

Report To: **COUNCIL**

Date: 21 January 2016

Executive Reporting Officer: **Member/** Councillor Gwynne – Executive Member (Clean and Green)
Ian Saxon – Assistant Executive Director (Environmental Services)

Subject: **REVIEW OF LICENSING POLICIES**
(a) LICENSING ACT 2003 POLICY
(b) GAMBLING POLICY
(c) SEX ESTABLISHMENT LICENSING POLICY

Report Summary: 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.

Recommendations: To consider and adopt the proposed licensing policies as set out at **Appendices 1 (licensing policy); 2 (gambling policy) and 4 (sex establishment licensing policy).**

Links To Community Strategy: The licensing of licensed premises, gambling premises, bookmakers and sexual entertainment venues contributes towards the Community Strategy theme of providing a safe environment

Policy Implications: The draft policies would replace the existing statement of licensing policy and gambling policy statement of principles and would introduce a new policy for the licensing of sexual entertainment venues.

Financial Implications: **(Authorised By The Section 151 Officer)** There are no direct financial implications resulting from the proposed adoption of the new Licensing Policies outlined in the report and attached appendices.

Legal Implications: **(Authorised By The Borough Solicitor)** The Adopted Policies will be material considerations when the Council is considering applications and reviewing licenses under these statutory codes. Any amendments to the Cumulative Impact Policy will need to be the subject of a separate report as a special policy under Part 13 of the Statutory Guidance.

Risk Management: Failure to adopt a 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.

Access To Information: The author of the report is Ian Saxon, Assistant Executive Director

 Telephone - 0161 342 3647

 E-mail ian.saxon@tameside.gov.uk

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. The Gambling Act 2005 requires Licensing Authorities to publish a revised “Statement of Gambling Policy” at least every three years.
- 1.3 In addition, Tameside Council recently adopted an amendment to the Local Government (Miscellaneous Provisions) Act 1982, which had been introduced under Section 27 of the Policing and Crime Act 2009. This amendment allows the Council to regulate and licence sex establishments – specifically sex shops, sex cinemas and sex entertainment venues. Following adoption of this amendment, it is recommended best practice for Licensing Authorities to adopt a policy in respect of the licensing of Sexual Entertainment Venues.
- 1.4 Consultations on the draft policies began on Thursday 10 September 2015 and ended on Friday 4 December 2015.

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 When it was first enacted, the Licensing Act required Licensing Authorities to publish a “Statement of Licensing Policy” every three 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 Tameside Council’s statement of licensing policy was last revised in February 2011, which, under the three year rule, would have required the Council to publish a revised statement no later than February 2014. The introduction of the Police Reform and Social Responsibility Act 2011, however, extended the maximum “shelf life” of statements of licensing policy from 3 years to 5 years.
- 2.4 The existing statement of licensing policy will therefore expire on 22 February 2016, and the intention is for a new policy to be agreed and adopted by the full Council to meet that requirement.
- 2.5 The draft new statement of licensing policy is attached at **Appendix 1**.
- 2.6 The revised policy reflects recent changes to legislation and changes to working practices within the licensing service. It also includes an innovative approach to promoting public health, which, although not currently included as a licensing objective, has been included within the policy to address some of the serious alcohol-related health problems which exist within Tameside. In addition, the draft policy outlines the Council’s expectations in relation to a number of emerging issues such as child sexual exploitation and legal highs.

2.7 A full public consultation took place for a period of 12 weeks between 10 September 2015 and 4 December 2015. In addition, as per the requirements of the Licensing Act, all responsible authorities were supplied with a copy of the draft policy and asked for their comments, and all holders of premises licences and designated premises supervisors in the Tameside area were written to and directed to the draft policy and online consultation.

Consultation Responses

2.8 Three responses were received from members of the public and three from responsible authorities.

Public Responses

2.9 One respondent wrote to state that they were unhappy with the proposed cumulative impact policy. It is important to note that the cumulative impact policy has, for the purposes of this draft new policy, been copied directly across from the existing policy without any amendments. There is an intention to separately consult on a new cumulative impact policy in 2016 and this respondent's comments will be considered as part of that further review. The other two public respondents made general comments about the potential for earlier closing hours in Stalybridge and the fact that the Council has not adopted the late night levy. These responses are set out below:

