeting its obligation to keep its Statement of Licensing Policy under review
5. The Council's current policy includes reference to a number of Cumulative Impact Areas. When the policy was published in August 2015 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.

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.

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.

6. The officer/member working group undertook a call for evidence to seek the views of the

responsible authorities under the Licensing Act 2003 and other interested parties with regard to the operation of the existing Cumulative Impact Areas. A number of parties who had been involved with the introduction of the existing Cumulative Impact Areas were also invited to attend a meeting of the working group to present evidence. A representative of the Clifton and Hotwells Improvement Society and Avon and Somerset Constabulary attended a meeting on 15 April 2019.

7. The written responses to the call for evidence at attached at Appendix 1. As can be seen there is broad support for the retention of the existing Cumulative Impact Areas. However concern has also been raised that Cumulative Impact Areas can have a negative impact on an areas development and cause more harm than good if not carefully managed. It is clear that clarification on the type of applications/operations to which a policy will impact upon would be useful both for residents and operators. This feedback has helped inform the consultation questionnaire which it is proposed to be used in the full consultation.
8. The draft policy is a new policy however it reproduces the majority of the previous policy with amendments to reflect the addition of Cumulative Impact Assessments into the Licensing Act 2003. The draft policy is attached at Appendix 2. Amendments are also proposed to the Model Operating Schedules attached at Appendix C of the Policy. Officers suggest these are scaled back to reflect the current approach adopted by the courts on operating schedules and licence conditions and to reduce any unnecessary regulatory burden on businesses. Whilst it is proposed that the Model Operating Schedules are scaled back, the conditions removed can still be imposed by where appropriate for the promotion of the licensing objectives. In addition two new model operating schedules have been included in relation to premises that operate an alcohol delivery service and sexual entertainment venues. A draft Cumulative Impact Assessment Policy is attached at Appendix 3.

Proposal

9. To approve a consultation in accordance with Section 5 and 5A of the Licensing Act 2003 in respect of the draft revised Statement of Licensing Policy and the publishing of a Cumulative Impact Assessment Policy.

Other Options Considered

10. No other options considered.

Risk Assessment

11. The publication of the Statement of Licensing Policy is a statutory requirement. The Cumulative Impact Areas contained within the current policy must also be reviewed and a Cumulative Impact Assessment Policy published if they are to be retained. Failure to do so would leave the Council open to legal challenge.

Public Sector Equality Duties

- 8a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected

characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.
- 8b) Officers have completed an Equalities Impact Assessment attached as Appendix 5. The risks identified were minimal and the policy ensures that the Council is well placed to identify any adverse impact in respect of all protected groups when it is engaged in considering applications.

Legal and Resource Implications

Legal

The Council must carry out its licensing functions (including the review and determination of its statement of licensing policy) with a view to promoting four specified objectives, namely:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm

The policy must be consulted upon and determined by Full council. Delegation by Full Council of these tasks to committees, sub committees and officers is prohibited by statute.

The statement of licensing policy must be made before the 5 year period commences, and with regard to any Cumulative Impact Statement made.

Any Cumulative Impact Statement made must be reviewed every 3 years following consultation.

(Legal advice provided by Anne Nugent (Team Leader) and Ashley Clark (Regulatory lawyer)

Financial Revenue - The cost of the consultation will be funded from existing licensing services budgets. Apart from this, there are no other financial implications at this stage. The position will be reviewed after the consultation has been completed and the results analysed.

(b) Capital - No financial implications resulting from this report at this stage. The position will be reviewed after the consultation has been completed and the results analysed.

(Financial advice provided by Kayode Olagundoye, Interim Finance Business Partner, Growth & Regeneration)

Land- Not applicable

Personnel - No HR implications are evident.

(Personnel advice provided by HR Business Partner – Growth and Regeneration, Human Resources Team)

Appendices:

- Appendix 1: Call for evidence responses
- Appendix 2: Draft Statement of Licensing Policy
- Appendix 3: Draft Cumulative Impact Assessment Policy

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None