

Somerset West and Taunton Council

Licensing Committee – 29 November 2021

Statements of licensing policy for the Licensing Act 2003 and Gambling Act 2005

This matter is the responsibility of Executive Councillor Andrew Sully

Report Author: John Rendell, Licensing Manager

1 Purpose of the Report

- 1.1 The Council has a statutory duty to adopt policies in relation to the licensing of gambling and alcohol, entertainment and late night refreshment. These describe how the Council exercises its functions as the 'Licensing Authority'.
- 1.2 Further work is required to ensure the process of adopting the policies can withstand legal challenge.

2 Recommendations

- 2.1 Members resolve that the Licensing Manager carry out a four week consultation with statutory consultees for each of the proposed policies.

3 Risk Assessment

- 3.1 The Corporate Risk Register makes reference to 'national law and policy'; that 'failing to meet an existing legislative requirement or fail to implement new requirements' puts the Council at risk of financial and/or reputational damage.

4 Background and Full details of the Report

- 4.1 The Licensing Act 2003 regulates the supply of alcohol, public entertainment and late night refreshment. The Act requires the Licensing Authority to prepare and publish a statement of its licensing policy every five years. A statement of licensing policy was prepared and a consultation took place for eight weeks, beginning on the 16th of July 2019.
- 4.2 Much like the Licensing Act 2003, the Gambling Act 2005, responsible for regulating various forms of gambling such as betting, bingo, gaming machines and lotteries, requires the Licensing Authority to adopt a 'statement of licensing principals', which is must then review every three years. One was prepared and a consultation took place between the 16th of July and 23rd of September 2019.
- 4.3 The Licensing Committee approved the two prepared policies at its meeting on the 20th

of March 2020. Unfortunately, efforts to have the policies formally adopted by Full Council shortly after did not come to fruition.

- 4.4 Given the consultations took place over two years ago, the Council's Legal Advisor has recommended that a second, albeit shorter, consultation should now be carried out to ensure that the Council can demonstrate the process has been proper and is able to withstand legal challenge. This would allow consultees to state whether their position has changed since the last consultation.

5 Links to Corporate Strategy

- 5.1 The contents of this report relate to statutory duties of the Council.

6 Finance / Resource Implications

- 6.1 Were the council to proceed in adopting the two proposed policies without a second consultation, the decisions of the licensing authority would be vulnerable to legal challenge. Any successful challenges against such decisions would result in the council having to cover its own legal costs as well as that of any challenger.

7 Legal Implications

- 7.1 It is a legal requirement that the Licensing Authority publishes and reviews, at the relevant points in time, the two licensing policies mentioned in this report, in order to fully meet the statutory responsibilities. Failure to do so can undermine the authority when exercising its decision making and enforcement functions.

8 Climate and Sustainability Implications

- 8.1 There are no direct carbon/environmental impacts arising from this report.

9 Safeguarding and/or Community Safety Implications

- 9.1 The four licensing objectives under the Licensing Act 2003 are:
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
- 9.2 The continued work of the Licensing Authority to achieve and promote these objectives further supports the role of the Council in maintaining community safety and safeguarding vulnerable members of society.

10 Equality and Diversity Implications

- 10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the

authority must have due regard for are:

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

10.2 No equality and diversity implications were identified.

11 Social Value Implications

11.1 As this report does not relate to the procurement of any services or products, no social value implications were identified.

12 Partnership Implications

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications

13.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

14 Asset Management Implications

14.1 No asset management implications were identified.

15 Data Protection Implications

15.1 No data protection implications were identified.

16 Consultation Implications

16.1 As explained already in this report.

17 Scrutiny Comments / Recommendation(s)

17.1 This matter is the responsibility of the Licensing Committee and Full Council.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency: Ad-hoc

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