

North Somerset Council

Report to the Licensing Committee

Date of meeting: 5 March 2024

Subject of report: end of year report for the administration and enforcement of all licensing regimes

Town or parish: all areas

Officer/member presenting: Director of Public Health

Key decision: no

Recommendations

Members of the committee are invited to consider the draft revision of the Street Trading Policy (2024-2027) and to agree its content before a period of public consultation. Members are also invited to note some of the outcomes and challenges to the administration of licensing regimes undertaken by the North Somerset Council Licensing Service in this financial year.

Summary of report

This report provides presents policy revisions for discussion ahead of public consultation, and a summary of some of the main activities carried out by the Licensing Team within the financial year 2023/2024.

1. Policy

Statutory and Local policies have been agreed by the Council as follows:

- Licensing Act 2003 –Statement of Licensing Policy (2021-2025)
- Sexual Entertainment Venue Statement of Principles (2024-2029)
- Taxi & Private Hire Licensing Statement of Principles (2024-2027)
- Gambling Act 2005 – Statement of Principles (2022-2024)
- Street Café Policy (2020-2024)
- Street Trading Policy (2020-2024)
- Film Classification Policy (2020)

These policies, and statements of principle, direct the Licensing Authority in the discharge of its responsibilities under the legislation it administers and enforces.

Local Authority licensing regimes are based on a statutory legislative framework, which often cannot be altered significantly to accommodate local aspirations. To reflect this, future policies will be referred to as a “Statement of Principles” but will

still include elements of the corporate aims, stakeholder input and any local conditions. References in this report may still refer to “policy”.

2. Policy revisions

2.1 There are two policies which were planned for revision this year.

The first of these is the Street Café Policy. During the Covid pandemic temporary legislation was introduced to provide premises with a light-touch approach to making use of their external areas, allowing for social distancing measures. This temporary legislation (Business and Planning Act 2020) has since been extended to assist businesses in the recovery phase after re-opening, and is now due to expire in September 2024.

Given there have been minimal issues or concerns raised as a result of businesses being able to use wider external areas, the Government are now considering incorporating some elements into permanent legislation which will replace, or alter, the original street café permissions which were issued under the Highways Act 1980.

To avoid the need for further amendments at the end of 2024, and noting that the current regime is working well and considered fit for purpose, it is proposed that the current policy be extended for a year. A full revision of the scheme will then be carried out through 2025. Members are invited to approve this extension.

2.2 The second policy to be revised is the Street Trading Policy (to be renamed Street Trading Statement of Principles).

The document has been largely re-written with this revision, as the terminology and layout were not easy for applicants to follow or decision makers to refer to. A table of the main revision points is included at the start of the draft to outline the main changes proposed.

2.3 A draft copy of the proposed statement of principles is shown at **Appendix A**.

2.4 Members are asked to agree the content of the draft statement, and recommend that a period of public consultation is carried out. Responses will be brought back for consideration by the Licensing Committee at the next scheduled meeting in October, ahead of recommendation for adoption at full council in November 2024

General Updates

3. Licensing Act 2003

3.1 The hospitality trade is still feeling the impact of energy price rises, ability to recruit and retain staff and fewer numbers visiting their venues.

3.2 Through the monthly meetings with other responsible authorities and through use of the “Traffic Light” system, problem premises continue to be identified. Agencies are able engage with businesses who are of concern, to support them

back to compliance by joint visits, action plans and enforcement actions where necessary.

It is pleasing to note that the number of non-compliant premises being reported has dropped considerably over the second half of the year, although this may be due to the very low numbers of customers frequenting venues.

- 3.3 Evidence of drug use generally remains high across the district with licensed premises still testing positive to Police and Licensing drug swab testing. However, early interventions and advice to venues appears to be paying dividends with both numbers and recorded levels being lower than in previous reports. Venues are still being proactive in refusal and prevention and more multi-agency work is planned to support them, alongside identifying potential hot-spots and problem premises.
- 3.4 Regulatory officers have maintained strong working relationships with officers from the immigration service and have conducted more successful multi-agency visits to identify premises employing workers illegally. Immigration officers are now included and regularly attend the Responsible Authorities monthly meeting and are an integral part of our intelligence gathering and sharing.

