

The Council's Vision:

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

LICENSING COMMITTEE

AGENDA

26 November 2013 at 4.30 pm

Council Chamber, Williton

1. Apologies for Absence

2. Minutes

Minutes of the Meeting of the Committee held on 23 July 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.

4. Report on Hackney Carriage/Private Hire Regulations

To consider Report No. WSC 156/13 to be presented by the Ian Timms, Corporate Manager Housing, Welfare and Economy – **SEE ATTACHED**.

The purpose of the report is 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.

5. CCTV Minimum Standards in Licensed Premises

To consider Report No. WSC 157/13 to be presented by Peter Hughes, Community Safety Officer – **SEE ATTACHED**

The purpose of the report is 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 a new or amended premises licence.

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6. Update on the Review of Statement of Licensing Policy and the Scrap Metal Dealers Act

To consider Report No. WSC 155/13 to be presented by Erica Lake, Environmental Health and Licensing Manager – **SEE ATTACHED.**

The purpose of the report is 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.

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

| | | | | | | | |
|-------------------|---|----------------|------------|-------------|-------------|----------------|----------------|
| Likelihood | 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 |
| Impact | | | | | | | |

| Likelihood of risk occurring | Indicator | Description (chance of occurrence) |
|-------------------------------------|---|---|
| 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 23 July 2013 at 4.30 pm****Present:**

Councillor D J Sanders Chairman

Councillor H J W Davies
Councillor S Y Goss
Councillor E May
Councillor D J Westcott

Councillor M O A Dewdney
Councillor A P Hadley
Councillor L W Smith

Also in Attendance:

Councillor K H Turner

Officers in Attendance:

Corporate Manager Housing, Welfare and Economy (I Timms)
Environmental Health and Licensing Manager (E Lake)
Licensing Officer (N Sambells)
Licensing Officer - TDBC (O Denis)
Licensing Officer - TDBC (J Rendell)
Meeting Administrator (K Kowalewska)

At the start of the meeting the Chairman, on behalf of the Committee, passed on best regards to the Licensing Officer, Kay O'Sullivan, who was on long term sick leave, and wished her a speedy recovery.

The Chairman welcomed and introduced the Licensing Officers from Taunton Deane Borough Council.

The Lead Member for Housing, Health & Wellbeing took the opportunity to thank the past Chairman of Licensing, Councillor H J W Davies, for his hard work and commitment over the last three years, and wished the new Chairman every success.

LEP1 Apologies for Absence

An apology for absence was received from Councillor P N Grierson.

LEP2 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 | Member of | Action Taken |
|-------------------------|------------------|-------------------------|---------------------|
| Councillor H J W Davies | All Items | Somerset County Council | Spoke and voted |
| Councillor L W Smith | All Items | Minehead (South) | Spoke and voted |
| Councillor D J Westcott | All Items | Watchet | Spoke and voted |

LEP3 Public Participation

No members of the public had requested to speak.

LEP4 Update on Schedule of Policy Review and New Legislation in Licensing

(Report No. WSC 93/13, circulated with the Agenda).

The purpose of the report was to update Members on recent changes to legislation, to seek authority to review the Statement of Licensing Policy 2011-2014, to seek authority to work in partnership with Taunton Deane Borough Council to investigate the use of joint policies and procedures in licensing.

The Corporate Manager Housing, Welfare and Economy presented the report and updated Members on the policies that required reviewing and highlighted on the new licensing legislation.

As part of the licensing policy review process, the Corporate Manager suggested that Members might wish to consider forming a group to advise and assist the Environmental Health and Licensing Manager in the work associated with revising the Council's Statement of Licensing Policy. The Committee were in agreement that Member involvement to consider the new legislation was important in order to effectively update the policy.

Members were advised that a programme of work was being developed between the licensing teams at West Somerset Council and Taunton Deane Borough Council (TDBC) to achieve consistency across the licensing function and options would be explored on duality of policies.

The Licensing Officer (TDBC), Olivia Denis, circulated a briefing note at the meeting which contained a quick guide on the new regulations that had been introduced pertaining to the Licensing Act 2003 Schedule 1 – Provision of Regulated Entertainment; and which also provided details on a consultation being undertaken in connection with the deregulation for community-based film exhibition (the closing date for responses was 28 August 2013). If further information was required, Members were asked to contact Olivia via email (licensing@tauntondeane.gov.uk).

The Licensing Officer (TDBC), John Rendell, provided a summary on the new legislation and guidance relating to the Scrap Metal Dealers Act 2013, which was due to come into force in October 2013. The key changes being introduced included: an enhanced application process; local authorities had the power to revoke a licence; licence fee to be determined by the Council; improved entry and inspection powers; greater record keeping requirements; national register of licensed dealers; requirement to display licences; increased fines for non-compliance.

During the discussion the following main points were raised:

- The Environmental Health and Licensing team were thanked for their hard work in continuing to provide an efficient and effective licensing service.

- Under the new legislation itinerant scrap metal collectors would have to be licenced with the local authority that covers the area where they lived and would be required to produce their full licence documentation when travelling.
- Clarification would be sought on the regulations of selling metal on online sale websites such as Ebay.
- Council officers had the right to enter and inspect a licenced site at any reasonable time provided that notice had been given.

Councillor D J Sanders proposed the recommendations in the report, with an addition to the printed recommendations to include that a working group, comprised of Councillors A P Hadley, E May, R P Lillis, D J Sanders and D J Westcott (with Councillor H J W Davies as a reserve) be set up to review the licensing policies and procedures, and these were duly seconded by Councillor E May.

RESOLVED (1) that the draft schedule of policy reviews (attached as Appendix 1 to the report) including the Statement of Licensing Policy be noted and the Environmental Health and Licensing Manager be authorised to undertake the consultation process. The Environmental Health and Licensing Manager be authorised to review West Somerset Council's licensing policies and procedures alongside the licensing team in Taunton Deane Borough Council to improve the effectiveness and the resilience of the service provided to the public and local businesses.

RESOLVED (2) that the recent changes in legislation, specifically the introduction of the Scrap Metal Dealers Act 2013, and changes to the Licensing Act 2003 concerning the Deregulation of Regulated Entertainment be noted.

RESOLVED (3) that a working group, comprised of Councillors A P Hadley, E May, R P Lillis, D J Sanders and D J Westcott (with Councillor H J W Davies as a reserve) be set up to review the licensing policies and procedures.

LEP5 Update on the Current Working Arrangements to Deliver the Licensing Service

(Report No. WSC 94/13, circulated with the Agenda).

The purpose of the report was to update Members of the Licensing Committee on the current situation in the licensing team at West Somerset Council and the working arrangements with Taunton Deane Borough Council.

The report was presented by the Corporate Manager Housing, Welfare and Economy who advised that due to the long term absence of the Council's Licensing Officer, combined with the maternity leave of another experienced officer, the team had been faced with significant challenges. Consequently, a working arrangement with Taunton Deane Borough Council had been established to assist the existing staff to enable the service to continue. He drew Members' attention to the work programme being scheduled which would explore the redrafting of policies, the streamlining of processes, and staff and Councillor training, to improve and make the service more efficient.

The Environmental Health and Licensing team were once again commended for their hard work in delivering the service and the excellent help provided by the TDBC officers was also acknowledged.

RESOLVED that the current arrangements to deliver the licensing service be noted.

