

**The Council's Vision:**

To enable people to live, work and prosper in West Somerset

**LICENSING COMMITTEE**

**AGENDA**

**11 March 2014 at 4.30 pm**

**Council Chamber, Williton**

**1. Apologies for Absence**

**2. Minutes**

Minutes of the Meeting of the Committee held on 26 November 2013 – **SEE ATTACHED** – to be confirmed.

**3. Declarations of Interest**

**4. Public Participation**

The Chairman to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three-minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

**5. Update on the Statement of Licensing Policy for West Somerset Council 2014-17**

To consider Report No. WSC 36/14 to be presented by the Erica Lake, Environmental Health and Licensing Manager – **SEE ATTACHED.**

The purpose of the report is to request that members review the responses to the consultation and approve the Statement of Licensing Policy 2014-2017.

**6. Update on Introduction of New Legislation and Review of Licensing Policies**

To consider Report No. WSC 37/14 to be presented by Erica Lake, Environmental Health and Licensing Manager – **SEE ATTACHED.**

The purpose of the report is to update members on the implementation of the Mobile Homes Act 2013 and associated regulations, and on the schedule of reviews of licensing policies and workload of the licensing team.

**The Council's Vision:**

To enable people to live, work and prosper in West Somerset

**COUNCILLORS ARE REMINDED TO CHECK THEIR POST TRAYS**

**The Council's Corporate Priorities:**

- Local Democracy:  
Securing local democracy and accountability in West Somerset, based in West Somerset, elected by the people of West Somerset and responsible to the people of West Somerset.
- New Nuclear Development at Hinkley Point  
Maximising opportunities for West Somerset communities and businesses to benefit from the development whilst protecting local communities and the environment.

**The Council's Core Values:**

- Integrity
- Respect
- Fairness
- Trust

**RISK SCORING MATRIX**

Report writers score risks in reports uses the scoring matrix below

**Risk Scoring Matrix**

<b>Likelihood</b>	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
<b>Impact</b>							

<b>Likelihood of risk occurring</b>	<b>Indicator</b>	<b>Description (chance of occurrence)</b>
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

- Mitigating actions for high ('High' or above) scoring risks are to be reflected in Service Plans, managed by the Group Manager and implemented by Service Lead Officers;
- Lower scoring risks will either be accepted with no mitigating actions or included in work plans with appropriate mitigating actions that are managed by Service Lead Officers.



**LICENSING COMMITTEE****Minutes of the Meeting held on 26 November 2013 at 4.30 pm****Present:**

Councillor D J Sanders ..... Chairman  
Councillor A P Hadley ..... Vice Chairman

Councillor S Y Goss  
Councillor R P Lillis  
Councillor L W Smith

Councillor P N Grierson  
Councillor E May  
Councillor D J Westcott

**Also in Attendance:**

Councillor G S Dowding

**Officers in Attendance:**

Corporate Manager Housing, Welfare and Economy (I Timms)  
Environmental Health and Licensing Manager (E Lake)  
Licensing Officer (N Sambells)  
Community Safety Officer (P Hughes) (LEP11 only)  
Mendip Legal Representative (A Kershaw-Moore)  
Meeting Administrator (H Dobson)

**LEP7 Apologies for Absence**

Apologies for absence were received from Councillor H J W Davies, M O A Dewdney.

**LEP8 Minutes**

(Minutes of the Meeting of the Licensing Committee held on 23 July 2013 – circulated with the Agenda).

**RESOLVED** that the Minutes of the Scrutiny Committee held on 23 July 2013, be confirmed as a correct record.

**LEP9 Declarations of Interest**

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

Name	Minute No.	Description of Interest	Personal or Prejudicial or Disclosable Pecuniary	Action Taken
Councillor S Goss	All Items	Stogursey	Personal	Spoke and voted
Councillor L W Smith	All Items	Minehead (South)	Personal	Spoke and voted
Councillor D J Westcott	All Items	Watchet	Personal	Spoke and voted

In addition:

Councillor A P Hadley declared a prejudicial interest relating to LEP11, Minimum Standards in Licensed Premises, he owned a licensed premises, he left the chamber for this item;

Councillor A P Hadley declared a personal interest relating to LEP12, Update on the Review of Statement of Licensing Policy and the Scrap Metal Dealers Act, he owned a licensed premises, he spoke and voted.

#### **LEP10 Public Participation**

No members of the public had requested to speak on any item on the agenda

#### **LEP11 Report on Hackney Carriage/Private Hire Regulations**

(Report No. WSC 156/13, circulated with the Agenda).

The purpose of the report was to discuss and determine the approach to a complaint received from a private hire operator regarding a proposal to purchase a vehicle that does not comply with West Somerset Council Hackney Carriage/Private Hire Regulations.

At this point and following legal advice regarding that part of the report that requested the Licensing Committee to consider an exemption from the West Somerset Council Hackney Carriage/Private Hire Regulations the Committee was adjourned and a Licensing Panel formed in order to consider the exemption.

The minutes to the Licensing Panel are attached as Appendix A to these minutes.

The Committee reconvened to consider the remainder of the report relating to the complaint, and the remaining items on the agenda.

The Corporate Manager presented the report and set out the details in the report that led to the complaint.

The Legal Advisor advised of the options open to the Committee and asked them to consider the most reasonable course of action given that an error was made by the Council. To grant an exemption to the regulations there must be exceptional circumstances and she advised that members should also consider whether the current regulations were effective.

During the course of the debate the following points were raised:

- Concern that the construction of vehicles regarding access had changed since the approval of the regulations.
- Concern that the applicant be aware of the Council's regulations.
- Members suggested that the regulations regarding access and egress be reviewed by the Licensing Committee.

The Corporate Manager confirmed that a letter would be sent to the applicant who had been reissued a licence in error setting out the Council's regulations and the requirement that future models must comply with regulations at the time of renewal.

**RESOLVED (1)** that the Corporate Manager be authorised to renew the exemption on the vehicle, Mitsubishi Grandis Equippe, as set out in 5.5 of the report and attached to the agenda, and that a letter be sent to the applicant setting out the Council's regulations and the requirement that future models must comply with regulations at the time of renewal.

**RESOLVED (2)** that the West Somerset Council Hackney Carriage/Private Hire Regulations 3.14 and 6.7 be reviewed at an appropriate Licensing Committee meeting in the future.

#### **LEP12 CCTV Minimum Standards in Licensed Premises**

(Report No. WSC 156/13, circulated with the Agenda).

The purpose of the report was to seek approval by the Licensing Committee to adopt a set of minimum standards for CCTV within any premises that are subject to an application for anew or amended premises licence.

Councillor A P Hadley left the Council Chamber for this item.

The Community Safety Officer presented the report and advised that adoption of the minimum standards would require pubs and clubs where there is a new application and/or where considerable changes to the layout of the premises is to be undertaken to install CCTV that is of sufficient quality to assist the police. CCTV would also benefit the owner of the premises. The guidance, attached as the Appendix to the report, was produced by the police service.

During the course of the debate the following points were raised:

- Praise for the CCTV minimum standards which promoted both protection of life and property.
- Confirmation that it was for the Licensing Committee to consider how the minimum standards should be implemented.
- Concern that in rural locations where public houses were not well patronised and there was a need to make changes the cost could be detrimental to the business. It was proposed that an additional recommendation be included giving appropriate consideration to relevant businesses in rural areas.

