

Item No. 8.1	Classification: Open	Date: 25 November 2015	Meeting Name: Council Assembly
Report title:		Licensing Act 2003: Southwark Statement of Licensing Policy 2015-2020	
Ward(s) or groups affected:		All wards	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATIONS

1. That council assembly agrees:
 - a) To maintain the council's three current special cumulative impact policy areas (set out below) within the Southwark statement of licensing policy for 2015-2020
 - a) Borough and Bankside
 - b) Camberwell
 - c) Peckham
 - b) To incorporate within the Southwark statement of licensing policy 2015-2020 the content of Table 1 (see paragraph 20 of this report), as this authority's recommended appropriate operating hours for the guidance of applicants for new licences;
 - c) Subject to (a) and (b) above, to adopt the draft Southwark statement of licensing policy 2015-2020 attached at Appendix C to this report as the policy of this council as licensing authority for the area, with effect from 1 January 2016
 - d) That officers carry out a review of the current special cumulative impact policy areas, including detailed consideration as to whether cumulative impact policies continue to be appropriate and necessary, and report back to the committee.
2. That it be noted that the above recommendations have had regard to the responses to the public consultation exercise on the revision of the Southwark statement for licensing policy for 2015-20 (Appendix A), together with the further analysis provided by the partnership analyst and the council's Environmental Protection Team (Appendices B & C respectively) accompanying this report.

BACKGROUND INFORMATION

3. The Licensing Act 2003 came into effect on 25 November 2005. The Act introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshment, administered by the local licensing authority.
4. Section 5 of the 2003 Act requires each licensing authority to prepare and publish a statement of licensing policy, every five years. The policy statement is intended to establish how the authority intends to approach its licensing responsibilities under the Act. Each authority is also required to keep the statement of policy under review throughout each five year period and make any revisions it considers appropriate.

5. The initial Southwark statement of licensing policy (for 2005-2008) was compiled having regard to the provisions of the Act itself, associated secondary regulations and the guidance issued for local licensing authorities (then by the Department of Culture Media and Sport (DCMS)). That initial statement of policy was approved by full Council Assembly on 6 December 2004.
6. The policy has since been kept under constant review. Each revision has acknowledged changes in law and guidance (now under the responsibility of the Home Office). The latest revision of the policy, the Southwark statement of licensing policy for 2011-14 is overdue for renewal.
7. The fourth revision of the policy statement, the draft policy for 2015-2020, was considered by the council's licensing committee in November 2014 and approved for the purpose of public consultation. This was undertaken, in accordance with the provisions of the Act, through December 2014 – February 2015. Responses to the consultation (summarised at Appendix D) have now been reviewed and these have contributed toward the final draft policy presented for consideration.
8. A number of developments (described below) have taken place in the interim period which have both delayed the return of this policy and also influenced its content.
 - In December 2014 the Safe Sociable London Partnership (SSLP) launched its publication 'Called in for Review: London Statement of Licensing Policies – Lessons Learnt and Future Development', which incorporated an assessment of the content of the then current version of the Southwark statement of licensing policy for 2011-2014.
 - In March 2015 the Home Office (which assumed responsibility for alcohol licensing from the DCMS in the summer of 2010) issued a new revision of the guidance for local licensing authorities issued under section 182 of the Act.
 - On 6 April 2015 new deregulatory measures came into effect under the Legislative Reform (Entertainment Licensing) Order 2014, removing the need for licences and consents for many smaller scale regulated entertainments held between 08.00 and 23.00.
 - On 25 August 2015 the council's environmental protection team published its analysis of nuisance service requests against licensed premises within Southwark 2014.
 - Through 21-25 September 2015 the partnership analyst published its analysis of alcohol related crime and disorder across Southwark and of London Ambulance Service call out data (both comparing 2013-14 and 2014-15).
9. This revision of the Southwark statement of policy has taken into account the SSLP review. It has been checked for consistency and compliance with the March 2015 revision of the guidance and also the latest deregulatory measures. It has also considered the implications of the prepared analysis, particularly with regard to the position regarding cumulative impact.
10. The draft revision at Appendix A to this report was considered by the licensing committee at its meeting of 2 November 2015. The licensing committee recommends the revision to council assembly for formal adoption as this authority's policy with effect from 1 January 2016.

