

Licensing Committee – 10th December 2013

5. Statement of Licensing Policy under the Licensing Act 2003

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Purpose of the Report

To inform the Licensing Committee of the responses received to the draft Statement of Licensing Policy. A draft copy of the policy is available on the Council's website - <http://www.southsomerset.gov.uk/licensing,-permits,-registrations-and-notifications/licensing-act-draft-policy/>

Recommendation

To recommend that Full Council agree:

- (1) that the Statement of Licensing Policy be revised in accordance with Edition 5 and;
- (2) that Edition 5 is approved for publication by the statutory deadline of January 2014.

Background

Under section 5 of the Licensing Act 2003, the Council must, every 5 years¹, determine its policy with respect to the exercise of its licensing function, and publish a statement of that policy as per statutory requirement in January 2014.

The draft policy was considered by members of the Licensing Committee at the committee meeting on 7th October 2013; subject to a few minor amendments, it was approved for the consultation period to commence on Wednesday 9th October and close on Tuesday 3rd December 2013.

To ensure that people were aware of the consultation, different methods of communication were employed they were:

- A letter was sent to all holders of premises licences and club premises certificate issued under the Licensing Act 2003 with a licensed premise within the South Somerset area;
- Letters were also sent to a number of bodies and organisations that represent the interests of their members or clients, which could be affected;
- A letter was sent to all bodies designated as Responsible Authorities under the Licensing Act 2003;
- Hard copies of the draft policy were also sent to the Town Councils within South Somerset so that people without access to a computer may view; likewise hard

¹ Changed from 3 years to 5 years by s122 Police Reform and Social Responsibility Act 2011

copies were available at the council's main office at Brympton Way, Yeovil and to each area office of the Council;

- It was published on the Council's website.

The letters contained a link to the draft policy on our website and a link to a survey, which asked respondents questions about the policy and provided a section for completion if there were any issues that the respondent considered the policy needed to address. Respondents were also informed that responses by letter or e-mail would also be accepted.

Findings of the Consultation

A total of 17 responses to the draft licensing policy were received at the time of writing on 28th November 2013; should any more responses be received by the closing date of 3rd December 2013; the Committee will be informed and updated.

16 responses were received via the survey, however one person clicked through it without responding to the questions or making any comments, therefore the data relates to responses from 15 persons/bodies. 1 response was received by letter and 0 responses were received by email.

Comments received were copied exactly and detailed for the consideration of members; they are recorded with the appropriate survey question.

Results of the survey

- Q13. The survey revealed that 26.7% (4) respondents were either the premises licence holder or designated premises supervisor; 13.3% (2) were personal licence holders; 6.7% (1) is a local resident; 13.3% (2) were bodies representing local residents; 26.7% (4) were either a village hall committee or a body representing them and 13.2% (2) were Other – one was from a Registered Charity - Healthy Living and Children's Centre and the other was from a South Somerset District Council Employee from the Planning Service.
- Q1. 100% (15) of the survey respondents agreed with the statement that "the Licensing Authority shall expect applicants to have obtained the appropriate consents or licences prior to operation"
- Q2. 93.3% (14) of respondents agreed with the statement that where there are events solely provided for children, for example an under 18's disco in a nightclub or similar relevant premises, that adequate and sufficient measures are put in place so that young people cannot gain access to alcohol or energy drinks and further that no alcohol is served to any supervising adults at such events. Also that the management of the premises should ensure that measures are taken to prevent alcohol from being brought onto the premises and that lawful steps are taken to prevent attendees from leaving the premises without parent or guardian consent.

6.7% (1) respondent disagreed; the reason given was as follows:

"If the premises are licenced adults should be able to drink responsibly and children should witness that. I travel to many countries round the world and find the best example that can be set to young adults/older children is for them to see adults drink responsibly. My 3 children all

started drinking from the age of 14 in a parental supervised situation, all are successful well-adjusted adults who cope with alcohol and life successfully”.

