

# South Somerset District Council

*Notice of Meeting*



## Licensing Committee

*Making a difference where it counts*

**Tuesday 13th June 2017**

**10.00 am**

**Council Chamber B  
Council Offices  
Brympton Way  
Yeovil  
BA20 2HT**

(disabled access and a hearing loop are available at this meeting venue)



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The public and press are welcome to attend.

If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, **Jo Morris, Democratic Services Officer**, website: [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk)

This Agenda was issued on Monday 5 June 2017.

**Ian Clarke, Director (Support Services)**

This information is also available on our website  
[www.southsomerset.gov.uk](http://www.southsomerset.gov.uk)



# Licensing Committee Membership

The following members are requested to attend the meeting:

**Chairman:** David Recardo  
**Vice-chairman:** Crispin Raikes

Clare Aparicio Paul  
Jason Baker  
Neil Bloomfield  
Dave Bulmer  
Nigel Gage

Val Keitch  
Tony Lock  
David Norris  
Wes Read  
Garry Shortland

Alan Smith  
Linda Vijeh  
Martin Wale

## South Somerset District Council – Council Aims

South Somerset will be a confident, resilient and flexible organisation, protecting and improving core services, delivering public priorities and acting in the best long-term interests of the district.

- Protect core services to the public by reducing costs and seeking income generation.
- Increase the focus on Jobs and Economic Development.
- Protect and enhance the quality of our environment.
- Enable housing to meet all needs.
- Improve health and reduce health inequalities.

## Members Questions on reports prior to the Meeting

Members of the Committee are requested to contact report authors on points of clarification prior to the Committee meeting.

## Recording and photography at council meetings

Recording of council meetings is permitted, however anyone wishing to do so should let the Chairperson of the meeting know prior to the start of the meeting. The recording should be overt and clearly visible to anyone at the meeting, but non-disruptive. If someone is recording the meeting, the Chairman will make an announcement at the beginning of the meeting.

Any member of the public has the right not to be recorded. If anyone making public representation does not wish to be recorded they must let the Chairperson know.

The full 'Policy on Audio/Visual Recording and Photography at Council Meetings' can be viewed online at:

<http://modgov.southsomerset.gov.uk/documents/s3327/Policy%20on%20the%20recording%20of%20council%20meetings.pdf>

## **Information for the Public**

The Licensing Committee shall be responsible for those functions listed in part 3 of the Constitution as being the responsibility of the Committee. This will include licensing matters referred to it by officers, in accordance with the Officer Scheme of Delegation, such as contested public entertainment licences, and applications for taxi driver licences where the officer considers the application should be determined by members. The Committee shall also be responsible for all the functions assigned to it under the Licensing Act 2003.

The Statutory Licensing Committee has responsibility for all activities under the Licensing Act 2003 and the Gambling Act 2005 except for policies and fees. Established under the Licensing Act 2003, it exercises the functions of the Licensing Authority which itself is the Council.

The Other Licensing Committee can be responsible for all other licensing matters. Established by the Council under discretionary power contained in Section 101 of the Local Government Act 1972.

It is lawful for the membership of the two committees to be the same, but they are differently constituted and run under different powers.

Meetings of the Licensing Committee are held bi-monthly at 10.00am normally on the second Tuesday of the month in the Council Offices, Brympton Way.

Licensing Committee agendas and minutes are published on the Council's website [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk)

The Council's Constitution is also on the web site and available for inspection in council offices.

Further information can be obtained by contacting the agenda co-ordinator named on the front page.

# Licensing Committee

**Tuesday 13 June 2017**

## Agenda

### *Preliminary Items*

1. **To approve as a correct record the Minutes of the Previous Meeting held on 13th December 2016 and various Licensing Sub Committee Meetings**
2. **Apologies for Absence**
3. **Declarations of Interest**

In accordance with the Council's current Code of Conduct (as amended 26 February 2015), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting.

### 4. **Public Participation at Committees**

#### **a) Questions/comments from members of the public**

This is a chance for members of the public and representatives of Parish/Town Councils to participate in the meeting by asking questions, making comments and raising matters of concern.

### *Items for Discussion*

5. **Street Trading Policy** (Pages 5 - 58)
6. **Enforcement Update** (Pages 59 - 60)
7. **Appointment of Chairmen for Licensing Sub Committees** (Page 61)
8. **Training for Licensing Committee Members** (Page 62)
9. **Frequency of Licensing Committee Meetings** (Page 63)
10. **Date of Next Meeting** (Page 64)

# Agenda Item 5

## Street Trading Policy

*Executive Portfolio Holder:* Angie Singleton  
*Head of Service:* Laurence Willis, Assistant Director Environment  
*Lead Officer:* Nigel J Marston, Licensing Manager  
*Contact Details:* nigel.marston@southsomerset.gov.uk or (01935) 462150

## Purpose of the Report

To inform members of the results of the Street Trading Policy consultation and the Scrutiny Task & Finish Review.

## Recommendation(s)

- 1) To note the contents of the report.
- 2) Recommend the adoption of the revised Street Trading Policy as detailed in Appendix One.
- 3) Request that Council delegate the power to make any minor amendments to the Street Trading Policy to the Licensing Manager in consultation with the Director for Service Delivery.

## Background

The new policy was prepared and submitted to Licensing Committee in December 2016. The policy was also subject to a Scrutiny Task & Review Group.

The group decided to undertake a consultation on the new policy from the 5<sup>th</sup> December 2016 to 3<sup>rd</sup> February 2017. This 9 week consultation period was felt necessary to ensure a wide range of responses were received and that traders who would be busy in the run up to Christmas, would have sufficient time to respond.

The consultation was sent to current street traders, carnival committee representatives and all town and parish clerks. In addition a press release was sent out to all press agencies drawing their attention to the consultation.

The major changes proposed to the policy were as follows:

- Ice cream sellers and sandwich delivery rounds would require street trading consent.
- A right of appeal against refusal has been added (page 8).
- Right to work checks will be conducted on the applicant for permanent pitches and any assistants that they may employ (page 9).
- ID badges will be issued to applicants and assistants (page 9).
- Basic criminal record checks will need to be provided for all applicants for permanent pitches and assistants (page 9).
- Vacant pitches will be advertised on the licensing website (page 12).
- Food trading consents will only be granted to those with a four or five star food hygiene rating (page 13).

## Consideration of Responses

Members of the Task and Finish Group were supported by the Licensing Manager in this element of their work. A total of 15 responses from a wide variety of organisations were received to the

consultation. A full list of the responses and the groups comments on each are attached as Appendix Two.

Many of the comments were discounted after consideration as members felt that the policy already covered these points. Other comments were considered to be helpful and minor alterations to the policy were made as a result.

There were two particular areas that members felt required further input, these were carnivals and mobile traders such as ice cream sellers and sandwich rounds. The Licensing Manager was requested to look at both of these issues and provide members with an opportunity to look at these two particular areas in more detail.

### **Carnivals**

The Licensing Manager reported back to members that other Somerset Council's do not charge a fee for street trading at carnivals. In other areas of the country street trading at carnivals is chargeable.

Members were keen to support carnivals but were not entirely convinced that such a large scale event should be totally exempt. It was therefore suggested that carnivals should be able to apply for an exemption from the requirements of street trading. This was on the proviso that they submitted an application with relevant supporting documentation and paid a nominal fee. The fee to be designed purely to cover the cost of dealing with the application and providing the exemption certificate. It was suggested that this fee should be no more than £50.00, with the exact fee to be determined via the normal fee setting process. It was agreed that the policy be amended to reflect this.

### **Mobile Sandwich Delivery & Ice Cream Sellers**

Research was carried out looking at other licensing authorities and how they treat mobile ice cream vendors and sandwich rounds. It is clear that if they are at a venue in a fixed spot they will require a permission unless it is an event that requires payment to enter. However if they are mobile there is no uniform approach. It is apparent that some have treated them as roundsmen, South Somerset District Council is a case in point. However R v Bulldog which was an ice cream sales company who challenged Brighton Council, states from the court ruling that ice cream vendors could not be treated as roundsmen.

Hillingdon Council in London were identified as a council who deal with them as itinerant vendors and therefore do not issue them with a licence or consent unless they are static. The same can be said of North Somerset Council, Sedgemoor District Council and more recently Taunton Deane.

The only issue that would need to be clarified is how long a trader can stay in one place to be regarded as static. This is a common sense issue and we would consider 15 minutes long enough in one road. As identified previously this is the time limit used by London local authorities.

The issue of enforcement of any kind in respect of itinerant street traders is very difficult as they may have a route they follow but this is open to change by the nature of their business and it would clearly be time consuming and inefficient to wait to see if someone is operating with or without a consent. In addition to this fact, the licensing team do not currently have any capacity to undertake further enforcement.

In conclusion members were of the opinion that any sort of control by the licensing department of mobile street vendors which are not static or part of an event was unnecessary and the policy should be amended to make it clear that these types of traders are to be considered exempt from street trading.

## **Financial Implications**

The administration and enforcement of street trading will be cost neutral to the authority.

## **Implications for Corporate Priorities**

There will be a positive impact on promoting a strong economy with thriving rural and local businesses by this policy enabling street trading to take place lawfully. It will also prevent those that are unlicensed from competing with those that are licensed and enable appropriate enforcement action to be taken.

## **Other Implications**

None

**Background Papers:** Licensing Committee 13/12/16  
Scrutiny Committee 29/11/16, 31/01/17, 28/02/17, 04/04/17 and 01/06/17

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# Street Trading Policy

## Edition 4

May 2017



|   |                   |
|---|-------------------|
| <b>Issue and version :</b>                  | Issue 4 Version A |
| <b>Officer/Panel Controlling Procedure:</b> | Licensing Manager |
| <b>Authorisation Level:</b>                 | Full Council      |
| <b>Authorisation Date:</b>                  | March 2017        |
| <b>Review date:</b>                         | March 2022        |



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## **1 Purpose of the Policy**

The purpose of the Council's street trading policy is to create a street trading environment, within the District of South Somerset which: -

- complements premises-based trading establishments;
- promotes appropriate street trading activities, which provide diversity and consumer choice;
- supports community cohesion and equalities
- enhances the character, ambience and safety of local environments;
- is sensitive to the needs and concerns of residents;
- will complement and inform other Council initiatives including those on street entertainment and encouraging entertainment diversity
- highlights the requirements and standards expected of street traders
- is fairly, appropriately and proportionately controlled, in line with the Council's Enforcement Policy;
- provides clear guidance to the Council officers who will administer the street trading service under it.

## **2 What is Street Trading?**

The purpose of the Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) is to ensure that Councils can properly regulate those who sell without the use of ordinary business premises and, particularly, traders who move from place to place. It is concerned, primarily, with commercial activities, excluding the provision of services, but there are grey areas and each case needs to be considered on its facts.

South Somerset District Council (SSDC) has adopted Schedule 4 of the Act for the whole of its area and has designated all streets in the District as 'consent streets' for street trading purposes.

The effect of this designation is that trading in any street is prohibited by law (subject to legal and other exemptions set out in Section 3 below), without first obtaining a Street Trading Consent (a Consent) from the Council.

Street trading means 'selling, exposing or offering for sale any article (including a living thing) in a street'. From this definition, any person offering purely a service e.g. a shoeshine (where there is no tangible good such as a picture or sketch) will not be caught by the street trading legislation.