KEY ISSUES FOR CONSIDERATION

The purpose of the policy

11. The policy has five main objectives:

- To reinforce to elected members on the Licensing Committee, the powers of and constraints placed upon the local authority as licensing authority by the 2003 Act:
- To set out, for the benefit of prospective applicants, responsible authorities, local residents and licensed operators, the parameters under which this Authority will make its licensing decisions.
- To inform prospective licensees how a licensed premises is likely to be able to operate within an area.
- To inform local residents and licensed operators how their needs will be addressed.
- To minimise the number of licensing decisions that may be challenged in a court of law.

The licensing objectives

12. All licensing decisions are taken with a view to promoting the four licensing objectives established under the Act. These are:

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

Appropriate hours of licensed operation

13. Under the public consultation two particular issues were raised. The first concerned the inclusion within the policy of recommended appropriate operating hours for licensed premises for the guidance of new applicants. This followed revised Home Office guidance, which moved away from the promotion of the ideal of a 24 hour café society, that local authority licensing policies should instead set out its approach regarding licensed operating hours and the strategy it considers appropriate for the promotion of the licensing objectives within its area.

14. The consultation proposed a model based on the approach currently employed by the neighbouring Lambeth Council, which aligned premises category with local planning area classification.

15. The relevant planning area classifications incorporate major town centres; strategic cultural areas; district town centres; local centres and small shopping parades; and residential areas. Applied to Southwark this gives the following groupings.

- Major town centres – Canada Water, Elephant & Castle (including Walworth Road) and Peckham
- Strategic cultural areas – Bankside, Borough and London Bridge, St Mary's Churchyard (Rotherhithe)
- District town centres – London Bridge, Bankside and Borough, Camberwell, Herne Hill and Lordship Lane
- Local centres and small shopping parades – The Blue, Dulwich Village and Nunhead

- Residential – All other.

- The consultation asked whether there was general support for the inclusion of proposed appropriate operating hours within the policy and, if so, for the model suggested. The consultation emphasised that, if introduced, such guidance would not mean that the times stated would automatically apply to new licences, nor would it mean that the hours of existing licensed premises would be cut-back. However, it would provide a helpful guide to new applicants and the licensing sub-committee on the hours that might be considered appropriate in a locality.
- In all, 10 detailed responses were received on this matter (from colleagues in regeneration (2), planning, safeguarding, environmental protection and public Health (3) together with the Liberal Democrat Group and the Herne Hill Society). All supported the general principle of including appropriate operating hours. Six other responses were received by way of response to the questionnaire produced and again all were in support of the general principle.
- There was less agreement, however, as to whether the model suggested was appropriate. The 3 individual contributions from public health colleagues all suggested more restrictive hours than those proposed in the model used.
- The council's environmental protection team proposed a completely different approach, suggesting that areas "should be zoned in terms of amount of licensable activity in any area, street activity, level and nature of disturbance, complaints etc., similar to the existing criteria for distinguishing cumulative impact areas, Relevant opening hour guidance can then be adopted for active and / or problem areas."
- The alternative approaches suggested have been considered and discussed and an amended version of the Lambeth model is proposed for adoption here (Table 1 below). It retains the approach used linking premises category with local area planning classification as this provides an appropriate considered and established framework for demarcation. In the light of the submissions from public health, the hours proposed within some categories are further reduced, but the model still recognises the principle that there is demand for a mix of leisure and entertainments facilities and for later premises operation within the night-time economy but within areas that are appropriate.

