Report Title: Adoption of Statement of Licensing Policy 2019-2024

Wards: All

Lead Cabinet Member: Cllr Mohammed Seedat and Cllr Jim Dickson - Cabinet Member for the Voluntary Sector, Partnerships and Community Safety (job share)

Report authorised by: Sue Foster, Strategic Director – Neighbourhoods and Growth,

Contact for Enquiries: Calvin McLean, Head of Public Protection and Regulatory Services, cmclean@lambeth.gov.uk, 020 7926 6136

Report summary
The Council is required by law to publish a statement of licensing principles at least every five years under the Licensing Act 2003 and accompanying Guidance as issued by the Home Office. The purpose of the policy statement is to define how the Council’s responsibilities under the Act are going to be exercised and administered by the Council acting as the Licensing Authority. Lambeth’s existing Statement of Licensing Policy 2014-2019 runs until the end of January 2019 therefore a new Statement of Licensing Policy for the borough is required from the end of January onwards.

The new Statement of Licensing Policy 2019-2024 for the borough is the result of consultation and benchmarking and reflects legislative updates in an updated format which seeks to improve accessibility and clarity.

Finance summary
The review of the current Statement of Licensing Policy has been funded from existing budgets, and there are no further financial implications arising from the recommendations of this report.

Recommendations

Cabinet
(1) To agree that the Statement of Licensing Policy 2019-2024 (attached as Appendix 2 to this report) be recommended to the Council as a revised Policy to come into effect from the 30th January 2019.
(2) To delegate authority to the Strategic Director – Neighbourhoods and Growth to make any minor amendments (typographical and formatting) to the draft Statement of Licensing Policy 2019-2024 in consultation with the Cabinet Members for the Voluntary Sector, Partnerships and Community Safety.
(3) That a final version of the Statement of Licensing Policy be presented to the Council on 23rd January 2019 for formal approval and adoption.

Council
(1) To approve the draft Statement of Licensing Policy (attached as Appendix 2 to this report) to come into effect as from the 30th January 2019.
1. **CONTEXT**

1.1. The Licensing Act 2003 requires the Council, acting as the Licensing Authority under the Act, to determine and publish a Statement of Licensing Policy at least once every five years. Lambeth’s current Statement of Licensing Policy (SLP) runs from 30/01/2014 - 29/01/2019. A new SLP for the borough is therefore required, to be published and applicable from 30th January 2019 onwards.

1.2. The Statement of Licensing Policy 2019-2024 can be reviewed and updated at any time during the life of the document. The council keeps the SLP under constant review and, from time to time, may commission research to inform changes to policy.

1.3. The SLP sets out how licensed premises are likely to be permitted to operate and the document covers the following:

- How the Licensing Authority will use its regulatory powers in relation to applications and reviews of the activities it regulates, to the extent that it is allowed by statute;
- The main licensing objectives for the authority which are set by legislative requirements;
- The Licensing Authority approach to regulation; and,
- The scheme of delegation.

1.4. The scheme of delegation for Licensing will be reviewed at a local level during the life of the new Statement of Licensing Policy, and the SLP updated to reflect any resulting changes in line with the relevant legislative requirements.

1.5. The four licensing objectives under the Licensing Act 2003 are:

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

Each objective has equal weight under the legislation.

The Licensing Authority must carry out its functions with a view to promoting the licensing objectives.

1.6. The SLP applies to new licence applications, and applications to vary existing licences (e.g. where an increase in hours is requested). It also applies to existing licences that are brought to review (e.g. where public nuisance is being caused). The new document also confirms the expectations on existing licence holders, such as the requirement to pay annual fees and wider responsibilities such as those set out within the Immigration Act 2016.

1.7. The SLP, along with current national guidance issued by the Home Secretary issued from time to time and the primary legislation as set out in the Licensing Act 2003 (‘the Act’), forms the basis on which licensing decisions are made by the Council acting as the Licensing Authority and how licensed premises are likely to be permitted to operate.