LEP6 Licensing Update

(Licence Applications & Fees for 2012/13 and 2013/14, circulated with the Agenda.)

The Corporate Manager Housing, Welfare and Economy presented the item and reported that despite the challenges faced by the team, the applications had been dealt with accordingly and there was no loss in fee income.

RESOLVED that the update be noted.

The meeting closed at 5.06 pm.

draft

Report Number: WSC 156/13
Presented by: Ian Timms, Corporate Manager Housing, Welfare and Economy
Author of the Report: Erica Lake, Environmental Health & Licensing Manager
Contact Details:
 Tel. No. Direct Line 01984 635207
 Email: itimms@westsomerset.gov.uk

Report to a Meeting of: Licensing Committee
To be Held on: Tuesday 26th November 2013
Date Entered on Executive Forward Plan Or Agreement for Urgency Granted: Not applicable

REPORT ON HACKNEY CARRIAGE/ PRIVATE HIRE REGULATIONS

1. PURPOSE OF REPORT

- 1.1 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.

2. CONTRIBUTION TO CORPORATE PRIORITIES

NO DIRECT CONTRIBUTION TO CORPORATE PRIORITIES

3. RECOMMENDATIONS

- 3.1 Agree to exempt the vehicle outlined in 5.1 from regulation 3.14 of the West Somerset Council Hackney Carriage/Private Hire Regulations and regularise the vehicle as detailed in 5.5.

4. RISK ASSESSMENT (IF APPLICABLE)

Risk Matrix

| Description | Likelihood | Impact | Overall |
|---|------------|--------|---------|
| Failure of West Somerset Council to follow Hackney Carriage/Private Hire Regulations, applicants to appeal decisions and WSC liable for legal costs and compensation. | 3 | 5 | 15 |
| <i>Ensure Members and Staff have appropriate information and legal advice prior to decision making.</i> | 2 | 3 | 6 |

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 A complaint from a Private Hire Operator was received via the WSC website on 23 October 2013 and in writing on 28th October (see appendix 1). The complainant wishes to purchase a Hyundai i800 8 seater taxi for private hire usage, therefore being able to carry 7 passengers.
- 5.2 The vehicle does not comply with item 3.14 of the West Somerset Council Hackney Carriage/Private Hire Regulations. Item 3.14 states that: "Vehicles fitted with a third row of seats with no direct access other than via the row of seats in front will not be licensed as Hackney Carriage or Private Hire Vehicles. The Council considers that passengers not familiar with such vehicles would not be able to achieve easy escape from the rear row of seats in an emergency situation. In case of doubt, proprietors are advised to contact the Licensing Unit before purchasing a vehicle".
- 5.3 Regulation 6.7 of the policy states that "All vehicles, including Multi Purpose Vehicles, must have sufficient safe and suitable access and egress from the vehicle for the driver and passengers, excluding the rear exit. Access to and egress from the vehicle must at all times be available in respect of each seat without the need to move or adjust any seating. The complainant was informed verbally on 6 November that the vehicle in question does not comply with the WSC regulations.
- 5.4 I have been reviewing this requirement in the light of experience gained by the Environmental Health and Licensing Team in the prolonged absence of the licensing officer. It is apparent that this vehicle type is licensed as a taxi in other authorities although this is not universal and there are a range of views on this issue. The main factor that I have considered is that private hire vehicles operate on a pre-booked basis and will generally pick up passengers that are known to them and are familiar with the vehicle. This tends to negate the issues around the rear seat access.
- 5.5 The complainant is also alleging that WSC has not acted in a consistent manner regarding the requirement in regulation 3.14. A Private Hire (PH) Operator applied for and was granted a private hire vehicle licence for a Mitsubishi Grandis in April 2013. This was a renewal of a PH vehicle licence and a change of vehicle at the same time. Unfortunately due to the circumstances at the time officers were not aware of a previous exemption granted in 2010 (decided at special licensing committee on 13 May 2010, report number EHL/10/10) and that the applicant had been informed that any future vehicle must fully comply with the regulations. As the vehicle was exactly the same make and model (a Mitsubishi Grandis Equippe) and there was no indication on the MVM computer system that the vehicle had an exemption only until the vehicle was changed, the licence was granted.
- 5.6 This reissue of the licence is unfortunate and has therefore created an issue of consistency. The driver involved has incurred cost in the purchase of a vehicle and so it seems inequitable to withdraw the licence at this stage. It would seem sensible at this stage to confirm the decision made in 2010 and that future models must comply with regulations at the time of renewal.
- 5.7 In terms of the vehicle outlined in 5.1 above I believe it would be appropriate to grant it an exemption to enable the complainant to purchase the vehicle. In granting this exemption a condition will be applied similar to that in 5.6 above which would require an application for exemption on further vehicles.
- 5.8 Whilst the regulations continue to apply until amended I would advise that members should review the requirements in regulation 3.14 at that time of that review as I believe them to be unnecessarily onerous. There is a risk that other PH operators and drivers may have wished to purchase a vehicle similar to those described above but decided against this as it

would not have complied with the regulations. Whilst this is recognised they are still able to come forward and apply for exemption from regulation 3.14. Any application for exemption would need to be considered by a licensing panel or committee.

6. FINANCIAL/RESOURCE IMPLICATIONS

6.1 This report would lead to the exemption of a new vehicle and would regularise the situation with regards to an existing vehicle. There should be no implications with regards to finance

7. SECTION 151 OFFICER COMMENTS

7.1 The section 151 officer has read the report and has no comment to make.

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 do link into a range of issues around crime and disorder. As they are reviewed how they assist partners such as the Police in managing issues locally will need to be taken into account.

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. A review of the Hackney Carriage/Private Hire Regulations, currently planned for 2014/15 will require a consultation period.

11. ASSET MANAGEMENT IMPLICATIONS

11.1 There are no specific issues linked to this report.

12. ENVIRONMENTAL IMPACT IMPLICATIONS

12.1 There are no implications related to this report.

13. LEGAL IMPLICATIONS

13.1 The legislation provides the right of appeal against revocation of the licence to the Magistrates court. This could result in the decision being overturned and costs against the council.

APPENDIX 1 COMPLAINT LETTER

West Somerset Council
Killick Way
Williton
Somerset
TA4 4QA

25 October 2013



BY POST (HAND DELIVERY) AND BY E-MAIL

Dear Sirs,

THIS IS A COMPLAINT

I refer to my complaint, lodged on the WSC website on 23 October, security code 553872, relating to the proposed purchase by me of a Hyundai i800 8-seat taxi for private hire usage. (My reference to Coastline Taxis should have been to Eurocars).

I show below a Mitsubishi Grandis similar to that you recently found compliant and which is now licenced and operated by Eurocars. This is a family estate car in which the rear seats drop down into the luggage space, hardly ideal for a commercial business. Access to the rear seats is effected by dropping down the middle row seat.



Elegance Automobile Tel 02432 901299

I now show below the Hyundai i800 which I propose to operate, if approved. This is a commercial vehicle with fixed, not drop down, rear seating. It is widely advertised in the trade press for private hire usage.



The second image shows the middle row seating with the quick-release lever which operates the fold forward middle seat. The near-side seat is similar.

