



EXECUTIVE DECISION NOTICE

SERVICE AREA:	OPERATIONS AND NEIGHBOURHOODS Environmental Services (Public Protection)
SUBJECT MATTER:	PUBLIC CONSULTATION ON THE LICENSING POLICY
DECISION:	To commence a period of consultation in respect of a review of the existing Statement of Licensing Policy
DECISION TAKER(S):	Councillor Allison Gwynne
DESIGNATION OF DECISION TAKER(S):	Executive Member (Neighbourhoods, Community Safety and Environment)
DATE OF DECISION:	10 November 2021
REASON FOR DECISION:	<p>The Licensing Act 2003 requires Local Authorities to refresh their policies within a statutory timeframe. Failure to do so could result in the Council acting unlawfully.</p> <p>A period of consultation is essential to ensure the views of all potentially affected parties are sought before a decision is made</p>
ALTERNATIVE OPTIONS REJECTED (if any):	Not consulting could result in a legal challenge to any decision made by the Council. Consulting will enable any alternative options proposed to be considered.
CONSULTEES:	Members of the public, elected members, holders of premises licenses potentially affected by the decision, all responsible authorities
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no direct financial implications arising from the report at this stage. However, Members will be advised of any subsequent implications once the outcome of the consultation is known
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	<p>The leading case of Gunning in 1985 set out the following requirements for a compliant consultation exercise:</p> <ul style="list-style-type: none"> • Must be at a time when proposals are still at a formative stage. • Must give sufficient reasons for any proposal to permit of intelligent consideration and response • Adequate time must be given for consideration and response. • The comments from the consultation must be conscientiously taken into account in finalising any proposals <p>The main body of the report helpfully sets out how the consultation is to be conducted to ensure that the feedback is as meaningful as possible. An EIA should also be considered.</p> <p>The comments and suggestions from the consultation should be considered carefully by the decision makers as part of the final decision making process again to ensure that a robust</p>

	and transparent process has been undertaken.
CONFLICT OF INTEREST:	None.
DISPENSATION GRANTED BY STANDARDS COMMITTEE ATTACHED:	N/A
REFERENCE DOCUMENTS:	<p>The background papers relating to this report can be inspected by contacting Emma Varnam, Assistant Executive Director (Operations and Neighbourhoods)</p> <p> Telephone:0161 342 3337</p> <p> e-mail: emma.varnam@tameside.gov.uk</p>



Signed..... 

..... Dated 10 November 2021

Councillor Allison Gwynne – Executive Member for Neighbourhoods, Community Safety and Environment

EXECUTIVE DECISION REPORT

SERVICE AREA:	OPERATIONS AND NEIGHBOURHOODS Environmental Services (Public Protection)
SUBJECT MATTER:	PUBLIC CONSULTATION ON THE LICENSING POLICY
DATE OF DECISION:	10 November 2021
DECISION TAKER	Councillor Allison Gwynne
REPORTING OFFICER:	Emma Varnam, Assistant Executive Director
REPORT SUMMARY:	This report outlines the need to review the attached draft Statement of Licensing Policy and requests permission to start a period of consultation.
RECOMMENDATIONS:	That permission is granted to commence a period of consultation
JUSTIFICATION FOR DECISION:	The Licensing Act 2003 requires Local Authorities to refresh their policies within a statutory timeframe. Failure to do so could result in the Council acting unlawfully.
ALTERNATIVE OPTIONS REJECTED (if any):	Not consulting could result in a legal challenge to any decision made by the Council. Consulting will enable any alternative options proposed to be considered.
CONSULTEES:	Members of the public, elected members, holders of premises licenses potentially affected by the decision, all responsible authorities
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no direct financial implications arising from the report at this stage. However, Members will be advised of any subsequent implications once the outcome of the consultation is known.
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	and transparent process has been undertaken.
RISK MANAGEMENT:	Failure to properly consult on these proposals could result in a challenge from the trade or their representatives through a judicial review. As part of the consultation exercise, an equalities impact assessment will be undertaken.
LINKS TO COMMUNITY PLAN:	The licensing of licensed premises contributes towards the Community Strategy theme of providing a safe environment
REFERENCE DOCUMENTS:	<p>The background papers relating to this report can be inspected by contacting the Report Writer, Emma Varnam, Assistant Executive Director (Operations and Neighbourhoods) by:</p> <p> Telephone: 0161 342 3337</p> <p> E-mail: emma.varnam@tameside.gov.uk</p>