**RESOLVED (1)** that the minimum standards for CCTV in licensed premises that are subject to an application for a new or an amended premises licence, as set out in the Appendix and attached to the report, be adopted.

**RESOLVED (2)** that the CCTV Minimum Standards be applied at the discretion of the Group Manager for Housing, Welfare and Economy and special consideration be given to rural public houses where there are no specific issues.

#### **LEP13 Update on the Review of Statement of Licensing Policy and the Scrap Metal Dealers Act**

(Report No. WSC 155/13, circulated with the Agenda.)

The purpose of the report was to update members on the review of the Statement of Licensing Policy 2011-2014; the implementation of the Scrap Metal Dealers Act

2013 and associated fees; and the current working arrangements in the Licensing Team and management of the workload.

The Environmental Health and Licensing Manager presented the report and advised of the requirement to review the Council's Statement of Licensing Policy every three years. To date three comments had been received from local businesses in response to the consultation and it was envisaged that the working group would meet in the new year once the consultation process was complete to discuss the responses.

The fee as stipulated in the Scrap Metal Dealers Act 2013, would cover the costs of administration, the granting of a three year license and an annual inspection; it would not cover the cost of enforcement action.

In response to questions the Committee were advised that the fees were higher than other authorities due to the fact that to date the Council had received only three applications from existing scrap metal and motor salvage operators. In effect the three applicants would bear a higher percentage of the cost than other areas where there were more applicants. The fee of 755.00 was agreed informally and it was at the discretion of the Committee should they wish to amend it.

**RESOLVED (1)** that the progress of the consultation with regard to the review of the statement of licensing policy and the draft WSC Statement of Licensing Policy 2014-2018, attached as Appendix 1 to the agenda, be noted;

**RESOLVED (2)** that the recent introduction of legislation associated with scrap metal and motor salvage specifically the introduction of the Scrap Metal Dealers Act 2013 and the introduction of a 3 year fee for site operators and mobile collectors within West Somerset, be noted;

**RESOLVED (3)** that the Scrap Metal Dealers Act briefing, attached as Appendix 2 to the agenda, be noted;

**RESOLVED (4)** that the authority makes a Basic Disclosure Certificate a requirement of a scrap metal dealer licence application, be approved;

**RESOLVED (5)** that the current working arrangements within the Environmental Health and Licensing team and the workload tables in Appendix 3 attached to the agenda, be noted.

The meeting closed at 5.58 pm.



**APPENDIX A****WEST SOMERSET DISTRICT COUNCIL**

Minutes of the meeting of the Licensing Panel held on 26 November 2013 in the Council Chamber, Council Offices, Williton, commencing at 4.40 pm.

**PRESENT:** Councillors D J Sanders, A P Hadley and D J Westcott

**OFFICERS IN ATTENDANCE:** Alex Kershaw-Moore, Legal Advisor  
Ian Timms, Corporate Manager Housing, Welfare and Economy  
Erica Lake, Environmental Health and Licensing Manager  
Nicola Sambells, Licensing Officer  
Helen Dobson, Meeting Administrator

**ALSO PRESENT:** Andrew Virgin, applicant

**MEMBERS IN ATTENDANCE:** Councillor G S Dowding, Observer  
Councillor S Y Goss, Observer  
Councillor P N Grierson, Observer  
Councillor R P Lillis, Observer  
Councillor E May, Observer  
Councillor L W Smith, Observer

**L4 Election of Chairman**

**RESOLVED** that Councillor D J Sanders be elected Chairman for the Panel.

**L5 Declarations of Interest**

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

Name	Minute No	Description of Interest	Personal/ Prejudicial	Action Taken
Cllr D J Westcott	All	Watchet	Personal	Spoke and voted

**L6 Exemption from Regulation 3.14 of the West Somerset Council Hackney Carriage/Private Hire Regulations**

(Report No. WSC 156/13, circulated as part of the Licensing Committee Agenda.)

The purpose of the report was discuss and determine the approach to a complaint received from a private hire operator regarding a proposal to purchase a vehicle that does not comply with West Somerset Council Hackney Carriage/Private Hire Regulations.

At this point the Panel left the Chamber to view the Hyundai i800 vehicle, parked outside the building. The applicant proposed to purchase this model should the exemption be successful.

On returning to the meeting the Corporate Manager presented the report and requested that the Panel consider the request for an exemption relating to the Hyundai i800 model. He reminded the Panel that the vehicle just viewed did not

comply with item 3.14 of the Council's regulations relating to vehicles with a third row of seats and that easy escape from an emergency situation may prove difficult. Further, the vehicle did not comply with Regulation 6.7, relating to sufficient safe and easy access and egress from the vehicle. However, in his opinion he believed that as Private Hire vehicles were used by pre-booked customers they were likely to know the driver and his vehicle.

In response to a question the Corporate Manager confirmed that the exemption applied for was for a Private Hire vehicle.

### **Evidence**

The applicant made a statement to the effect that the only vehicles of the size he required that complied with the Council's regulations had temporary fold down seats. Much of his work entailed long distance trips to airports etc. His customers wanted to travel in comfort and be forward facing. The vehicle just viewed by the Panel would be, in his opinion, very suitable for such journeys. However, he confirmed that he would consider other vehicles if necessary.

The Legal Advisor advised the Panel that they were here to consider this application and not to be concerned about previous circumstances. She reminded the Panel of the Council's regulations and that the Panel were able to grant an exemption, explaining that in effect the Council would not take enforcement action against a non-compliant vehicle. She asked the Panel to consider carefully what it was about this application that it should be given different treatment to other vehicles in the district. Lastly, she asked that should the Panel grant the exemption they must be satisfied that the information provided by the applicant was sufficient to warrant an exemption.

### **Findings**

The Panel were mindful of the fact that the Regulations have been adopted by the Council and apply to all vehicles, operators and drivers operating within the District of West Somerset. The Council has power to offer exemptions to operators and drivers where exceptional circumstances exist to warrant the grant of such an exemption. The Panel were further aware that an exemption is not an authorisation in its own right but purely an undertaking that the Council will not exercise its enforcement powers against non-compliance with the Regulations.

At the hearing today, the Licensing Panel looked at the request for exemption, inspected the type of vehicle proposed, and have agreed to grant an exemption from the Council's Private Hire Regulation 3.14 for a Hyundai i800 vehicle proposed to be purchased. Mr Virgin will be required to inform the Council's Licensing Team of the details and identification of the vehicle at the time when it is purchased. Failure to provide this information will mean that the exemption does not take effect.

The reasons for the decision are that the Panel have considered all matters including the amount of long-distance travelling and the comfort of persons undertaking those type of journeys with Mr Virgin's company. The Panel considered the safety implications but, having considered the type of vehicle proposed, decided that it was fair and equitable to grant the exemption and that safety of passengers would not be compromised.

Mr Virgin is reminded that in all other respects the Council's Regulations continue to apply and will apply to all vehicles purchased and used as private hire vehicles.

The exemption will take effect upon receipt of the vehicle identity information by the Council and will last until such time as the vehicle is replaced, reaches the age of 5 years old, or ceases to be a licensed vehicle in your name.

As an advisory note, please be informed that any future vehicles brought to the Council for licensing under either Private Hire/Hackney Carriage Regulations will be required to comply fully at the time of application.

You have the right to appeal to the Magistrates Court against this decision within 21 days of receipt of this notification.