4. Taxi & Private Hire

- 4.1 There have been a steady number of enquiries and bookings for initial suitability tests. However, a large proportion of these are living and planning to work outside the area. With continued high applicant numbers, officers are still limiting numbers of available tests to ensure knowledge tests can be prioritised for those already in the process.
- 4.2 It is disappointing to note a marked increase in complaints, levels of motoring offences and criminal convictions among licensed drivers. Having put in place a new data sharing agreement with Avon & Somerset Police, details of police actions against drivers are being passed to the Licensing Authority to follow up on. Partnership working with the force dedicated "Taxi Cop" is proving invaluable in safeguarding the public.

5. General service summary

- 5.1 The delivery of the replacement case management system for use by all the Regulatory Services has unfortunately been delayed by the software provider. Unfortunately this means that the significant resource demands on officers to initially configure and test the system has not yet realised the efficiency savings and improvements in service delivery.

It is hoped that while there are no immediate reductions in the cost of running licensing regimes, ensuring value for money in procurement of taxi plating equipment, and restricting activities to a more reactive approach in the short term, will offset the need for fee increases at a time when the cost of living rises are already affecting many applicants.

5.2 The second half of this year has seen an unprecedented level of officer sickness within the Licensing team. The absences have been an unfortunate, and coincidental, set of long term medical issues, which were unavoidable, but which have put significant pressure on workflows within the team. The situation is now improving and it is testament to the work ethic and dedication of the officers still working (and those returning to work) that all statutory requirements have been met and a continued service provided throughout.

6. Consultation

Members of the committee are asked to consider the draft street trading statement of principles and to agree a version for public consultation.

7. Financial implications

The Authority continues to use suspension powers for non-payment of fees. Recovery of outstanding fees is vital to ensuring maximum cost recovery for the provision of the Licensing service.

However, in the current climate, many businesses are acknowledged to be experiencing financial difficulties and arrangements are being made where possible to permit extensions to fee dates and the introduction of payment instalment plans. This has again been welcomed by licence holders but has added a significant level of administration for officers.

8. Costs

Costs for the administration of licensing regimes, monitoring of compliance of permissions and the policies that accompany them are off-set against the fees charged to applicants. The cost associated with delivering each licence regime is regularly reviewed to ensure full cost recovery and correct construction of levied fees.

Efficiency savings and process improvements, together with careful procurement of equipment such as taxi plating materials, have enabled the licence fees to remain static despite the inflationary rises nationally.

Alongside the review of the street trading requirements, a change to the fee structure is proposed for the next financial year . This will reduce costs for annual returning events who will be eligible for a capped fee, and will look to support and attract new one-off events. There is then a risk that an influx of events and a reduction in fee income may prevent full cost recovery of delivering the licensing regime.

It is hoped that delivery of a balanced budget will be achieved in this financial year.

9. Funding

The team continues to review the costs of each licensing regime to ensure the appropriate fees are levied to maximise cost recovery for the Local Authority.

Officers are still managing late fees before they become bad debts and continue to work with businesses where possible to agree payment plans. The service still remains self-funding through efficiency savings and officer dedication in collecting fee income.

10. Legal powers and implications

The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the service. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder Partnerships and the Driver and Vehicle Standards Agency (DVSA) towards the promotion of any licensing objectives.

In undertaking its licensing function, the Licensing Authority has regard to various primary legislation and statutory guidance issued alongside.

The Licensing Authority also has regard to any other relevant legislation, strategies, policies and guidance in its decision-making.

11. Climate change and environmental implications

There is a strong commitment to addressing climate emergency, and the revised taxi & private hire statement of principles which came into force in January includes steps to achieve this aim. The age of a vehicle for first licensing has been reduced from 8 to 5 years, with the additional requirement for vehicles to be Euro 6 standard for emissions.

It is hoped that future developments in infrastructure and cost of vehicles will also encourage more use of electric vehicles, to further reduce the level of emissions in the district.

