



Licensing Committee Report

Date	06 July 2023
Classification	For General Release
Title or report	Update on Licensing Policy Work Plan
Report of	Director of Policy and Projects
Decision maker	Licensing Committee
Wards involved	All
Financial summary	None
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1. Executive Summary

- 1.1 This report has been provided following a request from the Licensing Committee for an update on the current work plan and timeline for licensing policy development and delivery. This report provides a summary of the planned work streams relating to licensing policy development and delivery over a two-year period (2023/24 and 2024/25). Appendix 1 sets out the high-level timeline of the planned work for this period. It should be noted that the work programme provided will be subject to change and dates stated are not fixed.

2. Recommendations

- 2.1 This report has been provided for information purposes only and therefore no decision is required.

3. Background

- 4.1 The Council is responsible for administering, determining, and ensuring compliance for many licensing regimes. The most prominent regime is for the authorisation of the sale and supply of alcohol, regulated entertainment, and late-night refreshment under the Licensing Act 2003 (2003 Act).
- 4.2 When developing or revising a policy (a review) Officers will undertake a detailed analysis of the currently policy, which will include its use, any challenges or amendments that have been identified. There will be wider consideration to the Council's strategic priorities, recent legislative of guidance changes and how the policy interacts with other Council policies. The review will then move to the public engagement and consultation phases before the final

drafting and adoption processes are undertaken. The review of larger policies can take up to a year to conclude.

- 4.3 The majority of licensing regimes do not require the Council to produce a licensing policy. However, there are two regimes that have a statutory requirement for the Council to produce a policy and keep it under review.

Licensing Act 2003 – Alcohol, Regulated Entertainment and Late-Night Refreshment.

- 4.4 The 2003 Act requires the Council to produce a Statement of Licensing Policy for a period of 5 years and that policy must be kept under review and the Council may revise it, at such times it considers appropriate. The current Statement of Licensing Policy 5-year period is due to end on the 31st September 2026.
- 4.5 As our Statement of Licensing Policy includes a Cumulative Impact Policy approach, we are also required to produce a Cumulative Impact Assessment (CIA), which sets out the evidence basis to support this policy approach. In determining whether the Council should retain a cumulative impact policy the CIA must identify that by adding licensed premises to an area it will be likely to contribute to the negative impact caused by the number of licensed premises in an area of the city. The 2003 Act requires the Council to review the CIA every 3 years and determine if it is still of the opinion that cumulative impact is still prevalent in its area. The current CIA was published in October 2020 and is due to be revised and published by no later than October this year.

Gambling Act 2005 – Gambling (land based)

- 4.6 The Gambling Act 2005 (2005 Act) requires the Council to produce a Statement of Principles (Gambling Policy) for a period of 3 years. The Gambling Policy must be kept under review and the Council may revise it, at such times it considered appropriate. Unlike the 2003 Act the 3-year policy period for this policy is fixed and therefore the Council must produce a revised version of the policy on the anniversary of its original adoption. The current 3-year policy period commenced on the 31st January 2022. At that time the Council produced an interim revision of the previous policy as a stop gap whilst a new Gambling Policy was under development. The new Gambling Policy was published on the 12th December 2022, replacing the stop gap policy. However, as the new Gambling Policy was published within the set 3-year policy period the next revision must be produced by the 30th January 2025.

Other licensing regimes with dedicated licensing policies

- 4.7 Whilst there are no statutory requirements for the Council to produce licensing policies for the other licensing regimes it is responsible for it has produced policies for the following regimes:
- Street Trading – City of Westminster Act 1999
 - Sex Establishments (Sex Shops and Sexual Entertainment Venues) – Part 2, Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 (as amended)
 - Busking and Street Entertainment – London Local Authorities Act 2000

5. Summary of Licensing Policy Work Plan 2023/24 to 2024/25

Revision of Statutory Licensing Policies (alcohol, entertainment and late-night refreshment and gambling)