The meeting closed at 5.10 pm.



*Report Number:* WSC 36/14  
*Presented by:* Erica Lake  
*Author of the Report:* Erica Lake, Environmental Health & Licensing Manager  
*Contact Details:*

*Tel. No. Direct Line* 01984 635242  
*Email:* ellake@westsomerset.gov.uk

*Report to a Meeting of:* Licensing Committee  
*To be Held on:* Tuesday 11<sup>th</sup> March 2014  
*Date Entered on Executive Forward Plan Or Agreement for Urgency Granted:* Not applicable

## UPDATE ON THE STATEMENT OF LICENSING POLICY FOR WEST SOMERSET COUNCIL 2014-2017

### 1. PURPOSE OF REPORT

- 1.1 To request that members review the responses to the consultation and approve the Statement of Licensing Policy 2014-2017.

### 2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1 *NO DIRECT CONTRIBUTION TO CORPORATE PRIORITIES.*

### 3. RECOMMENDATIONS

- 3.1 That Licensing Committee review the responses to the consultation and the amended Statement of Licensing Policy.
- 3.2 That Licensing Committee recommend adoption of the Statement of Licensing Policy 2014-17 and the associated Consultation report to Council.

### 4. RISK ASSESSMENT (IF APPLICABLE)

#### Risk Matrix

Description	Likelihood	Impact	Overall
Failure to have an up-to-date Licensing Act 2003 policy will prevent the effective discharge of the statutory function.	Low (4)	Low (3)	Medium (12)
<i>Develop and amend the policy to provide clarity and consistency for members and officers in decision making.</i>	Low (2)	Low (2)	Low (4)
Failure of West Somerset Council to keep up-to-date with current legislation will cause a failure in service delivery and risk of legal challenge.	Low (3)	Low (3)	Medium (9)

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

## **5. BACKGROUND INFORMATION**

- 5.1 This policy sets out the licensing authority's general approach to the making of licensing decisions and the document should be consistent with the Licensing Act 2003, the council has a duty to review its licensing policy every 3 years.
- 5.2 New legislation such as the Deregulation of Regulated Entertainment has recently been introduced and therefore the policy has been updated to reflect this and other recent changes such as responsible authority. The Police Reform and Social Responsibility Act 2011 required licensing authorities to review the policy every 3 years rather than 5.
- 5.3 In September 2013 the licensing team consulted a number of authorities such as the police, fire authority and also local premises and club premises license holders, representatives of personal licence holders, businesses and residents in the district inviting comments on a draft policy. The draft statement of licensing policy 2014-2017 was available on the council website and West Somerset Says consultation website for a 3 month period. All responses were collated from licensed premises, business representatives, organisations, responsible authorities and members of the public in the local area and beyond.
- 5.4 A sub-committee of 5 members of the licensing committee met on 4th February 2014 to review all comments received. The group noted all the comments and discussed each in turn. Many of the issues raised are controlled by the statutory process and were therefore not within the scope of the policy or within the ability of the licensing authority to amend the process or policy to suit local concerns. Taking into consideration all the comments made, the sub-committee has agreed a number of changes to the draft policy; however it is for licensing committee to review the final draft and to recommend adoption to council. This report presents the findings of the consultation and a final version of the draft policy for referral to council for approval. Appendix 1 shows a table of the comments received and appendix 2 shows the final draft of the WSC Statement of Licensing Policy 2014-2017.

## **6. FINANCIAL/RESOURCE IMPLICATIONS**

- 6.1 The review of the policy is a mandatory requirement and was required due to changes in the Licensing Act 2003. Although reviewing the policy and the subsequent consultation does have resource implications, it is imperative that a robust policy supports the decisions of the licensing committee and therefore reduces the risk of legal challenge.

## **7. COMMENTS ON BEHALF OF SECTION 151 OFFICER**

- 7.1 It is necessary and good practice to keep the authority's policy up to date. The revision to this policy is timely and ensures that the council has a point of reference for the next 3 years.

## **8. EQUALITY & DIVERSITY IMPLICATIONS**

**Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.**

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

- 8.1 The issues in this area will be considered in each review and reported to members as part of that process. At this time there are no implications for equality and diversity.

**9. CRIME AND DISORDER IMPLICATIONS**

- 9.1 The Licensing Policy links into a range of issues around crime and disorder. As they are reviewed the matters regarding how they assist partners such as the Police in managing issues locally are taken into account.

**10. CONSULTATION IMPLICATIONS**

- 10.1 The draft statement of licensing policy 2014 – 2017 was subject to a public consultation exercise for 3 months between 1<sup>st</sup> October and 31<sup>st</sup> December 2013. The responses to the consultation can be seen in appendix 1. These were reported to a sub-committee of members on 4 Feb 2014.

**11. ASSET MANAGEMENT IMPLICATIONS**

- 11.1 There are no specific issues linked to this report

**12. ENVIRONMENTAL IMPACT IMPLICATIONS**

- 12.1 There are broad links to the Statement of Licensing policy which in the main relate to the management of the environment. These include issues such as noise management at premises.

**13. LEGAL IMPLICATIONS**

- 13.1 The council needs to ensure that all of its licensing policies are kept up to date as part of our statutory duties.
- 13.2 It is therefore essential that each policy is reviewed carefully and gives clarity to members and customers about the authority's requirements in order that compliance with the law is achieved.

APPENDIX 1 – TABLE OF COMMENTS RECEIVED DURING CONSULTATION PERIOD

APPENDIX 2 – FINAL DRAFT OF WSC STATEMENT OF LICENSING POLICY 2014-2017





## APPENDIX 1 – TABLE OF COMMENTS RECEIVED DURING CONSULTATION PERIOD

Date	Comments received from	Details
13 October 2013	Yarn Market Hotel Dunster	<p>Dear Sirs / Madam</p> <p>My thanks to Erica for notifying us of the proposed changes. I am concerned with the wording of clause 2.1.4 2.1.4 Crime Statistics locally have indicated that a last time of entry condition has assisted in the promotion of the licensing objectives. It is therefore expected that applicants for late licensed premises will be expected to provide detailed reasons in their operating schedules for seeking to allow any new entry to the premises after 1am.</p> <p><b>I would like to propose that 23.00 hours is substituted for 1.00am (except for New Years Eve)</b> My reasons are that there are comparatively few establishments in the area that allow entry after 23.00 so it is not unreasonable to expect them to provide detailed reasons</p> <p>The need for this has been shown in Dunster which is being increasingly used as a wedding venue and the late night unruly behaviour is becoming a detriment to regular visitors and locals.</p> <p>The Tithe Barn as part of their condition to become a wedding venue had to agree to close at 23.00 hours which they are doing without fail, but all that is happening is that the wedding guests are then descending upon local pubs and licensed premises to continue drinking.</p> <p>This amendment would not prohibit the licensing of late night drinking but would give the WSC Licensing team more discretion to say NO where appropriate. Many thanks Antony Brunt</p>
14 October 2013	Cllr David Sanders – chair of WSC Licensing Committee	<p>Thanks Erica,</p> <p>Although the consultation will run for 3 months I have been having a look at the attached draft WSC Policy and I have a few initial observations and comments.</p> <p>At the last WSC licensing committee a small sub-group of WSC Councillors agreed to review our licensing policies so that we have joint policies and work together with Taunton Deane B.C.</p> <p>With this in mind I have compared the WSC Draft policy with that of TDBC and note that it is almost a mirror image.</p> <p>As far as I can see the only differences are that WSC have included a paragraph on 'Vicinity' (para 3.4) and this now puts the rest of para 3 out of sync with TDBC's policy. Also TDBC have an extra paragraph on where further information can be obtained (their para 7).</p> <p>Perhaps we can discuss with TDBC and agree something so that both WSC and TDBC policies are the same?</p> <p>On the WSC draft I have the following minor points -</p> <p>Page 3 reads 2014 - 2018 - should it read 2015 - 2018?</p> <p>Para 3.4.1 'Vicinity' - if this is going to be included should it</p>

