

Full Council

24 May 2022



Report of: Director of Growth and Regeneration

Title: Statement of Licensing Policy

Ward: Citywide

Member Presenting Report: Marvin Rees, Mayor of Bristol, Regulatory Services Portfolio

Recommendation

That members approve the amendments to the Council's Statement of Licensing Policy.

Summary

In accordance with section 5(6E) of the Licensing Act 2003 the Council's Statement of Licensing Policy must be updated to include a summary of the Cumulative Impact Assessment. A consultation was carried out from 7 July 2021 to 8 August 2021 on the proposed amendment to the Statement of Licensing Policy. The consultation was in relation to the inclusion of a summary of the Cumulative Impact Assessment only.

The significant issues in the report are:

The report sets out the proposed amendments to the policy. A total of two responses were received to the consultation, both in support of the amendments.

The Cumulative Impact Assessment is already in force. The proposals amend the Statement of Licensing Policy to comply with the statutory requirements.



Policy

1. 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 a new policy is made the Authority must state the date the five year period begins with.
2. The Licensing Act 2003 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. Unlike the Statement of Licensing Policy there is no legal requirement to publish a Cumulative Impact Assessment.
3. 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. If published the assessment must be reviewed every three years. A Cumulative Impact Assessment policy is a separate policy document to the Council's Statement of Licensing Policy. In accordance with section 5(6E) of the Licensing Act 2003 the Council's Statement of Licensing Policy must be updated to include a summary of any Cumulative Impact Assessment.

Consultation

4. Internal

Legal Services

5. External

A public consultation was carried out. The consultation was advertised on the Council's website. All premises licence holders (and Club Premises Certificate holders) were notified of the consultation as were a number of local residents groups, a variety of charities, legal firms, and local Business Improvement Districts. All of the responsible authorities under the Licensing Act 2003 were also consulted.

Context

6. On 7 July 2020 Full Council approved a new Statement of Licensing Policy to run from 1 August 2020 to 31 July 2025. A Cumulative Impact Assessment was not published. As a result the Cumulative Impact Areas that were in force under the previous Statement of Licensing Policy ceased to exist. Following a further consultation a Cumulative Impact Assessment in respect of an area of the city centre was adopted by the members of this committee on 8 March 2021. The Cumulative impact Assessment will remain in force, unless reviewed, until 7 March 2024.
7. In accordance with section 5(6E) of the Licensing Act 2003 the Council's Statement of Licensing Policy must be updated to include a summary of the Cumulative Impact Assessment.

8. A consultation was carried out from 7 July 2021 to 8 August 2021 on the proposed amendment to the Statement of Licensing Policy, namely the inclusion of a summary of the Cumulative Impact Assessment. The consultation detailed the proposed additional paragraphs to be added to the policy at paragraphs 6.3.8 to 6.3.10. Details of the proposed amendments can be seen at Appendix A.
9. There are no changes to the Cumulative Impact Assessment published on 8 March 2021. No other changes to the Statement of Licensing Policy are proposed. If members are minded to approve the amendments the Statement of Licensing Policy will still be subject to a full review prior to 31 July 2025.
10. Two responses to the consultation were received, one from Avon and Somerset Constabulary and one from a local Councillor. Both responses were in support of the proposals.

Decision Making Process

11. As with the Cumulative Impact Assessment, before publishing or amending its Statement of Licensing Policy the Council must consult with the parties listed in section 5(3) of the Licensing Act 2003, namely:
 - (a) the chief officer of police for the licensing authority's area,
 - (b) the fire and rescue authority for that area,
 - (ba) each Local Health Board for an area any part of which is in the licensing authority's area,
 - (bb) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
 - (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
 - (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
12. This was carried out during the consultation period referred to above.

Proposal

13. It is recommended that members approve the publication of an amended Statement of Licensing Policy as annexed at Appendix B. This document includes the proposed additional paragraphs consulted upon between 7 July 2021 and 8 August 2021.
14. The Cumulative Impact Assessment summarised at paragraphs 6.3.8 to 6.3.10 is already in force. The amendment to the Statement of Licensing Policy ensures the Council complies with

the requirements of section 5(6E) of the Licensing Act 2003.

Other Options Considered

15. No other options have been considered. In order to comply with the requirements of section 5(6E) detailed above a summary of the Cumulative Impact Assessment must be included in the Council's Statement of Licensing Policy.

Risk Assessment

16. The risk of not proceeding is that the Council could be open to legal challenge for failing to comply with the requirements of the Licensing Act 2003.

Summary of Equalities Impact of the Proposed Decision

17. 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.
18. Full equalities impact assessments have been carried out both for the Statement of Licensing Policy and Cumulative Impact Assessment, both are attached at Appendix D. A further EQIA has not been undertaken for this amendment as it does not alter the policy already in force.

Legal and Resource Implications

Legal

Under section 5A of the Licensing Act 2003 ("the Act"), a Local Authority may publish a Cumulative Impact Assessment (CIA). A Cumulative Impact Assessment was approved by the Licensing Committee and published on 8 March 2021.

Section 5(6E) of the Act states that a licensing statement must summarise any cumulative impact assessments published by the licensing authority under section 5A.

This report seeks approval for amendments to the Council's Statement of Licensing Policy to incorporate a summary of the Cumulative Impact Assessment as per the requirements under section 5(6E)(a). The Cumulative Impact Assessment is already in force and available as a separate published document.

Section 7(1) of the Act states that:

All matters relating to the discharge by a licensing authority of its licensing functions are, by virtue of this subsection, referred to its licensing committee and, accordingly, that committee must discharge those functions on behalf of the authority.

Section 7(2) of the Act list the functions for which section 7(1) does not apply; those functions cannot be delegated to Licensing Committee and are reserved to full Council which includes, amongst other functions, any function conferred on the licensing authority by section 5 (statement of licensing policy). In our considered opinion any amendment to the statement of licensing policy cannot be delegated to the Licensing Committee and must be considered by Full Council.

(Legal advice provided by Anne Nugent and Shreena Parmar, Regulatory Lawyer, Legal Services)

Financial

(a) Revenue

There are no finance implications of the revision to the policy

(b) Capital

There are no finance implications of the revision to the policy

Land

Not applicable

Personnel

There are no HR implications associated

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

Appendices:

- Appendix A Proposed amendments to the Statement of Licensing Policy
- Appendix B Amended Statement of Licensing Policy
- Appendix C Cumulative Impact Assessment
- Appendix D EQIA – Statement of Licensing Policy
EQIA – Cumulative Impact Assessment Policy

Background Papers:

None