The term 'street' includes 'any road, footway, beach or other area to which the public have access without payment'. Any person street trading without a valid Consent commits a criminal offence.

The courts have held that the definition of a 'street' does not depend upon the area of land in question being in public ownership and private land may be classified as 'a street' too if it meets the definition in the Act and the precise circumstances of the trading indicate that it amounts to street trading.

The matters that the Council is likely to consider relevant when deciding whether an area is a 'street' include: -.

- whether the trading outlet is built on solid foundations;
- whether the trading takes place within a building including areas where the one or more sides are open to the elements e.g. the area known as the "undercroft" at Castle Cary would not be considered a 'street';
- the nature of construction of the trading outlet e.g. of brick/block
- which of the mains services are connected (if any)?
- whether permanent planning permission has been gained
- would the trading outlet be difficult to move? i.e. is a crane required to move it onto or off of a site?
- whether it comes and goes onto the site e.g. it is removed each day?
- is the trading outlet moved to a different site(s) each day?
- distance from the nearest highway. If you are trading within 15 metres of a street, road or car park, there is a presumption that you will need a street trading consent subject to the other exemptions applying. If you trade from a position of more than 15 metres from a street, road or car park, please contact the Licensing Service to see whether a Consent is required as each case is judged on its own set of circumstances.
- the original purpose/nature of the item for sale e.g. whether it is a wholly charitable or domestic purposes or is the sale of a service rather than goods.

The fact that a trader has a lease or licence i.e. a right to occupy the land, or has some other form of consent e.g. planning consent or a licence under the Licensing Act 2003, will not override the requirement to obtain a Consent where the trading amounts to street trading. Similarly, holding a Consent for street trading will not remove the obligation, on the trader, to comply with any other legal requirements e.g. holding a current food business registration nor override the duty to comply with the general law concerning e.g. trespass (the landowner's permission to occupy the land must be obtained), highways, planning, licensing, health and safety, nuisance, waste disposal requirements etc. Appendix 1 provides some information about other legislative requirements, however, this is not intended to be a comprehensive guide and does not for example cover planning or highways matters.

The requirement to obtain an Consent for any street trading is wide-ranging and would include, for example, all hot and cold food vendors selling burgers, kebabs, doughnuts, ice cream etc., and all vendors of non-food products from any vehicle, stall, barrow, trailer, or any other moveable or static structure. Mobile artists who sketch or paint, or similar artisans who sell their own work are also likely to be caught by the Act.

Advice should be sought from the Licensing Service on the proposed activity/location to see if a Consent is required before starting to trade: Telephone 01935 462462 or email [licensing@southsomerset.gov.uk](mailto:licensing@southsomerset.gov.uk)

### **3 Exemptions from the need to obtain a Consent**

Some types of trading are legally exempt from the need to obtain a Consent; these include:

- a person trading as a Pedlar under certificate (currently issued by the Police);
- a market trader operating at a market venue which acquired this status by virtue of a grant, enactment or order.

- a news vendor selling only newspapers and periodicals. This exemption is subject to restrictions which are set out in Appendix 3
- trade which is carried on at premises used a petrol station
- shops do not require a Consent even if they operate outside the actual building providing it is, essentially, an extension of the shop etc. e.g. where a shoe shop has rails of shoes on display outside the shop; again this does not negate the need to comply with other legislation such as the requirement for a pavement licence (obtainable from Somerset County Council), if appropriate:
- trade carried out by 'roundsmen'. A 'roundsman' has been defined as one who visits a 'round' of customers delivering the orders of those customers". e.g. milkmen.
- charitable collection e.g. selling poppies in aid of the Royal British Legion (although a collection permit, under the Charities Act 1992 may be needed)

The Council has decided that the following trading activities do not require a Consent:

- goods from working farms sold at the premises where they were produced
- goods sold at Local Farmers'/Producers' Markets etc. providing such markets meet the Code drawn up by the Somerset Farmers' Markets organisation (basically, this term means that the food is being sold within 30 miles of where it was produced. Advice should be sought from the Licensing Service to see if the market, in question, meets the required criteria before trading commences. These outlets are seen as part of the Council's rural investment and regeneration work, in supporting local producers, and, hence, are seen as extensions of the farms rather than street trading.
- Business premises are allowed, normally, the same exemption as shops in terms of goods displayed outside of the premises because their position is analogous to shops but the items displayed must be, still be, essentially, an extension of the business.
- sales of articles by householders on land within the boundary of their home providing that this is not a commercial concern e.g. selling home grown fruit and vegetables, homemade jams etc. Such sales are seen as disposal of surplus domestic produce rather than trading
- Trading at an illuminated carnival provided an exemption certificate has been applied for and granted.
- an event that is community-based and run, for non-commercial purposes, such as a fete or school fund raising activity, again, this is seen as non-commercial fund raising. Where **any** of the profit of the trading is retained by the trader for private gain, and not passed to the organisers of the event for use in, or by, the community concerned then the trader will not benefit from the fee exemption (unless a fee is charged to those entering the event);
- Events run by charities or political or educational activities providing the profits from such events are wholly passed to the charity or political or educational organisation concerned because such activities are not commercial trading;
- Traders that are part of an established travelling fair.
- Trading in the "Undercroft" area of the Market House, Castle Cary.
- Mobile Ice Cream vans and mobile sandwich/hot food vendors.<sup>1</sup>

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<sup>1</sup> Mobile traders would not stay in any one street or location for longer than 15 minutes and would not return to the same location on the same day.

Please contact the Licensing Service should you wish to discuss this further:  
Telephone 01935 462462 or email [licensing@southsomerset.gov.uk](mailto:licensing@southsomerset.gov.uk)

#### **4 Nature of Goods, Activities and Trading Hours**

The Council would not normally grant, a Consent for the sale of goods which conflict with those provided by nearby shops or markets because it could provide an unfair economic advantage to the holder of the Consent.

The type of goods allowed to be sold will be considered on a pitch-by-pitch basis having particular regard to local needs, product diversity and specialism e.g. artisan breads, and appropriateness of the proposed location in terms of space and balance.

Street trading hours will mirror, normally, those of the shops or businesses in the immediate vicinity except for hot food takeaways where trading hours will be determined on a pitch-by-pitch basis.

The design and appearance of the Trading Unit e.g. stall, barrow, van or cart etc. used must be agreed by the Council's Licensing Manager before a Consent would be granted.

#### **5. Application for and Issue of a Consent**

A Consent is needed before any person can trade in a street within South Somerset. Details of the application procedure, whom to contact and the current fees payable for a Consent is set out in the Application Form.

Where the proposed site for trading concerns land owned by this Council or Somerset County Council, as Highway Authority, then permission from the relevant Council must be obtained before an application for Consent is made. A separate charge may be payable for this permission.

For land in the ownership of the SSDC you need to contact the Senior Land and Property Officer, The Council Offices, Brympton Way, Yeovil, BA20 2HT or telephone on 01935 462462. .

Where the proposed site for trading concerns land in private ownership then permission from the relevant landowner must be obtained before a Consent will be granted. The relevant permission should be included with the application for a Consent.

#### ***Who can apply?***

To apply for a Consent a person must be: -

- an individual (although 2 people can apply jointly) but not a company or other legal entity
- over 17 years of age
- legally entitled to live and work in the UK

- of good character (see below under Determination of the Application for Consent)

### ***Receipt of Applications and Fees***

An application will be treated as being received, only, when a correctly completed relevant application form and all the necessary supporting evidence has been received at the Brympton Way Council Office and the relevant fee has been paid.

The application can only be checked by a member of the Licensing Service, and only where a prior appointment has been made. Should an application be left at any other South Somerset District Council office or without an appointment, it will be treated as a postal application.

As a concession, if the applicant is applying for a yearly Consent then an instalment plan for the fee is available at the Council's sole discretion. The first monthly instalment must be paid in full when the application form is submitted and for the remaining instalments a Direct Debit mandate will be required.

If the fee is being paid by instalments, then, where the direct debit is dishonoured or stopped, the Council, will revoke any Consent issued, immediately, unless payment of the outstanding fee is made in cash, within 5 working days, at the Council office that issued the Consent. In such cases, an administration charge may also be added to the fee payable to cover any additional costs incurred by the Council.

Cheques are to be made payable to 'South Somerset District Council' -. Post-dated cheques will not be accepted.

Card payments can be made at one of the Council's offices or a member of the Council will contact the applicant where they have indicated they wish a card payment to be taken.

### ***Insurance***

The Council will accept no liability for the street trading activities undertaken by the Consent Holder(s). Evidence of suitable public liability insurance (minimum value of £5 million) will be required from the Consent Holder(s). National Association of British Market Authorities (NABMA) membership cards can be used as proof of public liability insurance.

The Insurance once accepted by a relevant Officer, must be maintain throughout the period of the Consent and the Consent will be revoked should the insurance be cancelled or breached or its terms altered so as to provide less than the level of cover required. Once the Consent is revoked the trading becomes illegal and the trader(s) may then be subject to enforcement action.

If the insurance is due for renewal during the period covered by the Consent, it is the responsibility of the Consent holder(s) to provide to the Council an original public liability insurance certificate to show that the insurance is continuous for the period of the Consent. Any breaks in the period of insurance may be grounds for revocation of the Consent.

## ***Determination of the Application for Consent***

Applications for a Street Trading consent will be determined by the relevant Licensing Officer, under delegated powers, using such of the criteria listed below or such other factors as are relevant and appropriate to the application in question. Each case will be assessed on its own merits and individual circumstances, where appropriate, may be taken into consideration. The criteria include whether the application:

- is at an appropriate site or pitch. The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the street. In particular, reference will be made to the matters referred to in Section 7 below
- creates more trading opportunities for small businesses or otherwise contributes to the economic vitality of the area. The existence of shops and businesses operating in the area will be considered if appropriate to avoid, amongst other things, unfair economic advantage,
- satisfies an unmet need for such goods in the immediate locality of the proposed activity e.g. fast food outlets on trading estates bearing in mind the presence of existing like outlets
- supports appropriate special events such as community, educational or charitable events (but see Section 3 – Exemptions - where the event is wholly charitable etc.)
- places an unreasonable burden on other agencies or bodies. The street trading activity should not present a significant risk to good public order in the locality in which it takes place.
- presents a significant risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading.
- supports community cohesion and the needs of under-represented groups
- is environmentally sustainable (including the applicant’s proposals for generating such power as is needed by the trading unit; dealing with any waste and litter arising from the activities)

The decision on whether to grant the consent may also take account of the suitability of the applicant to hold such a consent including relevant unspent convictions etc., levels of complaints received about the applicant(s) and whether and how such matters were resolved; whether any earlier Consent to the applicant(s) has been surrendered or revoked. The decision may take into account the attitude of the applicant and/or their staff etc. to dealing with concerns and queries raised by the Council Officers. It may also take account of the appearance of the trading outlet, quality of the goods to be sold and the hours and days for which it is intended to trade.

Where an application for a Consent is not acceptable, in some regard, e.g. the proposed hours of operation are too long; a Consent may be offered on terms which would be acceptable to the Council. Similarly, if after issue, problems or matters of concern arise, the Consent may be modified including adding, removing or substituting conditions, so as to take account of or deal with the concern or problem and ultimately, a Consent may be revoked.