		<p>also include the O.E.D definition - 'The area near or surrounding a particular place or person'?</p> <p>Para 3.5.1. reads '....received any.....'. Should it read ' ....received. Any....' ?</p> <p>Para 4.1.2 reads 'Are at least 28 days before'....(doesn't sound right).</p> <p>Para 4.4.1 reads 'reject any ground'. Should it read 'reject on any ground'?</p> <p>Para 4.5.1 reads '15 elected members'. Should read '11 elected WSC members'.</p> <p>That is my 'starter for 10'. I know that town and Parish councils have recently been informed of this consultation.</p> <p>Perhaps we can discuss this briefly at the next licensing committee meeting on 26.11.13 and agree a date when the sub group of 5 WSC Licensing Councillors can meet to discuss after the 3 month consultation?</p> <p>Regards Cllr. David Sanders</p>
30 October 2013	Cliff Nicholson	<p>Dear Mrs Lake</p> <p>Thank you for letting us know of the proposed alterations. We have quickly read the document and there is one area of concern. Clause 2.1.4.</p> <p>1am opening is too late and needs to revert to the 11.00pm standard closure.</p> <p>Our reasons for this are:</p> <ul style="list-style-type: none"> <li>• The Government are wanting to be seen controlling alcoholic sales in a responsible manner, rather than encouraging late night drinking.</li> <li>• Within Dunster we already have issues with 'lock ins' due to the increasing number of weddings being held in the village. We have already written to you with regard to the Luttrell Arms. Essentially, wedding guests can drink from 11.00am straight through to 11.00pm, which is plenty long enough. An additional 2 hours, late at night is unnecessary and will only exacerbate the situation of unruly, drunken behaviour. This is unfair on businesses like ours in the village as well as to residents.</li> </ul> <p>We hope you find our comments constructive.</p> <p>Kind regards, Cliff Nicholson</p>
11 October 2013	Lesley Webb	<p>This is simply a money grabbing exercise. Why can't Village Halls submit a list of events at the start of the year for one single fee. We have two identical Quiz Nights each year for which we have to pay £21 per time. The applications are identical except for the dates. Why should we have to pay twice? Why not a reduced fee for duplicated events. Less work for you more money for our charity!</p>
20 November 2013	Mrs Judith Stabb, Secretary, Lysaght Village Hall & Club	<p>The proposal to move to 28 days' notice for a TENS application, whilst understandable, may cause problems for applicants in some circumstances. We trust that the Council will make clear that this is merely a recommendation for best practice and that the current statutory requirements will still hold so that applicants are not adversely affected.</p>
22 October 2013	David Lungley (Hon.Sec. Exton and Bridgetown Village Hall Committee)	<p>I have read the proposed changes to the Policy as requested, and I see no problems in these changes as far as Exton and Bridgetown Village Hall Premises Licence is concerned; and the changes seem sensibly beneficial to the community as a whole (particularly the separation of the Officer acting for the Licensing Authority from the Officer acting for the Responsible Authority potential conflict of interest, para 5). This is intended as positive feedback. Thankyou for the consultation.</p>
12 October 2013	Keith Ross	<p>Para 5.2 and 5.4, act should not have a capital A.</p> <p>Para. 6.1 pursuing should be pursuing</p>

		No problems with any of the amendments per se.
27 November 2013	Mark Bale	Ref point 4.1.1, adjusting the minimum time to apply for a "temporary events notice" (TEN) to 10 or even 5 days! is too close for any event organiser to adjust or amend the said event making point 4.1.2 lead them the minimum would surely be the best procedure plus showing good planning procedures for any event requiring a TEN. Apart from this suggestion the policy looks clear and easy to follow/understand.
27 November 2013	Jan Leeming Clerk to Stogumber Parish Council and Clerk to Bicknoller Parish Council	Stogumber Parish Council and Bicknoller Parish Council both considered your letter dated 9/10/13 and the revised policy  Neither have any comments to make
24 December 2013	District Licensing Officer – Avon and Somerset Police - Nicola Cooper	Dear Sirs On behalf of the Chief Officer of Police, we have been invited to respond to consult on your proposed Statement of Licensing Policy for the period 2014-2018 and I wish to make the following observations:- 1. 3.5.2 refers to a "pool of model conditions" I would be grateful if you could send me a link to this document? 2. 3.6.3. states that you have protocols in place with Avon & Somerset Police for enforcement? Please could you advise me if there is a written policy in place and if so, forward a copy? 3. Public Health does not appear to be listed as a Responsible Authority. 4. Can a section be added regarding Cumulative Impact? 5. Can a section be added regarding "Complaints against Licenced premises" and the procedure. 6. We have recently consulted with your Licensing Panel for an agreed minimum standard for CCTV when CCTV is imposed or offered as a condition on the licence. I understand the document was being taken forward to the committee at their recent meeting on 27 <sup>th</sup> November 2013. Can a link to this guidance be included in your policy as per the attached document I look forward to hearing from you.
23 November 2013	McDonalds Restaurants Ltd	Comments received in letter dated 15 November 2013, copies available from Erica Lake.
20 December 2013	Watchet Town Council	Comments received in letter dated 18 December 2013, copies available from Erica Lake.



WEST SOMERSET COUNCIL  
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# FINAL DRAFT

## Statement of Licensing Policy 2014 – 2017

WEST SOMERSET COUNCIL  
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## Policy and Contact Details

This Statement of Licensing Policy was considered by the Licensing Committee on

The Policy was adopted by Full Council on the

for the period 2014-2017.

The Policy became operative from

~~If you wish to make comments on this Licensing Policy or if you want to~~ For further information regarding the Licensing Act 2003 and this Statement of Licensing Policy please contact:

Environmental Health and Licensing Manager  
West Somerset Council  
West Somerset House  
Killick Way  
Williton  
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TA4 4QA

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E-mail: [licensing@westsomerset.gov.uk](mailto:licensing@westsomerset.gov.uk)

Website: [www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk)

Information is also available from:

The Department for Culture Media and Sport,  
2-4 Cockspur Street,  
LONDON  
SW1Y 5DH

Telephone: 020 7211 6200

E-mail: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)

Internet Website :

<https://www.gov.uk/government/organisations/department-for-culture-media-sport>

## **1.0 Introduction**

### **1.1 Background**

1.1.1 West Somerset Council (the Council) is the licensing authority under the Licensing Act 2003 (the Act). It is empowered to administer the following in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment within the district:

- premises licences including provisional statements, variations, transfers, interim authorities and reviews
- club premises certificates
- temporary events notices
- personal licences

1.1.2 Unless otherwise stated this licensing policy will not depart from the revised Secretary of State's guidance. Therefore to reduce repetition if matters are detailed in the guidance they may not be included in this policy

### **1.2 Aim**

The Act requires the licensing authority to carry out its various licensing functions so as to promote the four licensing objectives.