Research into more sustainable taxi livery, plating and production methods continues with a move toward recyclable and reusable livery. This seeks to reduce the carbon footprint of the service whilst minimising cost increases for licence holders. Procurement quotes and proofs are being actively sought with a view to introduction as soon as possible.

The team now provide weekly reports to DEFRA detailing the number and emission types of vehicles licensed in the district, which look to inform decisions around any future clean air zone introductions.

12. Risk management

Regularly reviewing licensing policies and practices reduces the risk to the Authority.

Using a risk-rated approach to both proactive and reactive enforcement allows the team to focus resources in problem areas, promoting public safety.

Ensuring MoU agreements are in place with external partner agencies also help to strengthen roles and responsibilities surrounding Licensing work.

13. Equality implications

There are no equality issues identified as part of this report.

14. Corporate implications

No corporate implications noted as part of this report.

15. Options

Members are asked to:

- 1) Agree an extension to the current Street Café Policy until 2025 to allow for legislative changes.
- 2) Consider the proposed revision to the Street trading Statement of Principles and recommend the draft versions are circulated for public and stakeholder consultation.
- 3) Note the updates regarding the Licensing Service.

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Appendix A - Street Trading Statement of Principles

2024-2027 (Draft)

Section	Previous content	Amended content	Page
Foreword	Out of date area references.	Updated and expanded to include benefits of street trading.	2
1.3	No detail around use of NSC Land	Addition of wording to clarify requirement for landowner permission in addition to street trading permissions.	3
3.1-3.2	Definitions and exemptions written in legal language style.	Definitions simplified and in bullet points for ease of reference and understanding.	3
3.3	No provision for annual permissions other than single commercial traders.	New category to permit annual permissions for returning events (2-15 events per calendar year) with capped fees.	5
3.3	Farmers market range was 25 miles	Range increased to 30 miles to broaden appeal for traders.	5
3.3	Table not clear in detailing types of trader categories. Quoted category A- E but these were not referred to elsewhere.	Wording improved, removal of category codes, clarification around remit of each category.	5
4	Criteria for application assessment split across several sections of document.	Criteria consolidated into new section detailing site and trading considerations.	6
5.3	Scale of map specified	No scale required, trading site with details of surroundings easier for applicants to produce.	8
5.3	No details on food hygiene levels and requirements.	New requirement for Food hygiene qualification and proof of registration with home Authority.	8
5.5	No information on transfer of permissions or process for changing operator.	New content confirming no transfer permitted and process for replacement.	8
5.8	Block consents available to organisers but no guidance on numbers.	New requirement for organisers with 5 or more trading units to apply for block consent.	9
7.4	Reasons for refusal and appeal quote legislative references instead of clear meanings.	Simplified and wording altered to give clear guidance as to the legal meanings.	11
8	Previously section 6 – included significant detail around committee processes which was excessive.	Re-worded and simplified to explain committee processes in clearer terms.	11
9	All longer term permissions expired/renewed on June 30 th , regardless of issue date. Quarterly payments not in line with original application date.	Simplified to make expiry dates on the anniversary of the first grant, with quarterly invoices issued accordingly.	13
All	Constructed using legal terminology with difficult layout and use of language.	All wording updated to reflect plain English approach and aid accessibility when using the document online. Amended or inserted text highlighted grey.	

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Foreword

North Somerset Council (the Council) is a Unitary Authority in Somerset covering approximately 145 square miles with a population of almost 217,000.

The Council area is a mixed urban and rural district with a dispersed population. The main urban areas are Weston-super-Mare, Clevedon, Nailsea and Portishead.

The area adjoins the conurbation of Bristol and includes a major dock at Portbury, an International Airport at Lulsgate and the seaside resorts of Weston-super-Mare and Clevedon. The area has good transportation links that include the M5 motorway and main line railway routes and stations.

North Somerset Council recognises that Street Trading brings vibrancy to an area and provides employment, opportunities for startup businesses to flourish as well as allowing current businesses to diversify and expand by utilising Street Trading opportunities. It also makes a visible and direct contribution towards regeneration and improvement to the character of the area. Increased presence of the public drives down incidences of anti-social behaviour and makes an area more welcoming.