The Act does not provide for a formal route of appeal to the Court where a Consent is not granted, nor does it limit the Council’s power to impose conditions; however, the Council has granted the power to the Licensing Manager to hear any appeal; the applicant must set out their case in writing and provide reasons why it should have

been granted or conditions should not have been imposed. If the appeal is not successful, the applicant will be given full reasons for not granting the Consent in writing (this includes e-mail or other electronic means etc.). The applicant may, also, be able to seek judicial review of the decision through the courts

### ***Issue of a Consent etc.***

Consents shall only be issued to persons who have the legal right to work in the UK. Applicants applying for a 3 month consent or longer shall provide proof of this right to the Council where requested. If the applicant is assisted by any persons at their pitch, they shall also supply proof that their assistants have the right to work in the UK. The applicant is required to supply a current photograph of themselves and any assistants; the Council will upon successful application, issue a badge to the holder (and any assistants) which bears a their photograph. Badges must be visibly displayed upon their person during the period of trading.

The holder of the Consent shall ensure that any persons joining their employ - whether paid or unpaid has received their badge prior to assisting at the pitch and shall return their badge(s) to the Council when they have left this employment within one month of leaving.

The applicant and any assistants shall provide evidence of a suitable background check in the form a basic disclosure to the Council before any consents and/or badges are granted. The disclosure shall not be any older than three months at the time of submission to the Council.

In exceptional short term circumstances such as illness, injury etc then the Licensing Manager shall have the discretion to waive this requirement.

If the application is accepted, a Consent will be issued by the Council in the name of an individual person or jointly to two persons; the Consent is not transferable. Exceptionally, where the Consent was held jointly, the Council may at its sole discretion, allow the transfer from the joint holders to a sole holder.

The Consent will contain the specific terms under which it is granted such as the specific location(s) or area(s) where the street trading may take place, the days and hours permitted, the goods that may be sold together with any conditions that must be met.

The conditions attached to the Consent form part of the Consent and MUST be complied with at all times. Failure to meet the terms of the Consent could lead to the Consent being revoked or not renewed. The Council may vary the conditions, at any time, where it feels it is necessary or desirable and the holder of the Consent shall then comply with the Consent as amended.

Unit Identification document (known as the 'Plate') will be issued with the Consent. The Plate remains the property of the Council and must be returned to the Council if the Consent is revoked or surrendered e.g. because the holder ceases to trade. The form of the Plate will depend on the type of Consent issued.

The Consent and the Plates will be issued only at the Main Council Offices. The applicant (or one of them if joint applicants) will be required to attend in person to collect the Consent and/or Plate(s) including for any replacements. A charge will be made for replacement Consent(s)/Plate(s) unless the circumstances are exceptional, in the opinion of the Licensing Service,



All vehicles, stall, carts or other type of unit used for street trading must display, at all times whilst trading, a valid Plate. The Plate must be displayed in a prominent position on the trading unit so that it is clearly visible, to members of the public using the trading unit.

Under the current legislation, the maximum period for which a Consent may be issued is 12 months. A Consent may be issued, for block or individual bookings, for shorter periods where:

- the trading is at organised street markets, carnivals and similar events
- for mobile street artists/traders
- if officers feel that it is reasonable to allow, initially, a lesser period whilst the trader assesses if the site or pitch is viable

A Consent will state the date of its expiry and will lapse upon that date stated unless renewed; no reminder renewal notice will be issued advising of the imminent expiry of the Consent. The holder(s) of a Consent has full responsibility and liability for ensuring the renewal of the Consent in good time.

Where the existing holder(s) of a Consent wishes to renew it, that person(s) must ensure the application to renew, fee and other information is provided to the Council a minimum of 28 days prior to expiry for the renewal request to be processed.

Where a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. Where, exceptionally, the Licensing Manager agrees to waive this provision, the full fee will be charged for the whole period to ensure the continuity of the Consent whether or not the holder has actually traded during the period since the earlier Consent expired.

Where a Consent has expired but a valid application to renew and full fee was received before the expiry date but the applicant failed to allow sufficient time for the application to renew to be processed, the pitch would be re-offered, normally, to that applicant.

Payment by instalments may be available as set out above under 'Receipt of Applications and Fees'.

In other cases where a pitch becomes vacant, it may be offered to those person(s) who have expressed an interest either as a result of an advertisement placed by the Council or otherwise.

### ***Revocation or Surrender of a Consent***

A Consent may be revoked by the Council at any time after it has been granted, although, where possible, appropriate prior notice will be given to the Consent holder. The revocation may be for a variety of reasons including but not limited to non-compliance with conditions, because the Council or other agencies such as the utility companies require access to the location or because the Council wish to use the site for another purpose or where the landowner revokes his/her consent to use of the land for trading. Written reasons for the revocation will be given and a refund or remittance will be given of any sums paid in respect of any days which remain of the Consent period. The formula to be applied will be as set out below: -

*Number of complete days remaining x the daily fee paid.*

*This amount will be reduced to meet the costs of reinstatement/clearance etc. of site where such works have not been carried out to the Council's reasonable satisfaction.*

In addition, a Consent will automatically be revoked where the application is made by an individual (or both Consent holders if two people hold the Consent) who dies or who lacks capacity under the meaning of the Mental Capacity Act 2005.

The Consent will also be revoked where any public liability Insurance held by the Consent holder(s) is cancelled, not renewed or its terms are breached by the Consent holder(s) or varied so as to reduce the minimum cover stipulated in this Section.

A Consent holder has a duty, under the Consent, to notify the Council of any offences for which s/he is arrested, charged, convicted or cautioned since the grant of the Consent so that the Council can assess whether the Consent should be revoked or the Consent conditions modified.

No claim will lie against the Council where it revokes or varies a Consent and the Consent itself will make it clear that no liability attaches to the Council in respect of any revocation or variation or indeed any act or omission of the Consent Holder.

Where the holder of a Consent wishes to surrender that Consent, e.g. where s/he has stopped trading, then this must be confirmed in writing to the Council and the actual Consent and Plate returned to that Council.

Where a Consent is jointly held by 2 individuals, a surrender by either one of the holders may be accepted by the Council, (whether or not the other holder consents to the surrender) providing the actions mentioned in the last paragraph have been complied with in full. The Council may, at its sole discretion, transfer the Consent to the individual who was a joint Consent holder where they not wish to surrender the Consent

Upon receipt of the valid surrender, the Council may inspect the pitch to confirm that it has been vacated and check that the conditions of the Consent have been met in full. The Council will confirm the date upon which the surrender is accepted and will refund or remit any sum due to the Consent holder(s) for the remaining period of the Consent. The formula will be the same as that used for a revocation.

A deduction may be made by the Council, from any sums due to the holder of a Consent, following the revocation or surrender of that Consent to meet the reasonable costs incurred in ensuring compliance with the terms of the Consent where the Consent Holder(s) failed to do so e.g. the clearance of litter or other detritus from the site, the making good of damage etc. Where the sum expended by the Council on such matters exceeds the sum due to be refunded to the Consent holder(s) then no sum shall be payable to the Consent holder(s) and such sums in excess shall be recoverable by the Council from the Consent Holder(s) as a debt and interest may be added where payment is not made within 14 days of a demand being made.

If the Consent is surrendered and it was subject to a discounted rate, this discount will no longer apply; the holder must then pay the council any monies due in accordance with the nearest undiscounted fee payable for the period of trading.

### ***Consultation and Notice***

Where the proposed pitch is situated in a lay-by outside a residential property the Council will consult with the resident(s) adjacent to the lay-by and will take their relevant representations into account when drafting the conditions to be attached to any Consent granted. No consultation with other persons or bodies will be undertaken, normally, before a Consent is granted or refused but, where Licensing Officers consider it appropriate, advice or comment may be sought from other bodies, such as the police or the highway agency.

The Council does not promise the holder(s) of the Consent peaceful enjoyment of the pitch/site and will accept no liability to the Consent holder(s) whatsoever and will pay no compensation, costs, damages, expenses etc. in relation to any loss, damage or interference that the holder may suffer from any cause whatsoever related to or connected with the Consent including, for example, because the streets are being cleaned or maintained, where an emergency arises or where strikes, riots etc. ensue.

## **6 Established and Proposed Pitches**

There are already certain established pitches at sites within the District where street trading is conducted. Any proposed new pitches will be subject to an assessment of the suitability of that site for the activity in question. The assessment will consider, amongst other matters, the suitability of the pitch for the street trading activities proposed, the implications upon nearby shops, businesses and markets and the accessibility of the pitch for those with disabilities.

Consents from static locations will not, normally, be granted where in the Council's view:

- A significant effect on road safety would arise either from the siting of the trading pitch/activity itself, or from customers visiting, parking or leaving the site; **or**
- There would be a significant loss of amenity caused by, noise, traffic or smell; **or**
- There is an already adequate like provision in the immediate vicinity of the pitch e.g. shops and markets; **or**
- There is a conflict with Traffic Orders e.g. waiting restrictions; **or**
- The pitch or trading unit obstructs either pedestrian or vehicular access, access to shops, traffic flows, or places the public or customers in danger; **or**
- The site does not allow the Consent Holder, staff and customers to park in a safe manner; **or**
- The street trading activity is carried out after dusk and the site is not adequately lit to ensure the reasonable safety of both customers and staff.

Where a Consent is surrendered or revoked, the Council will endeavour to advise the availability of that pitch on its website and should there be more than one applicant for that pitch, the Licensing Manager shall determine which applicant will be successful.

## **7 Fee for Street Trading Consents**

Fee levels and fee structure for a Consent will be set by the Licensing Committee and will be reviewed, normally, on an annual basis. Where a change in fees or fee structure arises the revised fee will apply: -

- from the next renewal following the Committee's decision for existing Consent Holders or
- immediately following the decision for new applications received after the decision date.

Please see our current scale of fees & charges

If the Consent is surrendered and it was subject to a discounted rate, this discount will no longer apply and the holder must pay the council any monies due in accordance with the nearest undiscounted fee payable for the period of trading.

## **8 Conditions which may be applied to the Consent**

Each Consent will set out the following information: -

- names and address(es) of the Consent holder(s)
- the day(s) and hours when street trading is permitted
- the range of goods which may be sold
- the precise details of the location, size and orientation of the pitch itself.

The Licensing Officer dealing with the application will attach such reasonable and proportionate conditions as in all the circumstances is considered to be necessary to maintain adequate public safety, avoid nuisance and anti-social behaviour and generally preserve the amenity of the specific locality. Examples of such conditions are set out in Appendix 2.

Suitable exclusions of liability will be included in the Consent too and the holder(s) will be required, both, to indemnify, fully, the Council against any claims and actions and to maintain appropriate insurance cover as set out under Section 5

In addition, the Consent holder(s) may be held liable for any damage caused to the verge, pavement, highway or any other item of street furniture as a result of the operation of his/her business. Any such damage must be reported to the relevant agency. It is probable that the Consent will be revoked unless the full reinstatement costs (including the Council's reasonable administration costs) are met forthwith and appropriate undertakings provided guaranteeing future good behaviour.

Where the consent is given for a food unit, the Council will normally add the following condition to a consent unless it believes there are extenuating or other significant reasons for not doing so:

The holder of a street trading consent shall hold a four or five star food hygiene rating for the food unit; should that rating fall below four star, and shall ensure that at least a four star rating is obtained within 3 months of

receiving a lower score; should this not be obtained; the consent shall be revoked.