Public Representation1 – received 10/9/2015 12:07 PM
The Cumulative Impact Policy (CIP) should be removed from the Licensing Policy. While I can appreciate the reasoning behind its initial implementation, it is clear that both Stalybridge and Ashton town centres are no longer the 'hedonistic capitals' of yesterday. If I focus specifically on Stalybridge; a walk down Market Street and Melbourne Street will highlight the desperate need for investment to rejuvenate this area. My own personal plan to take on a high street shop and transform it into a Micro Pub and bottle shop, focusing on real ale and supporting the area's many Micro Breweries, has now been put on hold in view of the Council's restrictive policy for this area. After much personal and financial sacrifice I now have to have a serious rethink about the best location for my project. I am saddened that this will not be in my own home town. I must note that the CIP is not very obvious for anyone thinking of applying for a premises licence. Despite having gone through the process of gaining a personal licence and preparing the documentation for premises, I was unaware of the CIP. Even after being told of its presence, it still took me some time to find on the licensing website
Public Representation 2 – received 10/2/2015 12:50 PM
There is not much to shut down in Stalybridge and implementing this report with finish the rest of the pubs and bars in Stalybridge due to costs. the best solution would be to stop selling alcohol before 12 o clock mid-day and after 12 o clock midnight also this should apply to shops, supermarkets and off licences
Public Representation 3 - received 9/23/2015 5:15 PM
pleased that the late night levy is not being enforced and common sense has prevailed

Responsible Authority Responses

2.10 Greater Manchester Police responded to the consultation with a request that the Licensing Authority considers including a section covering alcohol home delivery services. As a result, four new paragraphs have been included in the draft statement of licensing policy from 1.30 to 1.33, covering alcohol home delivery services.

Greater Manchester Fire & Rescue Service responded with a short email supporting the contents of the draft policy.

Tameside Public Health responded with a letter fully supporting the draft policy – in particular the provisions of the new policy relating to public health and the Authorities

expectations of licence holders in promoting public health across the borough. These responses are set out below.

Greater Manchester Police
In response to your consultation for TMBC Licensing Policy 2016, please can you give consideration to applications for online delivery services in Tameside.
Greater Manchester Fire & Rescue Service
Just a quick email to confirm that I endorse the guidance in paragraphs 3.1 to 3.5 (Public Safety).
Public Health
<p>I am writing as the strategic lead for Alcohol within the Public Health team at Tameside Council, in response to the Tameside Council consultation on the proposed Statement of Licensing Policy.</p> <p>I would like to start by thanking yourself and your team for proactively involving the Public Health Team in the Licensing process over the past 18 months. It has become evident to me that this is not the case in all areas, and that we are something of a leader in this regard.</p> <p>I feel that the new proposed policy builds upon this solid platform and sets Tameside Council apart from many other areas of Greater Manchester and England.</p> <p>As you are aware, the scale of Alcohol-related harm in Tameside is considerable and has a direct impact upon the low Healthy life Expectancy experienced by local residents, and upon the local environment and economy. The harm experienced in Tameside, especially amongst our most vulnerable groups is disproportionately high and inter-generational in nature.</p> <p>There is clear and unequivocal evidence that a robust and wide-ranging approach to the licencing of alcohol is one feature of a comprehensive strategy to reduce harm.</p> <p>I welcome the strong health focus within the Policy and the suggested health-related approaches to supporting the Licensing process. The continued involvement of Public Health as a responsible body, playing an active and purposeful role, is welcomed.</p> <p>I also welcome the clear partnership ethos that underpins the policy, as this is a challenge that we will only address through collaboration.</p> <p>Clearly, there is much work to be done and this Policy provides a start. However, as an area we should endeavour to do more and I continue to advocate the findings of the Health First report (http://www.cph.org.uk/wp-content/uploads/2013/03/Health-First-An-evidence-based-alcohol-strategy-for-the-UK-1.pdf), and the evidence base surrounding the need for a Minimum Unit Process for Alcohol and the formalisation of Health as a 5th Licensing Objective. It is through these further steps that we might truly make a difference.</p>

3. STATEMENT OF GAMBLING POLICY – GAMBLING ACT 2005

- 3.1 The Gambling Act 2005 is the primary legislation whereby Licensing Authorities issue licences to, and regulate licensed premises which are used for gambling activities, such as bookmakers, bingo premises, adult gaming centres etc.
- 3.2 The Gambling Act requires Licensing Authorities to publish a “Statement of Gambling Policy” every three years. The statement must outline the Authority’s policy in respect of the grant of licences, how the Licensing Authority will promote the three gambling licensing

objectives, and on the Authority's expectations of licence holders in promoting the licensing objectives:

- *Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;*
- *Ensuring that gambling is conducted in a fair and open way, and;*
- *Protecting children and other vulnerable persons from being harmed or exploited by gambling.*

3.3 The existing Statement of Gambling Policy will expire in February 2016 and the intention is for a new policy to be agreed and adopted by the full Council before that date on 21 January 2016.

3.4 The draft new statement of gambling policy is attached at **Appendix 2**.

3.5 As with the Licensing Policy, a full public consultation took place for a period of 12 weeks between 10 September 2015 and 4 December 2015.

