

<b>REPORT TO:</b>	<b>LICENSING COMMITTEE</b> <b>21 NOVEMBER 2013</b>
<b>AGENDA ITEM:</b>	<b>6</b>
<b>SUBJECT:</b>	<b>LICENSING ACT 2003 – REVIEW OF LONDON BOROUGH OF CROYDON STATEMENT OF LICENSING POLICY</b>
<b>LEAD OFFICER:</b>	<b>Executive Director, Development &amp; Environment Department</b>
<b>CABINET MEMBER:</b>	<b>Cllr. Simon Hoar</b> <b>Cabinet Member for Community Safety &amp; Public Protection</b>
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b>	
<b>FINANCIAL SUMMARY:</b>	
<p>The Licensing Act 2003 became fully operational on 24 November 2005. The local authority has been processing applications with regard to this legislation since 7 February 2005, which was the start of the conversion period under the Act.</p> <p>There are no financial implications associated with this report, save for those set out in the body of the report with regard to decision making by the licensing sub committee, the substantive licensing committee and full Council.</p> <p>The costs of administering the functions associated with this report will be met from existing resources.</p>	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b>	

**For general release**

<p><b>1. RECOMMENDATIONS</b></p> <p>The Committee is asked to:</p> <p>1.1. Consider the responses to the consultation on the review of the Licensing Policy at Appendix 3 and proposed revisions to that policy at Appendix 1.</p> <p>1.2. Recommend the adoption of the revised Licensing Policy at Appendix 5 to full Council at its meeting on 2 December 2013.</p>
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## **2. EXECUTIVE SUMMARY**

2.1 The Licensing Act 2003 made local authorities, as licensing authorities, responsible for the administration of licences and certificates for:

- The sale/supply of alcohol
- The provision of regulated entertainment and
- The provision of late night refreshment

There are four licensing objectives which underpin the legislation and these are:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety and
- The protection of children from harm

All decisions under the Act must be taken with a view to promoting these licensing objectives.

2.2 In addition to processing applications, the Act requires each licensing authority to determine and publish a policy setting out how it will exercise its functions under the Act. The first London Borough of Croydon Licensing Policy was published on 1 December 2004. Originally, in each 3 year period thereafter, the Council had to keep its policy under review and revise it as it considered appropriate. Due to a recent legislative change, this review must now take place every 5 years. In addition to this statutory time frame however, the Council may review its policy at any time within that 5 year period should it see fit.

2.3 The Council is not required to review its policy until 2016 but has decided that it wishes to review the policy earlier.

2.4 This report details the consultation undertaken as part of the review and seeks a recommendation to full Council for consequent changes to the policy.

## **3. DETAIL**

3.1 On 30 January 2013, the current licensing policy was circulated to a number of bodies, together with a covering letter and an appendix containing suggested amendments to the policy. The consultation period was 12 weeks, ending on 22 April 2013. The response to that consultation was low but consideration of the comments received lead the Council to review its position. The Council subsequently refined the scope of its proposals and went back out to public consultation, with that consultation commencing on 4 October 2013 and ending on 8 November 2013. The documents sent out on 4 October comprise the current policy with suggested amendments marked in bold and italics, a covering letter and a consultation document (which includes a questionnaire) and these documents are attached at Appendix 1 to this report.

3.2 The consultation was on proposals that the Licensing Policy Statement be revised to -

- reflect recent changes in licensing legislation;
  - introduce Cumulative Impact Zones (CIZ's) in certain parts of the borough;
  - note Special Stress Areas (SSA's) in certain parts of the borough; and
  - explain the Council's approach to licensing hours for shops, stores and supermarkets.
- 3.3 A list of the bodies included in the consultation is attached at Appendix 2. In addition, a press release was issued regarding the consultation and details of the consultation were placed on the Council website.
- 3.4 Written responses were received during the consultation period from:
- Public Health, as a responsible authority under the Act
  - Thomas & Thomas Solicitors, acting on behalf of Croydon Management Services and
  - South Croydon Business Association
- These responses are attached at Appendix 3.
- 3.5 A schedule of the specific comments made in each of the letters is attached at Appendix 4 to this report showing where the policy has been changed, or not, as a result of those comments.
- 3.6 Attached at Appendix 5 is a copy of the draft, updated licensing policy. For ease of reading, the new or amended paragraphs have been highlighted in bold and italics.

#### **4. CONSULTATION**

- 4.1 The timetable leading up to the Licensing Policy being re published is as follows:

<b>DATE</b>	<b>ACTION</b>
08.11.13	Deadline for consultation responses.
20.11.13	Licensing Committee
02.12.13	Full Council
02.01.14	Publication

#### **5. FINANCIAL CONSIDERATIONS**

##### **1 Revenue and Capital consequences of report recommendations**

There are no direct financial implications associated with this report, subject to the risks at 2 & 3 below. This matter is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

##### **2 The Effect of the Decision**

Decisions of the licensing sub committee, the substantive licensing committee and full Council may be subject to appeal and/or Judicial Review

### **3 Risks**

An appeal against a decision of the Licensing Sub-Committee or a Judicial Review of the application and/or policy making processes may present financial risks to the Council with regard to any award of costs against it.

### **4 Options**

There are no other options available to the Council

### **5 Savings/Future Efficiencies**

None identified

(Approved by: Dianne Ellender, Head of Finance – Development & Environment & Central Departments)

## **6. COMMENTS OF THE SOLICITOR TO THE COUNCIL**

6.1 The Solicitor to the Council comments that the procedures associated with the implementation of the Licensing Act 2003 and review of the Policy are determined by regulations and statutory guidance. Detailed advice has been taken from leading Counsel on the consultation process and revision to the policy.

6.2 (Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Solicitor to the Council)

## **7. HUMAN RESOURCES IMPACT**

7.1 The workload associated with the review of the Licensing Policy has been undertaken within existing resources.

## **8. CUSTOMER IMPACT**

8.1 The Licensing Act 2003 impacts on existing and potential licensed premises. By extension, the Council's licensing policy also impacts on current and potential licence/certificate holders.

## **9. EQUALITIES IMPACT**

9.1 An initial Equalities Impact Assessment was undertaken in relation to the proposed revisions and which indicated that a full Equalities Impact Assessment was not required. .

## **10. ENVIRONMENTAL AND DESIGN IMPACT**

10.1 The provisions of the Licensing Act 2003 include consideration of the environmental impact of licensed premises.

## **11. CRIME AND DISORDER REDUCTION IMPACT**

11.1 Three of the four licensing objectives in the Act relate to the prevention of crime and disorder and public nuisance and the protection of children from harm. The night time economy is a priority issue in the Council's 'crime and disorder reduction strategy' and the licensing policy is a document that the Council, as

licensing authority, should have regard to when deciding licence/certificate applications.

## **12. RISK ASSESSMENT**

- 12.1 The decision making process with regard to a review of the Councils licensing policy may be subjected to judicial review. A judicial review presents financial risks and risks to the reputation of the organisation which is subject to it. Any licensee or certificate holder under the Act has the right of appeal to the Magistrates' Court if they feel aggrieved over the Council's decision to grant, refuse or vary a licence/certificate. There is a risk that if the appellant wins, legal costs could be awarded against the Council.

## **13. HUMAN RIGHTS IMPACT**

- 13.1 The procedures implemented to determine the Council's licensing policy are compliant with the provisions of the Human Rights Act.

## **14. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS**

- 14.1 The Licensing Policy will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

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**BACKGROUND DOCUMENTS:** None