1.8. The purpose of the Statement of Licensing Policy (SLP) is to outline the approach that Lambeth will take to implementing the Licensing Act 2003 locally and to provide guidance for applicants, residents and Responsible Authorities under the Act.

1.8.1. ‘Responsible Authorities’ include the Metropolitan Police, the Fire Authority, Health and Safety, Planning, Environmental Health, Children’s Safeguarding, Public Health and Trading Standards.

1.9. As at the end of October 2018, 1421 premises licences are held in Lambeth – this includes bars, pubs, clubs, off-licences, restaurants and private members’ clubs.
1.10. Activities regulated under the Licensing Act 2003 include:

- The retail sale of alcohol;
- The supply of alcohol to members of private clubs;
- The supply of hot food and/or hot drink between 11pm and 5am; and,
- The provision of regulated entertainment to the public, or club members, or with a view to profit, such as:
  - Film exhibitions;
  - Performances of a play;
  - Indoor sporting events;
  - Boxing or wrestling entertainment;
  - Playing of recorded music; and,
  - Dance performances.

In terms of ‘regulated entertainment’ exceptions apply under the Act – e.g. for film exhibitions, no licence is required between 8am and 11pm, where the number of people in an audience is fewer than 500.

Venues serving alcohol alongside theatre performances would still need a licence, however.

1.11. The Statement of Licensing Policy document does not cover any activity that is outside the scope of the Licensing Act 2003. In addition, the document does not seek to set out operational activities or plans for all work planned or undertaken which relates to the Licensing 2003, nor to capture all the wider work being undertaken or planned around alcohol in the borough.

1.12. The Planning and Licensing regimes operate in parallel, with separate legislation governing each policy. Planning considerations are outside the scope of the Statement of Licensing Policy 2019-2024. In addition, the Statement of Licensing Policy gives guidance only and each case is considered on a case by case basis under the applicable legislation.

2. PROPOSAL AND REASONS

2.1. The new draft Statement of Licensing Policy for the borough has been prepared with reference to the current policy, legislative updates, and benchmarking against other boroughs’ policies and consultation. In addition, the format of the current SLP has been updated in order to make the new document easier to read and more accessible.

2.2. The final draft has been produced a result of the following stages:

2.2.1. Stage 1: Production of first draft

Review of current SLP: The first draft of the new SLP was produced by undertaking a review of the extant policy document.

Initial consultation with key stakeholders: including the Responsible Authorities under the Licensing Act; Business Improvement Districts – Waterloo, Southbank, Vauxhall, Streatham, Brixton and Clapham; Safer Neighbourhood Panel Chairs; The British Beer and Pub Association and Hospitality UK (part formerly the ALMR); and Lambeth Councillors.

Application of best practice: using the London Statement of Licensing Policy review criteria to assess the existing Statement of Licensing Policy for the borough.
Assessing changes in legislation, the s182 Guidance and other developments more widely (for example the Mayor’s Vision for London as a 24-Hour City)
Building on the findings from the Council’s previous review work from 2017 on the current SLP

Benchmarking against other Local Authorities’ Statements of Licensing Policy: identifying new approaches and best practice in the most recent Statements of Licensing Policy to be published.

2.2.2. The outcomes from the above and key differences between the current SLP and Draft 1 were as follows:

- **Retention of some of the key successful elements of the current SLP** including the classification of the borough into types of areas with associated terminal hours for licensable activities, commensurate with the nature of the different areas of the borough; the requirement for applicants to demonstrate an understanding of the area they intend to operate in; the emphasis on businesses’ responsibility to ensure the safety of their customers and the prevention of and response to sexual violence and harassment.

- **Format**
  Changes were made to the structure and language to improve accessibility and understanding of the positions outlined in the draft document – including specific numbered policies for ease of reference.
  Clear appendices setting out guidance against each of the Licensing objectives; the Licensing Sub-Committee Hearing process; and the Licensing review process were included, as well as a clearer statement on the process for applications, including a table of the Responsible Authorities and their contact details.
  An updated section on aspirations and intent, including a clearer statement of support for compliant, well-regulated business was incorporated into the draft document.