Table 1 – Suggested closing times of licensed premises (for discussion)				
Type of premises	Major town centres and strategic cultural area	District town centres	Local centres and small shopping parades	Residential areas
	Bankside Borough & London Bridge Canada Water Elephant & Castle (including Walworth Road) Peckham St Mary's Churchyard (Rotherhithe)	Camberwell Herne Hill Lordship Lane Note: Bankside and Borough & London Bridge are all classified as District Town Centres. However, as	The Blue Dulwich Village Nunhead	All other

Table 1 – Suggested closing times of licensed premises (for discussion)				
Type of premises	Major town centres and strategic cultural area	District town centres	Local centres and small shopping parades	Residential areas
		they have dual categorization as Strategic Cultural Areas the latter hours apply		
Restaurants and cafes	Fri – Sat 0100 Sun – Thurs 0000	Fri – Sat 0100 Sun – Thurs 0000	Fri – Sat 0000 Sun – Thurs 2300	2300 daily
Public houses, wine bars or other drinking establishments	Fri – Sat 0000 Sun – Thurs 2300	Fri – Sat 0000 Sun – Thurs 2300	2300 daily	2300 daily
Hotel bars and guest houses	No restrictions for residents	No restrictions for residents	No restrictions for residents	No restrictions for residents
Night clubs (with ‘sui generis’ planning classification)	Fri – Sat 0300 Mon – Thurs 0100 Sun 0000	Fri – Sat 0100 Sun – Thurs 0000	Not considered appropriate	Not considered appropriate
Off-licences and alcohol sales in grocers and supermarkets	0000 daily	0000 daily	2300 daily	2300 daily
Take-away establishments	Fri – Sat 0100 Sun - Thurs 0000	Fri – Sat 0100 Sun – Thurs 0000	Fri – Sat 0000 Sun – Thurs 2300	Not considered appropriate
Cinemas and theatres	0200 daily	0100 daily	0000 daily	2300 daily
Vessels	2300 daily	2300 daily	2300 daily	2300 daily
Qualifying members’ clubs	0200 daily	0100 daily	0000 daily	2300 daily

The 2014-15 analysis and cumulative impact policies

21. The second area specifically raised under the consultation asked for feedback on this Authority’s current approach to cumulative impact policies. These have been central to the licensing policy in recent years.

22. Guidance for local licensing authorities published by the Home Office recognizes special local cumulative impact policies as being an appropriate measure to help deal with the potential impact on the licensing objectives of a significant number of licensed premises concentrated in one area.
23. This authority currently has three special cumulative impact policies in place. These are
 - Borough and Bankside (established in November 2009 and extended in April 2011)
 - Camberwell (established in November 2008)
 - Peckham (established in November 2008 and extended in November 2009).
24. In all 11 detailed responses were received on cumulative impact. Nine of these (from colleagues in public health (3), trading standards, safeguarding, and planning, together with responses from the Liberal Democrat group, an individual ward councillor and the Herne Hill Society all supported the continuation of the current cumulative impact policies. A further six responses were received by way of returned questionnaire and here the support for the continuation of the Borough and Bankside CIP was 82.5% and 50% each for the continuation of the Camberwell and Peckham CIPS.
25. Responses (2) received from the council's own regeneration team, however, supports the cessation of the cumulative impact policies, explaining ... "We don't view this as an appropriate or necessary measure in what are opportunity areas in both the London and Southwark plans. These are localities which focus in both the Southwark and London plan for growth in new homes, business and economic activity. Policy should therefore seek to provide a supportive framework for the responsible licensing of venues which will be necessary to support growth within the opportunity area creating employment opportunities".
26. The full licensing committee has considered the policy with particular regard to the cumulative impact zones annually. The main information source for assessing whether the policies have remained appropriate and necessary for the promotion of the licensing objectives has been the partnership analysis of alcohol related harm in Southwark, which has incorporated information on alcohol related violence against the person (VAP), and alcohol related crime and disorder together with information from the London Ambulance Services (LAS) on alcohol related ambulance pick-ups.
27. In recent years, good progress has been made in bringing figures for alcohol related crime and disorder down. The 2013 partnership analysis had reported, while reviewing the period 2007 to 2013 that figures for alcohol related violence and crime and disorder had fallen to their lowest levels over the period of the monitor. Below, in many cases, the levels that were being experienced when the policies were introduced. This position had to be balanced, however, against a background of rising alcohol related London Ambulance Service call-outs.
28. The partnership analysis of alcohol related crime and London Ambulance Service call outs across Southwark for 2014/15 (Appendix B) continues that progress and reports further reductions.
 - The number of recorded alcohol related ambulance call-outs in 2014-15 in Southwark showed signs of improvement with 3241 call-outs recorded from April 2015 through to the end of March 2016, being 457 fewer than in the same period in 2013-14. Demand across the year fell on each day of the week.
 - A clear improvement in the number of alcohol related crimes was seen throughout 2014-15 with 49 fewer alcohol-related crimes recorded by police in Southwark in 2014-15 than

2013-14 (320 down from 369).