There is a history of bias towards Eurocars and against myself relating to the licensing of vehicles for private hire. This is recorded in previous correspondence but I repeat here:-

Eurocars have previously been granted a licence to use a vehicle with similar access to a vehicle I currently use. You insisted that an offside seat be removed from my vehicle to facilitate egress. No such requirement for egress was made for Eurocars. Councillors subsequently overturned your decision and my seat was restored, not before a significant loss in revenue was sustained because I was unable to carry 7 passengers. The fact that passengers in the rear seats were required to exit the vehicle on the roadside, not the nearside, was apparently not an issue for you.

You have now licensed a further vehicle for Eurocars which, again, is clearly non-compliant, if Mrs Lake's interpretation of the regulations is correct.

Clause 3.14 states the council view relating to vehicles with 3 rows of seats; however, this can clearly be varied, as in the case of Eurocars Mitsubishi. I cannot complain if the rules are applied consistently, but if bias is clearly and repeatedly in favour of a competitor, there is a case for me to take this matter further.

The Council seems to prefer vehicles with tip-up rear facing seats, but customers do not want, and generally will not, travel long distances in cabs with these rear facing seats, they are uncomfortable and less safe than conventional seats because passengers are basically sitting on a shelf.

I am running a busy and successful business; I am willing and able to expand, thus creating jobs for local people. The council should be supporting me and like-minded businesses, not creating obstacles that competitors are not required to face.

I shall be glad if the Council will confirm that they will apply the regulations consistently, and that if the Hyundai is non-compliant, you will remove the licence for the Mitsubishi. *Grandis Equip*

Failing your willingness to agree to this option, would you please confirm that if I want to obtain a similar Mitsubishi to Eurocars, you will agree to licence it, and if not, does the council have a list of 7 or 8-seat vehicles with forward facing seats that would comply?

Yours faithfully,


copies of this letter have been sent to: -

Mr Ian Timms

Clr David Sanders

Mrs E. Lake

others

Report Number: WSC157/13
Presented by: Peter Hughes, Community Safety Officer
Author of the Report: Peter Hughes, Community Safety Officer
Contact Details:
 Tel. No. Direct Line 01984 635302
 Email: phughes@westsomerset.gov.uk

Report to a Meeting of: Licensing Committee
To be Held on: 26th November 2013
Date Entered on Executive Forward Plan N/A
Or Agreement for Urgency Granted:

CCTV MINIMUM STANDARDS IN LICENSED PREMISES

1. PURPOSE OF REPORT

- 1.1 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 a new or amended premises licence.

2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1 This measure does not directly contribute to any of the corporate priorities. However, it does conform to our statutory duty under Section 17 of the Crime and Disorder Act, 1998.

3. RECOMMENDATIONS

- 3.1 That the Licensing Committee agree to adopt this set of minimum standards for CCTV in licensed premises that are subject to an application for a new or an amended premises licence.

4. RISK ASSESSMENT (IF APPLICABLE)

Risk Matrix

| Description | Likelihood | Impact | Overall |
|-------------|------------|--------|---------|
| | | | |

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 Evidence captured from CCTV is increasingly pivotal to the investigation and prosecution of criminal offences. The use of CCTV within licensed premises has become common practice and is, normally, a condition of the grant of a new premises licence. However, the quality of the recorded images can be of such a poor quality or are retained for such a short

period of time that they are of little benefit to the investigation of criminal offences that occur in or in connection with those licensed premises. The Police have developed a set of minimum standards (a draft copy of which are appended to this report). These seek to ensure that any CCTV that is installed at any premises that are either subject of an application for a new premises licence or are subject to major refurbishment or an application for a substantial change of use meets these minimum standards. If agreed by the licensing committee this document will be amended to include reference to West Somerset Council.

6. FINANCIAL/RESOURCE IMPLICATIONS

6.1 Nil

7. SECTION 151 OFFICER COMMENTS

7.1 The section 151 officer has read the report and has no comment to make.

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 use of CCTV is governed by the Data Protection Act and there is a requirement for the use of CCTV in public places to be advertised by appropriate signage which all members of the public can be aware of.

9. CRIME AND DISORDER IMPLICATIONS

9.1 These minimum standards will, potentially, make a significant contribution to the reduction of offences upon licensed premises and the successful investigation and prosecution of any offences that do occur and their adoption will also be in accordance with our statutory duty under Section 17 of the Crime and Disorder Act, 1998.

10. CONSULTATION IMPLICATIONS

10.1 There is no requirement for consultation regarding these minimum standards.

11. ASSET MANAGEMENT IMPLICATIONS

11.1 Nil

12. ENVIRONMENTAL IMPACT IMPLICATIONS

12.1 Nil

13. LEGAL IMPLICATIONS

13.1 An applicant for a new or amended premises licence could challenge the licensing committee's decision to require these minimum standards as a condition of the grant of a new or amended licence. However, this is the case for any conditions that the committee may seek to impose.

Somerset Policing District

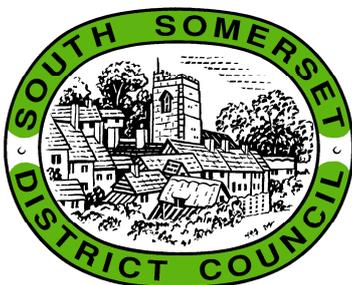
CCTV SYSTEMS

WITHIN

LICENSED PREMISES

OPERATIONAL REQUIREMENT

GUIDANCE



Amended 09/02/2012

Page No

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1 **Introduction**

Closed Circuit Television, commonly referred to as CCTV, is a rapidly developing technology. A correctly designed, installed and maintained system can be an effective tool in the potential prevention and detection of crime.

This document is intended to provide a **minimum** performance specification for the installation of a CCTV system, or the upgrade of an existing system, within licensed premises. The primary objectives of installing a CCTV system within such an environment are –

- To seek to influence behaviour of patrons.
- To protect staff and property.
- Where necessary, to provide unequivocal evidence of an incident to assist subsequent prosecution.

An effectively installed and managed system will also help to prevent criminal and anti-social behaviour.

Proposed CCTV installations for licensed premises must comply with the requirements of this guidance. A suitably qualified company should be engaged to design and install the system to ensure compliance.

A system specification will be supplied to the Licensing Authority.

The following guidance seeks to assist the reader in the procurement process. It provides a checklist of criteria which are required for the specification of an effective CCTV system and is, in part, based upon advice published by the Home Office Centre For Applied Science and Technology (CAST) (formally the Home Office Scientific Development Branch (HOSDB)).

2 Operational Requirement Analysis

What is an Operational Requirement?

“A statement of needs based on a thorough and systematic assessment of the problems to be solved and the hoped for solutions”.

In its simplest form an Operational Requirement (O.R) makes the reader ask a series of simple questions -

- Why am I installing a CCTV system?
- What do I want it to do?
- Where should I install cameras?
- How should I record the images?

The Home Office Centre For Applied Science and Technology advise the use of the Operational Requirement checklist methodology for a number of reasons including –

- It is relevant to any size of system – Town Centre to Corner Shop.
- It is relevant to any type of system – Analogue or Digital.
- It is relevant at any stage in the system's life – from initial concept to upgrade.
- It identifies the role that the CCTV system will play in the overall security strategy for the premises.

When a client contracts an installer to design a CCTV system the installer will require certain information to enable them to create the specification for an effective system. It is unlikely that the client will have sufficient technological knowledge to specify which equipment is required.

The use of an Operational Requirement approach simplifies the process and reduces the opportunities for confusion, which may lead to a non-complaint installation.

The Operational Requirement should answer the following questions –

Who and/or where is to be observed?