Street Trading also provides opportunities for community groups and charities to generate income as well as providing opportunities to integrate people into the local community via provision of pop-up and regular events where people may congregate to eat, purchase products and visit other local businesses. Street Trading provides an effective way of increasing footfall thereby providing a boost to the local economy.

This statement of principles sets out North Somerset Council's requirements for street trading. It details and describes our roles and responsibilities in relation to the administration and regulation of street trading activities within North Somerset.

Nothing in this Policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.

1. Introduction & Scope

- 1.1 The street trading legislation, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, was adopted by the Council on 21 July 2010.

Since then the policy has been reviewed at regular intervals, with this version being renamed "Statement of Principles" in line with other Licensing policies in place in North Somerset.

This statement of principles was agreed at full council in and comes into effect from

1.2 The Council has designated all of its administrative area as “Consent Streets” for street trading purposes. High Street and Big Lamp Corner area of Meadow Street in Weston-super-Mare have been designated as “Licence Streets.”

1.3 Weston-super-Mare Seafront & Beach Lawns are managed by the Seafront Team. They can be contacted for advice and permissions at seafront.office@n-somerset.gov.uk

All other open spaces, parks and seafront areas are managed by our Parks & Open Spaces team who can be contacted at StreetsAndOpenSpaces@n-somerset.gov.uk . Permission must first be obtained to trade anywhere in these areas. Should permission be granted, advice will be given if a tendered concession will be offered, or if Street Trading permission from the Licensing Authority is required.

Available concession opportunities are advertised on our website (<https://www.n-somerset.gov.uk/business/tenders-procurement/contract-opportunities>).

1.4 This statement of principles has been developed to assist anyone applying for, Street Trading Consents and Licences in North Somerset. It sets out the standards and requirements expected within applications, and the enforcement of street trading activities in the North Somerset area.

1.5 The statement of principles also provides a decision making framework for the consideration of applications, and looks to create a street trading environment which is sensitive to the needs of the public, provides diversity and consumer choice, and enhances the character, ambience and safety of the local environment.

1.6 Each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration. Any decisions to depart from this statement of principles will be accompanied by the reasoning and supporting information used in the decision making process.

1.7 A map of the North Somerset District, to which this statement of principles applies, is shown at **Appendix A**.

2. Aims and objectives

2.1 the aim of this statement is to assist in the administration and enforcement of street trading activities in the district.

2.2 **In considering applications, the Licensing Authority will have regard to:**

- **Public Safety**

Street trading activity should not undermine public safety. The location of the proposed trading activity should not present additional risks to the public in terms of road safety, obstruction and fire hazard.

The term “public” refers to both customers visiting the street trading activity, and other members of the public using the street.

- **Prevention of Crime and Disorder**

Both the public and local residents should expect to be protected from crime and anti-social behaviour. The proposed activity should not present a risk to public order. This is likely to be more of an issue in respect of applicants wishing to trade at later hours.

- **Prevention of Public Nuisance**

Consideration must be given to measures taken to reduce the risk of nuisance from noise, refuse, vermin, fumes and smells emanating from the trading site.

3. What is Street Trading?

3.1 Street Trading is:

- the selling, exposing or offering for sale of any article in a “street”.
- The definition of “street” includes ***any land to which the public have access without payment***
- It also includes ***“private land to which the public has free access”***.
- This means the need for a street trading permission can extend to events off the highway that are conducted on private premises.

3.2 The following activities are exempt from street trading requirements:

- trading by a person with a valid Pedlars Certificate, (see 3.5)
- anything done in a market or fair which is covered by a charter, enactment or other legal order,
- trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- trading as a news vendor i.e. the sale, exposure or offer for sale of newspapers or periodicals
- trading which is at premises used as a petrol filling station,
- trading which is carried on at premises used as a shop or in a street adjoining premises, where it is used as part of the usual business of the shop.
- selling things, or offering or exposing them for sale, as a roundsman, including ice-cream vans. (See 3.4)
- Selling things for which the proceeds are wholly for charitable purposes,
- Non-commercial car boot sales
- Items sold from the curtilage of sellers own premises.