- Alcohol related robbery showed significant improvement across the two reporting periods from 23 offences throughout 2013-13 down to 7 throughout 2014-15, matching the overall profile of reducing numbers of robberies in Southwark.
29. Both levels of alcohol related offending and alcohol related London ambulance call-outs remain high. The partnership analysis reported some key features of offending in Southwark in 2014-15:
- Violence against the person featured most strongly amongst alcohol related offending in Southwark.
 - Alcohol related offending is most prevalent from midnight into the early hours.
 - Peak days for alcohol related crime in Southwark remain at the weekend.
 - 69% of offending takes place within the hours of the night-time economy (NTE) (18.00 to 05.59).
 - Cathedrals ward saw more alcohol related offending than other wards and saw the most alcohol related ambulance call outs.
 - Three areas were identified as being affected by alcohol related offending: Cathedrals ward; the junction of Peckham High Street and Rye Lane and the Elephant and Castle.
 - Saturday was the busiest day for alcohol related ambulance call outs.
 - Demand increases throughout the NTE period with spikes recorded between 20.00 and 21.59 and then 03.00 and 03.59 reflecting the pattern of assault presentations at Southwark's Accident & Emergency facilities.
30. However, good progress continues to be made and the question is raised and should be considered as to whether cumulative impact policies remain appropriate and necessary at this time or whether they have achieved their intention and could be withdrawn.
31. Furthermore, recent analysis has focused particularly on the three current CIP areas and three other areas under monitor being the Elephant & Castle, the Old Kent Road corridor; and the East Street / Walworth Road area. The hot spot mapping provided in recent analysis gives some indication that a policy might be considered for the Elephant & Castle and consultation responses and other recent discussion have proposed that areas as diverse as Herne Hill; the Old Kent Road / New Kent Road corridor; East Dulwich / Grove Vale / Lordship Lane; Shad Thames and Druid Street in SE1 should all be examined.
32. The environmental protection team's analysis of nuisance service requests against licensed premises for Southwark 2014 (appendix C) states that 304 nuisance service requests were received during the course of the year (64% of these involved music noise). The analysis identifies that over the half the calls received within cumulative impact areas were for return visits to repeat venues. The scatter diagram included shows that complaints concerning nuisance from licensed premises are distributed widely across the borough. It states, however, that the complaints generally fell within large areas covering the north-west and the south-east of the borough. It also notes a small cluster of premises in Camberwell Church Street. While together this encapsulates the three saturation areas, this information neither provides strong argument either for or against the continuation of the cumulative impact policies.

33. In view of the range of questions and issues raised at this time, it is proposed that the committee recommends that council assembly agrees to maintain the three current cumulative impact policies for the present but that officers prepare a full specific review of cumulative impact policies and cumulative impact across the borough for consideration by the committee in the new year. The review should seek additional information sources; consider in more detail the broader arguments for and against cumulative impact policies; and whether in the event of the policy approach being continued, the policies are employed in the correct localities.

Summary of the other main amendments to the policy

34. Beyond these matters, the statement of policy is revised throughout so as to ensure consistency with the latest changes in legislation, guidance and case law and to reflect current best practice. A summary of some of the main changes follows.

General

35. Firstly, the content of the policy has been subject of some rearrangement to help make it easier to negotiate and to emphasise some of the main policy content.
36. As a result of this, both the authority's approach to cumulative impact policies and also to appropriate licensed hours of operation have been given their own chapters. Information relating to other related legislation and strategies has been removed to the appendices. The policy document is now arranged as follows:
- Section 1 – Executive summary
 - Section 2 – All about Southwark
 - Section 3 – Purpose and scope of the licensing policy
 - Section 4 – Administration, exercise and delegation of function
 - Section 5 - Determining applications for premises licences and club premises certificates
 - Section 6 – Local cumulative impact policies
 - Section 7 – Hours of operation
 - Section 8 – The first licensing objective – the prevention of crime and disorder
 - Section 9 – The second licensing objective – public safety
 - Section 10 – The third licensing objective – the prevention of public nuisance
 - Section 11 – The fourth licensing objective – the protection of children from harm
 - Section 12 – Enforcement
 - Appendix A – Contact details
 - Appendix B – Other related legislation and strategies.

