



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Review of Statement of Licensing Act Policy 2025-2030 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 18 th September 2024	X
	Licensing Committee 1 st October 2024 (consultation) Licensing Committee ***** (following consultation)	
	Pre Cabinet [DATE]	
	Leader's / Leader of the Opposition's Advisory Group [DATE]	
	Cabinet [DATE] / Council [DATE]	



Title of Report:	Review of Statement of Licensing Act Policy 2025-2030 including review of the Cumulative Impact Policy Audit Committee [DATE] / Scrutiny Regeneration, Development and Market Hall Committee [DATE] / Scrutiny Health and Well Being Committee [DATE] / Scrutiny Climate Change and Environment Committee / Scrutiny Value for Money Council Committee [DATE]	To be marked with an 'X' by Democratic Services after report has been presented
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<p>Is this an Executive Decision:</p>	<p>[YES/NO]</p>	<p>Is this a Key Decision:</p>	<p>NO</p>
<p>Is this in the Forward Plan:</p>	<p>[YES/NO]</p>	<p>Does this report contain Confidential or Exempt Information:</p> <p>If the report Contains Confidential Information, please provide reason.</p> <p>If the report contains Exempt Information, please state relevant paragraph from Schedule 12A LGA 1972:</p>	<p>NO</p> <p>[]</p> <p>[]</p>

Essential Signatories:

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



Monitoring Officer: **John Teasdale**

Date Signature

Chief Finance Officer: **Lloyd Haynes**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Full Licensing Committee

Date: 2024

REPORT TITLE: Review of Statement of Licensing Policy 2025-2030 including a review of the Cumulative Impact Policy

PORTFOLIO: Communities and Regulatory Services

CHIEF OFFICER: John Teasdale

CONTACT OFFICER: Margaret Woolley

WARD(S) AFFECTED: ALL

1. Purpose of the Report

- 1.1. To seek approval for the revised draft Statement of Licensing Policy 2025-2030 as suitable for consultation purposes.
- 1.2. To review the authority's Cumulative Impact Policy (which forms part of the Statement of Licensing Policy 2025-2030) 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 2023.
- 2.3. The Cumulative Impact Policy, which forms part of the Council's Statement of Licensing Policy will be reviewed at the same time. This document has been reviewed and updated by Staffordshire Police.

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 Council's 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 2019, 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, reviewed in 2019 and is now due for review as part of the five year review of the Boroughs Statement of Licensing 2025-2030.
- 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. Creating a prosperous East Staffordshire

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, along with a review of the Council’s 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 2025-2030, 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.
- 5.9. Additions of note include:
- Amendment to date of policy and population
 - Guidance on Right to Work Entitlement
 - Updated Cumulative Impact Policy
 - Update on Closure Notices
 - Clarification on TENs notices
 - Drink Spiking
 - Ask for Angela
 - Counter Terrorism update (including reference to Martyn's Law)
 - Pavement Licensing

6. Cumulative Impact Assessment:

- 6.1. 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.
- 6.2. 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 than 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.
- 6.3. 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.

- 6.4. 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.
- 6.5. 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.
- 6.6. 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.
- 6.7. It is for the applicant to consider, within their operating schedule, the potential cumulative impact on one or more of the licensing objectives.
- 6.8. 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.

Reasons for the Cumulative Impact Assessment

- 6.9. 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.
- 6.10. The cumulative impact of people dispersing from the area can also disturb nearby residents.
- 6.11. 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.

- 6.12. 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.
- 6.13. 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.
- 6.14. The area was duly adopted and is now due for review as part of the Statement of Licensing Policy 2025-2030.
- 6.15. 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.
- 6.16. 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.
- 6.17. It is also a requirement that special policies should be regularly reviewed to ensure they are still relevant and needed.
- 6.18. The evidence for the Cumulative Impact Assessment has been updated and supplied by Staffordshire Police.
- 6.19. The evidence to support the Cumulative Impact Assessment can be found at **APPENDIX 3**.
- 6.20. 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.
- 6.21. 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.
- 6.22. 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.
- 6.23. The justification for the Cumulative Impact Zone can be summarised as follows:

- 6.24. The continuance of the Cumulative Impact Zone to limit the number and type of licences within Burton Town area is key to supporting the licensing objectives.
- 6.25. When considering the data for the Town Centre alone, and thus the area of the Cumulative Impact Assessment, it identifies that some of the crime categories have shown as significant in volume and in excess of the figures recorded in 2022-2023.
- 6.26. Violence and public order stand out from the other categories as having the greatest impact. Public order offences in particular are significantly higher 2023-2024.
- 6.27. The same is true when looking at the comparative data of crime and ASB recording across the entire Borough for the same period. There are reductions from the previous 12 months (2022-2023) and this can likely be attributed to the change in the policing model, with greater local focus, partnership working and problem solving but the volume is still high in most categories.
- 6.28. 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.