- Customers, Patrons and staff.
- Internal/External use

What activities are of concern?

- Incidence of disorder.
- Assaults.
- Theft of property.
- Damage to property.
- Dealing of drugs.
- Drug abuse.
- Suspicious actions.

Why are the activities being observed?

- To monitor behaviour.
- To recognise and identify offenders.
- To produce physical evidence of incidents, which may subsequently be used in Court?

Picture Quality

The quality of images recorded is of paramount importance. They should therefore -

- Clearly show actions of persons involved in an incident.
- Provide supporting evidence of identity of offenders.
- Show an overall view of the scene.
- Be time and date stamped.
- A basic Operational Requirement covering these points should enable the installer to specify an appropriate system.

3 Equipment

In its simplest format a CCTV system comprises of one or more cameras, a multiplexer, a monitor, and a means of recording images. If poorly specified, each item has the potential to reduce the image quality. To enable accurate identification from recorded images, the Police Scientific Development Branch recommends that the system should produce an image quality at the monitor of 450 TVL (television lines)

4 Cameras

Image quality is measured against either the Rotakin or 'Faces' Standard. The Rotakin target was developed by the CAST (HOSDB) as a means of auditing the efficiency of a CCTV system. It consists of a human silhouette target 1.8m in height. When the target fills the screen it is said to be 100%R.

There are four image standards -

| Category | Person Screen Height | Image Quality |
|------------------|-----------------------------|--|
| Identify | 100% | Sufficient picture quality and detail to identify an individual beyond reasonable doubt Must pass CAST 'Faces' test |
| Recognise | 50% | Viewers can say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before. Same recording quality setting as that used for Identify |
| Observe | 25% | Some characteristic details of the individual, such as distinctive clothing can be seen. Must be able to distinguish between individuals |
| Detect | 10% | Sufficient image size and quality to enable an observer to detect whether an individual is present |

The quantity and location of cameras will be site specific. They must meet the requirements identified within the Operational Requirement procedure in accordance with BS.EN.50132.7. The cameras wide dynamic range must be operational 24 hours at all light levels, not disabled at low light - full colour.

All external public access doors must be fitted with colour cameras which enable clear, unobstructed images of all persons entering/exiting the premises. Where practicable, these cameras should be mounted internally.

These cameras must be capable of producing CAST Identification standard images (a minimum of 400 TVL resolution and **100%** Rotakin screen target height) and monitor.

The exterior of all entrance/exits will be covered by cameras to a radius of 4 metres of that door capable of providing CAST recognition standard images (a minimum of 400TVL resolution at **50%** Rotakin screen height) at the monitor.

All internal cameras must be capable of producing CAST Recognition standard images (a minimum of 400 TVL resolutions at **25%** Rotakin screen target height) at the monitor.

CCTV cameras are susceptible to interference and vandalism. Cameras should be fitted with robust anti-tamper housing to prevent such actions.

All cameras must be a minimum standard of 400 TVL. They must have back light compensation, direct drive or amplification capability, and a sensitivity of a minimum of 4 lux.

5 Monitors

A colour monitor must be provided with the system to view live or recorded images. The monitor must not be located where it can be viewed by unauthorised personnel.

The monitor must be capable of producing minimum of 400 TVL processed images. Images displayed on monitors must not be visible from outside the premises.

Certain premises may be advised to install a "comfort" monitor in the vicinity of the external public access doorways(s). This monitor should display images produced by the camera covering the said doorway. It **must not** display images produced by any other camera located within the premises. Patrons entering the premises will be made aware of the fact that their images are being recorded by a CCTV system, enhancing the systems potential deterrent value.

6 Recording of Images

As established during the Operational Requirement process one of the main reasons for installing a CCTV system is to produce evidence, which may be used in Court in accordance with BS.8495. The images must therefore be recorded.

Images must be recorded onto the hard-drive of a digital recorder.

7 Digital Recording Systems

The video format utilised must be PAL or PAL/NTSC.

The system must incorporate sufficient build-in hard-drive capacity to suit the number of cameras installed. The system must record at a minimum of **6 frames per second (fps) on all cameras within the premises, however, cameras covering entrance doors must record at 12fps** (*real time equals 25 frames per second so this would record/capture 50% of action*). This can be achieved either by total capacity of the hard-drive or where appropriate, by event controlled recordings, ie alarm activated or motion activated.

The system must have duplex multiplexing facility or greater, to allow for simultaneous image recording and playback. There must be no interruption in recording during the playback process.

The system must incorporate a means of transferring images from the hard-drive to a format that can be played back on any windows compatible computer.

The image file should therefore be transferred to a WORM (Write Once Read Many Times) media such as CD-R disc. CD-R must be "finalised" or "closed" in the CD-writer before the disc is removed, otherwise the image file may not be viewable.

The system must produce images, which are watermarked as part of the original recording process. There must be no subsequent watermarking of images (ie at the time of transfer to removable media).

The application software required to launch and view recorded images must be either included as part of a standard Microsoft operating system installation or be installed to the recorded media when the data is copied to that media.

The quality of the copied data must be of a high resolution as defined by the PC industry standards, eg 1024 x 768.

8 Image Quality

The Digital Multiplexer must have the facility to be password protected.

The image quality setting of recorded images must be set to the operational requirement rather than to minimise the storage capacity. The system must be capable of producing images to the CAST Identification and Recognition standards.

The compression standard should be H.263 or H.264, JPEG or MPEG4. The high resolution images should not be heavily compressed therefore providing poor quality playback images.

9 Image Retention

Systems are often set to over-record images after a set period of time. The system should be capable of recording and retaining **31** days of images before over-recording.

10 Time and Date Stamp

Digital recording equipment must record time and date information as part of the image file. The time/date must be accurate.

11 Image Integrity

The integrity of images removed from a hard-drive for evidential purposes is vital. They must be protected at the earliest opportunity to reduce opportunities for challenges in Court. Designating the image as read only can prevent alteration or erasure.

12 Security of Equipment

The monitor and recording equipment should be located in a secure room. Where this is not practicable, the recording equipment must be stored in a **secure** cabinet to prevent unauthorised access, tampering, or removal of images.

13 Lighting

When lighting premises, consideration must be taken into account regarding the following factors, which will dramatically reduce the quality of images recorded –

- Excessive shadows.
- Glare into the lens.
- Back-lighting.
- External lighting.
- Impact of rapid changes in light levels from ‘Disco lighting’, lasers etc

Steps must be taken to eliminate or reduce the impact of such factors.

Particular attention must be given to lighting in the area of public access doors. The lighting must produce “white light” to enable clear images and accurate colour retention.

The fields of view of **all** cameras must be sufficiently well lit to enable them to operate as required under normal working conditions.

14 **Signage**

Each system installed must include appropriate signage.

The Data Protection Act 1998 requires that signage around the area where CCTV is being used be erected.

The signs should be placed in the proximity of the cameras so that anyone entering a camera zone will be aware that they are entering an observed area. Advice from the Data Protection Commissioner is that signs should be at least A3 size with wording to identify the person or organisation responsible for the scheme, the purpose of the scheme and who to contact regarding complaints about the scheme.