Section 2 – All about Southwark

37. Section 2 gives an introduction to Southwark. This revision
- Updates demographic statistics;
 - Updates the policy on the partnership analysis of alcohol related harm for 2014-15
 - Updates and extends the section on 'Alcohol and Public Health'.

Section 4 – Administration, exercise and delegation of function

38. Section 4 deals with licensing process and practice. New references include:

- The Southwark childrens' social care service as being the body competent to advise on child protection issues.
- Disclosure of personal details of persons making representations – providing clarification on the circumstances where personal details of 'objectors' may be withheld.
- Applications for transfer of a licence following application for review – establishing that applicants seeking to transfer licences subject of ongoing review must submit as part of their application, documented evidence that demonstrates that the right of lawful occupancy of the premises and responsibility for the operation of the business is formally changing hands.
- Planning & building regulations regimes – emphasis given to the need to comply with requirements of both licensing and planning legislation before the lawful operation of a premises may commence.

Section 5 – Determining applications for premises licences and club premises certificates

39. Section 5 effectively sets out 'how the policy is intended to work'. It encourages prospective operators to refer to the best management practice established in the four sections of the policy given over to the individual licensing objectives. New references include:
- Location and other relevant considerations – establishing a range of local relevant factors that the licensing sub-committee may take into account.
 - High standards of management – emphasising that this authority expects high standards of premises management at all licensed venues and establishments and defining how this may be demonstrated.

Section 6 – Local cumulative impact policies

40. Section 6 focusses primarily on cumulative impact policies. Subject to the decision taken on consideration of this report, it confirms current local policy areas and the intention of the licensing service by way of its responsible authority role, to engage the policy through the representations process wherever an application is likely to add to existing cumulative impact. New references include:
- Rebutting the presumption against grant in a cumulative impact area – providing examples of factors this Authority may consider as demonstrating that there will be no additional cumulative impact added and, conversely, factors that are unlikely to do so.
 - Early morning restriction order (EMRO) – In recognition of the provisions for EMROs.

Section 7 – Hours of operation

41. Subject to the outcome of the consideration given to this report, section 7 sets out those hours that are considered to be appropriate for licensed premises having regard to the form of premises operation and the make up of the locality.
42. The policy also confirms that whilst no formal consideration has been given to the implementation of a night time levy within the Southwark area, the Authority is aware of the review of the structure of the levy currently being undertaken by the Home Office. The position will be reviewed in the light of this.

Section 8 – The first licensing objective – the prevention of crime and disorder

43. Section 8 sets out to provide best practice guidance to prospective licence applicants in pursuit of the prevention of crime and disorder objective. Within this section the broad guide to potential crime and disorder controls has been overhauled, in conjunction with the police and trading standards. New references include:
- Relevant mandatory licence conditions have been included in full;
 - Measures intended to promote the licensing objectives have been revised for all premises; premises supplying alcohol for consumption upon the premises; and premises providing alcohol for consumption upon the premises and regulated entertainment in the night time economy.

Section 9 – The second licensing objective – ensuring public safety

44. Section 9 sets out to provide best practice guidance to prospective licence applicants in pursuit of the public safety objective. Within this section the broad guide to public safety considerations has been overhauled, in conjunction with the occupational health and safety team and the fire brigade. New references include:
- Measures in support of the public safety licensing objective – taking a proactive approach to customer safety
 - Measures in support of the public safety licensing objective – ensuring the safe departure of those using the premises
 - Women’s Safety Charter – promoting take up by licensees of the council’s new charter intended to highlight concerns over sexual harassment and ensure these are properly addressed by venue management.

Section 9 – The third licensing objective – the prevention of public nuisance

45. Section 9 sets out to provide best practice guidance to prospective licence applicants in pursuit of the prevention of public nuisance objective. Within this section the broad guide to sound containment and reduction measures has been overhauled in conjunction with the environmental protection team. Comprehensive sections are included dealing with:
- Preventing nuisance outside of premises
 - Preventing nuisance from within premises
 - Outdoor events.