- **Legislative updates**
  Clarifications were added to address legislative or Section182 Guidance changes.
  The SLP now states that all licensed premises are expected to familiarise themselves with and adhere to their responsibilities regarding the prevention of Illegal working under the Immigration Act 2016 and all aspects of the Act.
  All licensed premises are expected to familiarise themselves with and adhere to their legal responsibilities regarding the prevention of Modern Slavery, which is a term used to encapsulate both offences in the Modern Slavery Act: 1) slavery, servitude and forced or compulsory labour; and 2) human trafficking and this has been made explicit in the updated draft SLP.

- **Alignment and position in relation to other policies and regimes**
  A clearer statement on alignment with the Planning regime (as outlined in s182 Guidance issued under the Licensing Act 2003).
  A statement on the alignment with the Mayor of London’s 24-Hour City Vision.
  A clearer statement on partnership working, both between Responsible Authorities and between officers and businesses and communities.

- **Policies**
  Since April 2013 it has been possible to suspend licences when annual fees have not been paid. A clearer statement on the policy for licencing fees and the actions taken if these are not paid when due is now included in the SLP.
  A clearer policy on enforcement approaches.
A policy on outside spaces, in terms of expectations around uses and management.
An expectation in the Temporary Events Notices (TENs) policy that, where relevant, these will be accompanied with evidence of appropriate permissions to use public or Council-owned land and venues.
Updated information on the policy for Cumulative Impact (as outlined in the s182 Guidance).
An amended and expanded age verification policy.
A new policy on delivery services, and the expectations that will be specific to them.
A new policy on dispersal and entry to licensed premises.

- **Health**
A new section on alcohol-related risks and associated economic/social impact.
An extended policy on health, including expectations outlined by Public Health where these are relevant to the Licensing Act 2003.
An updated section outlining preferred hours of operation for different types of venues in different locations including preferred start times for some venue types of 11am.

- In addition, the updated draft indicates that applicants may seek the views of the Responsible Authorities before formally submitting an application, and that there may be a charge for this service. It is intended that the Council will explore the potential for introducing charging for the provision of pre-application advice for Licensing, and subject to feasibility, will introduce this accordingly during the life of the new Statement of Licensing Policy.

2.2.3. **Stage 2: Production of final draft**

Public consultation on Draft 1 of the new Statement of Licensing Policy took place over a 6-week period between 12 September 2018 and 24 October 2018. Where feedback, suggestions and comments were within scope of the Licensing Act 2003 and the Statement of Licensing Policy, these were assessed and incorporated as appropriate.

An analysis and full breakdown of the public consultation outcomes and any resulting amendments to the draft SLP were presented to the Licensing Committee on 27th November 2018 together with the resulting updated draft document. A summary of the public consultation and outcomes is outlined below.

2.2.4. The public consultation consisted of a web page on the Lambeth consultations website which included:
- a summary document;
- a full version of the draft new Statement of Licensing Policy 2019-2024; and,
- an electronic survey (‘snapsurvey’) with a range of questions on the draft SLP and which also requested details from respondents covering demographic information and their relationship to the London Borough of Lambeth.

Two sessions with Ward Councillors were also held.

2.2.5. During the six-week public consultation period, 108 submissions were received via the online survey on the Council’s consultation website. A further 12 separate written submissions were received by the Licensing Authority from a range of statutory, business and residents’ organisations.

A further substantive submission was received on 29/10/18 which was outside the window of the consultation period and so the response was not included in the analysis. However the comments and suggested amendments within this submission had either already been addressed or were determined to be outside of SLP scope.
2.3. **Online survey: Free text responses; and Substantive submissions**

2.3.1. In total, 251 elements of free text response were received for the consultation through the electronic survey from the 108 respondents who participated in the online survey. These free text responses and comments ranged widely from general views in relation to the draft Statement of Licensing Policy (SLP) or specific aspects of the document, to detailed concerns relating to specific locations, venues or circumstances.