For example –



15 **CCTV and the Data Protection Act 1998**

All aspects of the CCTV system must comply with the Data Protection Act 1998 and registered with the Information Commissioners Office (ICO) at www.ico.gov.uk . The Office of the Data Protection Supervisor has produced guidance in relation to how the Act should be interpreted, including advice on the required signage. For further information please contact - www.dataprotection.gov.uk

16 Installation

All electrical installation works must be carried out to 17th Edition IEE Wiring Regulations BS7671: 2008. A Minor Works certificate for design, construction, inspection and testing must be provided before completion. The contractor will need to satisfy themselves that existing electrical circuits comply with the current 17th edition electrical regulations before commencing the installation.

17 Commissioning

The complete system must be fully tested, and commissioned in the presence of a representative of the client. The purpose of this test is to determine whether or not the cameras cover the required areas, and if they are capable of providing images to the required standards. An acceptable certificate will need to be signed to prove the installation meets the specification defined.

18 Training/Systems Management

As part of the commissioning procedure, the installer must train the client, or the client's representative, to operate the system and associated equipment effectively. The training must include details of the client's responsibilities in relation to the effective maintenance and management of the system, the provision of user manuals, all relevant handbooks, and technical data. A full workshop manual should be provided.

A separate operator's manual should be provided for system users.

The Client must appoint a trained Data controller who will be responsible for the general administration, operation, maintenance and supervision of the system.

All users must be fully trained in the operation of the system and be made aware of their general legal responsibilities, at all times of operation of the premises there must be a competent person present on the premises capable of replay and export of recordings quickly onto a removable storage medium. Only VHS

tape, CD or DVD will be acceptable, the export method must be proportionate to the storage capacity and pictures should be exported in the native file format at the same quality that they were stored on the system in accordance with BS.8495. This master copy will be available at the time on request of an investigating officer.

An operations manual and code of practice must be provided to cover staff training, fault reporting, maintenance management and evidence handling procedures. The management section should identify the person responsible for the system and daily checking.

19 Service/Management Support

The system must be regularly serviced by qualified operatives to maintain the quality of images recorded; the system must be “fit for purpose”. A record will be kept of all faults, any fault will be “returned to service” within 7 days.

Where any investigating agency becomes aware of three faults within a rolling 12 month period, the system operator will be warned. Where five faults occur within a 12 month rolling period, the matter will be brought to the attention of the licensing authority for breach of conditions attached to the licence.

Each system installed will require a maintenance contract.

| CCTV – Camera Locations | |
|---|--|
| All licensed areas must be covered by CCTV. | |
| The location of cameras is as important as ensuring that the CCTV System installed is of a high standard. Please see the checkpoint areas listed below for camera locations - | |
| Entrances/exits and lobby areas | |
| Pavement area immediately outside entrances of premises | |
| Corridors to toilet facilities | |
| Designated Drug Search areas inside premises | |
| Vending Machines/Gaming Machines | |
| Gaming areas, ie pool tables | |
| Bar areas | |
| Corridor areas | |
| Internal public areas | |
| Car Parks | |
| Beer Gardens/Patio areas | |
| Security offices (safes) | |
| Storerooms | |
| Entrances to living quarters | |
| Delivery areas | |

Camera locations may be specified at the discretion of the Avon & Somerset Police / South Somerset District Council / Mendip Council –

- *Licensing Officer*
- *Community Safety Officer / Crime Reduction Officer*
- *Architectural Liaison Officer*

In respect of any new applications, variations (excluding minor) and premise licence reviews.

Whilst all surveys, reports and recommendations prepared by the Avon and Somerset Constabulary are believed to be accurate and reliable, they are prepared on a voluntary basis without charge. You should note that the Chief Constable, the Avon and Somerset Police Authority and the Home Office will not accept any liability whatsoever, in contract tort (including negligence and breach of statutory duty) or otherwise for any loss, apparatus or materials recommended being found unsuitable, inadequate or defective.

The total elimination of crime cannot of course be guaranteed and in any event is the responsibility of the criminal. However, the range of options mentioned, if implemented, should reduce the opportunity for a crime to be committed.

Crime reduction strategies should be re-assessed on a regular basis.



| CCTV OPERATIONAL REQUIREMENT CHECKLIST | | | |
|--|---------------|------------------|-----------------------|
| 1 Name of Premises | | | |
| 2 Date | | 3 Sheet No | |
| 4 Location within premises | | | |
| Doorway | Corridor | Room | Other |
| 5 Who/What/Where is to be observed? | | | |
| 6 Which activity is to be observed? | | | |
| 7 Why is the activity being observed? | | | |
| 8 Likelihood of an activity occurring - frequency | | | |
| High | Medium | Low | |
| 9 Picture quality achieved | | | |
| 10% R Detect | 25% R Observe | 50%R Recognition | 100% R Identification |
| 10 Lighting conditions | | | |
| Natural | Light | Artificial Light | Both |
| 11 White Light Requirement | | | |
| (Public Access Doorway) | | Yes | No |
| 12 Additional comments/Notes | | | |
| * A CHECKLIST SHOULD BE USED FOR EACH CAMERA OR LOCATION WITHIN THE PREMISES. PLEASE TICK APPROPRIATE BOXES | | | |

Data Protection Act 1998

Compliance Advice

CCTV Small User Checklist

Introduction

This checklist is designed to help operators of small CCTV systems comply with the legal requirements of the Data Protection Act 1998, and it details the main issues that need to be addressed when operating a CCTV system. When used as part of a regular review process it should help to ensure that the CCTV system remains compliant with the requirements of the Act. Compliance is the duty of the owner/operator

It is important that the Data Protection Act is complied with because failure to do so may result in action being taken under this Act. Failure to comply with Data Protection requirements will also affect the police's ability to use the CCTV images to investigate a crime and may hamper the prosecution of offenders.

If you use a CCTV system in connection with your business you should work through the checklist and address all points listed. This will help you to ensure that your CCTV system remains within the law and that images can be used by the police to investigate crime.