Section 10 – The fourth licensing objective – the protection of children from harm

46. Section 10 sets out to provide best practice guidance to prospective licence applicants in pursuit of the protection of children from harm objective. It has been amended in conjunction with trading standards and the Southwark safeguarding children board. New references include:
- The Southwark Film Viewing Board;
 - Child Sexual Exploitation and Operation Makesafe.

Section 12 – Enforcement

47. Section 12, detailing this authority’s approach to ensuring fair, consistent, intelligence led enforcement, has been reviewed in the light of The Regulators Code of Practice established by the Better Regulation Delivery Office.

Community impact statement

48. The Southwark statement of licensing policy recognises that responsible business operators that run, safe, well managed venues and facilities and are prepared to work together with their local community will provide benefit to that community. The policy equally recognises that irresponsible business operators who fail to provide good management practices are likely to have negative impacts on the community.
49. As such, the statement of policy sets out to achieve a necessary balance between providing a platform upon which responsible business operators may contribute toward a thriving business and late night economy while ensuring that the quality of life of those who live and work in the borough is protected and enhanced through the licensing system.
50. Central to this, is a licensing process which aims to be inclusive and ensures that local community concerns are understood, debated and resolved. This is supported by offering broad support to licensees, through the range of involved authorities, to establish best practice management, and by a strong directed enforcement resource.
51. Furthermore, the council, as licensing authority, monitors the impacts of its licensing decisions through regular partnership analysis of statistical information on alcohol related crime and disorder; calls to the police regarding disorder and rowdiness; ambulance 'pick-up' statistics; and noise nuisance calls to the council.
52. The equalities impact assessment has been revisited as part of the revision of this policy. As the primary changes to the policy form technical updates, no new issues are identified at this stage. However, it is anticipated that a new assessment will be necessary in the light of changes to the law proposed in the aforementioned Police and Social Responsibility Bill.

Resource implications

53. The revision and update of the Southwark statement of licensing policy does not have any resource issues in itself. Where new initiatives referenced within the policy statement have resource implications these will have been dealt with at time of conception.
54. This is an update to the existing statement of licensing policy. This policy is mainly advisory / informative, providing guidance to the Licensing Committee, licence applicants, residents and businesses. Costs associated with implementing the existing policy are currently met from the licensing revenue budget.

Consultation

55. The fourth revision of the Southwark statement of licensing policy has been prepared with public consultation undertaken in accordance with section 5(3) of the Licensing Act 2003. As such this authority has consulted with:
 - a) The chief officer of the police
 - b) The fire authority
 - c) Representatives of holders of premises licences; club premises certificate holders; and personal licence holders
 - d) Representatives of businesses and residents
 - e) All responsible authorities specified under the Act.
56. Consultation comprised:

- Direct letter drops to (i) – (v)
- Information published on the council web site, including an e-questionnaire
- A stall provided at each of the community councils
- Twitter feeds promoting the consultation
- Public notices in the local press and at the council offices.

57. A summary of the responses received to the consultation is attached as Appendix 2.

58. In the event that council assembly confirms the revision as the council's formal policy, then this decision will be announced in a notice published in a local newspaper; on the council's web site; and at the council's offices, in accordance with the statutory requirements. All applicants for new licences and for variations of existing licences will be advised on its content and application at the time of initial approach to the licensing service.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

59. The Licensing Act 2003 ("the 2003 Act") requires the council, as the licensing authority, to prepare and publish a statement of its licensing policy every five years.

60. In determining its policy, the council is exercising a licensing function and as such must have regard to the guidance issued by the Secretary of State under section 182 of the 2003 Act. It must also give appropriate weight to the views of those persons/bodies listed in section 5(3) of the Act which it is required to consult before determining its policy.

61. The guidance represents best practice, but is not binding on the Council. As long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. In this event they will need to give full reasons for their decisions, which must be consistent with the objectives of the 2003 Act.