## 9 Enforcement Action

Persons trading without a Consent and who are not exempt (see Section 3 for exemptions) will be the subject of enforcement action in accordance with the Council's Environmental Health Enforcement Policy, which can be found on our website at:

<http://www.southsomerset.gov.uk/environment/environmental-health/environmental-health-enforcement/>

This Policy will also apply to any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the Act and/or established case law.

The following principles will be followed when carrying out street trading enforcement activities:

**Openness:** The Council will be open about how it enforces the legislation in relation to street trading. Appropriate discussions on compliance failures or problems will normally be undertaken as part of the enforcement process.

**Helpfulness:** The Council will advise on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers.

**Proportionality:** The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk or wider public benefit. Appropriate regard will be given to the human rights of all parties involved in its enforcement activities.

**Consistency:** The Council will carry out its duties in a fair, equitable and consistent manner having regard to its Enforcement Policy, any national codes of practice and guidelines and the contents of this document.

In addition, other agency may take enforcement action where breaches of the law are found e.g. trading standards

Consent Holder(s) must allow access to authorised Officers of the Council, and Police Officers, at all reasonable times. Council officers will carry with them and produce on request official identity cards.

## 10 Equality Impact of the Policy

This Policy will be assessed for its impact on equalities issues by the Steering Group for Equalities and changes will be made, where necessary and appropriate, to bring the Policy into line with the equality duties of the Council.

The Council will take all reasonable steps to ensure that it takes account of equality issues in determining applications for Consents and in its enforcement of the street trading regime. An appropriate monitoring system will be put in place to provide information on the future impact of the Policy on the different equalities strands.

## **11 Feedback and Review of the Policy**

The Policy will be reviewed, normally, every three years to assess its effectiveness in meeting the purposes set out above. In addition, the Assistant Director – Environment in consultation with the relevant Portfolio Holder, may make minor changes.

Feedback on the Policy for future reviews should be sent to Licensing Manager or can be made via the Council's website [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk) or by e-mail to [licensing@southsomerset.gov.uk](mailto:licensing@southsomerset.gov.uk)

Where an applicant or any other person has a complaint about how this policy has been applied or the administration or enforcement of street trading by the Licensing Service then the Council's Complaints policy will apply. A copy is attached at Appendix 4.

## APPENDIX ONE

### *Other Legislative Requirements and Good Practice*

The following does not form part of the policy on street trading; its aim is to provide useful information to applicants so that they are aware of other legislative requirements, however the Council does not accept any responsibility for this information, as it is subject to amendment and/or repeal which is not within its remit or control. Please note that this is not an exhaustive list and does not cover, for example, highways or planning consents for which further advice may need to be sought.

### **FOOD HYGIENE**

As there are frequent changes to food legislation it is recommended that applicants and consent holders visit the website of the Food Standards Agency and view their latest publications such as "Food Hygiene – A Guide for Businesses"

<http://www.food.gov.uk/business-industry/food-hygiene>

### **HEALTH AND SAFETY**

All businesses are required to comply with the relevant statutory requirements of the Health and Safety at Work etc. Act 1974 and associated regulations. These regulations set out the requirements of the health, safety and welfare of staff and users. Further advice can be obtained from the Local Authority or the Health and Safety Executive website: [www.hse.gov.uk](http://www.hse.gov.uk)

### **Safety Policy**

If an employer employs 5 or more people, he/she is required by law to produce a written health and safety policy, which their staff must read, understand and follow.

The written policy must:

- i) state their general policy on health and safety.
- ii) state who is responsible for carrying out the policy.
- iii) be revised whenever appropriate detail the arrangements the business has for ensuring health and safety
- iv) be revised whenever appropriate

## Risk Assessment

An assessment of the health and safety risks associated with your business must be carried out. To do this look for the hazards (the things which can do harm) associated with your business. Then decide who might be harmed (you, your staff, customers or other members of the public) and how. The next step is to evaluate the risks (the chance, high or low that somebody will be harmed by the hazard) and decide whether the existing precautions are adequate or whether more should be done. If you employ 5 or more people you have to record your findings. Finally you need to review your assessment on a regular basis and revise it if necessary.

Further information is available in the HSE Booklet 'Five Steps to Risk Assessment'

Persons granted a street trading consent should also be aware of the Regulatory Reform (Fire Safety) Order (RRFSO), which came into force in England and Wales on 1<sup>st</sup> October 2006. Further information is available from the Council's Licensing Service or at:

[www.devonandsomersetfire.co.uk](http://www.devonandsomersetfire.co.uk) .

## First Aid

A proper first aid kit must be provided and all staff must know where to find it. The kit must contain plenty of waterproof dressings (blue if possible), bandages and protective fingerstalls. The level of first aid cover should be determined through the risk assessment process.

## Fire Fighting Equipment

Equipment must be provided appropriate to the types of fire that may be faced e.g. Cooking fat, LPG, electrical etc. This will normally consist of a fire blanket and a dry powder fire extinguisher, both of which should be located near to the door or entrance of the vehicle or stall.

A dry powder extinguisher conforming to BS 5423 1987 (for current extinguishers) or BSEN3 (for all new extinguishers) must be provided.

Extinguisher size to be determined using the following table:

| Length of Vehicle               | Extinguisher Capacity |
|---------------------------------|-----------------------|
| Up to 3.5 metres long           | 1 x 2 kg              |
| Between 3.5 and 4.5 metres long | 1 x 4 kg              |
| Over 4.5 metres long            | 1 x 6 kg              |



Extinguishers should be mounted on wall brackets approximately 1 metre from floor level and adjacent to the exit. A competent person must service extinguishers at least once per year.

## **Electrical safety**

If an electrical generator is used or a connection is made to a permanent electricity supply the consent holder must ensure that the electrical installation is safe. If there is any doubt as to the integrity of the supply or installation the council may ask for a safety certificate from a competent person or body. In most circumstances an inspection by an NICEIC or ECA approved electrician will be satisfactory.

At no time should electric cables be draped across roadway, public footpaths or any other area where the public have access.

## **Electricity Generators**

If a generator is to be used to supply electricity for any stall or vehicle it shall be maintained in good condition and operate without producing any visible smoke. The generator shall be suitably silenced so that it cannot be heard by anyone at the nearest premises.

## **Liquefied Petroleum Gas (LPG)**

All LPG installations must be in accordance with the following code of practice:

### **CODE OF PRACTICE FOR THE USE AND/OR OF STORAGE OF LIQUEFIED PETROLEUM GAS IN MOBILE SHOPS, SNACK BARS AND STALLS**

#### **Storage of L.P.G. Cylinders**

1. If stored *externally*, these should be:
  - (a) Sited on a firm standing.
  - (b) Fitted in an upright position with the valve uppermost in an upright stand or otherwise securely held.
  - (c) Protected from accidental damage or interference.
  - (d) *So sited that the top is below the level of the stall openings, or 1 metre away from such openings.*
  
2. If stored *internally*, these should be:
  - (a) Cylinder should be kept in a compartment that is gas-tight from the interior having half-hour fire resistance.
  - (b) The compartment should be sufficient to contain spare cylinders.
  - (c) The compartment should be positioned away from the service area.
  - (d) Access to the compartment must only be from the exterior of the vehicle and must be fitted with a lock.
  - (e) Compartment ventilation must be at both high and low levels.
  - (f) The compartment must be identified with a suitable sign conforming to BS 5378 11980, e.g. 'L.P.G. HIGHLY INFLAMMABLE'

3. The total quantity of L.P.G. available at a premises should not exceed 50kg

### **Gas Pipes and Fittings**

1. All ferrous pipe-work and fittings to be protected from corrosion. Non-ferrous pipes to be drawn copper or stainless steel with compression-type fittings.
2. No pipes to be run through box sections or cavities.
3. All joints and unions to be easily accessible.
4. Pipes to be securely fixed in position.
5. Flexible hoses to be as short as possible. Only hoses conforming to BS 3212 are to be used and should be changed every two years. All hoses should be secured with proper hose clips.
6. All valves and fittings to be tested with soapy water at regular intervals to ensure that they are tight.

### **Ventilation**

Ventilation in the vehicle or trailer must be sufficient to provide oxygen for gas burning appliances and to remove the products of combustion. This should be by means of permanent vents at high and low levels.

**WARNING – ALL L.P.G. EQUIPMENT IS DANGEROUS UNLESS INSTALLED PROPERLY AND REGULARLY MAINTAINED BY COMPETENT PERSONS. PROFESSIONALLY QUALIFIED PERSONNEL SHOULD CARRY OUT ALL INSTALLATIONS AND MAINTENANCE. THE USE OF L.P.G. SHOULD BE TREATED WITH RESPECT AT ALL TIMES. ALL STAFF MUST BE TRAINED WITH REGARD TO PROCEDURES IN CASE OF FIRE.**

## APPENDIX TWO

### EXAMPLES OF CONDITIONS THAT MAY BE ADDED TO THE CONSENT

#### General

1. The Council retains the right to alter the allocated sale area in the event of unforeseen circumstances.
2. Consent holders and their assistants must not trade under the influence of any illegal or intoxicating substance. Any traders found with illegal substances on their pitch will have their Consent revoked.
3. The Council reserves the right to exercise its powers under the Local Government (Miscellaneous Provisions) Act 1982 to prohibit any street trading for a maximum of six days in any one year where it is deemed necessary by the Council subject to notice in writing at least 14 days prior to removing the consent day(s).
4. Traders and their assistants employed by them shall ensure the public are treated fairly and with courtesy at all times.

#### Site Conditions

1. The trader will be responsible for cleansing the trading area and ensure that all refuse arising as a result of the activities of the trader shall be placed in suitable covered containers provided by the trader, unless otherwise provided by the Council, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible and refuse is disposed of in an approved manner on a daily basis.
2. Street traders must not utilise public bins for their commercial waste.
3. No trader shall wholly own or possess exclusive rights to a pitch. Should the trader be absent from the pitch for whatever reason, any pitch may then be used by an authorised markets organiser or as part of an event; details to be agreed prior to said market or event.
4. The trader when operating on a static site shall have access to suitable and sufficient sanitary accommodation for both the consent holder, and any persons employed in the street trading activity.
5. Advertisements or other notices must not be placed outside of the area of the street trading site, without the written approval of the Councils' planning department. The trader shall not directly or indirectly hawk, tout or solicit custom for or advertise by way of flyer, public address system or otherwise without the express written consent of the Council.
6. The trader shall not place on the street or in a public place any furniture or equipment other than as permitted by the consent and he/she must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.

7. The trader shall trade only from the position, which is detailed on the consent, unless directed to or agreed to by the Licensing Authority.
8. The roof awning or any other projection shall be contained within the pitch area unless agreed by the Council.
9. All goods, containers or other articles shall be contained within the consented pitch area and shall not project beyond.
10. Trading may only take place on the days and during the times specified on the consent without special authorisation being given in writing from the Council.
11. The trader must not cause or allow to be caused any damage to the street surface, street furniture, lighting and landscaping within the permitted area and will be responsible for the making good of any such damage.
12. The street trading consent plate issued by the Council must be conspicuously displayed in a place where the public may view it.
13. Where a structure is not removed at the end of the trading day, no additional permanent or semi-permanent additions or paving shall be erected or constructed adjacent to the structure for which, consent has been granted.
14. No signage or objects shall be placed on the highway or area surrounding the vehicle/premises unless agreed by the Council. Fly posting within the South Somerset District Council area is not permitted.
15. Traders shall not allow any obstruction to fire hydrants, manholes or other street furniture etc., resulting from their business.
16. Where a casual trader has been given consent to use an electricity source owned by SSDC a small charge will be applicable and instructions will be given on the proper use of the supply including health and safety measures.
17. No mobile generators shall be used without the express permission of the Council. Where permission is granted generators shall be so positioned that:
  - they do not present a danger to the public, do not present a fire or similar hazard to the stall, goods displayed thereon or adjoining premises and do not give rise to a nuisance by reasons of noise, vibration, smoke or smell.
18. No combustible materials are to be stored in the vicinity of a generator and suitable first aid and fire-fighting appliance(s) must be immediately available.
19. Wherever possible all generators must be fuelled by diesel oil.
20. No fuel may be stored in the vicinity of a generator.
21. Generators must not be filled up during the trading day. All generators should be filled up at the start of the day before trading.
22. The consent holder shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the general public do not have access to the equipment.