7. Financial Considerations

This section has been approved by the following member of the Financial Management Unit: [Daniel Binks]

- 7.1. There are no significant financial issues arising from this Report.
- 7.2. It is noted that income generated from licensing supports the delivery of Council services, however there is no indication that the updating of this policy will have a material impact on the current levels of income generated.

8. Risk Assessment and Management

- 8.1. The main risks to this Report and the Council achieving its objectives are as follows:
- 8.2. **Positive** (Opportunities/Benefits):
 - 8.2.1. The review of the Statement of Licensing Policy in a timely manner ensures that the Council complies with its legal obligations, but also enables some very positive changes in the law, guidance and best practice to be incorporated into our policy.
 - 8.2.2. 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.

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

8.3. **Negative** (Threats):

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

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

9. **Legal Considerations**

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

John

Teasdale

9.1. The main legal issues arising from this Report are as follows.

9.2. The Council is required to have a Statement of Licensing Policy under section 5 of the Licensing Act 2003. The Statement of Licensing Policy provides the framework in which the Council's licensing function is administered and sets out the Council's approach under the Licensing Act 2003.

9.3. The Licensing Act 2003 requires a statutory review of the Statement of Licensing Policy every 5 years. The policy was last reviewed in 2019.

9.4. Section 5(3) of the 2003 Act also sets out that before determining its Statement of Licensing Policy, consultation must take place. Statutory consultees are also listed in 5(3) of the Act.

9.5. Pursuant to the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the determination of the Statement of Licensing Policy under section 5 of the Licensing Act 2003 cannot be a function of the Licensing Committee. Consistent with this requirement, the Council's Constitution also makes the approval of the Policy a matter to be determined by Full Council; as it forms part of the Council's Policy Framework.

9.6. When reviewing the Statement of Licensing Policy, the Council must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003. The latest version, issued by the Home Office in 2023, has been considered during the drafting of the policy.

- 9.7. The Cumulative Impact Statement falls under section 5A of the 2003 Act. It is stipulated that consultation in accordance with section 5(3) of the Act must also follow.
- 9.8. As the policy forms part of the Council's Policy Framework, the Constitution prescribes that any final decision on the policy must be taken by Full Council. This is also prescribed by section 154 of the 2005 Act. However Licensing Committee can be consulted upon as part of the process.

10. Equalities and Health

- 10.1. **Equality impacts:** The subject of this Report is a policy that is being revised.
- 10.2. **Health impacts:** The outcome of the health screening question does not require a full Health Impact.

11. Data Protection Implications – Data Protection Impact Assessment (DPIA)

- 11.1. A DPIA must be completed where there are plans to:

- use systematic and extensive profiling with significant effects;
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale
- use new technologies;
- use profiling or special category data to decide on access to services;
- profile individuals on a large scale;
- process biometric data;
- process genetic data;
- match data or combine datasets from different sources;
- collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- track individuals' location or behaviour;
- profile children or target marketing or online services at them; or
- process data that might endanger the individual's physical health or safety in the event of a security breach

- 11.2. Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA.

12. Human Rights

- 12.1. There are no Human Rights issues arising from this Report.

13. Environmental Impacts

Consider impacts related to the Climate Change & Nature Strategy aims:

- Reducing greenhouse gas emissions (climate change mitigation)
- Preparing for future climate change (adaptation)
- Protecting and enhancing nature

- Using resources wisely and minimising waste and pollution

13.1. Does the proposal have any positive or negative environmental impacts? No

14. **Recommendation(s)**

14.1. To consider the proposed amendments to the Councils Statement of Licensing Policy 2025-2030.

14.2. Approve the Statement of Licensing Policy and associated review of the Cumulative Impact Policy to become part of a public consultation exercise for a period of 4 weeks.

15. **Background Papers**

15.1. Licensing Act 2003

15.2. Section 182 Guidance 2023

16. **Appendices**

16.1. Appendix A: Revised Statement of Licensing Policy 2025-2030

16.2. Appendix B: Matrix of Changes

16.3. Appendix C: Cumulative Impact Assessment – Evidence Document from Staffordshire Police