



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Review of Statement of Licensing Act Policy 2020-2025 including review of the Cumulative Impact Policy	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team 15 October 2019	X
	Licensing Committee 5 November 2019 (6 week consultation) Licensing Committee 7 January 2020 (following consultation)	
	Leader and Deputy Leaders [DATE]	
	Leader's / Leader of the Opposition's Advisory Group / Independent Alliance Advisory Group [DATE]	
	Council 24 February 2020	



	Scrutiny Audit and Value for Money Council Services Committee [DATE] / Scrutiny Community Regeneration, Environment and Health and Well Being Committee [DATE]	
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Is this an Executive Decision:	NO	Is this a Key Decision:	NO
Is this in the Forward Plan:	[YES/NO]	Is the Report Confidential:	NO
If so, please state relevant paragraph from Schedule 12A LGA 1972:	[]		



Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **Angela Wakefield**

Date Signature

Chief Finance Officer: **Sal Khan**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Licensing Committee and Full Council

Date: 5th November 2019

REPORT TITLE:	Review of Statement of Licensing Policy 2020-2025 including a review of the Cumulative Impact Policy
PORTFOLIO:	Regulatory Services
HEAD OF SERVICE:	Mark Rizk
CONTACT OFFICER:	Margaret Woolley Ext. No. x1343
WARD(S) AFFECTED:	All

1. Purpose of the Report

- 1.1. To seek approval for the revised draft Statement of Licensing Policy 2020-2025 as suitable to go out to consultation.
- 1.2. To review the authority's Cumulative Impact Policy (which forms part of the Statement of Licensing Policy 2020-2025) as part of the consultation process.

2. Executive Summary

- 2.1. Under the Licensing Act 2003 the Statement of Licensing Policy must be reviewed every five years.
- 2.2. The Policy has been updated with the latest legislative changes using the guidance issued by the Home Office in 2018.
- 2.3. The Cumulative Impact Policy which forms part of the Councils Statement of Licensing Policy will be reviewed at the same time.

3. Background

3.1. Statement Of Licensing Policy

3.2. Under the Licensing Act 2003 the Council has to review its Statement of Licensing Policy every five years. The policy details how it will administer and enforce the provisions of the Act.

3.3. Prior to determining the initial policy under the Licensing Act 2003 the Licensing Authority consulted with local businesses, parish councils, elected members, and responsible authorities. In addition to these bodies all premises and personal licence holders were also consulted. The same process will be followed for this document, with the responses to the consultation being given due consideration and incorporated, where appropriate, into the finalised document. The finalised document will then be brought back into the Councils formal decision making process, together with the details of responses received and associated actions.

3.4. In formulating the amended Licensing Policy the Council has had regard to:

- The Licensing Act 2003
- The Councils responsibilities under section 17 of the Crime and Disorder Act 1998
- New guidance issued under section 182 of the Licensing Act 2003

3.5. The Council last reviewed and published its Statement of Licensing Policy in 2015 and at that time also reviewed and extended the Cumulative Impact Policy.

3.6. The Licensing Policy sets out the principles that the authority will apply to promote the licensing objectives when making decisions on applications for licences made under the Act for the next five years.

3.7. The four licensing objectives being:

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

3.8. Cumulative Impact Policy

3.9. Cumulative impact is defined as the potential impact on the promotion of the Licensing Objectives of a number of licensed premises concentrated in one area. In some areas where the number, type or density of licensed premises, such as those selling alcohol; or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises.

- 3.10. Such problems generally occur when large numbers of drinkers are concentrated in one area at peak times when queuing for transport or food. These can attract criminal activity such as drug dealing or street robbery. The effect of this type of concentration of people can also place increased pressure on local transport and public services resulting in littering and/or public nuisance.
- 3.11. Staffordshire Police in 2015 in their role as “Responsible Authority” under the Licensing Act 2003 submitted a report to extend the Cumulative Impact Zone in East Staffordshire.
- 3.12. The area was approved and has been in force since 2015 and is now due for review as part of the five year review of the Boroughs Statement of Licensing 2020-2025.
- 3.13. Cumulative Impact Policies can be introduced where there is a combined impact or cumulative effect of licensed premises on one or more of the four Licensing Objectives, namely crime and disorder, the protection of children from harm, public safety and public nuisance.
- 3.14. The area has now been reassessed and evidence produced to justify the policy.
- 3.15. Staffordshire Police have requested that there be no change to the current policy area.

4. Contribution to Corporate Priorities

- 4.1. Value for Money – the policy will ensure a consistent and transparent process.
- 4.2. Community Regeneration – applicants will be made aware of the Authorities stance for applicants applying for licences assisting businesses to ensure they can access accurate information easily and enabling them to thrive and contribute to the Borough.
- 4.3. Environment and Health and Wellbeing – the Councils Licensing Objectives are primarily concerned with public protection.

5. Report

5.1. Statement of Licensing Policy

- 5.2. The Council is under a duty to keep its Statement of Licensing Policy under review every five years and a review of the Councils Cumulative Impact Policy.