- 5.1 The Council is currently reviewing its CIA as it is due to publish a revised version before the end of October. Officers are in the process of data collection and analysis before moving to the production of the CIA document itself in late July.
- 5.2 The current CIA was the first version produced by the Council following the revision of the 2003 Act making it a statutorily required document. The current CIA was based on data collected between 2017 and 2019. However, when the CIA was being finalised for publication the Country was suffering from the Covid19 pandemic. At the time the Council decided not to significantly amend its Cumulative Impact Policy within its revised Statement of Licensing Policy as the pandemic restrictions were either still in place or were in the process of being lifted and the City was going to need a period of recovery. Therefore, the full findings of the CIA do not mirror the current policy approach.
- 5.3 Based on the initial indications from the data and evidence being collected and that the full findings from the previous CIA were not fully implemented due to the pandemic it is highly likely that the CIA will show that there continues to be cumulative impact within certain parts of the city and that in granting any further licences it would likely lead to an impact on the licensing objectives under the 2003 Act. In addition to this Officers and Members of the Licensing Committee are aware that there are elements of the current policy framework that may need to be revised to keep up with the types of applications it receives and the potential impact of those operations on the city. The current policy framework relies on defining a premises based on its use and then applying that premises use policy. It has become clear that this approach is dated and that licensed premises operations don't always fit the definition of premises use as set out in those policies.
- 5.4 It is planned that following the publication of the CIA Officers will start work on a review of the Council's Statement of Licensing Policy under the 2003 Act. It is planned that a revised Statement of Licensing Policy would be produced no later than summer of 2024.
- 5.5 The Gambling Policy is new and has been in effect for just over 7 months. The statutory 3-year period when this policy must be reviewed will end on the 30th January 2025. Officers intend to start a review of the Local Area Profile, which provides the evidence base for a number of policies within Gambling Policy and the revision of the policy itself in the spring of 2024.

Revision of Busking and Street Entertainment Policy

- 5.6 The Busking and Street Entertainment licensing regime came into effect on the 5th April 2021. The scheme was introduced to reduce the impact on residents and businesses generated by buskers and street performers. The identified impact from busking and street entertainment on residents and businesses was primarily from noise, specifically amplified performances, and obstruction of the highway. When the scheme was adopted, the Council committed to undertake a review of the policy's effectiveness and whether it should be revised following a full year of operating the scheme.
- 5.7 Officers are now finishing the review and will be proposing several recommended amendments that could address specific issues that have been identified or changes to the policy to make improvements to the scheme. This review will be considered by the Council's Policy & Scrutiny Committee in late July and their comments and recommendations of the review will be considered. The Cabinet Member for Communities and Public Protection will review the report and any comments or recommendations from the Policy & Scrutiny Committee before agreeing an action plan to make changes to the licensing policy and other aspects of the scheme.

- 5.8 A report setting out proposed revision will be put before the Licensing Committee in early autumn to make a decision on whether to progress these proposed changes and if so to implement formal consultation upon them.
- 5.9 If there is an agreement to revise this licensing policy and pass a resolution to make any specific changes to the busking and street entertainment licensing regime these decisions are likely to be made by full Council and any statutory requirements of the Act will need to be complied with. However, the Licensing Committee will be engaged in any proposals to enable discussion and views to be expressed associated with any changes.

Revision of Sex Establishments Policy

- 5.10 The Sex Establishment policies for Sex Shops and Sexual Entertainment Venues have been in place for a considerable amount of time without review. The Sex Shop policy was last updated on the 15th June 1999 and the Sexual Entertainment Venues Policy hasn't been reviewed since the 10th February 2012.
- 5.11 Officers intend to produce a new Sex Establishment policy which will cover all three sex establishment categories, sex shops, sex cinema and sexual entertainment venues. Officers intend to start development of this new policy in the Spring of 2024 with the final adoption of the policy by the end of 2024.

Revision of Street Trading Policy

- 5.12 The Council's current Statement of Street Trading Policy has been in place since 2012. The policy sets out the Council's approach for the licensing of street trading in the city, which includes markets and isolated pitches.
- 5.13 It is intended to start a review of the Street Trading Policy in January 2024. The review will be an in-depth assessment of what street trading and our markets should provide to support the Council's Fairer Westminster agenda whilst also looking to enable the use of street trading to promote local entrepreneurship, provide growth, greater access to local goods and services providers within our communities and provide new and exciting street trading offer at times and locations that have historically not be available, e.g. via the development of night markets, etc.
- 5.14 The review of the Street Trading Policy will likely to lead to the development of a new policy rather than a revision of the existing policy. Officers intend to undertake significant public engagement as part of the review and development of any new policy approach as it will be essential to capture the needs of our communities and traders. The regulatory process for changing the policy and associated designations of streets or commodities can be lengthy. However, it is intended that the new or revised Street Trading Policy will be in place by the spring of 2025.

New Highways and Outside Space Licensing Policy

- 5.15 Pavement licences, under the Business and Planning Act 2020 (2020 Act), are temporary permissions granted to businesses in England and Wales to place furniture, such as tables, chairs, and temporary structures, on the pavement adjacent to their premises. These licences aim to support businesses, particularly in the hospitality industry, by allowing them to expand their outdoor seating areas and make use of highways.
- 5.16 The 2020 Act introduced streamlined procedures for obtaining pavement licences, making it easier and quicker for businesses to apply and receive permission to utilise highway areas.

The licences were intended to facilitate economic recovery, especially during times when indoor seating was limited or restricted due to Government restrictions associated with the Covid19 pandemic.

