



LICENSING ACT 2003 COMMITTEE

13 NOVEMBER 2019

REPORT TITLE	DRAFT STATEMENT OF LICENSING POLICY
REPORT OF	DIRECTOR OF GOVERNANCE AND ASSURANCE

REPORT SUMMARY

This report requires the Committee to consider whether the Licensing Authority remains of the opinion that there is evidence that the number of premises selling alcohol for consumption off the premises in the specified area of Birkenhead identified within the current Statement of Licensing Policy is having a cumulative impact and leading to problems which are undermining the licensing objectives. The Committee are asked to consider whether there should continue to be a Cumulative Impact Assessment applied to the area of Birkenhead currently referenced in the Statement of Licensing Policy.

The report also seeks the Committee's approval of the Draft Statement of Licensing Policy attached at Appendix 1 in order that it may be presented to Council for approval on 9 December 2019.

This matter affects all Wards within the Borough.

RECOMMENDATION/S

That:

1. The Committee considers whether the Licensing Authority remains of the opinion that there is evidence that the number of premises selling alcohol for consumption off the premises in the specified area of Birkenhead identified within the current Statement of Licensing Policy is having a cumulative impact and leading to problems which are undermining the licensing objectives. In considering this evidence the Committee recommend to Council whether there should continue to be a Cumulative Impact Assessment applied to the area of Birkenhead currently referenced in the Statement of Licensing Policy.
2. The Committee recommends to Council that the Draft Statement of Licensing Policy be approved.

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 It is a statutory requirement under Section 5 of the Licensing Act 2003 for the Licensing Authority to prepare and publish a statement of Licensing Policy at least every five years.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 There is no provision for other options to be considered.

3.0 BACKGROUND INFORMATION

- 3.1 The Council's Statement of Licensing Policy was first published in January 2005. The policy has since been subject to three reviews and the last full review of the policy was in December 2014.
- 3.2 On 5 January 2017 Merseyside Police requested the Licensing Authority consider adopting a Special Cumulative Impact Policy (SCIP), for an area within Birkenhead. The request was made due to the level of crime and disorder, public nuisance, littering, street drinking, under-age drinking and anti-social behaviour believed to be resulting in part from the number of off-licence premises located in the area. The request was supported by Ward Councillors.
- 3.3 A comprehensive consultation process was, therefore, undertaken about the possibility of introducing a Special Cumulative Impact Policy for Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre.
- 3.4 The consultation period ran from 13 January 2017 to 3 March 2017 and sought views on a Special Cumulative Impact Policy in relation to premises licensed for the sale by retail of alcohol for consumption off the premises only.
- 3.5 Upon examining the responses received through the consultation the Licensing Authority was satisfied that there was evidence that the number of premises in Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre licensed under the Licensing Act 2003 for the sale by retail of alcohol for consumption off the premises were cumulatively giving rise to significant problems of public nuisance and crime and disorder.
- 3.6 As a result, the Licensing Authority resolved to introduce a Special Cumulative Impact Policy limited to Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre with effect from 10 July 2017 to apply to Premises licensed for the sale by retail of alcohol for consumption off the premises only.
- 3.7 Whilst the concept of cumulative impact has been referenced in the Statutory Guidance issued under The Licensing Act 2003 since the commencement of the Licensing Act 2003, Cumulative Impact Assessments (CIA) were introduced into the Licensing Act 2003 by the Police and Crime Act 2017 which now places a requirement on Licensing Authorities to keep any CIA under review.
- 3.8 It is a requirement of the Licensing Act 2003 that the Licensing Policy be reviewed at least every five years and that any Cumulative Impact Assessment included within the policy be reviewed every three years. The Statutory Guidance issued

under the Licensing Act 2003 advises that ...' Where a licensing policy as a whole is due for review, under the five year review period under section 5(4), and this occurs before the end of the three year CIA review period, licensing authorities may wish to use this as an opportunity to carry out a review of the evidence in support of the CIA.' It was subsequently resolved at a meeting of this Committee on 25 July 2019 that the review of the Licensing Policy would also seek views on the Cumulative Impact Assessment included therein.

The revised draft policy including the Cumulative Impact Assessment has been subject to statutory consultation.

- 3.9 Notification of the consultation was published on the Council's Website, in the Wirral View and posted on the Council's Social Media platforms. The consultation also included directly notifying the persons/bodies shown at Appendix 2 of the consultation. The consultation began on 26 July 2019 and ran until 13 September 2019.
- 3.10 The Licensing Authority received four responses to the consultation. A summary of the comments received that relate directly to the draft policy is shown in Table A below.