1. INTRODUCTION

- 1.1 Licensing Authorities are obliged to review and revise their licensing policies on a regular basis. Regular reviews ensure that policies are kept up-to-date with any changes to legislation and that policies accurately reflect the aims, ambitions and working practices currently employed by the Authority.
- 1.2 The Licensing Act 2003 requires Licensing Authorities to publish a revised “Statement of Licensing Policy” at least every five years.
- 1.3 A period of 12 weeks to consult is considered appropriate in line with Government guidance. However, a shorter period is allowed where the authority can rationalise this. As there are no significant amendments to the Statement of Licensing Policy, it is proposed that these policies will be subject to an 8 week consultation period prior to their adoption by the Council.
- 1.4 This report outlines the basic premise of each policy and concludes by requesting permission to start the consultation process for each policy.
- 1.5 It is important that the process of adopting the policies is transparent and subject to sufficient governance. A further report will be submitted to board at the conclusion of the consultation periods highlighting the key consultation responses and any suggested amendments, which should be made to the policies before they are put to full Council for approval.

2. STATEMENT OF LICENSING POLICY – LICENSING ACT 2003

- 2.1 The Licensing Act 2003 is the primary legislation whereby Licensing Authorities issue licences to, and regulate licensed premises which are used for the sale or supply of alcohol, to provide regulated entertainment, or to provide late night refreshment.
- 2.2 Section 5 of the Licensing Act 2003 requires Tameside Council to review its Licensing Policy every 5 years. The statement must outline the Authority’s policy in respect of the grant of premises licences, how the Licensing Authority will promote the four licensing objectives, and on the Authority’s expectations of licence holders in promoting the licensing objectives:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance and;
 - The protection of Children from harm.
- 2.3 Earlier this year the Council extended the previous Statement of Licensing Policy for a period of one year, due to the extraordinary impact of the Coronavirus pandemic in 2020. Therefore, the existing Statement of Licensing Policy will expire on 25 May 2022.
- 2.4 The draft new Statement of Licensing Policy is attached at **Appendix 1**.
- 2.5 The revised draft policy reflects recent changes to legislation including the Immigration Act 2016. The most significant change is the proposed removal of the Cumulative Impact Policies (in Stalybridge town centre and Ashton-under-Lyne town centre)

Cumulative Impact

- 2.6 In its previous Statement of Licensing Policy, Tameside Council adopted two cumulative impact policies in relation to premises licensed to sell alcohol for consumption on the premises in Stalybridge town centre and Ashton-under-Lyne town centre.

- 2.7 These areas were identified in 2011 as suffering adversely from the concentration of licensed premises in a specified area following a representation made by Greater Manchester Police.
- 2.8 When the policy was last published in January 2016, 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 statutory footing.
- 2.9 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.
- 2.10 The supporting evidence for both Cumulative Impact Policies has now expired. Therefore, the draft policy proposes to remove both Cumulative Impact Policies that are currently in place. Applications for premises licence will continue to be assessed on their individual merit by the responsible authorities to ensure the licensing objectives are promoted.

Consultation Strategy

- 2.11 The proposed Statement of Licensing Policy will be subject to consultation in accordance with the provisions of the Licensing Act 2003. These require that the Authority must consult with:
- the Chief Officer of Police;
 - the Fire Authority;
 - such persons as the licensing authority considers to be representative of holders of premises licences;
 - such persons as the licensing authority considers to be representative of holders of club premises certificates;
 - such persons as the licensing authority considers to be representative of holders of personal licences; and
 - such other persons as the licensing authority considers to be representative of residents and businesses in the area
- 2.12 In addition to the statutory consultees the Council will also include:
- Ward Members;
 - All Responsible Authorities as named in the Licensing Act
 - Premises Licence Holders; and
 - Trade Associations (Pubwatch)
- 2.13 All parties will be written to, directing them to the consultation page on the Council's website. In addition, the Council will use its social media accounts to publicise the consultation.
- 2.14 The intention is to carry out a full public consultation for a period of 8 weeks between early November 2022 and early January 2022. Following any amendments and further approval by Board, the policy could then be put to full Council for a decision on adoption.

3. RECOMMENDATIONS

- 3.1 As set out at the front of the report