The aim of this Licensing Policy is to set out how the licensing authority seeks to promote the four licensing objectives, which are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

These four objectives will be the paramount considerations when determining a course of action in relation to the licensing authority's licensing functions. Each objective will be given equal importance.

### **1.3 Purpose**

The main purpose of this policy is to provide clarity to applicants, interested parties and responsible authorities on how the licensing authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment.

### **1.4 Consultation**

1.4.1 Before determining its policy for any three year period, the licensing authority will consult the following:

- the Chief Officer of Police
- the Fire Authority
- persons/bodies representative of local holders of premises licences
- persons/bodies representative of local holders of club premises certificates
- persons/bodies representative of local holders of personal licences
- persons/bodies representative of businesses and residents in the District



- 1.4.2 The licensing authority may consult beyond the statutory requirements, and seek comments from additional bodies, groups or individuals.

## **1.5 Fundamental Principles**

- 1.5.1 This Policy sets out the licensing authority's general approach to the making of licensing decisions and is consistent with the provisions of the Act. Nothing in the policy will undermine the right of any individual to apply for permissions and to have any such application considered on its individual merits. Similarly, nothing in the policy will override the right of any person to make representations on an application or to seek a review of a licence or certificate where provisions have been made to do so in the Act.
- 1.5.2 The licensing authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations. Any conditions attached to the licence must relate to the promotion of the licensing objectives.
- 1.5.3 The licensing authority acknowledges that the government believes that in some circumstances flexible hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided.
- 1.5.4 It is necessary to consider national guidance in the context of local circumstances. Where licensed premises are surrounded by housing, unrestricted extensions of hours could extend the time of such disturbance to later in the night. The guidance acknowledges that tighter control may be justified in residential areas and the licensing authority considers that this is particularly relevant to parts of its administrative area, always having regard to the individual merits of any application.
- 1.5.5 In general terms the licensing authority will closely scrutinise applications for premises licences showing a late terminal hour so as to be satisfied that they will have no adverse impact on the licensing objectives.
- 1.5.6 Once people are beyond the control of the individual, club or business holding the relevant authorisation licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour. Licensing law will always be part of a holistic approach to the management of the evening and night-time economy in this district.

## **2. General Principles**

In all applications relating to premises, the legislation requires applicants to specify methods by which they will promote the four licensing objectives in their operating schedules. The operating schedule should include reference to the measures the applicant intends to promote the licensing objectives.

### **2.1 Revisions to Policy**

- 2.1.1 The licensing authority have a duty to review their licensing policy and have therefore consulted with responsible authorities and other stakeholders since the implementation of the legislation in order to identify topics that may need to be added or removed from the licensing policy.
- 2.1.2 Areas of change have been necessitated through the implementation of the Police Reform and Social Responsibility Act 2011.
- 2.1.3 Applicants for a premises licence are advised to include in their operating schedule, (where applicable) specifically how they prevent sales of alcohol to persons under 18, minimise glass related injuries and or assaults, prevent noise from licensed premises become a nuisance and manage customers outside their premises who are smoking.

- 2.1.4 Crime statistics locally have indicated that a last time of entry condition has assisted in the promotion of the licensing objectives. It is therefore expected that applicants for late licensed premises will be expected to provide detailed reasons in their operating schedules for seeking to allow any new entry to the premises after 1am.

## 2.2 Children and Cinemas

- 2.2.1 The Act requires applicants for premises licences and club premises certificates to copy details of their applications to a body which:

- a) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
- b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters.

- 2.2.2 The licensing authority's policy is that the "Responsible Authority" in relation to the protection of children from harm will be Somerset County Council's Children and Learning Department at County Hall, Taunton, TA1 4DY.

~~Further details will be available in the Licensing Authority's guidance documents.~~

- 2.2.3 The licensing authority will expect licensees of premises giving film exhibitions to include, in their operating schedules, arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the licensing authority.

- 2.2.4 The licensing authority does not intend to adopt its own system of film classification but reserves the right to amend the classification imposed by the British Board of Film Classification.

- 2.2.5 If the licensing authority attaches an age-restriction to any film that differs from the BBFC classification or attaches one to an unclassified film, the information about the Licensing Authority's classification will be published on the Council's website at [www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk)

## 2.3 Licensing Hours

- 2.3.1 With regard to licensing hours the licensing authority will consider each application on its individual merits.

- 2.3.2 Applications for premises licences with a terminal hour later than 12 midnight where the sale or supply of alcohol for consumption on the premises is the main activity or where the sale or supply of alcohol is accompanied by musical entertainment, will be subject to close scrutiny by the responsible authorities to ensure that there will be no adverse impact on the licensing objectives. Specifically, the applicant should ensure that the operating schedule for such a premises demonstrates how the licensing objectives will be met. Applicants are strongly recommended to seek the advice of both the council's licensing officers and the Police in this regard.

- 2.3.3 This is a general policy and does not automatically mean that all applications will result in licences being granted until midnight or that no applications will be granted with a closing hour after midnight.

- 2.3.4 In considering these issues the licensing authority will give careful consideration to the nature of the venue proposed. For example, the Council is keen to promote establishments at which the

service and consumption of alcohol is not the primary activity. These may include restaurants, theatres, cinemas, comedy clubs, galleries, museums, and similar venues. The licensing authority's experience is that such venues are liable to give rise to fewer public concerns, and therefore applications for such premises to operate past midnight are more likely to be successful.

- 2.3.5 The licensing authority will pay special regard to the proximity of residential uses to the proposed premises, the parking areas and routes taken by customers when arriving at and leaving the premises. Consideration will be given to the imposition of stricter noise control conditions, if representations are received in areas with a concentration of residential property.
- 2.3.6 The licensing authority will expect premises to be cleared of patrons within a reasonable time of the terminal hour set for the premises. Applicants should state in their operating schedule the time they require to clear the premises. In normal circumstances, this will not exceed 30 minutes from the last sale of alcohol. Where the applicant can show that an extended period would assist in the promotion of the licensing objectives, the Council will consider permitting longer than 30 minutes.
- 2.3.7 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons for restricting those hours. An example would be where the Police make representations that the premises are a focus of disorder and disturbance.

## **2.4 Maximum Capacities**

- 2.4.1 The type of entertainment offered on licensed premises and the closing hour of premises permitted to provide alcohol to the public often have a direct link to crime and disorder, public nuisance and public safety issues.
- 2.4.2 The licensing authority believes that some of the problems that may occur in late night licensed premises may be controlled by good management practices. However, controlling the numbers of customers allowed into the premises will also assist in promoting the following three licensing objectives:
- **the prevention of crime and disorder**
  - **public safety**
  - **the prevention of public nuisance**

## **2.5 Late Night Refreshment**

- 2.5.1 The licensing authority will expect applicants for licences in respect of late night refreshment premises to detail in their operating schedules how they intend to promote the licensing objectives and in particular how they intend to address queue management, litter and noise disturbance.

## **3.0 Licensing Approach**

### **3.1 Partnership Working**

- 3.1.1 The council recognises that licensing functions are not the only means of promoting the licensing objectives. Delivery must involve working in partnership with Planning, Environmental Health, the Police, the Fire Authority, the Crime and Disorder Reduction Partnership, Pubwatch, local businesses and residents, Somerset County Council, transport operators and those involved with child protection.