- 5.3. The Licensing Act 2003 requires the Council as the Licensing Authority to carry out a formal review, consultation and re-publication of its Statement of Licensing Policy.
- 5.4. The Licensing Policy sets out the principles that the authority will apply to promote the Licensing Objectives when making decisions on applications for licences made under the Act for the subsequent five years.
- 5.5. The four licensing objectives being:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 5.6. During the last five years a number of changes were made to the Licensing Act 2003, and associated statutory guidance, which have rendered some areas of our current policy to be in need of amendment.
- 5.7. The proposed consultation draft Statement of Licensing Policy 2020-2025, outlines the main proposed amendments, and is attached to the report as APPENDIX 1. A summary matrix of the changes can be found at APPENDIX 2.
- 5.8. For ease of reference the consultation draft Statement of Licensing Policy is set out such that the red type identifies those elements that are additions and straight forward amendments such as date changes. Those in purple print will be removed.
- 5.9. Additions of note include:
- Amendment to date of policy and population
 - Definition of alcohol
 - Updated Delegation of Functions
 - Updated information regarding Cumulative Impact Policies
 - Removal of paragraph relating to Designated Public Places Order. Replaced with Public Space Protection Orders
 - Information regarding the Immigration Act 2016 – Entitlement to work
 - Late Night Refreshment – Powers to Deregulate.
- 5.10. Cumulative Impact**
- 5.11. Cumulative Impact Assessment:**
- 5.12. A Cumulative Impact Assessment may be published by the Licensing Authority to help limit the number or type of applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. Cumulative impact relates to new premises and club premises certificates and variations.

- 5.13. A Cumulative Impact Assessment must include a statement saying that the Licensing Authority considers that the number of premises in the identified area is causing a cumulative impact. The statement must encompass that if the cumulative impact is not put in place then it will impact on the ability of the Licensing Authority to uphold the Licensing Objectives. The cumulative impact once identified must relate to licensable activities.
- 5.14. The evidence underpinning the publication of the Cumulative Impact Policy should generally be a suitable basis for a decision to refuse an application or impose conditions. It does not change the way that decisions are made under the Act. Each decision still needs to be dealt with on a case by case basis and with a view to what is appropriate for the Licensing Objectives.
- 5.15. Importantly, the publication of a cumulative impact does not remove the Licensing Authorities discretion to grant applications for new licences or applications to vary, where the authority considers this to be appropriate to the individual circumstances of the case.
- 5.16. The Licensing Authority will not take commercial demand into account when considering an application, as this is a matter for the market. However, the number, type and density of licensed premises, in a given area, are proper matters for consideration by the Licensing Authority if there is a potential impact on the licensing objectives.
- 5.17. The effect of adopting a special policy is to create a rebuttable presumption, that applications for the grant or variation of a licence or club certificate, which are likely to add to the existing cumulative impact, will normally be refused or subject to certain limitations, following relevant representations. Persons with applications within these areas will need to address the special policy issues in their operating schedule in order to rebut such presumption.
- 5.18. It is for the applicant to consider, within their operating schedule, the potential cumulative impact on one or more of the licensing objectives.
- 5.19. It is recognised that a special policy is not absolute and any application will still need to be considered on its own merits. Consideration will be given to the content of the applicants operating schedule, the continuing relevance of the evidence in support of the Cumulative Impact assessment, relevant representations and whether the impositions of appropriate conditions would be effective in preventing problems.

5.20. Reasons for the Cumulative Impact Assessment

- 5.21. Large numbers of premises, in close proximity to one another can have a negative impact on the licensing objectives, particularly if they are targeted towards high volume sales of cheap alcohol, within a vertical drinking environment. This can result in crime and disorder within a wider area than that associated with any one premises.

- 5.22. The cumulative impact of people dispersing from the area can also disturb nearby residents.
- 5.23. The Licensing Authority is mindful of the need to safeguard users of the late-night economy, in relation to crime and disorder but also from alcohol harm. It recognises its responsibilities to protect children from harm and to promote public safety in a concentration of licensed premises, whose primary function is the consumption of alcohol can increase the vulnerability of people and result in alcohol harm.
- 5.24. It is recognised that the impact of longer hours can be a factor as well as the density of the premises, and this issue will be given material consideration in any decision.
- 5.25. Staffordshire Police in 2015 submitted an application to extend the Cumulative Impact Zone in East Staffordshire. At this time the Licensing Authority were satisfied that there was appropriate evidence to support the Cumulative Impact Zone and the extension to it.
- 5.26. The area was duly adopted and is now due for review as part of the Statement of Licensing Policy 2020-2025.
- 5.27. The licences that are potentially affected are alcohol 'On' sales (pubs and restaurants) and 'Off' sales of alcohol (Off licences) and late night refreshment licences- the sale of hot food and drink after 11.00pm (takeaways). The Cumulative Impact Policy does not relieve responsible authorities or interested parties of the need to make a relevant representations, referring to information which had been before the Licensing Authority when it developed its Statement of Licensing Policy.
- 5.28. If there are no representations to an application when a special policy is in force, the Licensing Authority must grant the application in terms that are consistent with the operating schedule submitted.
- 5.29. It is also a requirement that special policies should be regularly reviewed to ensure they are still relevant and needed.
- 5.30. The evidence for the Cumulative Impact Assessment has been updated and supplied by Staffordshire Police.
- 5.31. The evidence to support the Cumulative Impact Assessment can be found at APPENDIX 3.
- 5.32. As the Licensing Authority the policy cannot be used solely as:
- Grounds for revoking a licence or certificate when representations are received about problems with existing premises
 - To refuse an application to carry an existing licence or certificate except where the modifications are directly relevant to the policy.

