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| Report to: | EXECUTIVE CABINET |
| Date: | 27 April 2022 |
| Executive Member: | Councillor Allison Gwynne – Executive Member (Neighbourhoods, Community Safety and Environment) |
| Reporting Officer: | Ian Saxon, Director of Place |
| Subject: | REVISED STATEMENT OF LICENSING POLICY – LICENSING ACT 2003 |
| Report Summary: | <p>Licensing authorities are required to prepare, consult on, and publish a Statement of Licensing Policy every five years. The policy details how the Council will administer and enforce the provisions of the Licensing Act 2003.</p> <p>This report presents the Council's proposed Statement of Licensing Policy for 2022-2027.</p> |
| Recommendations: | That Executive Cabinet recommend to Full Council to adopt the Licensing Policy set out herein. |
| Corporate Plan: | <p>The proposals contained in this report will support the delivery of the Corporate Plan;</p> <p>Starting Well – Reduce the impact of adverse childhood experiences.</p> <p>Living Well – Reduce levels of anti-social behaviour, victims of crime/fear of crime.</p> |
| Policy Implications: | There is a statutory requirement for the Council to review the Statement of Licensing Policy every five years. This proposal would replace the existing Statement of Licensing Policy. |
| Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer) | <p>There are no direct financial implications arising from the report.</p> <p>However, Members should note all related licence fees that apply to the policy are approved by the Council within the annual Council budget report.</p> <p>Licence fees that apply to the 2022/23 financial year were approved at the 22 February 2022 Council meeting</p> |
| Legal Implications: (Authorised by the Borough Solicitor) | <p>Under Licensing Act 2003, licensing authorities are required to prepare and consult on a statement of licensing policy (SLP), setting out their strategic approach to local licensing, every five years.</p> <p>The licensing policy will be a material consideration when the Council is considering applications and reviewing licenses under the statutory code.</p> <p>The revised Licensing Policy reflects recent changes in legislation including the Immigration Act 2016, which states that Licensing Act 2003 applicants must have a right to work check and provide evidence of your entitlement to work in the UK.</p> <p>There is an absolute duty to consult on any changes given the implications for individual's livelihoods. All the legal requirements as to consultation must be followed. Failure to properly consult on</p> |

these proposals could result in a legal challenge from the trade or their representatives through a judicial review.

Members will need to consider the consultation process carried out and the removal of the Cumulative Impact Policies before agreeing the revised Policy, in line with its equality duty, to ensure there is no challenge to its lawfulness and the Council's duty to protect vulnerable persons.

Failure to agree the revised licensing policy would leave the Authority vulnerable to challenge and would prohibit the Licensing committee making any decisions. The Authority would also have failed to comply with the duty imposed on it by Section 5 of the Licensing Act 2003.

Risk Management:

This review of the Statement of Licensing Policy is a key document in relation to the Council's position in continuing to implement the Licensing Act's objectives and consideration of subsequent licensing applications.

Failure to properly consult on these proposals could result in a legal challenge from the trade or their representatives through a judicial review. This risk has been managed by carrying out an extensive consultation as outlined in the report.

Background Information:

The background papers relating to this report can be inspected by contacting Sharon Smith, Head of Regulatory Services and Public Protection



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1. INTRODUCTION

- 1.1 The Council is under a duty to keep its Statement of Licensing Policy under review every five years and a review of the Council's Cumulative Impact Policy.
- 1.2 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 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.
- 1.3 Tameside Council's Statement of Licensing Policy was last revised in January 2016. Due to the impact of the coronavirus pandemic a full review of the Licensing Policy was unable to take place, therefore the policy was extended for a period 12 months in May 2021.
- 1.4 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).
- 1.5 A copy of the proposed Statement of Licensing Policy is attached at **Appendix 1**.

2. CUMULATIVE IMPACT

- 2.1 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.
- 2.2 When the policy was 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 legal footing.
- 2.2 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. The assessment must be reviewed every three years.
- 2.3 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.
- 2.3 The supporting evidence for both Cumulative Impact Policies has now expired. Therefore, the revised 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.

3. CONSULTATION

- 3.1 In accordance with Government Guidance, a full consultation process was undertaken between 29 November 2021 and 24 January 2022.
- 3.2 The consultation was circulated widely, national trade bodies, interested parties and all premises licence holders were written to, directing them to a consultation page on the Council's website. In addition, the Council used its social media accounts to publicise the consultation.
- 3.3 Copies of the draft policy were made available for the public to view electronically online and a hard copy was kept at the Licensing Office.
- 3.4 Only one response was received from Greater Manchester Police which was in support of the draft policy being approved, this is attached at **Appendix 2**.
- 3.5 An Equality Impact Assessment (EIA) has been completed showing there is no adverse impact on the community. The EIA form is attached at **Appendix 3**.

4. RECOMMENDATIONS

- 4.1 As set out at the front of the report.