- 3.1.2 The council recognises that co-operation and partnership remain the best means of promoting the licensing objectives.

### 3.2 Integrating Strategies

- 3.2.1 There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case the council will aim, as far as possible, to coordinate them.
- 3.2.2 Cultural Strategy – The council will monitor the impact of any decisions on the provision of regulated entertainment. The aim is not to deter live music, but to ensure that the licensing objectives are promoted. The council will monitor the effect of licensing on the provision of regulated entertainment, particularly live music and dancing to ensure that any licensing conditions that impose any restrictions on such events are proportionate and reasonable.
- 3.2.3 Equality & Diversity – The council is required by legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between people. The impact of these issues on the Licensing Policy will be monitored and amendments will be made as necessary.
- 3.2.4 Enforcement Policy – All licensing enforcement will be conducted in accordance with the Regulators Compliance Code and the Environmental Health & Licensing Enforcement Procedures.

### 3.3 Avoiding Duplication

- 3.3.1 The licensing authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes such as health and safety at work, fire safety, building control and planning. Conditions will not be imposed if the matters concerned are already provided for in other legislation. However, other legislation may not always cover the unique circumstances that arise in connection with licensable activities and in such cases tailored conditions may be necessary but only if relevant representations are received.
- 3.3.2 Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether or not to grant a licence but only if relevant representations are received.

### 3.4 Conditions

- 3.4.1 Conditions may only be attached if relevant representations are received, any such conditions attached to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned.
- 3.4.2 However, where it is considered necessary to promote one or more of the licensing objectives the licensing authority will ~~consider attaching conditions~~, if relevant representations are received, [consider attaching conditions](#) drawn from the Pool of Model Conditions set out in Revised Secretary of State's Guidance. This list is not exhaustive and additional conditions may be attached to any licence or authorisation if a representation is received.

### 3.5 Enforcement

- 3.5.1 ~~The Council is a signatory to the Enforcement Concordat and will follow the principles set out in it or any successor published by the newly formed Local Better Regulation Office~~[The Council when planning and carrying out enforcement activities will always have regard to the principles in the Regulators' Compliance Code.](#)

- 3.5.2 The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and any licence conditions. It will also be important to monitor the District for unlicensed activities that require a licence.
- 3.5.3 The Licensing Authority has established protocols with Avon and Somerset Police Authority, Somerset County Council Trading Standards and Devon and Somerset Fire Authority on enforcement issues to ensure an efficient deployment of Police and Council Officers.

### **3.6 Live Music, Dancing and Theatre**

- 3.6.1 The council recognises the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of the community and in particular for children and young people.
- 3.6.2 When considering applications for such events and the imposition of any conditions if representations are received on licences or certificates, the licensing authority will carefully balance the need to promote the licensing objectives against these wider cultural benefits.

## **4.0 Administrative Issues**

### **4.1 Temporary Event Notices**

- 4.1.1 The Act requires that a temporary event notice must be given to the licensing authority, Avon and Somerset Police and the environmental health team at WSC a minimum of 10 clear working days before the event or in the case of a late temporary event notice not less than 5 clear working days before the beginning of the event.
- 4.1.2 The licensing authority however recommends that notices are submitted at least 28 days before the planned event to allow enough time for the organiser to liaise with the Police, other relevant council officers and organisations to ensure that the event passes off safely with minimum disturbance to local residents.

### **4.2 Applicants for Personal Licences**

The licensing authority places particular emphasis on the role of premises supervisors and licensees and where the Police object on the grounds of prevention of crime and disorder there will be a presumption against issuing a personal licence to any applicant with an unspent conviction for a relevant offence. If the applicant can demonstrate exceptional and compelling reasons for disregarding the conviction, this will be taken into consideration.

### **4.3 Large Scale Events**

Large scale events of a temporary or more permanent nature will generally require detailed planning and more consultation with responsible authorities and possibly representatives of other organisations concerned with safety. For such events it is ~~herefore~~ recommended that applicants contact the licensing team at the earliest opportunity to discuss their proposals.  
~~for large scale events follow the procedure as detailed in Large Scale Event Procedure which can be seen at [www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk) a hard copy of the document can be obtained by requesting a copy in writing to The Licensing Unit, West Somerset Council, West Somerset House, Williton, Taunton, Somerset, TA4 4QA.~~

### **4.4 Reviews of Licence or Club Premises Certificate**

- 4.4.1 The Licensing Act details that where a premises licence or club premises certificate has effect, an interested party or a responsible authority may apply to the relevant licensing authority for a review of the licence. The relevant licensing authority may, at any time, reject on any grounds for review specified in an application under this section if it is satisfied that the grounds are not relevant to one or more of the licensing objectives, or in the case of an application made by a person other than a responsible authority, that the ground is frivolous or vexatious, or the ground is a repetition.
- 4.4.2 The licensing authority can on review of licence or certificate, revoke the licence or certificate, suspend the licence or certificate, remove the Designated Premises Supervisor, reduce hours or licensable activities or add conditions to the licence or certificate.
- 4.4.3 The licensing authority recommends that persons or bodies considering seeking a review should discuss the matter with the licensing team to discuss possible alternatives and to ascertain the correct procedure.

## 4.5 Administration, Exercise and Delegation of Functions

- 4.5.1 The council has a licensing committee, consisting of 11 elected members, to carry out its licensing functions and to make licensing decisions, except those functions relating to the making of a statement of licensing policy.
- 4.5.2 In the interests of speed, efficiency and cost-effectiveness the committee will delegate certain decisions and functions to sub-committees and officers.
- 4.5.3 A licensing sub-committee of three councillors will sit to hear applications where relevant representations have been received from interested parties or responsible authorities. Ward councillors will not sit on a panel involving an application within their ward.
- 4.5.34 WFor example, where there are no relevant representations on an application for the grant of a premises licence or club premises certificate or Police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers.
- 4.5.54 The following table sets out the agreed delegation of decisions and functions to the licensing committee, sub-committees and officers.
- 4.3.65 This scheme of delegation does not prevent the referral of matters to a higher authority if considered appropriate in the circumstances of any particular case.

MATTER TO BE DEALT WITH	SUB-COMMITTEE	OFFICERS
Application for personal licence	If an objection is made	If no objection is made
Application for personal licence, with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation is made	If no representation is made
Application for provisional statement	If a representation is made	If no representation is made
Application to vary premises licence/club premises certificate	If a representation is made	If no representation is made



Application for minor variation to premises licence/club premises certificate		All cases
Application to vary designated premises supervisor	If a police objection is made	All other cases
Request to be removed as designated premises supervisor		All cases
Application for alternative licence condition to be included in licence		All cases
Application for transfer of premises licence	If a police objection is made	All other cases
Application for interim authority	If a police objection is made	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a temporary event notice	All cases	

## 5.0 The Licensing Authority as a Responsible Authority

- 5.1 There is no requirement under the Act for responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. The council will therefore determine when it considers it appropriate to act in its capacity as a responsible authority based on the individual circumstances of each situation and in accordance with its duties under section 4 of the 2003 Act.
- 5.2 The licensing authority would not normally expect to act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and the licensing authority considers it reasonable to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.
- 5.3 The licensing authority will normally expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority.
- 5.4 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; where it considers it appropriate the Council may do without having to wait for representations from other responsible authorities.
- 5.6 In cases where the Licensing Authority is also acting as Responsible Authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or subcommittee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a

separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and responsible authority) to different officials within the authority.