23. All traders using any form of power must have a minimum of a one-litre fire extinguisher suitable for use on the type of equipment being used.

## **Food Trading**

1. Vans and stalls used for cooking must be adequately ventilated.
2. Staff who handle food must be supervised and instructed and/or trained in food hygiene in a way that is appropriate for the work they do.
3. The person or people responsible for developing and maintaining the business food safety management procedures, based on the principles of Hazard Analysis and Critical Control Points (HACCP), must have received adequate training to enable them to do this
4. A valid food registration certificate is in force for the business
5. The holder of a street trading consent shall hold a four or five star food hygiene rating for the food unit; should that rating fall below four star, and shall ensure that at least a four star rating is obtained within 3 months of receiving a lower score; should this not be obtained; the consent shall be revoked.

## APPENDIX THREE

**Extracts from Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 re Street Trading** (N.B the extracts are numbered as set out in the Act).

### ***Interpretation***

1.(1) In this Schedule

"consent street " means a street in which street trading is prohibited without the consent of the district council ;

" prohibited street " means a street in which street trading is prohibited ;

" street " includes-

- (a) any road, footway, beach or other area to which the public have access without payment; and
- (b) a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.

" street trading " means, subject to sub-paragraph (2) below, the selling or exposing or offering for sale of any article (including a living thing) in a street;

(2) The following are not street trading for the purposes of this Schedule-

- (a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- (b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.
- (c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- (d) trading as a news vendor;
- (e) trading which-
  - (i) is carried on at premises used as a petrol filling station; or
  - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- (f) selling things, or offering or exposing them for sale, as a roundsman;
- (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- (j) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

- (3) The reference to trading as a news vendor in sub-paragraph (2)(d) above is a reference to trading where-
- (a) the only articles sold or exposed or offered for sale are newspapers or periodicals; and
  - (b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not-
    - (i) exceed one metre in length or width or two metres in height;
    - (ii) occupy a ground area exceeding 0.25 square metres; or
    - (iii) stand on the carriageway of a street.

#### *Designation of streets*

- 2.(1) A district council may by resolution designate any street in their district as-
- a) a prohibited street;
  - b) a licence street; or
  - c) a consent street.

#### *Street trading consents*

- 7.(1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.
- (2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.
- (3) A street trading consent shall not be granted -
- (a) to a person under the age of 17 years; or
  - (b) for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- (4) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- (5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent -
- (a) obstruction of the street or danger to persons using it; or
  - (b) nuisance or annoyance (whether to persons using the street or otherwise).
- (6) The council may at any time vary the conditions of a street trading consent.
- (7) Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
- (8) The council may include in a street trading consent permission for its holder to trade in a consent street -

- (a) from a stationary van, cart, barrow or other vehicle; or
  - (b) from a portable stall.
- (9) If they include such a permission, they may make the consent subject to conditions -
- (a) as to where the holder of the street trading consent may trade by virtue of the permission;
  - (b) as to the times between which or periods for which he may so trade.
- (10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

### ***General***

8. The holder of ... a street trading consent may employ any other person to assist him in his trading without a further ... consent being required.
- 9.(1) A district council may charge such fees as they consider reasonable for the grant or renewal of a ... street trading consent.
- (2) A council may determine different fees for different types of ... consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according -
- (a) to the duration of the ... consent ;
  - (b) to the street in which it authorises trading; and
  - (c) to the descriptions of articles in which the holder is authorised to trade.
- (3) A council may require that applications for the grant or renewal of ... consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.
- (4) A council may determine that fees may be paid by instalments.
- (5) Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.

### ***Offences***

- 10.(l) A person who-
- (a) engages in street trading in a prohibited street; or
  - (b) engages in street trading in ... a consent street without being authorised to do so under this Schedule; or
  - (d) being authorised by a street trading consent to trade in a consent street, trades in that street -



- (i) from a stationary van, cart, barrow or other vehicle; or
  - (ii) from a portable stall, without first having been granted permission to do so under paragraph 7(8) above; or
  - (e) contravenes a condition imposed under paragraph 7(9) above shall be guilty of an offence.
- (2) It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
- (3) Any person who, in connection with an application for ... a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
- (4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding Level 3 on the standard scale.

### ***Savings***

11. Nothing in this Schedule shall affect -

- (a) section 13 of the Markets and Fairs Clauses Act 1847 (prohibition of sales elsewhere than in market or in shops etc.) as applied by any other Act;
- (b) section 56 of the Food Act 1984 (prohibition of certain sales during market hours).

## APPENDIX FOUR

### The Council's Complaints Policy

If you are dissatisfied about the standard of service received by us, please tell us

*You can make a complaint in writing to the Licensing Manager, South Somerset District Council, Council Offices, Brympton Way, Yeovil, Somerset BA20 2HT, or by phone to 01935 462462 or online through our website <http://www.southsomerset.gov.uk/contact-us/contact-us-online?type=complaint>.*

*Your comment will then be handled in accordance with our complaints procedure outlined below.*

#### **Complaints procedure**

We define a complaint as "an expression of dissatisfaction, however made, about the standard of our service, actions or lack of action by the Council or its staff affecting an individual customer or group of customers". They are dealt with in a series of escalating stages.

##### *Stage 1:*

Any South Somerset District Council officer receiving a complaint will:

1. Establish the exact nature of your complaint (this may be recorded by our Customer Services team).
2. Forward your complaint to the Assistant Director responsible for the relevant Service.
3. The Assistant Director will acknowledge your complaint in writing. A full reply will be posted to you within 10 working days; however if we are unable to reply to you within that period, we will acknowledge receipt of your letter within 5 working days and give you a realistic timescale.

##### *Stage 2:*

If you are not satisfied with the response, please ask for your complaint to be referred to the Strategic Director responsible for the Service. The Strategic Director will investigate the matter and respond to you in full within 10 working days or 5 working days for a holding reply (which will give you a realistic timescale to expect your response).

##### *Stage 3:*

If you feel your complaint has not been resolved by stage 2, you may wish to appeal to the Chief Executive of South Somerset District Council. The Chief Executive will ask a senior officer unconnected with the complaint to review the case. This stage of the procedure will be completed within 20 working days.

##### *Stage 4:*

If you feel your complaint has not been resolved after stage 3, you may wish to pursue your complaint through the Local Government Ombudsman. You will be forwarded the contact details for the Ombudsman after Stage 3. You can find out more about the Ombudsman by visiting their website at <http://www.lgo.org.uk/>

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Appendix Two – Responses and Group Comments

| Comments received from :              | Comments Made   | Response to Comments  |
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| <p>Wincanton Carnival Association</p> | <p><b>Page 4, para 3, Exemptions from the need to obtain consent, 1<sup>st</sup> bullet</b></p> <p>Council’s implementation of persons trading as pedlars, needs to be improved. They should be included the same as any other street trader – they have mobile units, and do not walk to a carnival event.</p> <p>If the certificates are issued by the police, perhaps talks on the design of the certificate can be held. They currently have no photo, can easily be photocopied, need laminating to prevent fraud. Then it needs looking at whose responsibility it is to enforce what the guidelines are that they have to walk to hawk, and only carry their goods.</p> <p>As a carnival we have no powers to stop them turning up, they cause problems in the traffic flow of the procession, as at times dangerous in how they wheel their trolleys out of the procession vehicles, and the crowds, and so on. It needs establishing who is the authority who controls them, if the police issue the licence, then they say they have no powers to move them on, if it is a licensing issue then SSDC needs to up its game. It is difficult to see what they are charged for their certificate. They should be treated as Street Traders, when they attend carnivals – they trade - not peddle/hawk.</p> <p><b>Page 5, 5<sup>th</sup> bullet</b></p> <p>Insert Carnival wares, i.e. programmes, items such as hawkers sell, but at a much lower price. Hawkers should not be exempt.</p> | <ol style="list-style-type: none"> <li data-bbox="1451 347 2051 730">1. This section relates entirely to pedlars/hawkers. The legislation that controls the activities of pedlars is the Pedlars Act 1871. The Pedlars Act 1871 contains its enforcement powers in sections 17 to 20. These sections all clearly state that a constable or officer of police has the power for enforcement within these sections. There is no duty, responsibility or authority within this act to allow for local authority enforcement.</li> <li data-bbox="1451 1209 2051 1343">2. Not necessary as selling for non-commercial purposes by carnival organisations or community groups is already covered by an exemption.</li> </ol> |

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|  | <p><b>Page 5, 10<sup>th</sup> bullet</b></p> <p>Insert Carnival. Traders who donate to carnival should be exempt from paying the fee. Food traders in Somerset come from a long family tradition of supporting carnival. The hike in fees last year to £57, nearly resulted in us not having Food Traders. They did give a donation, but it must have hit their profit of the evening. In addition, one of the traders supported carnival by supplying food at 50% cost, and so gave even more to the carnival. I believe in other local District councils, the Food Traders on carnival night do not have to pay a fee, provided they make a donation. Alternatively, the council could look at reducing the fee to what it was £12, as they are only there for 3 hours, and not like a street trader trading all days for the same fee. Perhaps the council could reintroduce a reduced rate or even better still a zero rate for these traders.</p> <p><b>Page 6, para 4, last para</b></p> <p>After Council’s Licensing Manger insert “, and needs to be included in the event’s contingency plan,”</p> <p><b>Page 9 Yellowed paragraphs</b></p> <p>Should this consent apply to hawkers as well. They speak no English, they do not contribute to carnival. They may even be illegal immigrants. The identification badge/permit has to be of a better design, with photo ID and forger- resistant.</p> <p><b>Page 9, para 7</b></p> <p>Hawkers should be issued with a ‘Plate for each of their</p> | <p>3. This was discussed at length and members felt that in order to support carnival an exemption scheme could be introduced. This would mean that a carnival could apply for their event to be exempt from the street trading regime. Upon receipt of an application supported by relevant documentation and a nominal fee to cover the cost (to be determined) an exemption certificate could be issued to the carnival.</p> <p>The carnival would then be free to organise their own traders.</p> <p>4. Not necessary</p> <p>5. See point 1 above.</p> <p>6. See point 1 above</p> |
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|  | <p>'units, whether they be converted shopping trolleys or more sophisticated units. '. Issuing of the plate should only be given when the hawker can show they have donated to the charitable event.</p> <p><b>Page 10, para 5</b></p> <p>Food Traders have long memories in relation to position at a carnival, even after a 6 year gap. They demand a certain spot and get very aggressive if they do not get their spot. Need to have some wording here which indicate to traders that their pitch is not for ever, and that organisers can chose who they invite to a carnival. I recognise that the wording hers is meant for actual street market type trading.</p> <p><b>Page12 Section 6, yellow para</b></p> <p>This would not apply to carnival -the organisers should be free to invite who they wish.</p> <p><b>Page 12, section 7 Fees</b></p> <p>Strongly ask that street traders who come on invitation to a carnival be allowed a nil fee charge, provided they have donate to the carnival – they are only there a short time. Some councils do not charge for carnivals. It cost us over £8000 to put on this year's carnival – a lot of expense for 2 hours of fun. We need the support of the traders.</p> <p><b>Final comments</b></p> <p>Licensing Officers, with police, should be in attendance at all events where Hawkers, in particular, attend, to enforce</p> | <p>7. See pont 3 above which resolves this issue.</p> <p>8. See point 3 above, which resolves this issue for carnivals.</p> <p>9. See point 3 above which resolves this issue for carnivals.</p> <p>10. See point 1 above.</p> |
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Appendix Two – Responses and Group Comments