- 5.33. It is recognised that there are other mechanisms both within and outside the licensing regime that are available for addressing the impact of unlawful and antisocial behaviour and nuisance once consumers are away from the premises.
- 5.34. The Licensing Authority is required to regularly review the special policy to see whether it is still needed but as a minimum it should be reviewed every three years.
- 5.35. It is important to note that the policy does not seek to prevent new or varied licence applications. All applications will be considered on their own merit whilst taking into account the aims and objectives of the policy.
- 5.36. The justification for the CIZ can be summarised as follows:
- 5.37. There are already 117 licensed premises within the area of FP16 and FP30 (23.64% of all premises within East Staffordshire)(East Staffordshire currently licence 373 premises to sell alcohol, 92 premises without alcohol and 30 club premises with alcohol).
- 5.38. Between Jan to Dec 2018 a total of violence against the person were committed in East Staffs Local Policing Team (LPT). Of those 575 occurred in the proposed Cumulative Impact Area – this represents 19% of all violence that occurs across East Staffs LPT.
- 5.39. Between Jan-Dec 2018 a total of 3726 offences of all violent crime were committed in East Staffs LPT. Of those 765 occurred in the Cumulative Impact Area – this represents 20% of all violence that occurs across East Staffs LPT.
- 5.40. The two CIZ's RIA (Readily Identifiable Area) (FP16 and FP30) appears in the top 5 across the LPT.
- 5.41. The Town Centre RIA's (FP16 and FP30) appear in the top 5 RIA's across the LPT which is expected due to the nature of the area, but when we look at the neighbouring RIA FP12 this also features in the top 5 RIA's within the LPT.
- 5.42. It is therefore contended that the numbers of licensed premises continue to reach saturation point and there is a need to limit any further increases in licences being issued or variations being made.

6. Financial Considerations

This section has been approved by the following member of the Financial Management Unit :Anya Murray

- 6.1. There are no financial issues arising from this Report.

7. **Risk Assessment and Management**

7.1. The main risks to this Report and the Council achieving its objectives are as follows:

7.2. **Positive** (Opportunities/Benefits):

7.2.1. The review of the Statement of Licensing Policy in a timely way ensure that the Council complies with its legal obligations, but enables some very positive changes in the law, guidance and best practice to be incorporated into our policy.

7.2.2. A timely review and adoption of the policy will ensure all persons involved in licensable activities both with the Council and outside of it, have a key point of reference which is clear and transparent, therefore promoting consistency of approach to licensing matters.

7.2.3. The formal consultation process encourages focussed and positive engagement with key stakeholders on licensing issues and where appropriate, helps shape our policy moving forwards.

7.3. **Negative** (Threats):

7.3.1. Failure to draft, consult and publish the Licensing Policy in a timely way would constitute a failure in our legal obligations.

7.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

8. **Legal Considerations**

*This section has been approved by the following member of the Legal Team:
Angela Wakefield*

8.1. There are no significant legal issues arising from this Report.

9. **Equalities and Health**

9.1. **Equality impacts:** The subject of this Report is a policy that is being revised.

9.2. **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed.

Is it a Health or Equality action?	Issue/impact identified	Recommendation/Action required	Lead officer and timescale	Resource allocation

Is it a Health or Equality action?	Issue/impact identified	Recommendation/Action required	Lead officer and timescale	Resource allocation

10. Human Rights

10.1. There are no Human Rights issues arising from this Report.

11. Sustainability (including climate change and change adaptation measures)

11.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) N/A

12. Recommendation(s)

12.1. To consider the proposed amendments to the Councils Statement of Licensing Policy 2020-2025

12.2. Approve the Statement of Licensing Policy and associated review of the Cumulative Impact Policy to become part of a public consultation exercise concluding on 17th December 2019.

13. Background Papers

13.1. Licensing Act 2003

13.2. 182 Guidance 2018

14. Appendices

14.1. Appendix 1: Revised Statement of Licensing Policy 2020-2025

14.2. Appendix 2: Matrix of changes

14.3. Appendix 3: Cumulative Impact Assessment – Evidence document from Staffordshire Police