www.dataprotection.gov.uk
data@dataprotection.gov.uk

Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire.
SK9 5AF

Tel No 0303 123 1113

Fax 01625 524510

CCTV Small User Checklist

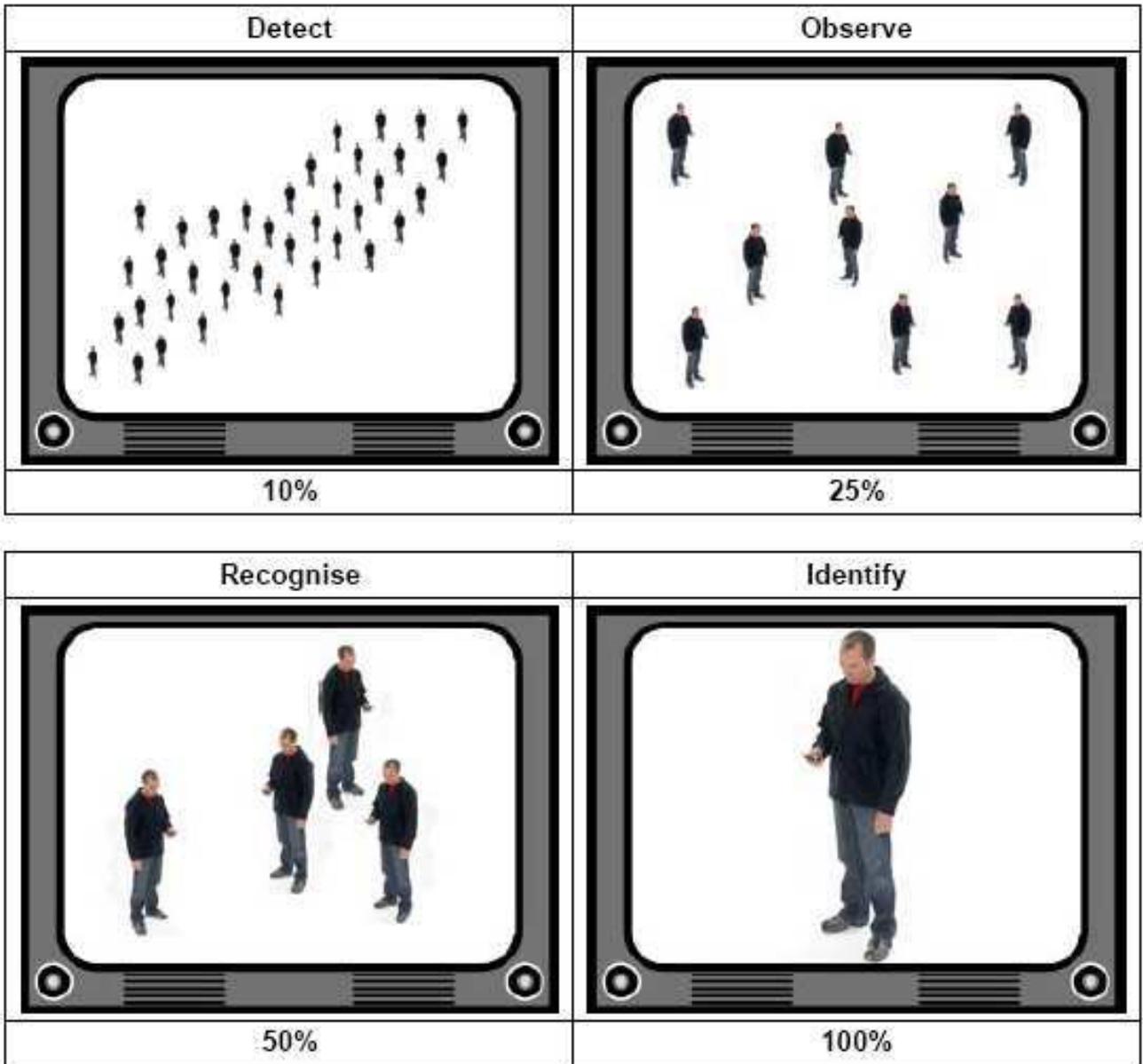
Operation of the CCTV System

This CCTV equipment and the images recorded by it are controlled by _____ who is responsible for how the system is used and for the notifying of the Information Commissioner about the CCTV system and its purpose (this is a legal requirement of the Data Protection Act 1998).

The above controller has considered the need for using a CCTV system and has decided it is required for the prevention and detection of crime and for protecting the safety of customers. It will not be used for other purposes.

| | Checked / Date | By | Date of Next Review |
|--|----------------|----|---------------------|
| The controller is aware that notification to the Information Commissioner is necessary and must be renewed annually | | | |
| Notification has been submitted to the Information Commissioner and the next renewal date recorded | | | |
| Cameras have been sited so that their images are clear enough to allow police to use them to investigate a crime | | | |
| Cameras have been positioned to avoid capturing the images of persons not visiting the premises | | | |
| There are signs showing a CCTV system is in operation visible to people visiting the premises and the controllers contact details are displayed on the sign where it is not obvious who is responsible for the system | | | |
| The recorded images from this CCTV system are securely stored, where only a limited number of authorised persons may have access to them | | | |
| The recorded images will only be retained long enough for any incidents to come to light (eg for a theft to be noticed) | | | |
| Recordings will only be made available to law enforcement agencies involved in the prevention and detection of crime, and no other third parties | | | |
| The operating equipment is regularly checked to ensure that it is working properly (eg the recording media used is of an appropriate standard and that features on the equipment such as the date and time stamp are correctly set) | | | |
| The controller knows how to respond to requests from individuals for access to images relating to that individual. If unsure the controller knows to seek advice from the Information Commissioner as soon as such a request is made | | | |

Please keep this checklist in a safe place until the date of the next review



Report Number: WSC 155/13
Presented by: Erica Lake, Environmental Health & Licensing Manager
Author of the Report: Erica Lake, Environmental Health & Licensing Manager
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Report to a Meeting of: Licensing Committee
To be Held on: Tuesday 26th November 2013
Date Entered on Executive Forward Plan Or Agreement for Urgency Granted: Not applicable

UPDATE ON THE REVIEW OF STATEMENT OF LICENSING POLICY AND THE SCRAP METAL DEALERS ACT 2013

1. PURPOSE OF REPORT

- 1.1 To update members on the review of the Statement of Licensing Policy 2011-2014
- 1.2 To update members on the implementation of the Scrap Metal Dealers Act 2013 and associated fees.
- 1.3 To update members on the current working arrangements in the Licensing Team and management of the workload.

2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1 *NO DIRECT CONTRIBUTION TO COPORATE PRIORTIES*

3. RECOMMENDATIONS

- 3.1 Members note the progress of the consultation with regard to the review of the statement of licensing policy. Appendix 1 shows the draft WSC Statement of Licensing Policy 2014-2018.
- 3.2 Members note 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. Please note the Scrap Metal Dealers Act briefing note in Appendix 2. An Officer recommendation as outlined in the briefing note: it is recommended that the authority makes a Basic Disclosure certificate a requirement of a scrap metal dealer licence application.
- 3.3 Members note the current working arrangements within the Environmental Health and Licensing team and note the workload tables in the appendix 3 of this report.

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 | 4 | 3 | 12 |
| <i>Develop and amend the policy to provide clarity and consistency for members and officers in decision making.</i> | 2 | 2 | 4 |
| Failure to provide an appropriate framework to deliver the requirements of the Scrap Metal Dealers Act 2013 | 4 | 3 | 12 |
| <i>Adopt appropriate procedures and fee structure to implement the act</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**

5.1 **Statement of Licensing Policy**

The current West Somerset Council Statement of Licensing Policy is dated 2011 – 2014. Before determining its policy for another 3 year period, West Somerset Council as the licensing authority is required to consult a number of authorities such as the police and fire authority and also local premises and club premises licence holders, personal licence holders and representatives of businesses and residents in the district. The 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. West Somerset Council has a duty to review its licensing policy every 3 years. New legislation such as the Deregulation of Regulated Entertainment has recently been introduced and therefore the policy updated to reflect this and other recent changes such as responsible authority. The draft statement of licensing policy 2014-2018 is available on the council website and West Somerset Says consultation website. The Environmental Health and Licensing Manager is collating all responses and requests for hard copies of the document. Approximately 300 letters were sent to all licensed premises in West Somerset, business representatives, organisations and responsible authorities in the local area. To date we have received 3 comments, 2 from local businesses. The consultation will remain open until 31st Dec 2013 and a licensing sub-committee has been set up to review all comments received after the closing date. Appendix 1 shows the draft WSC statement of Licensing Policy 2014-2018.