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|                                | <p>licensing measures.</p> <p>The problem of the Hawkers should be tackled and not just ignored. Both police and council say it is not their responsibility. It has to be someone's – they are trading, they are not hawking in the legal sense. They cause danger, and exploit the families that foolishly buy.</p> <p>Exemption of fees could follow practice of other district councils – Mendip for example does not charge food traders for carnival, which helps to cover the costs involved, as the traders donate to the carnival.</p> <p>On behalf of Wincanton Carnival Association</p>  |  |
| <p>Yeovil Chamber of Trade</p> | <p>I am writing in response to the Street Trading Policy consultation. I read through the 28 pages of the Street Trading Regulations, currently under consideration, and consulted with affected Chamber retail members, who have provided me with some insight into the proposals.</p> <p>At a time when SSDC Area South are working to encourage growth in the town centre and working positively with stakeholders such as Yeovil Chamber, creating opportunities and the potential for growth, I am dismayed at the apparent potential negative implications of the (district wide?) Street Trading proposals.</p> <p>Yeovil Chamber is the voice of the business community in and around Yeovil, and currently has a growing membership, comprising over 120 member businesses. I currently chair the</p> |  |

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|  | <p>Love Yeovil Group, and am a board member of Yeovil Vision, both of which exist to bring town centre businesses to the table; encouraging footfall into Yeovil via a programme of events and attractions.</p> <p>The proposed changes to the SSDC street trading policy seem to fly in the face of all the good work currently being carried out by SSDC and other Stakeholders. One business is claiming that the new rules will impose an additional £800 per year, just to carry on delivering food &amp; drink by motor vehicle to other businesses, some of which are located away from shops. Life for retailers is challenging enough, with high business rates and competition from internet trading. Why does SSDC require additional revenue from the business sector, by different means? I could understand (but would not be happy) if business rates were increased, but to apparently create additional policy conditions to generate additional revenue seems underhanded.</p> <p>The regulations apparently give SSDC scope to apply Street Trading legislation to certain areas under private ownership (SSDC definition of the term ‘street’ includes ‘any road, footway, beach or other area to which the public have access without payment’). That definition opens the door for SSDC as that could be interpreted as ‘any property that a Company owns that you can walk onto by some route that is not entirely shut off’. That would include supermarket car parks, trading estates, shopping malls, the land YFC own around their stadium, forecourts – the list is endless.</p> <p>The changes would mean that if a Chamber member business had commercial third party operators taking money in areas that meet this definition, even if it is private property owned</p> | <p>11. No decision on fees has yet been made, this will be a matter for Licensing Committee once the policy has been agreed.</p> <p>12. Delivery of pre-ordered food would not constitute street trading and would be exempt. It is only where sales are made of non pre-ordered product that street trading consent would be required.</p> <p>13. This is the current legal position in the UK and has been for some while. The definition is one that is set out in the relevant act and had been further decided by the Courts by case law. SSDC have been challenged on this in both the Magistrates’ and Crown Court and has been succesful in defending our current policy on appeal.</p> |
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|  | <p>by that Chamber member, aside from the Chamber member’s own procedures the third party operator concerned would legally have to: (a); go through a SSDC Street Trading application process, and (b); would have to pay the Street Trading Fee which currently can be over £50 per day? It also seems to suggest that even if a Chamber member was happy with the third party concerned coming onto their land, SSDC could enforce the Street Licensing system. I am aware of at least one Chamber member business which has already suffered under this system. Their projects and plans designed to bring much-needed footfall into town have collapsed because of the rules and cases where commercial users of their property would have to pay SSDC more for fees than they are paying the resident business. That business will also be making its views known as part of the consultation.</p> <p>SSDC Area South is investing time and money in Yeovil town centre, and working with business community stakeholders such as Chamber to build confidence and foster the right conditions for town centre businesses to flourish. It would be a shame if the current regeneration work being undertaken in the town centre, and investment by SSDC Areas South, is undermined by these proposed changes to the Street Trading Regulations.</p> <p>My main question is; what is driving the need for additional SSDC revenue, by these alternative means? The retail community and in particular, Yeovil town centre retail is beginning to fight it’s corner, in the face of internet trading and high business rates, building a collective proposition and creating the conditions for prosperity for all in Yeovil. Why create additional financial challenges and red tape?</p> | <p>14. Area South have been consulted on the proposed policy.</p> |
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| <p>Brenda Ford<br/>No5 Catering Ltd</p> | <p>I work for Charlie at No.5 Catering and I am responding, on behalf of the business, to the suggested £800 per vehicle levy proposed in your new street trading policy.<br/>Why is this levy being brought in at this time and what do SSDC hope to gain by it? I feel the implications of this charge for every vehicle delivering food and drink to business premises in and around the area can only be negative.<br/>Most small delivery vehicles operate on a very tight budget and provide a valuable service to people working in areas where there is no easy access to any food and drink outlets. In the case of No5, this service is a fundamental part of the working day for a great many people.<br/>To keep such a vehicle on the road the costs leave very little margin already: fuel, wages, cost of production, share of overheads. etc. etc. To impose another £800 would result in many vehicles being taken off the road, jobs lost and a much needed service no longer available.<br/>I would appreciate your comments.</p> | <p>15. See point 11, 12 and 13 above.</p>  |
| <p>Tony Smith (1)</p>                   | <p>Dear Nigel<br/>Something has been bothering me since reading through your draft.<br/>Was not sure what it was, but bizarrely it has now surfaced. Many, maybe all, market traders use the National Market Traders Federation insurance service to cover both public and employers liability. The cover is excellent and satisfies every market operator I have encountered. However.... your draft seeks to view the appropriate certificate, and there lies the potential problem. Maybe even danger.<br/>The Federation arranges a group policy, a Swiss company last time I looked. This annual policy has a "random" start/ finish not remotely likely to coincide with the cover given to insured</p>  | <p>16. A good point. The proposed policy will be amended to include sight of the traders NABMA membership card as proof of public liability insurance.</p> |

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| <p>Tony Smith (2)</p> | <p>members on their own specific membership renewal date.<br/>                 In times past, though I have not seen one lately, the Federation sent out a copy of the employers liability certificate, so it could be properly displayed. This however did not necessarily guarantee that the member was covered if he had not renewed his membership, even though the master policy still showed time to run.<br/>                 They never, routinely, send out copies of the public liability certificate, but I can only assume the same system must apply, providing the same difficulty in guaranteeing cover from the presence of a current certificate.<br/>                 Now.... the market world gets round the problem in simple fashion. It never asks for a certificate but instead accepts sight or photocopy of the trader's membership card. This card shows if the membership is current , and until when, and on the reverse details the extent of the cover both for public and employers liability.<br/>                 I have attempted to attach a copy of my own card.<br/>                 Simply put, maybe your draft can include wording to allow NMTF membership cards to be acceptable as though they are a certificate.<br/>                 Little chance of a mistake, and no chance of lapsed cover</p> <p>Sir,<br/>                 Thank you for including me in your mailing list regarding the proposed revised street trading provisions.<br/>                 Aside from a natural aversion to the length and complexity of any regulations, and the rules covering their enforcement, I have little to say regarding either the existing or proposed document, though there are some errors of grammar and it might be more sympathetic not to refer to activities being "caught" by legislation.<br/>                 However,</p> | <p>17. Members discussed this matter and felt that there was no need for a seasonal consent as the quarterly fee of £425 was reasonable and gave the opportunity to trade for up to 3 months. The previous regime fee of £13 per day, would equate to £390 for only 30 days trading.</p> |
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|  | <p>These proposals fail to address the difficulties faced by seasonal traders, operating on limited profit margins, who are effectively excluded by virtue of the much larger fees you ask for short periods of trading.</p> <p>It is worthy of note that the charges for market pitches in Yeovil are some of the highest of any locally, and yet your fees for street trading are around 3 times this amount! I understand your need to recover costs, but if you had more traders, the cost to administer each would diminish in proportion.</p> <p>It is easy to see the problem, somewhat more difficult to find an equitable solution.</p> <p>One way might be to licence the town council, or shopping mall owner, in respect of all pitches within its boundaries, then empower them to examine, approve, and regulate traders they, with even more local knowledge, wish to have in their town, or mall. They could then charge a more modest rate for each pitch.</p> <p>This in some ways goes back to the previous system, and I understand you may prefer centralisation.</p> <p>To keep matters in your hands maybe you can consider some method of "advance approval "of a trader for a period, say 1 year, and this for a fee, say £50, to cover the documentary examination costs, without thereby defining on which specific days he will trade. Those trading days to be specified only by groups for example " the three weeks before Easter plus the four weeks before Christmas "</p> <p>The trader then, giving reasonable notice, being able to select the days he wants, on which he assesses the weather will permit trade, on which he expects to be able to secure adequate stock, etc.</p> <p>To pay, on giving above notice, a more reasonable daily rate , say £25.</p> |  |
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|                    | <p>Such a system defrays your costs in advance,( even if the trader fails to reappear! ) but encourages the trader to go to work on as many days as possible, thus, by apportionment, reducing the impact of his original registration fee upon his day's trade.</p> <p>It is important that such a scheme does not materially change the fees of an annual licence, but should encourage more seasonal traders whose presence is presently sadly lost to the town.</p> <p>Save that he would pay (both elements) in advance this would be similar to the ancient market system of the casual trader joining a casual queue at the start of a charter market, where he would be allowed a pitch if a regular failed to attend, but with the more modern benefit of his " credentials " being adequately scrutinised in advance.</p> <p>I would like to join any public debate you have planned, and welcome any other ideas you may have to encourage more street traders. That both in number and variety.</p> |  |
| <p>Jo Morrison</p> | <p>Having read in the Western Gazette that ‘the public’s views [are] sought over street trading’ and then read about a proposed additional £800 levy for businesses delivering food, I chose to view the consultation documents. Unfortunately, I was unable to find the information about the levy and was unsure what the yellow highlighting referred to in the document. Furthermore, the consultation letter (see below) doesn’t mention anything about any proposed levy. Please can you clarify:</p> <p>a) are the changes to be consulted on found solely within the yellow highlighted sections?</p>   | <p>18. Questions answered directly to respondent, please see points 11 and 12 above.</p> |