- Q3. 100% (15) of respondents agreed with the statement “The Policy (paragraph 3.8.1) recommends that conditions volunteered by the applicant should be: Targeted on the deterrence and prevention of crime and disorder Appropriate for the promotion of the licensing objectives Proportionate and enforceable; Consistent and not conflicting; Relevant, clear and concise; Not duplicate other legislation; and Expressed in plain language capable of being understood by those expected to comply with them.
- Q4. 100% (15) of respondents agreed with the statement that the Local Authority should consider other measures which may address alcohol related problems before introducing an Early Morning Restriction Order; the measures suggested for consideration were: “The current Cumulative Impact Policy; Taking a robust joint agency approach to tackling problem premises; Prior to reviewing a licence, meeting with the premises’ manager (usually the Designated Premises Supervisor) and the licence holder to ensure a premises improvement plan is in place; Using other mechanisms to control the cumulative impact, e.g. planning controls, closure notices and orders, provision of powers to designate parts of the local authority area as places where alcohol may not be consumed publicly; Police enforcement of the general law, including issuing fixed penalty notices; Provision of CCTV; Provision of night marshals; Introduction of a late night levy etc.
- Q5. 73.3% (11) of respondents agreed with the statement that serious consideration should be given to the introduction [of a late night levy] and whether or not it is a viable proposal, [as it is] charged to all relevant premises in the District and not just those that are causing problems.

A comment was provided by one person who agreed with the above statement:

- “I do agree because the licences should be revoked when business do not comply correctly with licencing laws. It costs the business that do comply to comply in most cases and why should they pay more and the problem not addressed. Very high fines and 3 strikes and you are OUT is the best solution in my opinion.”

26.7% (4) of respondents stated they disagreed. (3) of the (4) respondents provided their comments for their disagreement as follows:

- “Some premises may be very quiet and not cause any problems so exemptions should be made possible”
- “Seems unfair to impose additional charges on good businesses. Maybe late licensing should just be scrapped by the government if this is seen as a problem. Consider applying charge to problem businesses where there may not be a case for removal of licence!”
- “The innocent should never be punished.”

- Q6. 93.3% (14) of respondents agreed with the statement that when considering whether a representation is relevant, the geographical location of that person is one of the factors that will be taken into account.

6.7% (1) respondent disagreed with the above statement; their response was as follows:

- “Any legitimate representation should be given equal consideration. It may be that very close residents, businesses, etc. feel intimidated or uncomfortable about objecting or raising a concern about a potential business.”

Q7. 100% (15) of respondents agreed with the statement that the Licensing Authority strongly recommends that supporting information (e.g. a record of the history of problems at a premises) should be provided for evidential purposes when making a representation.

Q8. 93.3% (14) of respondents agreed with the statement that the Licensing Authority shall expect the applicant to provide sufficient relevant evidence with their application on the intensity of use in order to establish primary use [when applications are received for the sale of alcohol at garage premises].

One respondent who agreed also asked “What is your definition of a Garage - is this somewhere where you can only have your car repaired or does this include petrol stations? If the law states that they have to prove documentary evidence then they should do so”

6.7% (1) respondent disagreed with the above statement; their response was as follows:

- “Seems rather onerous, is this really a problem?”

Q9. 100% (15) of respondents agreed with the suggested timescales and number of attendees for applicants submitting an application for a large scale event.

Q10. 100% (15) of respondents agreed that it is helpful to have a glossary of licensing terms at the rear of the policy.

Q11. 93.3% of respondents agreed with the continuance of a cumulative impact policy

6.7% (1) respondent advised that they neither agree or disagree - seems a good idea in theory but may be better if it was easier to close down problem premises - maybe overly restrictive and prevent occupation of empty premises.

Q12. 13.3% (2) of respondents had comments on the draft licensing policy that they felt the Licensing Authority should take into consideration; these comments were as follows:

- “Please supply easy to understand guidance for new Applicants. As a small event organiser, it took me a long time and reference to other councils guidance before understanding the concept of ' Promoting Licensing Objectives”
- “Separate policy and fees for small events in village halls that struggle to keep going should be considered”

Letter Response

“We would ask that the support of the government in extending small business rate relief for the period 2014 – 2019 and this should be incorporated in the policy statement. We currently employ around 12 people, offer free facilities to the village but without SBRR we don’t know how much longer we can continue to do so.”

No further comments were made.

Financial Implications

As already advised the government has indicated that they expect the centrally set fees of the Licensing Act 2003 to cover the cost to the council of administering the licensing regime, which would include the preparation of the revised policy, and the mailshot.

It is expected that locally set fees will be introduced during the term of this policy, which will be cost neutral.

There would be risk to the Council of a judicial review if a Statement of Licensing Policy were not published in accordance with the requirements of section 5 of the Act.

Implications for Corporate Priorities

None

Other Implications

None

Background Papers: Licensing Act 2003
Police Reform and Social Responsibility Act 2011