5.2 **The Scrap Metal Dealers Act 2013 (SMDA)**

The SMDA came into force on 1 October 2013 and local authorities are required to set their own fee as part of the legislation. The legislation covers both site and mobile collectors working in the district. To date we have received 3 applications from existing scrap metal and motor salvage operators. Following the Hemmings decision in the high court local authorities are unable to pass on the costs of enforcement in licence fees. Therefore the fee for the SMDA is only able to cover the cost of administering and granting a 3 year licence including an annual inspection. As a result of our partnership arrangements in licensing with TDBC we have fortunately been able to use a model developed by them to

calculate the costs involved in the licensing process from initial receipt of the application to grant of the licence and inspection. Fees across the country do vary widely and as we have so few applications the cost of administering this legislation is spread much more thinly, therefore increasing the costs and fees per applicant. The fee calculator produced a figure of £756.29 for WSC, this compares to the fee at TDBC at £755.00. The fee of £755.00 has been informally agreed by the chair of committee, the portfolio holder and Ian Timms, Group Manager, Housing Welfare and Economy. The fee for renewal of licence is calculated as £744 and a variation of licence at £50. The fees will be taken to full council in January 2014 for full approval. A briefing note on the SMDA is contained in appendix 2 and contains the background to the recommendation regarding a basic disclosure document.

5.3 **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 existing Licensing officer was on long term leave. The partnership has resulted in an opportunity to achieve consistency across the licensing functions and consistency in approach. The partnership between the Council's has also provided real benefits in improving resilience and finding solutions to common problems identified within both Councils' Licensing Services. A member of staff has also recently returned from maternity leave providing further resource to the licensing function. Please note the updated workload spread sheets in appendix 3.

6. **FINANCIAL/RESOURCE IMPLICATIONS**

- 6.1 A review of all licensing policies has begun in partnership with the Taunton Deane Borough Council licensing team and will form a work programme for the next two years. The Statement of Licensing Policy review which is a major policy is underway with a review of the Street Trading Policy and Hackney Carriage/Private Hire regulations being planned for the future. It is intended that this schedule will form a work programme so that resources can be allocated to these reviews.
- 6.2 The main implications are on staff resources but it should be noted that as legislation changes and government seeks to reduce the burden on businesses this could affect fee income and the resources and skills required to deliver the service.

7. **SECTION 151 OFFICER COMMENTS**

- 7.1 The report deals with a range of issues including Scrap Metal Dealers. Members should note that the initial fee for 13/14 has been agreed in conjunction with the portfolio holder and chairman of licensing committee. This fee will in future be included in the overall schedule of licensing fees so the fee for 14/15 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 do link into a range of issues around crime and disorder. As they are reviewed how they assist partners such as the Police in managing issues locally will need to be taken into account. Issues associated with metal theft are connected to the introduction of the Scrap Metal Dealers Act 2013.

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 – DRAFT WSC STATEMENT OF LICENSING POLICY 2014-2018

WEST SOMERSET COUNCIL
West Somerset House Killick Way Williton Taunton TA4 4QA
T 01643 703704 F 01984 633022 DX 117701 WILLITON
E customerservices@westsomerset.gov.uk W www.westsomersetonline.gov.uk



DRAFT
Statement of
Licensing Policy
2015 – 2018

WEST SOMERSET COUNCIL
Council Offices 20 Fore Street Williton Somerset TA4 4QA

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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 2014-2018.
The Policy became operative from

~~If you wish to make comments on this Licensing Policy or if you want f~~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
Taunton
Somerset
TA4 4QA

Telephone: 01643 703704
Fax: 01984 633022
E-mail: licensing@westsomerset.gov.uk
[Website: www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk)

Field Code Changed

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
~~Internet~~[Website](http://www.gov.uk/government/organisations/department-for-culture-media-sport) :
<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 Young Persons' 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

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 so 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 Vicinity

- 3.4.1 The term "vicinity" is used in the Act on a number of occasions and, in particular, with reference to those "interested parties" who may lodge objections to applications for premises licences and who may make representations concerning existing premises licences. The Act defines an "interested party" as being "a person living in the vicinity, a body representing persons living in the vicinity, a person involved in a business in the vicinity, ~~or~~ a body representing those persons [or a member of the relevant licensing authority](#)".

However, the Act does not define the term "vicinity".

- 3.4.2 The Licensing Authority has decided that in order to assist applicants and residents it would be helpful to provide guidance as to how it will approach the meaning of the term "vicinity." The Licensing Authority will normally treat the term "vicinity" as meaning within a 100 metre radius of the premises in question. However it is open to an applicant to argue that, in particular instances, an objection from an "interested party" within this radius is not relevant, for example,

where a major traffic route lies between the resident and the premises and noise from the premises is highly unlikely to affect the resident. It is also open to an “interested party” located outside of this radius to argue that a representation is valid, for example, where the resident lives on the route from the premises to bus stops or main taxi ranks or car parks.

3.5 Conditions

- 3.5.1 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.
- 3.5.2 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.

3.6 Enforcement

- 3.6.1 ~~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.](#)
- 3.6.2 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.
- 3.6.3 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.

3.7 Live Music, Dancing and Theatre

- 3.7.1 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.
- 3.7.2 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 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 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 ~~heretofore~~ 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 any ground for review specified in an application under this section if it is satisfied that the ground is 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 Unit 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 15 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 [W](#)For 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.

APPENDIX A

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>(v) a member of the relevant licensing authority-</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>(i) 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>(ii) 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> |

| | |
|-------------------------------------|---|
| | (iii) 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"> • the relevant licensable activities • the times at which licensable activities are to take place and any other times the premises are to be open to the public • information about the Designated Premises Supervisor • whether any alcohol sales are on and/or off sales • the steps being taken to promote the licensing objectives. |
| 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> <p>(a) a performance of a play</p> <p>(b) an exhibition of film</p> <p>(c) an indoor sporting event</p> <p>(d) a boxing or wrestling entertainment</p> <p>(e) a performance of live music</p> <p>(f) any playing of recorded music</p> <p>(g) a performance of dance</p> <p>(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).</p> <p>(i) Entertainment Facilities. This definition is subject to Part 1 of Schedule 1 to the Licensing Act 2003 (interpretation).</p> |

| | |
|------------------------|---|
| 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) 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 96 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> |

APPENDIX 2 – SCRAP METAL ACT BRIEFING NOTE

Scrap Metal Dealers Act 2013 – How we approach the Act and the applications that are made

The Scrap Metal Dealers Act 2013, which commenced on the 1st of October 2013, repealed the Scrap Metal Dealers Act 1964 and Vehicles (Crime) Act 2001, bringing together the regulation of scrap metal dealers and motor salvage operators into a single licensing regime.

The Act has created two areas of ‘headache’ for Local Authorities; deciding what types of operation will require a licence and what checks the Authority should make in deciding whether the applicant is a suitable person. This aim of this briefing note is to examine both questions by identifying the options that are open to Local Authorities and any benefits/drawbacks, in order for a clear direction to be chosen. An officer recommendation is offered on both topics.

Which types of operation require a Scrap Metal Dealer Licence?

The Act gives a broad definition of scrap metal dealers, being any person who runs a business which wholly or partly, buys or sells scrap metal or any person who is a motor salvage operator. This definition excludes manufacturing businesses where scrap metal is a by-product of the manufacturing process but still captures a huge variety of types of operation. With the inclusion of motor salvage operators, the scope for licensing goes way beyond traditional scrap metal yards; potentially covering operations like garages, electrical companies and builders.

