

Statement of Licensing Policy under the Licensing Act 2003

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1. Purpose of the Report

1.1 To inform the Licensing Committee of the new draft Statement of Licensing Policy and the revised contents therein.

2. Public Interest

2.1 Under section 5 of the Licensing Act 2003, the Council must publish a policy in respect of its licensing function. That policy should be reviewed every 5 years and this report sets out the latest proposed revisions to that policy.

2.2. If the proposals are accepted by Licensing Committee then a consultation process will take place before the final proposed policy is then presented to Full Council for adoption.

3. Recommendations

3.1 That the Licensing Committee approve :-

- a. the draft Statement of Licensing Policy
- b. that the consultation process as set out in the report be commenced

4. Background

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

4.2 During the five-year period, the policy must be kept under review and the Council may make such revisions to it, as it considers appropriate.

4.3 Exceptionally, Full Council, as opposed to the Licensing Committee, must approve the final revised Statement of Licensing Policy. However, before the policy is presented to Full Council a consultation process must take. This report is to ask the Licensing Committee if they are satisfied with draft revised policy before that consultation process commences.

4.4 The first Statement of Licensing Policy was approved in December 2004, which was re-published with minor amendments in January 2005. Statutory reviews took place in 2007,



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2010 and 2014. The current version of the policy is known as Edition 5; therefore this edition will be known as Edition 6 and is attached at Appendix A.

5. Report Detail

Fundamental Principles of the Statement of Licensing Policy

5.1 In determining the policy, the Council must have regard to the Guidance issued under Section 182 of the Act, as well as to the views of those it has consulted.

5.2 The draft policy does not depart from the Guidance from the Government. If, however, following the consideration of representations, it is decided that a departure from the guidance is necessary to ensure the licensing objectives are met locally, then the reasons for that departure must be recorded. This is particularly important in view of the increased likelihood of legal challenge if making policies not in accordance with the Section 182 Guidance.

5.3 Whilst the Statement of Licensing Policy should set out the approach that the Licensing Committee and Sub Committee will adopt when considering different kinds of applications and representations, it should not ignore or be inconsistent with provisions within the Act. For example, an individual's right to apply for a variety of permissions and to have any application considered on its own merits should not be undermined.

Consultation

5.4 Before determining its policy for the next five year period, the following must be consulted:-

- a. The chief officer of police;
- b. The fire authority;
- c. Public Health
- d. Persons/bodies representative of local holders of premises licences;
- e. Persons/bodies representative of local holders of club premises certificates;
- f. Persons/bodies representative of local holders of personal licences;
- g. Persons/bodies representative of businesses and residents.

5.5 The views of all these bodies listed should be given appropriate weight before the policy is determined.

5.6 Members should also note that the terms of the Act do not prevent them consulting other bodies or persons before determining the policy, the Licensing Service will therefore also consult with recognised trade bodies.

5.7 The consultation period will be for a eight-week period, which it is proposed will commence on Monday 24th January 2022. Notification of the consultation will be by letter/email with a link to the draft Statement of Licensing Policy and questionnaire published on the SSDC website.



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5.8 The reason for an eight instead of the more usual twelve week consultation period, is that experience has shown there will not be many responses; further that most of the changes to the policy are due to changes to legislation.

5.9 Any responses to the draft policy will be brought to the Licensing Committee for discussion at the next scheduled meeting following the close of the consultation period.

5.10 The Licensing team will discuss the draft policy changes with the other Somerset District Councils to align Policy Statements, as far as possible, in advance of the Somerset Council vesting day.

Details of Amendments from the Previous Policy

5.11 All the changes are set out in the table attached at Appendix 2.

5.12 The major changes are

- a. The removal of the cumulative impact policy. In the previous Policy there was a cumulative impact policy at section 3.2 and detailed in Appendix B. This was introduced following evidence from Avon and Somerset Police regarding crime statistics in both Yeovil and Chard. The effect of that policy was that applications for new licenses in those areas would normally be refused if relevant representations were received, unless it was demonstrated that there would be no addition to the cumulative impact already existing.

Avon and Somerset police have been consulted regarding the current crime statistics in these town Centres. Based on significantly reduced crime statistics both the Police and the Licensing team no longer consider it necessary or appropriate to continue with a cumulative impact policy.

In addition the Regeneration team have been consulted. They considered the previous cumulative policy had a detrimental effect on the town centre and as such they would support the removal of that policy.

- b. Addition of movable structures considerations to Mobile Premises and Temporary Structures section at para 4.3. This is confirm that the location of these structures must be marked on a plan and cannot then be changed without application for variation.
- c. Addition of some detailed points to help clarify the matters that should be considered for Temporary Event Notices (TENs) as set out at para 4.4.
- d. Additions of further detail to the section on Large scale events at par 4.6. This is mainly to clarify the expectation of event organisers and their responsibilities when submitting applications, along with how the authority will consider operating schedules. This is in response to the increasing number of events of this nature we are seeing
- e. Addition of section on Sustainable Event Management at para 4.7 in line with our Environmental Strategy and recognition of the Climate and ecological emergency



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f. Clarification of requirements for committee members under the code of conduct in the section on Administration, Exercise and Delegation of functions at para 4.9.

6. Financial Implications

6.1 The government indicates 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.

7. Legal implications (if any) and details of Statutory Powers

7.1 As set out in the report, under section 5 of the Licensing Act 2003, the Council must, every 5 years, determine its policy with respect to the exercise of its licensing function, and publish a statement of that policy as per statutory requirement.

7.2 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.

8. Council Plan Implications

8.1 This revised policy supports the Council Plan themes, in particular The Protecting Core Services and Environment Areas of focus

- Deliver a high quality, effective and timely service to our customers

9. Carbon Emissions and Climate Change Implications

9.1 This policy is primarily focused on setting out how the Council will deliver its statutory function under the Licensing Act 2003 and in itself does not have any implications for Carbon Emissions and Climate Change. However, the addition of a section on Sustainable Event Management will help to promote the Council's commitment to address Climate Change impacts and encourage event organisers to consider how they can reduce the impact of their events.

10. Equality and Diversity Implications

10.1 A stage 1 Equality Analysis (EqA) has been carried out which does not identify any impacts on any persons with protected characteristics. Agreement from the Equalities Officer is currently being sought.

11. Privacy Impact Assessment

11.1 The policy which is the subject of this report does not in itself involve the processing or handing of personal data. The processing of application forms in accordance with this policy currently involves the handling of personal data and no changes are being made to how that data is processed. The consultation process is likely to result in personal data being processed. The responses would be handled by SSSDC and any responses would have any personal details removed before being published.

Background Papers

Licensing Act 2003

Police Reform and Social Responsibility Act 2011

Guidance issued under section 182 of the Licensing Act 2003

SI 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

The Legislative Reform (Entertainment Licensing) Order 2014