Table A

	Summary of comments	Response to comments
Public Health	Requests to amend the Executive Summary, Alcohol Related Harm, Off Licences and Staff Training	The comments received have been acted upon and the policy amended accordingly.
Councillor	Would like to see a strong encouragement for licensed premises to become carbon neutral. Each premises to have an environmental impact assessment.	A paragraph has been written into the executive summary of the Policy advising that we will support licensed premises in developing environmental impact assessments and improvement plans linked to a zero carbon outcome.
Local Resident	<p>The protection of our natural environment is a condition The applicant takes steps to ensure the premises/event is sustainable and details are included with any applications</p> <p>Definition of public nuisance is used in the main policy includes waste/litter</p>	<p>The Licensing Authority cannot make this a requirement, however the policy has been amended as detailed above.</p> <p>The policy has been amended to clarify what may be taken into account when considering public nuisance.</p>

Local Resident	Insufficient detail regarding the duty of clubs regarding the rules of beer gardens in close proximity to residential properties.	Reference is made within the policy to the fact that the Licensing Authority will give particular consideration to the use of outside areas and the proximity of premises to local residents.
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- 3.11 The draft policy attached at Appendix 1 has been amended having taken into consideration the feedback received through the consultation as indicated in Table A above.
- 3.12 In addition to the general responses relating to the draft policy, Merseyside Police have submitted a report providing evidence to support the retention of the Special Cumulative Impact Policy contained within the current policy. This report is attached at Appendix 3.
- 3.13 Merseyside Police report that the cumulative impact of the number of premises selling alcohol for consumption off the premises in the SCIP area supports a high level of street drinking in the area and that street drinking continues to be a major policing issue within the SCIP area. Evidence is provided relating to the impact of street drinking on individuals and businesses, the level of alcohol related violence and alcohol related domestic violence in and directly around the SCIP area.
- 3.14 The statistics within the report provided by Merseyside Police highlight the level of alcohol related violence in the areas of Birkenhead and Tranmere which immediately surround the SCIP area. The statistics show an increase in alcohol related domestic violence from 143 in the Birkenhead and Tranmere area in 2016, to 381 in the last 12 month period and an increase in non domestic alcohol related violence for a 6 month period between April and September 2016 to the same 6 month period in 2019 from 92 to 132. Merseyside Police have advised that there has been a drive towards the better and more effective recording of data since 2016 and that this is a contributing factor to a higher level of recorded incidents since 2016.
- 3.15 The report shows a decrease in the number of calls made to Merseyside Police relating to anti-social behaviour within the SCIP area, however it is the view of Merseyside Police that this is a result of a level of tolerance relating to the presence of street drinkers that has developed within the area.
- 3.16 A Statement is provided within the report from a Police Officer with 12 years of experience working within Birkenhead Town Centre advising that the number of off licences in the SCIP area contributes to the opportunities provided for street drinkers to obtain alcohol. A survey undertaken by a local PCSO highlights the concerns of local residents, businesses and Ward Councillors relating to the impact of street drinking in the area.
- 3.17 Merseyside Police request that the Committee consider the evidence provided within the report attached at Appendix 3 when reviewing the SCIP. There has been no other evidence provided through the consultation relating to the review of the SCIP.

- 3.18 Should the Committee recommend to Council that it remains of the opinion that there should continue to be a Cumulative Impact Assessment applied to the area of Birkenhead currently referenced in the Statement of Licensing Policy the Licensing Authority is required to revise the SCIP to include a statement to that effect and set out the evidence as to why it remains of that opinion.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The cost of undertaking this consultation exercise, which was funded from licence fees, was £350.00.

5.0 LEGAL IMPLICATIONS

- 5.1 It is a requirement under Section 5 of the Licensing Act 2003 that the Licensing Authority prepare and publish a statement of Licensing Policy at least every five years. The Police and Crime Act 2017 places a requirement on Licensing Authorities to review any Cumulative Impact Assessment every three years.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

- 6.1 There are no such implications arising directly from this report.

7.0 RELEVANT RISKS

- 7.1 If the Draft Policy is not approved to be presented to full Council on 9 December 2019, this could result in the Licensing Authority failing in its statutory duty to publish a revised Licensing Policy within the required five year period and leave the Council open to legal challenge. The Licensing Policy provides transparency, accountability, certainty and consistency in respect of decision making.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The draft policy has been subject to statutory consultation and the feedback from the consultation has been taken into consideration when drafting the policy attached at Appendix 1.

9.0 EQUALITY IMPLICATIONS

- 9.1 There are no direct equality implications in the formation of the policy. However, the Licensing Authority will undertake its functions and responsibilities in accordance of the requirements of the Equality Act 2010.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The recommendations contained within this report are expected to reduce emissions of CO₂ as the draft policy seeks to encourage licensed premises to develop improvement plans to reduce their carbon footprint.

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APPENDICES

- Appendix 1 – Draft Statement of Licensing Policy
- Appendix 2 – List of consultees
- Appendix 3 – Report received from Merseyside Police

BACKGROUND PAPERS

Guidance issued under Section 182 of the Licensing Act 2003

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Licensing Act 2003 Committee	25/07/2019
Council	10/07/2017
Licensing Act 2003 Committee	05/07/2017
Licensing Act 2003 Committee	15/03/2017