Consultation Responses

3.6 No responses were received from members of the public and two responses were received from the gambling trade.

3.7 Coral Bingo responded with a letter which was broadly supportive of the draft statement of gambling policy. They expressed some concern about the considerations listed in the policy relating to the location of gambling premises, but acknowledged that the licensing Panel has flexibility when making licensing decisions.

3.8 Goschalks Solicitors submitted a response on behalf of the Association of British Bookmakers. This response is much more detailed and contains some suggested amendments in its final paragraphs. The first four pages of the response give a general outline of gambling policy nationally, but the section entitled "Specific Policy Comments" gives some suggested amendments to the policy which is detailed below:

3.9 Goschalks raise an issue with paragraph 8.14 in which they suggest that the draft policy is indicating that a policy may be introduced to designate areas within the borough where gambling premises would not be allowed. They have asked for this section of the policy to be removed.

3.10 Their observations about this section, however, do not take into account the fact that the draft policy very clearly states that such a limitation policy does not currently exist in the borough and would require a re-write (and further consultation) of the statement of Gambling Policy. It also states clearly that every application will always be determined on its own merits.

3.11 The second suggested amendment by Goschalks is a request for further information to be added within paragraphs 8.27 to 8.34 in relation to the imposition of licence conditions. Their suggested amendments, however, is simply a reproduction of the requirements of the Gambling Act 2005, and there would not be any need to include the direct requirements of the Gambling Act (which is primary legislation and must be adhered to), within the contents of a local authority gambling policy.

3.12 Goschalks' third suggested amendment is a request to redraft the contents of paragraph 25.3, which is a list of matters which the Council would expect operators to take into account when making a risk assessment. Goschalks suggest that two specific matters – "gaming trends that reflect benefit payments" and "street drinking, youths participating in anti-social (behaviour) and drug dealing activities" – should be taken out of the list, because, in their opinion, these matters "*can have no bearings on the licensing objectives*".

- 3.13 The three licensing objectives contained in the licensing Act are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by Gambling

It is clear that the link between gambling and benefit payments has a strong bearing on the licensing objective of *Protecting children and other vulnerable persons from being harmed or exploited by gambling*, and as such, there is a strong argument that operators should, in fact, include this consideration when drafting a risk assessment.

In addition, street drinking, anti-social behaviour and drug dealing are also activities which are covered within the first licensing objective, so there is also a strong argument that these are definitely things which a good operator should take into account when drafting a risk assessment.

- 3.14 Goschalks' final request relates to paragraph 25.5 of the draft policy which states that matters of faith may be considered by operators when drafting a risk assessment.
- 3.15 It is suggested by Goschalks that this paragraph should be removed because "*moral or ethical objections to gambling are not a valid reason to reject applications for premises licences*".
- 3.16 In fact, there is no suggestion within that section of the draft policy that the Authority will reject applications on moral or ethical grounds. The section refers specifically to the requirement for operators to draft risk assessments – not to the application or grant processes – and is merely a suggestion for other matters which may be taken into account *by the operator – NOT by the Local Authority*.
- 3.17 However, to ensure that the policy is as clear and unambiguous as possible, paragraph 25.5 has been removed from the draft policy, and paragraph 25.4 has been amended to allow operators the opportunity to consider the proximity of churches, mosques etc., but only on a practical – rather than a faith – basis,
- 3.18 The full trade responses to the consultation are attached at **Appendix 3**.

4. SEX ESTABLISHMENT LICENSING POLICY

- 4.1 On 22 July 2014, Tameside Council adopted an amendment to the Local Government (Miscellaneous Provisions) Act 1982, which had been introduced under Section 27 of the Policing and Crime Act 2009. This amendment allows the Council to regulate and licence sex establishments – specifically sex shops, sex cinemas and sex entertainment venues.
- 4.2 Following the adoption of this amendment, it is recommended best practice for the Council to introduce a policy, which gives detailed guidance on how it will consider and determine applications for sex establishment licences and the process for making an application.
- 4.3 It is important to note that Tameside does not currently have any premises, which fall into the categories covered by this policy. However, without the introduction of a policy, such premises could, in theory, open and operate within Tameside without making any application to the Council, so it is important that the Council adopts a policy which balances the conflicting needs of commercial interests, patrons, employees, residents and communities.
- 4.4 The draft Sex Establishment Licensing Policy is attached at **Appendix 4**.

4.5 A full public consultation took place for a period of 12 weeks between 10 September 2015 and 4 December 2015.

4.6 **Consultation Responses**

No responses were submitted in relation to the consultation.

5. EQUALITY IMPACT

5.1 A full equality impact assessment has been carried out in respect of all three draft policies. The assessment is attached at **Appendix 5**.

6. RECOMMENDATION

6.1 As set out at the front of the report.