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|                          | <p>b) where is the information about the proposed additional levy located within the document?</p> <p>c) is the consultation document about street trading policy that I have viewed, the correct one?</p>   |                        |
| Wayford Parish Council   | <p>Wayford is a small village close to Chard and Crewkerne. Street trading is unlikely to take place in the village itself. However residents of Wayford attend events in both Chard and Crewkerne and possibly in Ilminster.</p> <p>Wayford Parish Councillors are concerned about the impact this new policy will have on community events, particularly the carnivals, which have a short duration of 2 - 3 hours. Mendip District Council reviewed their policy last year but following consultation with organisers of some of these types of events decided to include an exemption for events such as carnivals and locally organised community events.</p> <p>Although there are exemptions in SSDC's policy it is not wide enough and does not cover the short amount of trading at the sort of events described above where the trader will keep some of the profit.</p> <p>Wayford Parish Council would therefore like to see SSDC include an exemption similar to that in Mendip Council's policy.</p> | 19. See point 3 above. |
| Castle Cary Town Council | <p>This is the response from Castle Cary Town Council (CCTC) to the above document concerning Street Trading within South Somerset District.</p>   |                        |

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|  | <p>After several discussions and meetings we offer the following concerns and suggestions that we would ask you to consider when finalising the Street Trading Policy for 2017</p> <p><b>Charitable and Community Exemption</b><br/> Events run for Community or Charitable purposes should be included in the list of exemptions.<br/> The reasons for requesting this exemption is that there are several events in the Town, usually held on an Annual basis such as the Town Carnival, Big Christmas etc. These events are organised solely for charitable or community benefit purposes and a significant part of the attraction of such events is the quantity and diversity of street traders who commonly make donations of part of their takings to the organisers.<br/> Recent changes to street trading charging tariffs mean that for the relatively short time (typically 3 or 4 hours) that these events last, several traders will not take part. This has already happened with the Town Carnival where there was a 30% drop in the number of traders and a 15% drop in donations from Traders<br/> As worded, the policy will apply to The Big Christmas event and the future of such popular community and charitable events would become unsustainable if they are included in the Policy.</p> <p><b>Householder Exemption</b><br/> Occasional sales by householders from land contiguous with their homes.<br/> This exemption is requested to allow householders to hold occasional “garage” sales and the sale of excess garden produce from their own land. The imposition of the Policy to these sales would be unreasonable.</p> <p><b>Exemption of the Market House Curtilage</b><br/> There already exists and exemption in the document for the</p> | <p>20. These are already included in the policy, but there is no exemption where there is an element of private gain.</p> <p>21. See point 3 above.</p> <p>22. This is already included as an exemption in the policy (see page 5 bullet point 9)</p> <p>23. Members considered this, but felt that as this area was an open outside area to which the</p> |
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|  | <p>Undercroft of Castle Cary Market House. This exemption is requested for the small cobbled area between the pavement and the railings at the front of the Undercroft. This exemption is requested as with some events the Undercroft quickly fills with public and traders and the small extra area would prevent this congestion. In addition the cobbled area is commonly used for tables &amp; chairs for the public to use during events and these are sometimes directly served by food and beverage traders in the Undercroft. In the wording of the document this could be construed as “trading” outside the Undercroft and would therefore become subject to the new Policy, this exemption is requested to remove this uncertainty.</p> <p><b>General Comments on the Document</b></p> <p>Note that passages in <i>“italics and enclosed by inverted commas”</i> are quotes directly from the Draft Street Trading Policy Version 4</p> <ol style="list-style-type: none"> <li>1. It would be very helpful if a numbering system was used throughout to make referencing the relevant sections of the document simpler</li> <li>2. Page 6 – <i>“The Council would not normally grant, a Consent for the sale of goods which conflict with those provided by nearby shops or markets because it could provide an unfair economic advantage to the holder of the Consent”</i> – this seems very “woolly” and who decides what conflicts, based on what criteria? We understand the aims behind this but consider it too broad and highly subjective and should be more specifically worded, or preferably removed.</li> <li>3. Page 7 – <i>“Where the proposed site for trading concerns land owned by this Council or Somerset County Council, as Highway Authority, then permission from the relevant Council must be obtained before an application for Consent is made”</i>. This seems reasonable when a third party organisation owns</li> </ol> | <p>public have free access then an exemption would not be appropriate.</p> <ol style="list-style-type: none"> <li>24. Members didn’t feel that this was necessary.</li> <li>25. Members felt that this should remain as it gave the Licensing Manager the ability to refuse consents that would seek to sell similar items to those already available in the vicinity from established premises.</li> <li>26. Members felt that this should remain as it is. Licence requirements for use of SSDC land are quite separate from the issue of street trading consents.</li> </ol> |
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|  | <p>the land concerned but for SSDC owned land could not both applications be rolled up into a single application?</p> <p>4. Page 9 – <i>“Consents shall only be issued to persons who have the legal right to work in the UK. Applicants applying for a 3 month consent or longer shall provide proof of this right to the Council where requested. If the applicant is assisted by any persons at their pitch, they shall also supply proof that their assistants have the right to work in the UK. The applicant is required to supply a current photograph of themselves and any assistants; the Council will upon successful application, issue a badge to the holder (and any assistants) which bears their photograph. Badges must be visibly displayed upon their person during the period of trading”</i> After discussion with the SSDC Licensing Manager it would appear that the whole of this section ONLY applies to applications for 3 months or more. This is unclear from the current wording, particularly the 1st sentence.</p> <p>5. Page 10 – <i>“The holder of the Consent shall ensure that any persons joining their employ - whether paid or unpaid has received their badge prior to assisting at the pitch and shall return their badge(s) to the Council when they have left this employment within one month of leaving. The applicant and any assistants shall provide evidence of a suitable background check in the form a basic disclosure to the Council before any consents and/or badges are granted. The disclosure shall not be any older than three months at the time of submission to the Council.”</i> This would appear to be unenforceable for “one off” replacement workers who help on short notice due to illness or emergency. This should be reflected in the wording</p> <p>6. Page 11 – <i>“Sufficient time”</i>. This expression (and similar) are used in the document. If possible specific time periods should be quoted. The applicant is in no position to judge</p> | <p>27. Members felt that this was clear enough, in that it only applied to persons requesting consents to trade for 3 months or more.</p> <p>28. Members felt that this requirement should not be changed. However they did agree that in ceratin exceptional short term circumstances such as short term illness etc, then this requirement could be waived at the discretion of the Licensing Manager.</p> <p>29. Members agreed that where the phrase “sufficient time” is used then this should be replaced with the phrase a minimum of 28</p> |
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|                          | <p>what is sufficient time for SSDC to process requests</p> <p>7. Page 18 – First Aid – does this mean that every stall must have the relevant First Aid kit. If not and a suitable central area with a First Aid Kit should be given as an option</p> <p>8. Page 18 – Fire Extinguishers – as with comment above.</p> <p>9. Page 19 – fire extinguishers cannot be attached to a wall on most stalls</p> <p>10. <b>Appendix 3 Page 25</b> – there are several places where ellipsis (...) are used as placeholders for</p>  | <p>days prior to trading.</p> <p>30. This is contained in Appendix One and is clearly stated as not forming part of the policy, it is providing useful information to applicants on other legislative requirements that they should be aware of.</p> <p>31. Noted, but this is a copy of the legislation as written.</p> |
| Odcombe Parish Council   | <p>I was asked to read this document on behalf of Odcombe Parish Council.</p> <p>I found it easy to understand.<br/>it contained all the information I expected it to.</p> <p>I cannot see the need to repay a portion of the licence fee if they have breached conditions but that is a minor point.</p> <p>What check is there on how the Licensing manager selects a new vendor for a pitch that falls vacant? There could be allegations of favouritism/bribery if it is a one person decision. is there at least a written record of applications and reasons for the decision?</p> | <p>32. The Licensing Manager is already required to make a written note of reasons for a decision and this is retained electronically within the Licensing IT systems.</p>   |
| Misterton Parish Council | <p>Misterton PC has no comments to make re this consultation – except the length of the document.</p>  |  |
| Ilton Parish Council     | <p>Ilton Parish Council considered SSDC's policy on street trading and would like to make the following comments.<br/>Reason for Ilton Parish Council's interest in the policy. - Ilton</p>  |  |

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|  | <p>itself is a small village and does not often host street traders. However it is very close to towns such as Ilminster and South Petherton which do. Residents of Ilton enjoy local carnivals and other community events hosted and organised by the larger surrounding towns.</p> <p>Do you think there is anything missing? - Ilton Parish Councillors are concerned about the impact this policy has had and will continue to have on events such as the Carnival, the Ilminster Midsummer Experience, the Ilminster Christmas Lights Switching-on etc. Events such as these have traditionally invited a number of street traders who will set up for the few hours of the duration of the event, unusually only for 2 - 3 hours. Although the committees which organise these events do not receive any of the profit, traders have usually given a donation. SSDC increased their fees for a street licence quite considerably last year from £18 to £57. As a result a number of traders did not come to the Ilminster Carnival because they felt they could not cover the costs with only a few hours of trading. A number of traders who did come gave the Carnival Committee a reduced donation this year. This resulted in a considerable loss to the Carnival Committee which I understand was somewhere in the region of £250.</p> <p>Mendip District Council reviewed their policy last year but following consultation with organisers of some of these types of events decided to include an exemption for events such as carnivals and locally organised community events.</p> <p>Although there are exemptions in SSDC's policy it is not wide enough and does not cover the short amount of trading at the sort of events described above where the trader will keep some of the profit.</p> <p>The £58 fee is disproportionate for a 2 - 3 hour event.</p> <p>Do you have any suggestions for improving the policy? -</p> | <p>33. See point 3 above in relation to Carnivals.</p> <p>34. The costs incurred to SSDC are no different if the trader trades for 1 hr or 8hrs. the work required to process and deal with the application is exactly the same.</p> |
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|  | <p>Include an exemption similar to that in Mendip Council's policy. This reads as follows:<br/>         Extract from Mendip District Council's Street Trading Policy<br/> <i>"10. Local Exemptions</i><br/> <i>The Council has decided to exempt trading that takes place in certain circumstances. This means that the Authority will not ordinarily require its consent for street trading to take place in those situations. To benefit from this exemption, the trading must be carried out with the express written permission of the event organiser or be carried out by the householder concerned. The exemption applies to trading taking place in the following circumstances:-</i><br/> <i>fetes, carnivals or similar community based and run events, organised for charitable purposes and/ or where there is no private gain by the organisers,</i><br/> <i>non-commercial or charitable events,</i></p> <p><i>farmers markets, including producer-managed marketplace for local producers to sell their own produce direct to local people sales of articles by householders on land contiguous with their homes,</i><br/> <i>This local exemption is provided to support both community based and charitable events enabling them to flourish. (The Authority may exempt trading in other similar circumstances, at the discretion of an Authorised Officer of the Council).</i><br/> <i>However, notwithstanding this exemption the Authority does reserve the right to require consent where it is in the public interest to do so and in circumstances where it sees fit.</i><br/> <i>Therefore, the Authority will maintain a register of all such activities. Full details of any trading that would otherwise require consent must be notified to the Authority in good time beforehand. This must be done in writing or by email to the</i></p> |  |
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Appendix Two – Responses and Group Comments