2.3.2. The free text responses and the substantive submissions were analysed and where these related to matters that were within the scope of the SLP these were assessed and incorporated as appropriate.

2.3.3. A number of the suggestions and comments related to Licensing operational practice and wider enforcement issues and approach. Concerns were raised, for example, in relation to street drinking within particular areas and also to noise from specific licensed premises. Although not taken forward for the purposes of this exercise, these are being assessed separately.

2.3.4. In addition, some areas raised were outside of the scope of the Licensing Act and the related decision-making process. The ‘Agent of Change’ principle, for example, relates to Planning and is not currently applicable but progress on this and relevance to Licensing will be reviewed accordingly during any interim review of the Statement of Policy.

2.4. Standalone substantive responses to the consultation were received from the 12 parties below:

- The Brixton Society;
- Clapham BID (‘This is Clapham’);
- Cllr Fred Cowell, Chair of Licensing Committee and Licensing Sub-Committee;
- Lambeth Council Licensing team;
- Lambeth Police;
- London Night Time Czar Amy Lamé;
- Multi Agency Reducing Harm from Alcohol Group;
- Norwood Forum;
- Safer Neighbourhood Panel Chairs;
- Sleepless in Brixton;
- SMW Cottages Residents’ and Tenants’ Association; and,
- Violence Against Women and Girls Team (Lambeth Council).

2.5. The outcomes from the public consultation and key differences between Draft 1 and Draft 2 - the final draft of the SLP - are as follows:

- **Format and wording**
  Wording has been refined further throughout the document to improve clarity and accuracy. Although the setting of the local Statement of Licensing Policy allows for some flexibility in content and approach, some areas and processes are determined by legislation and not by the Council, such as the parties who can object to a Temporary Event Notice.

- **Policies and Appendices**
  A final list of 17 specific policies now in the SLP including Violence Against Women and Girls (VAWG) along with clarification of the linkages and separate jurisdictions relating to VAWG; Dispersal and entry; expanded section on Temporary Events.
  Clearer guidance in the SLP around the process for applications and fees, and a glossary of Licensing terms is now included.
A policy setting out the requirement for consideration of potential resource impacts falling on the Council and, where appropriate, wider services
A minimum unit price policy that aligns with current Government legislation on no sale of alcohol being sold below cost plus VAT is included in the SLP
Appendices have been updated to provide further clarification – e.g. the addition of ‘Festivals and outdoor events’ to the list of types of premises
New preferred start times (11am for off-licences, pubs and night clubs) received no substantial comment and were welcomed where raised. Differing views were received on the recommended hours within the SLP, with requests that these should be ‘more restrictive’, while another respondent felt that 2am was ‘too early’ for night clubs to close
Narrative was included on Sexual Entertainment Venues (SEV) in the draft SLP for the first time (this is in line with neighbouring boroughs’ SLPs, e.g. Southwark). This inclusion triggered comments in response to the consultation both via the online survey and the substantive submissions. SEVs operate under different legislation and are subject to a separate SEV policy and so this section of the SLP has now been removed for clarity.

- General
  More detailed measures have been included in the SLP relating to expectations around the safeguarding of children and addressing child sexual exploitation
  Additional sections throughout the updated document include links to existing support and guidance available through the Lambeth Council (and other) websites
  There is increased clarification of licence holders’ responsibilities around serving to intoxicated patrons, including for the delivery of alcohol (knowingly serving alcohol to an intoxicated person is a criminal offence)
  Requirements regarding access by people with disabilities was raised by respondents to the online survey and the substantive responses and has been incorporated into the proposed new draft SLP document
  The consultation resulted in requests for the introduction of a Cumulative Impact Policy for Brixton (6 via the online survey; 2 from the substantive submissions)
  A common theme across all responses to the public consultation is a desire for Planning and Licensing to work in synergy, particularly in relation to opening and closing times and permitted hours of licensable activities. All Licensing Authorities under the Licensing Act 2003 must separate Planning and Licensing policy under the different legislative regimes and undertake associated decision-making separately. At an operational level there are opportunities for Licensing and Planning to work in alignment and this has been reflected in the wording of the new draft SLP.