62. The council is required to have regard to the statement of licensing policy and make decisions in accordance with it. Licensing authorities may depart from their policy if the individual circumstances of any case merit such a decision in the interests of promoting the licensing objectives. In this event it is important that full reasons are given for departing from the published statement of licensing policy.

63. Members should note that the 2003 Act imposes a duty on the council, as the licensing authority, to carry out its functions under the Act with a view to promoting the four licensing objectives, namely:

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

64. Each of these objectives is of paramount and equal importance. There are no other licensing objectives and therefore the council cannot reject an application for a licence or impose conditions on a licence for any purpose unrelated to the promotion of these objectives. For example, whether or not there is a 'need' for another licensed premises in a given area is a matter for planning committees but is not a matter for a licensing authority in its statement of licensing policy or in discharging its licensing functions.

65. However, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the council to consider when adopting its statement of licensing policy. The guidance explains 'cumulative impact' as the potential impact on the promotion of the licensing objectives – for example crime and disorder and/or public nuisance - of a significant number of licensed premises concentrated in one area.
66. The statement of licensing policy cannot seek to impose 'blanket' conditions. Each application must be considered on its own merits. Conditions can only be imposed on a licence if they are necessary to promote the licensing objectives in relation to the specific premises and are a proportionate response to the specific situation to be addressed. The guidance provides that if the situation the condition is intended to address is already addressed by a provision in the 2003 Act or any other legislation then the condition cannot be said to be 'necessary'.
67. Licensing is about regulating the carrying on of licensable activities within the terms of the 2003 Act. The statement of licensing policy should make it clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business carrying on licensable activities. However, the guidance also states that licensing law is a key aspect of such control and should always be part of a holistic approach to the management of the evening and night-time economy. It is therefore desirable that the statement of licensing policy is in line with the council's wider objectives and consistent with other policies.
68. Members should note that the statement of licensing policy must not be inconsistent with the provisions of the 2003 Act and must not override the right/s of any individual as provided for in that Act. Nor must the statement of licensing policy be inconsistent with obligations placed on the council under any other legislation, including human rights legislation. Members should also note that the council has a duty under Section 17 of the Crime and Disorder Act 1998, when carrying out its functions as a licensing authority under the 2003 Act, to do all it reasonably can to prevent crime and disorder within the borough.
69. Positive equalities obligations are placed on local authorities, sometimes described as equalities duties, with regard to race, disability and gender. Race equality duties were introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976. Gender equalities duties were introduced by the Equality Act 2006, which amended the Sex Discrimination Act 1975. Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995.
70. Equality impact assessments are an essential tool to assist councils to comply with our equalities duties and to make decisions fairly and equalities and human rights impact assessments that are carried out should be mindful of the protected characteristics under the Equality Act 2010.
71. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, decisions relating to licensing matters cannot be the responsibility of an authority's executive. The 2003 Act provides that whilst the majority of the functions of the licensing authority, are to be taken or carried out by its licensing committee, decisions relating to the statement of licensing policy cannot be delegated in such a way. The decision on whether to adopt the statement of licensing policy must therefore be taken by council assembly.

Strategic Director of Finance and Governance (E&L/15/017)

72. The Strategic Director of Finance and Governance notes the recommendations set out in paragraphs 1 and 2 and that the head of service has confirmed that the cost implications of this updated policy will be contained within the existing licensing revenue budget for the division.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Licensing Act 2003 plus secondary regulations	The Licensing Service, C/O PO BOX 64529 London SE1P 5LX	Name: Mrs Kirtikula Read Phone number: 020 7525 5748
The Home Office Guidance to the Act published March 2015		
Local Government (Miscellaneous Provisions) Act 1982		

APPENDICES

No.	Title
Appendix A	Draft Southwark statement of licensing policy 2015-2020 (circulated separately to members and available online)
Appendix B	Partnership analysis of alcohol related crime and disorder / London Ambulance Service call outs 2014-15 (circulated separately to members and available online)
Appendix C	Environmental protection team analysis of nuisance service requests against licensed premises (circulated separately to members and available online)
Appendix D	Summary of consultation responses (circulated separately to members and available online)

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Richard Parkins, Licensing and Environmental Protection Unit Manager	
Version	Final	
Dated	9 November 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	9 November 2015	