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|                                     | <p><i>Licensing Team and will ensure that this exemption is only provided in appropriate circumstances.</i></p> <p><i>In addition, the Council will exempt any street trading that takes place on land that is owned and/ or under the maintenance of Clark's Village or its agents. This exemption is provided due to the unique nature of the retail outlet in the Mendip District area and due to the existing checks that are carried out by the landowner or their agent's."</i></p> <p>Ilton Parish Council hope that the Council will think about the impact this could have on local events such as the Carnival and agree to include an exemption for these community based events similar to Mendip's exemption above or include other measures that would help to support them such as a reduction in fees for these short duration events..</p> <p>Yes, I am happy for an SSDC representative to contact me to discuss my response to this consultation exercise in more detail.</p> |  |
| <p>Winsham Parish Council</p>       | <p>With regard to SSDC's Street Trading Policy Consultation and following the Parish Council's meeting last week, the Members have asked me to send the following response:</p> <p>Winsham Parish Council concurs with the policy. There are no additional comments.</p>   |  |
| <p>Ilminster Carnival Committee</p> | <p>I would like to make the following comments regarding the Street Trading Policy and ask that you give them due consideration when finalizing the policy.</p> <p>Ilminster Carnival Committee along with others in South Somerset are concerned about the effect that last year's large</p>  |  |

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|  | <p>increases in street traders permits has had on our carnivals. A number of traders did not come to our event due to the increase which meant we lost their donation to the carnival and a number reduced the donation they gave us.</p> <p>As you are currently undertaking a consultation on street trading we feel this is an ideal opportunity to voice our concerns and propose a solution. This is something that does affect the larger towns with markets etc., but the recent changes to fees are already having a huge effect on charitable events such as carnivals.</p> <p>Please see below the paragraph that Mendip added to their policy to help support local events. I hope that this can be shared amongst members and given consideration before any final decision is made. This would be an ideal opportunity for South Somerset to show their support for the traditional events that take place in their district and will enable a fair and consistent approach across Somerset.</p> <p>I would also like to add that these traders only operate for a short period of time on Carnival night, probably only 3-4 hours and it is felt that the fees are excessive for the amount of time trading as well as the loss of donations to the event organisers due to the higher fees, something we have experienced this year.</p> <p><u>Extract from Mendip District Council Street Trading Policy</u></p> <p><b>10. Local Exemptions</b></p> | <p>35. See point 3 above in relation to carnivals.</p> <p>36. See point 34 above.</p> |
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|  | <p><i>The Council has decided to exempt trading that takes place in certain circumstances. This means that the Authority will not ordinarily require its consent for street trading to take place in those situations. To benefit from this exemption, the trading must be carried out with the express written permission of the event organiser or be carried out by the householder concerned. The exemption applies to trading taking place in the following circumstances:-</i></p> <ul style="list-style-type: none"><li><input type="checkbox"/> <i>fetes, carnivals or similar community based and run events, organised for charitable purposes and/ or where there is no private gain by the organisers,</i></li><li><input type="checkbox"/> <i>non-commercial or charitable events,</i></li><li><input type="checkbox"/> <i>farmers markets, including producer-managed marketplace for local producers to sell their own produce direct to local people sales of articles by householders on land contiguous with their homes,</i></li></ul> <p><i>This local exemption is provided to support both community based and charitable events enabling them to flourish. (The Authority may exempt trading in other similar circumstances, at the discretion of an Authorised Officer of the Council). However, notwithstanding this exemption the Authority does reserve the right to require consent where it is in the public interest to do so and in circumstances where it sees fit. Therefore, the Authority will maintain a register of all such activities. Full details of any trading that would otherwise require consent must be notified to the Authority in good time beforehand. This must be done in writing or by email to the Licensing Team and will ensure that this exemption is only provided in appropriate circumstances.</i></p> <p><i>In addition, the Council will exempt any street trading that</i></p> |  |
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|                                  | <p><i>takes place on land that is owned and/ or under the maintenance of Clark’s Village or its agents. This exemption is provided due to the unique nature of the retail outlet in the Mendip District area and due to the existing checks that are carried out by the landowner or their agent’s.</i></p> <p>Please contact me if you have any further questions</p>   |  |
| <p>David Mills Quedam Centre</p> | <p>This letter is a response to the current consultation process on this matter and should be considered separately to our existing ‘appeal’ as this letter contains additional information.</p> <p>Applying the street trading licensing system to the Quedam malls serves no one’s interests because:</p> <ol style="list-style-type: none"> <li>1. We have a very strong record on management of activities on our mall yet the rules as drafted would require you to police the already intensively managed Quedam malls.</li> <li>2. This in turn would leave you with less resource to tackle unlicensed activity elsewhere(in areas where perhaps management is not so intense).</li> <li>3. In the last part of 2016,as a result of the street licensing system applying to the Quedam, we had a project collapse and situations where operators were paying SSDC considerably more in street trading or market fees than they were paying the Centre.</li> <li>4. As a former President of Yeovil Chamber of Trade and Chairman of Love Yeovil(and current Board member of the Yeovil Vision)I feel that applying these street trading</li> </ol> | <p>37. Members discussed ths issue and didn’t see any reason why the Quedam should be treated differently to any other business trading in South Somerset. If the Quedam wish to manage street trading within the Quedam themselves, then they can apply for a consent in their own right.</p> |



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|                                     | <p>regulations to the Quedam is contradictory to the objectives of all of these organisations.</p> <p>This is specifically because no matter how loosely they are applied to the Quedam malls, the street licensing system makes it harder and more expensive for a commercial operator to trade on the Quedam malls than it was just two years ago.</p> <p>I know recently you have kindly suggested ways to make the street licensing system easier to use in the Quedam malls however even if these are accepted, the above issues will still apply.</p> <p>In summary therefore, including the Quedam malls in the street licensing system serves no one’s best interests.</p>   |  |
| <p>Marie Ainsworth – Area South</p> | <p>I have read through the draft policy and my comments and observations are as follows:</p> <p>I would like something added under the ‘site conditions’ section, in your words or amended to suit:</p> <p>No trader shall wholly own or possess exclusive rights to a pitch. Should the trader be absent from the pitch for whatever reason this pitch may be used by an authorised markets organiser or as part of an event, details to be agreed prior to said market or event.</p> <p>Exemptions from the need to obtain a consent:<br/>         Could consideration be given for an exemption to ‘not for profit’ groups with a constitution and aims and objectives to regenerate a town or village? for example; to have stalls as part of an event where the trader will be making money for</p> | <p>38. Agreed policy to be amended to include this.</p> <p>39. Members discussed this but felt that the street licensing regime already contained adequate exemptions, and further exemptions should not be given where there was any element of private gain.</p> |

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|  | <p>themselves but where the pitch fee benefits the ‘not for profit’ group?? It could be a way of that organiser to bring in some income to cover other costs of providing entertainment for example. For us here we will likely be covered by our markets rights and ultimately DCLG and allow the likes of the Love Yeovil Marketing Group to run events and take pitch fees. There would of course need to be terms and conditions attached and each wold be judged on its merits.</p> <p>Electricity:<br/>Where a street trader has been given consent to use an electricity source owned by SSDC a small charge will be applicable and instructions will be given on the proper use of the supply including health and safety measures.</p> <p>Site conditions:<br/>Street traders shall not utilise public bins for their commercial waste.</p> | <p>40. Agreed</p> <p>41. Agreed</p> |
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# Agenda Item 6

## **Enforcement Update**

*Executive Portfolio Holder:* Angie Singleton  
*Assistant Director:* Laurence Willis, Environment  
*Lead Officer:* Colin Chown, Licensing Enforcement Officer  
*Contact Details:* colin.chown@southsomerset.gov.uk or (01935)462135

## **Purpose of the Report**

To update members on the work of the Licensing Enforcement Team and the various issues they are currently involved with.

## **Recommendation**

That the report is noted.

## **Background**

Officers carry out a number of enforcement activities under the various legislative provisions that relate to licensing, in particular with regard to taxi's and private hire drivers/vehicles and scrap metal dealers. This report seeks to brief members on the current issues that are being dealt with by the enforcement officer.

## **Report Detail**

### **Taxis & Private Hire Vehicles**

#### General

The Enforcement Officer carried out weekly day time checks and several late night checks during the past six months. The checks were carried out in and around the centre of Yeovil and the purpose of them was to ensure compliance with the Council's Private Hire and Hackney Carriage Policy and Bylaws.

Several excessively dirty vehicles were sent to be cleaned inside and out, drivers have also been reminded that they must have two identical drivers badges, one badge must be worn by the driver and one must be visible at all times to the passenger.

During the previous six months, one taxi and private hire joint agency vehicle enforcement check with the Police was completed. Advice was given to drivers on various issues, further dates have been arranged with the police throughout the next three months.

Monthly taxi checks continue to be carried out at the Pen Mill, Yeovil Junction, Crewkerne and Castle Cary railway stations in order to ensure that vehicles which tend to use the ranks in and around the main towns are also subject to ad hoc inspections.

Twenty five taxi/private hire related complaints were received in the past six months, which resulted in the issuing of five stop/prohibition notices, three for vehicle damage and sixty one suspension notices for failure to provide a current interim MOT.

The Enforcement Officer has issued penalty points for more minor issues in line with the Taxi Licensing Policy & Guidance. Nine drivers have received penalty points for various offences including,

leaving an unattended vehicle on a taxi rank, failure to notify the licensing department of a change of address.

Two drivers were issued fixed penalty notices with penalty points for smoking in a Hackney Carriage/Private Hire vehicle.

### **Street Trading**

There are fifteen permanent street traders; over fifty consents for casual street trading were issued in the past six months.

### **Scrap Metal Dealers**

The Licensing Enforcement Officer carried out compliance inspections on all scrap metal collectors and scrap metal site licence holders to ensure they are compliant with the requirements of the Scrap Metal Dealers Act.

Due to police restructuring the assistance of a dedicated Police Officer to accompany and assist the Enforcement Officer on these inspections is no longer available.

SSDC currently licence ten sites and two collectors.

### **Financial Implications**

None

### **Implications for Corporate Priorities**

Ensure safe, sustainable and cohesive communities and increase economic vitality and prosperity

### **Other Implications**

None

***Background Papers:*** None

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# Agenda Item 7

## **Appointment of Chairmen for Licensing Sub Committees**

*Director:* Ian Clarke, Support Services  
*Service Manager:* Angela Cox, Democratic Services Manager  
*Lead Officer:* Jo Morris, Democratic Services Officer  
*Contact Details:* jo.morris@southsomerset.gov.uk or 01935 462055

### **Purpose of the Report**

As the Council has entered a new municipal year, the Committee is asked to review the appointment of Chairmen for Licensing Sub Committees.

### **Recommendation**

The Licensing Committee is asked to appoint up to five members as Licensing Sub Committee Chairmen.

### **Background**

The Licensing Sub-Committee is made up of three members from the Licensing Committee. The Licensing Committee has been established under the Licensing Act 2003, with the power to hear and determine all applications referred to it under the SSDC Statement of Licensing Policy. The Sub-Committee also considers taxi driver applications, which need to be referred to members due to the nature of the application.

### **Financial Implications**

All Chairmen of the Licensing Sub Committee receive an allowance of £365 per annum.

**Background Papers:** None

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# Agenda Item 8

## **Training for Licensing Committee Members**

For discussion as requested by the Chairman of the Licensing Committee.

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# Agenda Item 9

## **Frequency of Licensing Committee Meetings**

For discussion as requested by the Chairman of the Licensing Committee.

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# Agenda Item 10

## **Date of Next Meeting**

Members are asked to note that the next scheduled meeting of the Licensing Committee will take place on Tuesday 8<sup>th</sup> August 2017 at 10.00am in the Council Offices, Brympton Way, Yeovil.

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