3. FINANCE
3.1. The review of the Statement of Licensing Policy 2014-2019 and production of the new Statement of Licensing Policy 2019-2024 are funded from existing budgets, and there are no further financial implications arising from the recommendations of this report.

4. LEGAL AND DEMOCRACY
4.1. The Licensing Act 2003 (‘the Act’) established a single integrated system for licensing premises that are used for alcohol, entertainment and late night refreshment. Under this legislation, each local authority is known as the ‘Licensing Authority’ and is responsible for licensing alcohol, entertainment and late night refreshment in its geographical area.

4.2. Section 5(1) of the Act requires the Council, as the Licensing Authority, to determine and publish a statement of its policy with respect to the exercise of its licensing functions under the Act, at least
once every five years. During this period, the policy must be kept under review and the licensing authority may make such revisions to it, at such times, as it considers appropriate. The extant policy was adopted in January 2014 and the fresh Policy needs to have been determined and published by no later than 30th January 2019.

4.3. When preparing its licensing policy, the Council is required to have regard to the promotion of the four licensing objectives specified at Section 4 of the Act, namely:
- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and,
- the protection of children from harm.

4.4. The Council is also required to have regard to the statutory guidance issued by the Secretary of State under Section 182 of the Act.

4.5. Under the Council’s constitution (page 32, Part 2 –Section 1), the Licensing Committee’s remit includes the power: “To exercise the functions, powers and duties of the Council in relation to all licensing matters, as required by statute”. Pursuant to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the Council’s Statement of Licensing Policy is required to be part of the Council’s policy framework and the adoption of that Policy falls to be made by full Council.

4.6. Section 5(3) of the Act sets out who the Council is required to consult with. A list of such is set out at paragraph 5.1. to this report.

4.7. A summary of the history and outcomes of statutory consultation undertaken to date is detailed in the body of this report. The following principles of consultation were set out in a recent High Court case: First, a consultation had to be at a time when proposals were still at a formative stage. Second, the proposer had to give accurate and sufficient reasons for any proposal to permit of intelligent consideration and meaningful response. Third, adequate time had to be given for consideration and response, and finally, the product of consultation had to be considered with a receptive mind and conscientiously taken into account in finalising any statutory proposals. The process of consultation had to be effective and looked at as a whole it had to be fair. Fairness might require consultation not only upon the preferred option, but also upon discarded options. The process for adopting a new licensing policy includes a statutory consultation stage. The Council is obliged to take account of any representations made at that stage and any material objections received will need to be reported back to the decision maker before an Order is made. All representations received must be properly considered in the light of administrative law principles, Human Rights law and the relevant statutory principles.

4.8. Section 149 of the Equality Act 2010 sets out the public sector equality duty, i.e. that all public bodies are under an obligation to have ‘due regard’ to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex and sexual orientation.

4.9. Section 149 (1) (b) of the Act states that: a public authority must, in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Part of the duty to have “due regard” where there is disproportionate impact will be to take steps to mitigate the impact and the Council must demonstrate that this has been done, and/or justify the decision, on the basis that it is a proportionate means of achieving a legitimate aim.
4.10. The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.

4.11. This proposed key decision was entered in the Forward Plan on 9 November 2018 and the necessary 28 clear days’ notice has been given. The report will be published for five clear days before the decision is considered by Cabinet. Should it be approved, a further period of five clear days, the call-in period, must then elapse before the decision becomes effective. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. CONSULTATION AND CO-PRODUCTION

5.1. Section 5(3) of the Licensing Act 2003 sets out a statutory scheme for consultation on the five-year licensing policy and any reviews of the policy. The requirements are to consult with:

(a) the chief officer of police for the licensing authority’s area;
(b) the fire and rescue authority for that area:
   (ba) each Local Health Board for an area any part of which is in the licensing authority’s area,
   (bb) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority’s area;
(c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
(d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
(e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and,
(f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

5.2. Initial consultation was undertaken with:

- The Responsible Authorities under the Licensing Act: Licensing, Community Safety, Police, Planning, Fire Service, Public Health, and Children’s Services;
- Business Improvement Districts – Waterloo, Southbank, Vauxhall, Streatham, Brixton and Clapham;
- Safer Neighbourhood Partnership Chair of Chairs and Waterloo Chair; and,
- The British Beer and Pub Association and Hospitality UK (part formerly the ALMR).