- 5.7 In these cases, the licensing authority where possible will allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) will be a different individual to the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority.
- 5.8 Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, will be made in writing.

## **6.0 Suspension of licences following non-payment of fees**

- 6.1 In order to provide a strong incentive for businesses to pay their fees in a timely manner and save the council the time and cost of pursuing non-payment, the licensing authority will use its powers under the Act to suspend licences due to non-payment of fees.



## GLOSSARY OF TERMINOLOGY

Club Premises Certificate	means a certificate granted to a qualifying club under the Act in respect of premises occupied, and habitually used for the purposes of a club. Alcohol must not be supplied other than to members by or on behalf of the club.
Entertainment facilities	are defined as facilities for enabling persons to take part in entertainment for the purpose of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).
Hot food or hot drink	<p>food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:</p> <p>(i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,</p> <p>or</p> <p>(ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.</p>
Interested Party	<p>is defined as:</p> <p>(i) a person living in the vicinity of the premises</p> <p>(ii) a body representing persons who live in that vicinity</p> <p>(iii) a person involved in a business in that vicinity</p> <p>(iv) a body representing persons involved in such businesses</p> <p><a href="#">(v) a member of the relevant licensing authority-</a></p>
Licensable activities and qualifying club activities	<p>are defined in the Licensing Act as:</p> <p>(i) the sale by retail of alcohol</p> <p>(ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club</p> <p>(iii) the provision of regulated entertainment</p> <p>(iv) the provision of late night refreshment - for those purposes the following licensable activities are also qualifying club activities:</p> <p>(v) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place</p> <p>(vi) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place</p>

	(vii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.
Operating Schedule	<p>means a document that must be prepared by or on behalf of an applicant for a premises licence or club premises certificate containing a statement including the following matters:</p> <ul style="list-style-type: none"> <li>• the relevant licensable activities</li> <li>• the times at which licensable activities are to take place and any other times the premises are to be open to the public</li> <li>• information about the Designated Premises Supervisor</li> <li>• whether any alcohol sales are on and/or off sales</li> <li>• the steps being taken to promote the licensing objectives.</li> </ul>
Personal Licence	authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence.
Premises Licence	authorises the premises to be used for one or more licensable activity.
Provision of late night refreshment	<p>is defined as the provision of hot food or hot drink to members of the public, or a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am</p> <p>or</p> <p>at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.</p>
Regulated Entertainment	<p>is defined as:</p> <ul style="list-style-type: none"> <li>(a) a performance of a play</li> <li>(b) an exhibition of film</li> <li>(c) an indoor sporting event</li> <li>(d) a boxing or wrestling entertainment</li> <li>(e) a performance of live music</li> <li>(f) any playing of recorded music</li> <li>(g) a performance of dance</li> <li>(h) entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).</li> <li>(i) Entertainment Facilities. This definition is subject to Part 1 of Schedule 1 to the Licensing Act 2003 (interpretation).</li> </ul>

Responsible Authority	<p>is defined as:</p> <p>(i) Chief Officer of Police for any Police area in which the premises are situated</p> <p>(ii) the Fire Authority for any area in which the premises are situated</p> <p>(iii) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any area in which the premises are situated</p> <p>(iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated</p> <p>(v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health</p> <p>(vi) a body which:</p> <p>(a) represents those who, in relation to any such area, are responsible for, or interested in matters relating to the protection of children from harm, and</p> <p>(b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters</p> <p>(vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated</p> <p>(viii) in relation to a vessel:</p> <p>(a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be, navigated at a time when it is used for licensable activities</p> <p>(b) the Environment Agency</p> <p>(c) the British Waterways Board, or</p> <p>(d) the Secretary of State</p> <p>(e) the Local Licensing Authority</p> <p>(f) Local Health Bodies for the responsible area to include a Primary Care Trust</p> <p>(g) a person prescribed for the purpose of this subsection.</p>
Temporary Event	<p>is defined as the use of premises for one or more of the licensable activities during a period not exceeding 168 hours usually where a premises licence covering the licensable activity is not in place.</p>
Temporary Event Notice	<p>a document giving notice to the Licensing Authority of intention to hold a temporary event.</p>



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*Presented by:* Erica Lake  
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*Report to a Meeting of:* Licensing Committee  
*To be Held on:* Tuesday 11<sup>th</sup> March 2014  
*Date Entered on Executive Forward Plan Or Agreement for Urgency Granted:* Not applicable

## UPDATE ON INTRODUCTION OF NEW LEGISLATION AND REVIEW OF LICENSING POLICIES

### 1. PURPOSE OF REPORT

- 1.1 To update members on the implementation of the Mobile Homes Act 2013 and associated regulations.
- 1.2 To update members on the schedule of reviews of licensing policies and workload of the licensing team.

### 2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1 *NO DIRECT CONTRIBUTION TO CORPORATE PRIORITIES*

### 3. RECOMMENDATIONS

- 3.1 Members note the recent introduction of the Mobile Homes Act 2013 and associated regulations such as the Mobile Homes (Site Rules) (England) Regulations 2014 and the introduction of a fee policy for West Somerset Council.
- 3.3 Members note the schedule of review of licensing policies in appendix 1 and note the workload tables in the appendix 2 of this report.

### 4. RISK ASSESSMENT (IF APPLICABLE)

#### Risk Matrix

Description	Likelihood	Impact	Overall
Failure to provide an appropriate framework to deliver the requirements of the Mobile Homes Act 2013.	4	3	12
<i>Adopt appropriate procedures and fee structure to implement the act and associated regulation.</i>	2	2	4
Failure of West Somerset Council to keep up-to-date with current legislation will cause a failure in service delivery.	3	3	9
<i>Ensure Members and Staff have appropriate training.</i>	1	2	2

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

## **5. BACKGROUND INFORMATION**

### **Mobile Homes Act 2013**

- 5.1 The Council has a statutory duty under the Caravan Sites and Control of Development Act 1960 to licence caravan sites (including mobile home parks) which have planning permission. There is no discretion to issue a licence where planning permission has been granted, but the Council is able to attach conditions to licences to ensure basic standards relating to the physical condition of the site including matters such as layout and the provision of services and equipment.
- 5.2 People living in mobile (park) homes normally own their home and rent the land on which it is situated from the site owner, paying a 'pitch fee'. The Government estimates that around 85,000 households live in mobile homes on 2000 sites in England.
- 5.3 There are 2 licensed permanent multiple residential caravan sites (ie with more than one caravan) and 7 licensed permanent single residential sites in West Somerset.
- 5.4 The Mobile Homes Act 2013 aims to improve standards in the industry, to give greater protection to home owners and provide more effective enforcement action by local authorities regarding licence obligations. The 2013 Act amends the 1960 Act by introducing new provisions in relation to local authority powers with effect from 1st April 2014. These are:
- Power to charge fees for new residential site licences, licence transfers and variations.
  - Power to charge an annual fee to existing residential site licence holders.
  - Power to refuse a licence (or to refuse to transfer a licence).
  - New enforcement powers to tackle breach of licence conditions including powers to serve and enforce 'compliance notices' and undertake emergency works together with the power to recover expenses.
  - Requirement to be the keeper of 'Site Rules' deposited with the authority by site operators.