- 5.17 It was intended that pavement licences would enable businesses to create inviting outdoor spaces for customers, enhancing their dining, or drinking experience and potentially increasing footfall. By utilising pavements, businesses can provide additional seating capacity, especially in urban areas where space is limited.
- 5.18 It is important to note that pavement licences are subject to conditions and restrictions imposed by the Council when granting the licence. These conditions aim to ensure public safety, prevent obstruction or nuisance to the public, and may include limitations on operating hours, noise levels, or the number of furniture items allowed.
- 5.19 The 2020 Act initially introduced pavement licences as a temporary measure and was due to end on 30th September 2021. However, the duration of this temporary licensing regime has been extended by the Government on three occasions. The most recent extension has extended this regimes operation until the 30th September 2024. The Government are committed to making the Pavement Licence regime permanent via the Levelling Up and Regeneration Bill, once given Royal Assent.
- 5.20 As this licensing regime was intended to be a temporary regime to support businesses recover during Covid19 restrictions the Council did not feel it necessary or appropriate to implement a specific policy approach to manage these permissions and address any cumulative impact from them. As this licensing regime is likely to become a permanent scheme, it is now necessary to consider establishing a specific policy approach relating to this regime and the wider use of outside space, including the highway for licensable activities. The Council is aware of the concern that residents, particularly in Soho are expressing regarding the increase level of noise levels generated from the use of outside space and that this is potentially attracting further issues of crime and disorder and anti-social behaviour. There are also concerns that the increase capacity from the use of outside space may also significantly influence cumulative impact associated with the use of licensed premises in the area.
- 5.21 At present there are no provisions within the Levelling Up and Regeneration Bill to require a local authority to develop a pavement licence licensing policy. However, based on the level of concern from residents and the potential wider cumulative impact that the use of outside highway space for licensed purposes may be having on the West End, Officers intend to start the development of a new policy for the use of outside space for licensing activities. This policy will cover the pavement licensing regime but also more broadly any use of outside spaces for other licensable activities, such as those governed by the 2003 Act for alcohol, entertainment, and late-night refreshment. For example, this new policy may set out what is expected from applicants and licensees when applying for outside terraces, garden spaces, private forecourts, and the use of highway areas under the provisions of a pavement licence for licensable purposes. Officers may consider the inclusion of this new outside space policy within the Council's Statement of Licensing Policy or as a standalone policy. However, it will serve a dual purpose for both pavement licensing and premises licensing under their respective Acts.

Appendices

Appendix 1 – Licensng Policy Work Plan 2023/24 to 2024/25 – Timeline (High-level)

If you have any queries about this report or wish to inspect any of the background papers, please contact:

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Background Papers

- Westminster City Council's Statement of Licensing Policy – Licensing Act 2003 dated 1st October 2021.
- Westminster City Council's Cumulative Impact Assessment – Licensing Act 2003 dated October 2020.
- Westminster City Council's Statement of Principles for Gambling – Gambling Act 2005 dated 12th December 2022.
- Westminster City Council's Street Trading Policy – City of Westminster Act 1999 published 2012
- Westminster City Council's Sexual Shop Policy – Part 2, Schedule 3, Local Government (Miscellaneous Provisions) Act 1982
- Westminster City Council's Sexual Entertainment Venues – Part 2, Schedule 3, Local Government (Miscellaneous Provisions) Act 1982.
- Westminster City Council's Busking and Street Entertainment Licensing Policy – London Local Authorities Act 2000
- Home Office Guidance – Licensing Act 2003 published 20th December 2022
- Gambling Commission Guidance to Licensing Authorities – Gambling Act 2003 published 1st April 2021
- Department for Levelling Up, Housing & Communities Guidance: Pavement Licences (outdoor seating) published 26th July 2022
- Levelling-Up and Regeneration Bill – HL Bill 142 (as amended in Committee)

Licensing Policy Work Plan 2023/24 to 2024/25 (high-level timeline)

	Year																			
	2023					2024												2025		
Licensing Policies	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Busking and Street Entertainment	Green	Green	Blue	Blue	Red	Red														
Statement of Licensing Policy (LA03)			Yellow	Green	Green	Blue	Blue	Blue	Red	Red	Red									
Use of Outside Spaces (Pavement Licences and LA03)			Yellow	Green	Green	Blue	Blue	Blue	Red	Red	Red									
Sex Establishments									Yellow	Yellow	Green	Green	Green	Blue	Blue	Red	Red			
Street Trading						Yellow	Yellow	Yellow	Green	Green	Green	Green	Green	Blue	Blue	Blue	Blue	Red	Red	Red

Key	
Data collection and analysis	Yellow
Scoping and engagement	Green
Formal consultation	Blue
Drafting and adoption	Red