

Statement of Licensing Policy under the Licensing Act 2003

Executive Portfolio Holder:	Adam Dance, Area North & Licensing
Strategic Director:	Kirsty Larkins, Director Service Delivery
Service Manager:	Michelle James, Lead Specialist, Licensing
Lead Officer:	Anita Legg, Specialist, Licensing
Contact Details:	Anita.Legg@southsomerset.gov.uk or 01935 462137

1. Purpose of the Report

1.1 To advise the Licensing Committee of the responses received to the consultation agreed at their meeting of 24 January 2022 regarding the Statement of Licensing Policy and for the Committee to agree the Policy and its revision and agree its referral for consideration and determination at Full Council at its meeting of 19 May 2022.

2. Public Interest

2.1 Section 5 of the Licensing Act 2003 requires that all licensing authorities prepare and publish a Statement of Licensing Policy in order to exercise their functions under the Act. The policy must be revised every five years or sooner if revisions are considered appropriate.

2.2. Following acceptance of the draft Statement of Licensing Policy by the Licensing Committee, a consultation process was conducted between 24 January 2022 and 13 April 2022.

2.3 A total of 6 responses were received and a summary is set out at **Appendix A**. Only questions which received a response have been included.

2.4 The Licensing Committee is asked to consider these responses and decide what amendments, if any, should be made before putting their recommendation to Full Council for adoption.

3. Recommendations

3.1 The Licensing Committee is recommended to:

1. Consider responses to the Consultation for the Statement of Licensing Policy
2. Agree the Policy and its revisions
3. Refer the revised Statement of Licensing Policy to the Full Council for final approval and implementation

4. Background

4.1 This is the sixth Statement of Licensing Policy for this Council. The draft Policy, including the amendments is attached at **Appendix B**.

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 otherwise than 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 the bodies listed should be given appropriate weight before the policy is determined.

5.6 The Licensing Service additionally consulted with recognised trade bodies.

5.7 The consultation period was held over an eight-week period, commencing 24 January 2022 and concluding on 13 April 2022. Notification of the consultation was conducted by email with a link to the draft Statement of Licensing Policy and questionnaire published on the SSDC website.

5.8 The departure from the usual 12 week consultation was because most amendments made were as a result of well publicised legislative changes and also that experience over the last 17 years, since the Act was implemented, has shown that there are typically a very small number of responses to this type of consultation.

5.9 As agreed at the meeting of 24 January 2022, the responses to the draft policy are being put to the Licensing Committee for consideration following the close of the consultation.

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 The Licensing Authority is required to act in accordance with the:

- provisions of the Licensing Act 2003,
- statutory guidance issued by the Secretary of State, and
- Council's Statement of Licensing Policy, in its determination of applications.

7.2 Section 5 of the Licensing Act 2003 provides that a Licensing Authority must, every 5 years, determine and publish a Statement of Licensing Policy.

7.3 The integrity of the Statement of Licensing Policy has the potential to directly impact upon the Council's determination of applications under the Act and as such decisions made could be the subject of judicial review or appeal.

7.4 The Licensing Authority in determining applications and taking enforcement action pursuant to the Licensing Act 2003 will also have regard to the provisions of the Human Rights 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 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.

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 SSDC and any responses would have any personal details removed before being published.

Background Papers

Licensing Act 2003
Current Statement of Licensing Policy
Section 182 Guidance issued by the Secretary of State