The ‘Scrap Metal Dealers Act 2013 - Supplementary Guidance’ published in October by the Home Office offers some assistance, albeit limited. Whilst it suggests that civic amenity sites run by Councils and trade persons where selling metal is incidental to the business e.g. electricians or plumbers, do not require a licence, it leaves Local Authorities equally in the dark with the suggestion that ‘It will be a question of fact for a court to decide whether, under all the circumstances, the buying or selling of scrap metal forms the whole or part of a person’s business, or alternatively, whether the buying or selling of scrap metal forms such a minimal part of their overall business dealings that the definition of scrap metal dealer in the Act is not made out.’

Whilst the reference to the courts is unhelpful, it does imply that an element of pragmatism should be used and that the intention of the legislation is not to licence every business that deals in scrap metal. The ‘Guide to the Scrap Metal Dealers Act 2013’, published by the Local Government Association in August, suggests that Local Authorities look at each case individually. There is emphasis on whether the selling or buying scrap metal forms an ‘integral part of the business’. The guide also suggests a number of questions which a Local Authority could ask to aid decision making:

- Is the applicant a business?
- Is the applicant associated with any other business that might buy or sell metal (eg subsidiaries, businesses run by the same people, companies within a group etc)?
- Do they buy scrap metal in any form as part of the business?
- Is the purchase or sale of scrap metal an integral part of the business?
- Is the buying or selling of metal advertised by the business, including on the internet?
- Is any advertising of metal sales etc done separately from the main part of the business?
- Is the metal sold as a by-product from a manufacturing process?
- What happens to any waste metal that is collected by the business?

Officer recommendation

Despite the Act being unclear, my recommendation is that, in keeping with the spirit of the legislation, that each case be judged on its own individual merits using as an aid, but not exclusively, the list of questions from the LGA 'Guide to the Scrap Metal Dealers Act 2013'.

It is my belief that this Authority would, by applying the Act to the letter, create a considerable amount of enforcement workload by pursuing any operations which fall into the Acts scope, much of which would have the potential for legal challenge.

How do we test whether a person is 'suitable'?

In considering whether to grant a licence, Local Authorities must consider whether the applicant is a 'suitable person'. The suitable person test extends beyond individual applicants to include partnerships. For companies, their directors, secretaries and shadow directors are assessed and where site licence applications are concerned, any designated site managers.

The Act has created a list 'relevant offences' to assist Local Authorities in deciding whether applicants with criminal convictions are suitable to hold a licence. It also allows Local Authorities to consult with the Police.

Section 2 of Schedule 1 of the Act prescribes information that must accompany the application. This includes a list of any relevant offences that the applicant has been convicted of and any relevant enforcement action they are subject to (if they have been charged with a relevant offence but the court proceedings have not been concluded).

It is interesting that, in the supplementary guidance published by the Home Office, it states that in order to 'verify the information provided in the application form, local authorities request that applicants submit a Basic Disclosure certificate for themselves and any person listed on the application form.' This is not a requirement of the Act which is unusual when compared with an application for a Personal Licence under the Licensing Act 2003. Like the Scrap Metal Dealers Act, there are relevant offences and the applicant must give details of any relevant offences they have been convicted of. However, for the grant of a personal licence, it is prescribed in the legislation that the application must be accompanied by a criminal record certificate (Basic Disclosure certificate being an accepted type of criminal record certificate).

The Basic Disclosure certificate has currently been adopted, as a requirement of the application, by all Local Authorities in Somerset, excluding Taunton Deane and West Somerset.

The question I pose is should this Authority require a Basic Disclosure certificate upon application when it is not a requirement of the Act? By making the certificate a requirement of the application, it puts an additional administrative and financial burden on the applicant, which would appear to contradict with the central government policy of reducing the impact of regulation on business. It would appear therefore, that a simple solution would be to consult with the Police (as the Act allows) and ask that they disclose a full list of convictions that the applicant may have. Avon & Somerset Constabulary and British Transport Police have both responded to the suggestion, confirming that they do not have the resources to assist the Council in this way. They have also advised that any other relevant information that is held on Police file will only be disclosed if the Council were to obtain a Basic Disclosure certificate first.

If this Authority took the decision to not make the Basic Disclosure certificate a requirement of the application, the Authority would be entirely reliant on the application form being filled out correctly, with any relevant offence convictions and enforcement disclosed. Given that it is an offence under the Act to make a false statement, we would expect that the risk of the application not being truthfully completed would be mitigated. There is a secondary risk however, that the applicant mistakenly completes the application through ignorance. It is quite conceivable that an applicant may not know that a conviction they have is relevant under the Act. The schedule of relevant offences does not make reference to specific offences, for example 'An offence under section 1, 5,

or 7 of the Control of Pollution (Amendment) Act 1989'. Considering that criminal record certificates do not always state the Act and section that an offence was committed under, it can make it very difficult for the applicant to know where they stand. We also understand that within the scrap metal trade, there are a percentage of operators with limited literacy skills and this would only add to the problem.

Without a Basic Disclosure certificate upon application, there is a potential for the Authority to license unsuitable operators. This would put public property and possessions at risk, given that scrap metal dealers can collect metal from homes and in the case of mobile collectors, without prior arrangement. Whilst when licensed, these operators would face tight controls, ensuring their compliance with the Act would most likely rely on frequent inspections.

Officer recommendation

For the reasons outlined above, it is my recommendation that this Authority makes a Basic Disclosure certificate a requirement of a scrap metal dealer licence application.

Provided by John Rendell, Licensing Officer, TDBC.

LICENCE APPLICATIONS & FEES – 2013/2014

| Licence Type | No apps | | Fees £ | | No apps | | Fees £ | | Total apps | Total Fees £ |
|----------------------------|------------|----------------|------------|------------------|---------|----|--------|----|------------|--------------|
| | Q1 | Q1 | Q2 | Q2 | Q3 | Q3 | Q4 | Q4 | | |
| Animal Welfare | | | | | | | | | | |
| Animal Boarding | | | | | | | | | | |
| Pet Shops | | | | | | | | | | |
| Riding Establishment | 3 | £370 | | | | | | | | |
| Zoos | | | | | | | | | | |
| Private Hire | | | | | | | | | | |
| 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 | | | | | | |
| Licences | | | | | | | | | | |
| Premises/Club Licences | 15 | £904 | 21 | £710.50 | | | | | | |
| Personal Licences | 19 | £570.50 | 18 | £560.00 | | | | | | |
| Notice of Interest | | | | | | | | | | |
| Temporary Event Notices | 84 | £1,764.00 | 77 | £1,617.00 | | | | | | |
| Other Licences | | | | | | | | | | |
| Small Society Lotteries | 5 | £120.00 | 17 | £320.00 | | | | | | |
| 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 | | | | | | | | | | |
| Other | | | | | | | | | | |
| Street Trading | 7 | £768.00 | 2 | £910.00 | | | | | | |
| Street Collections | 8 | 0 | 7 | £0.00 | | | | | | |
| House to House Collection | 15 | 0 | 9 | £0.00 | | | | | | |
| Camp Sites (tent/tourer) | 4 | 0 | 4 | £0.00 | | | | | | |
| Caravan Sites | | | | | | | | | | |
| Ear Piercing/Tattooing etc | | | 1 | £50.00 | | | | | | |
| Scrap Metal Dealers Act | 1 | £92.00 | | | | | | | | |
| Temporary Markets | 5 | £125.00 | | | | | | | | |
| Harbour Moorings | 11 | £2,247.05 | | | | | | | | |
| Totals | 267 | £18,918 | 164 | £6,855.55 | | | | | | |