5.3. A six-week statutory consultation period was set in order to be sufficiently long to permit meaningful engagement with the draft policy.

5.4. The public consultation was undertaken via the Lambeth consultation website from 12/09/18-24/10/18. Awareness was also raised via online social media.

5.5. Consultation was undertaken on the redraft of the policy as a whole. Comments were invited on that and/or what people wanted to see in relation to specific topics or matters of concern. Where only minor changes were being made to the current Statement of Licensing Policy we sought to draw attention to those changes and to ask specifically for comments on those (whilst making it clear that any other comments on other aspects would be considered).
6. **RISK MANAGEMENT**
   6.1. It is a legal requirement to review the policy at least every five years. This new version of the published policy will mean that the next review is necessary by January 2024, although this can be brought forward should circumstances change.

7. **EQUALITIES IMPACT ASSESMENT**
   7.1. An equalities impact assessment was carried out and the draft policy will not adversely affect the holders of existing premises licences, those applying to hold licenses, Responsible Authorities under the Licensing Act 2003, Council officers and potentially residents of the borough.

8. **COMMUNITY SAFETY**
   8.1. One of the four key objectives in the Licensing Act is to prevent crime and disorder.

9. **ORGANISATIONAL IMPLICATIONS**
   9.1. None.

10. **TIMETABLE FOR IMPLEMENTATION**

<table>
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<tr>
<th>Event</th>
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<tr>
<td>Draft 1 to Licensing Committee and consent granted to undertake public consultation</td>
<td>04/09/18</td>
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<tr>
<td>Formal public consultation exercise via Lambeth website</td>
<td>12/09/18-24/10/18</td>
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<tr>
<td>Consideration of consultation responses and compilation of resulting proposed revisions to the draft Statement of Licensing Policy</td>
<td>Oct - Nov 18</td>
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<td>Report back to Licensing Committee requesting Committee to consider the outcome of the public consultation exercise and agree the proposed draft policy revisions; and make recommendations for adoption of a final Statement of Licensing Policy by Full Council</td>
<td>27/11/18</td>
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<td>Proofing and cosmetic changes</td>
<td>Nov 18 - Jan 19</td>
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<tr>
<td>Report to Cabinet proposing new draft Statement of Licensing Policy 2019-2024 for approval and adoption by Full Council</td>
<td>17/12/18</td>
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<tr>
<td>Report to Full Council setting out public consultation results and proposing new draft Statement of Licensing Policy 2019-2024 (to be attached to report) for approval and adoption</td>
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## Audit trail

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<tr>
<th>Name/Position</th>
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<th>Date Received</th>
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<td>Cabinet Member for the Voluntary Sector, Partnerships and Community Safety (job share)</td>
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<td>Sue Foster</td>
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<td>Calvin McLean</td>
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<td>29.11.18</td>
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## Report history

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<td>Original discussion with Cabinet Member</td>
<td>29/11/18</td>
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<tr>
<td>Report deadline</td>
<td>05/12/18</td>
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<td>Date final report sent</td>
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<td>Part II Exempt from Disclosure/confidential accompanying report?</td>
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<td>Date first appeared on forward plan</td>
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### Background information

- **Licensing Act 2003**
- **Consultation on draft new SLP 2019-2024:** Public consultation web pages
- **Summary document for public consultation:** Full version of the draft Statement of Licensing Policy for consultation
- **Report to Licensing Committee (27/11/18)**

### Appendices

- Appendix B: Lambeth draft Statement of Licensing Policy 2019-2024