



Licensing Committee

18th July 2019

Title	Review of the Licensing Policy
Report of	Executive Director for Environment
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	Annex 1 – Proposed revised policy
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Summary

The Licensing Act 2003 places a responsibility on all licensing authorities to publish a licensing policy every 5 years. The Council, being a licensing authority, has a current policy which came into effect from January 2015. This report seeks approval from the Licensing team to authorise the licensing department to consult on the proposed revised policy.

Officers Recommendations

That the draft Licensing policy be approved for consultation and that the Officers be instructed to report to the November 2019 meeting on the outcome for recommendation to Council.

1. WHY THIS REPORT IS NEEDED

- 1.1 Pursuant to the Licensing Act 2003 ('the Act'), the Council is the licensing authority with responsibility for issuing licences under the Act for licensable activities in the Borough.
- 1.2 In accordance with the Act, the Council must prepare, consult on and publish a Licensing Policy which it proposes to have regard to when exercising relevant functions.
- 1.3 The proposed new policy is attached at Appendix 1. This policy must be reviewed at least every 5 years. The policy was last reviewed in January 2015 therefore it must be reviewed before January 2020.
- 1.4 The proposed policy is an update on the previous policy taking into account any changes in guidance and best practice. The layout of the policy has changed with the sections in relation to general information on the four licensing objectives and that in relation to conditions now being merged.
- 1.5 Sections relating to Early Morning Restriction Orders (EMRO) and Late Night Levy (LNL) have been removed as these merely repeated the legislation and guidance.
- 1.6 The specific attention of applicants has been drawn in relation to areas where the licensing team feels this is needed, this includes the Live Music Act and ensuring that temporary event notices have the required detail included in the application.
- 1.7 Since April 2018, when determining or revising its licensing policy, an authority must consider any Cumulative Impact Assessments (CIA's) it has published. A licensing authority can publish a CIA to reduce the number of or types of applications granted in a area where there is evidence that the area is having a cumulative impact and causing problems which undermine the licensing objectives.
- 1.8 Subsequently, a section has been added in relation to CIA's and Cumulative Impact Zones (CIZ). This is a generic section outlining the impact of such a policy. Should the consultation in relation to the CIZ for Burnt Oak support this being adopted the area specified will be placed in an Annex to the main policy. This allows the CIZ to be reviewed, amended and removed without the need to change the main text in the policy. If the CIZ is not adopted the reference to Annex 2 will be removed and the policy will state that there are currently no CIZs within the Borough.
- 1.9 A section has also been added in relation to representations. This is an area that the licensing team receive many questions, and there is often confusion when representations are not accepted for the various valid reasons. The section aims to clearly set out to interested parties how to make a valid representation.

- 1.10 The policy must be kept under review by the licensing authority and may be changed at any time after adoption (after further consultation), and must be renewed at intervals of not less than five years.

2 REASONS FOR RECOMMENDATIONS

- 2.1 The local authority is required, under the Licensing Act 2003, to prepare and publish a statement of policy in relation to the exercise of its functions under the Act. This policy must be reviewed at least every 5 years therefore the policy must be reviewed before January 2020.

3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Committee could consider not consulting on the proposed policy, however the legislation states that the policy must be reviewed and consulted on before the 5 year period ends. This is January 2020 therefore there is no legal alternatives.

4 POST DECISION IMPLEMENTATION

- 4.1 The Licensing team will be consulting on the proposed policy during summer 2019.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 This review of licensing issues within Burnt Oak, supports the corporate priority of “Safe and strong communities where people get along”. In particular” Tackling anti-social behaviour and environmental crime “

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Administration and enforcement of the Licensing Act will be carried out by the Licensing team, together with support from Legal Services and from Governance Services. The cost of the administration and enforcement of the legislation is provided for in the fees received in relation to applications and annual fees. There are no further cost implications in reviewing the licensing policy.
- 5.2.2 Fees are kept under constant review to ensure that they accurately reflect recovery of costs incurred in administration of the licence process and compliance checks.

5.3 Social Value

5.3.1 Not relevant to this report

5.4 Legal and Constitutional References

- 5.4.1 Pursuant to s.5 of the Licensing Act 2003, the licensing authority is required to determine its licensing policy in regards to the exercise of its licensing functions and publish the policy every 5 years.
- 5.4.2 Before publishing the policy the licensing authority must consult the following:
- (a) The chief officer of Police for the Barnet area
 - (b) The fire and rescue authority
 - (c) Barnet's Director of Public Health
 - (d) Licence holders of premises licences
 - (e) Holders of club premises certificates
 - (f) Personal licence holders and
 - (g) Businesses and residents within the London Borough of Barnet
- 5.4.3 Under the Licensing Act there are four statutory objectives to be met through licensing:
- (1) Protection Children from harm
 - (2) Prevention of nuisance
 - (3) Public Safety
 - (4) Prevention of crime and disorder

A good policy ensures that these objectives are promoted by the London Borough of Barnet.

- 5.4.4 Section 5A of the Licensing Act 2003 details the requirements for publishing a CIA.
- 5.4.5 Article 7 – Committees, Forums, Working Groups and Partnerships, of the Council's Constitution states that the Licensing Committee is responsible for, "*all policy matters relating to licensing with licencing hearings concerning all licencing matters delegated to sub-committees.*"

5.5 Risk Management

- 5.5.1 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to all Licensing. It needs to ensure that the risk of non-compliance and the regulatory burden to both the Local authority and to the trade is minimised.

5.6 Equalities and Diversity

- 5.6.1 The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

- 5.6.2 When considering applications, only issues provided for in the relevant legislation, in addition to the authority's policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

5.7 Corporate Parenting

- 5.7.1 Not relevant to this report.

5.8 Consultation and Engagement

- 5.8.1 A full consultation will be undertaken in relation to this matter, as set out in the Licensing Act 2003.
- 5.8.2 The consultation document will be sent to the Police, all responsible authorities.. It will also be sent to councillors, responsible authorities, a at least 5% of each type of current licence holders in our area. It will also be available for viewing on the Council website.
- 5.8.3 If approved by the Committee, the policy will be submitted for consultation with the parties identified above for a period of 6 weeks. All replies will be taken into account and the policy, revised as necessary, will be submitted to this Committee for final approval at its meeting in November 2019. The Committee will then be asked to recommend that the policy be adopted at the next meeting of the full Council before being published in January 2020.

5.9 Insight

- 5.9.1 Not relevant to this report.

6 BACKGROUND PAPERS

Statutory Guidance issued under section 182 Licensing Act 2003 (April 2018)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Licensing Act 2003