The Act also includes requirements around site operators being 'fit and proper persons' but this part of the legislation does not come into force until 2017.

- 5.5 The 2013 Act requires that where a local authority intends to charge fees it must prepare and publish a fee policy, which can be revised from time to time. However, the guidance around the setting of fees is not expected until spring 2014. It is therefore proposed that a fee policy is developed during the coming year to be implemented from April 2015. By delaying the introduction of fees for a year, this will enable the Council to enter into effective consultation with site owners and also assess the costs in exercising this licensing regime. National case law will also provide more clarity as to the appropriate fee charges to apply. As there are so few sites, the potential income is not significant. The application process will therefore need to be low cost, utilise the WSC website and use a risk based inspection programme. The processes and costs of administering caravan site licensing will need to reflect the resources available in the shared service between Taunton Deane and West Somerset Council. It is intended that as with the introduction of the Scrap Metal Dealers Act 2013 that the fee spreadsheet made available from Taunton Deane licensing team will be used to set appropriate fees.

- 5.6 The Government has published the Mobile Homes (Site Rules) (England) Regulations 2014 which set out the procedure for residential parks in England to introduce or change park rules. The Regulations will come into force on 4<sup>th</sup> February 2014. A key point for park owners is that most current park rules will cease to have any effect from February 2014. Park owners must ensure that they consult on new rules with both owners and the local authority. The deadline for this is currently April 2014.

5.7 **Delivery of licensing function and workload update**

The licensing partnership between WSC and TDBC has enabled the Environmental Health and Licensing team to continue to deliver an effective licensing service to residents and businesses within West Somerset whilst the previous licensing officer was on long term leave and since her retirement. The partnership has resulted in an opportunity to achieve consistency across the licensing functions and in approach. The partnership between the Council's has also provided real benefits in improving resilience, finding solutions to common problems identified within both Councils' Licensing Services and issues surrounding the introduction of new legislation such as the Mobile Homes Act and the Scrap Metal Dealers Act. It has also provided an opportunity to review policies in partnership going forward. Appendix 1 shows an updated schedule of licensing policy reviews that includes caravan sites and the Hackney Carriage/ Private Hire policy. This policy was agreed to be reviewed at the previous meeting of licensing committee on 26 November 2013.

6. **FINANCIAL/RESOURCE IMPLICATIONS**

- 6.1 The introduction of the Mobile Homes Act will have resource implications, it is imperative that robust procedures and fee structure supports the decisions of officers and licensing committee and therefore reduces the risk of legal challenge.
- 6.2 A review of all licensing policies has begun in partnership with Taunton Deane Borough Council licensing team and will form a programme of work for the next two years. The review of the Statement of Licensing Policy is nearing completion with a review of the Hackney Carriage/Private Hire regulations being planned for 2014. As a result of new legislation Caravan site licenses are also being reviewed and it is planned that the Street Trading Policy be reviewed in the future. It is intended that this schedule will form a work programme so that resources can be allocated to these reviews.

7. **SECTION 151 OFFICER COMMENTS**

- 7.1 The report deals with a range of issues including a fee structure for the new Mobile Home Act 2013 and associated regulations. The fee will be included in the overall schedule of licensing fees from April 2015 and will be part of the budget setting process.

8. **EQUALITY & DIVERSITY IMPLICATIONS**

**Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.**

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

- 8.1 The issues in this area will be considered in each review and reported to members as part of that process.

**9. CRIME AND DISORDER IMPLICATIONS**

- 9.1 The Licensing Policies link into a range of issues around crime and disorder. As they are reviewed consideration will be given into how they assist partners such as the Police in managing issues locally.

**10. CONSULTATION IMPLICATIONS**

- 10.1 The policies are all subject to consultation requirements which will be undertaken as part of the review process. These will be reported back to members at the time of each review.

**11. ASSET MANAGEMENT IMPLICATIONS**

- 11.1 There are no specific issues linked to this report

**12. ENVIRONMENTAL IMPACT IMPLICATIONS**

- 12.1 There are broad links to the Statement of Licensing policy which in the main relate to the management of the built environment. These include issues such as noise management at premises.

**13. LEGAL IMPLICATIONS**

- 13.1 The council needs to ensure that all of its licensing policies are kept up to date as part of our statutory duties.
- 13.2 It will therefore be essential to ensure that each policy is reviewed carefully and gives clarity to members and customers about the authority's requirements in order that compliance with the law is achieved.



**APPENDIX 1 SCHEDULE OF LICENSING POLICY REVIEWS**

<b>TYPE OF POLICY</b>	<b>DATE OF REVIEW</b>	<b>CONSULTATION DATES</b>	<b>LICENSING COMMITTEE DECISION</b>	<b>COUNCIL DECISION</b>
STATEMENT OF LICENSING POLICY 2011 -2014	MARCH 2014	OCT – DEC 2013	11 MARCH 2014	MARCH 2014
HACKNEY CARRIAGE/PRIVATE HIRE REGULATIONS	2014-2015	AUTUMN/WINTER 2014		
CARAVAN SITES	2014-2015	DURING 2014		
STREET TRADING POLICY	2015	TBA		

**APPENDIX 2 – WSC LICENSING WORKLOAD 2013/14**



## LICENCE APPLICATIONS &amp; FEES – 2013/2014

Licence Type	No apps Q1	Fees £ Q1	No apps Q2	Fees £ Q2	No apps Q3	Fees £ Q3	No apps Q4	Fees £ Q4	Total apps	Total Fees £
<b>Animal Welfare</b>										
Animal Boarding					6	£681.00				
Pet Shops					1	£113.50				
Riding Establishment	3	£370			1	£106.00				
Zoos										
<b>Private Hire</b>										
Private Hire Vehicle	19	£3,201.50	1	£50.00						
Private Hire Operator	5	£350								
Hackney Carriage Vehicle	36	£6,066	3	£515.50						
Hackney/P Hire Driver	27	£2,340	1	£80.00	3	£240.00				
<b>Premises/Club Licences</b>										
Premises/Club Licences	15	£904	21	£710.50	19	£872.50				
Personal Licences	19	£570.50	18	£560.00	12	£338.00				
Notice of Interest										
Temporary Event Notices	84	£1,764.00	77	£1,617.00	33	£693.00				
<b>Small Society Lotteries</b>										
Small Society Lotteries	5	£120.00	17	£320.00	36	£720.00				
Occasional Use Notices	3	0	1	£0.00						
Betting										
Adult Gaming Centre			1	£1,742.50						
Family Ent Perm										
Family Ent Centre			1	£300.00						
LP Gaming Mach Notifica										
LP Gaming Mach Permit										
Club Machine Permit										

Street Trading	7	£768.00	2	£910.00	3	£247.50		
Street Collections	8	0	7	£0.00	10	£0.00		
House to House Collection	15	0	9	£0.00	17	£0.00		
Camp Sites (tent/tourer)	4	0	4	£0.00	2	£0.00		
Caravan Sites					1	£0.00		
Ear Piercing/Tattooing etc			1	£50.00				
Scrap Metal Dealers Act	1	£92.00			3	£2,265.00		
Temporary Markets	5	£125.00			3	£105.00		
Harbour Moorings	11	£2,247.05						
<b>Totals</b>	<b>267</b>	<b>£18,918</b>	<b>164</b>	<b>£6,855.55</b>	<b>144</b>	<b>£6,381.50</b>		