3.3 Consents and Licences will be issued according to the following categories:

<p>Single Commercial Pitches</p>	<ul style="list-style-type: none"> • Individual units used (and removed) daily • Annual permits issued • Fees payable by quarterly instalments • No restriction on usage (subject to individual conditions of use)
<p>One-off Event Pitches</p>	<ul style="list-style-type: none"> • Individual permissions for at events on North Somerset Council land. • Individual permissions for free events held on private land. • A block consent will be required direct from an organiser for 5 or more pitches.
<p>Regular/Returning Event Pitches</p>	<ul style="list-style-type: none"> • Annual permits available (2 – 52 events per year) • Fees payable by quarterly instalments • Capped annual fee
<p>Farmers Markets</p>	<ul style="list-style-type: none"> • Will typically sell locally produced goods including but not limited to fruits, vegetables, meats, cheeses, drinks etc. • Produced or made within a 30 mile radius of the market.
<p>Craft Markets/Street Fairs</p>	<ul style="list-style-type: none"> • School fairs/fetes • Local craft & Christmas craft markets, • Fundraising events (commercial not charities or organisations)
<p>NSC Concession holders</p>	<ul style="list-style-type: none"> • A formally tendered concession agreement with North Somerset Council where holder requires occasional additional units.

Fees for each category will be stated within the Council’s published fees and charges and subject to annual review.

3.4 A trader acting as a ‘roundsman’ will only require a Street Trading permission where trading continues for more than 30 minutes with no return to the same location in the same day.

3.5 A pedlar is someone who travels and trades on foot, going from town to town or house to house selling goods. A person trading in a static position for longer than 10 minutes will be treated as a Street Trader and not a pedlar.

A pedlar must hold a certificate granted by a chief constable. Guidance notes for Pedlars are shown at **Appendix B**.

4. Site and trading considerations

4.1 North Somerset Council do not have a definitive list of available trading sites but encourage applicants to consider the following when researching and proposing a trading site for themselves. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case though will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration:

4.2 Commercial Need

Consideration will be given to the number of other traders in the vicinity of the application site. The presence of other similar trading outlets and the proximity of schools shall be taken into consideration.

Fast-food vendors will not normally be permitted to trade within 500m of a school.

On lay-bys and trading estates consideration will not normally be given to additional applications within 500m of an existing trader, unless the hours of trading differ and reassurance can be given around joint management of the area and any possible conflict between traders.

4.3 Sustainability and Product Type

The applicant should set out measures to reduce the environmental impact of the proposed activity. Wherever possible food traders will be expected to use biodegradable materials in connection with the packaging of food served to members of the public. Single use plastics will not be permitted.

4.4 Suitability of Trading Unit

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity must comply with all primary legislation including:

- Food Safety Act 1990
- Food and Hygiene (England) Regulations 2013 as amended
- Health and Safety at Work etc Act 1974 and any regulations made under this Act.
- Environmental Protection Act 1990

Consideration should be given to the impact of any fumes and noise from generators and should where possible seek to minimise any environmental impact from their trading site.

4.5 Suitability of the applicant

When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a permission including but not limited to:

- Age of applicants - the Council will not grant a Street Trading Consents or Licences to persons under the age of 17 years.
- Previous licence history with the Authority:
 - permission will not normally be granted to an applicant who has had a previous consent or licence revoked and/or
 - previous refusal or neglect in paying fees or other charges due to the council for a street trading consent or licence.

4.6 Permitted trading hours

The Council will consider each application on its merits before agreeing permitted trading times. Any trading between 2300 – 0500 hours will be subject to a separate application under the Licensing Act 2003 where hot food or refreshments are proposed to be sold.

4.7 Location of trading unit

The proposed trading operation should complement the trading area in which it is situated. In assessing this, consideration should be given to the type and nature of locality, the type of street trading that will be carried out and the visual appearance of the trading operation being proposed.

4.8 Street Trading Consents or Licences from static locations will **not be granted where:**

- There would be a significant effect on road safety, either from the siting of the trading activity itself, or from customers visiting or leaving the site
- Where there are concerns over the recorded level of accidents or incidents in the locality where the street trading activity will be sited,
- There is a conflict with Traffic Orders such as waiting restrictions,
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes,
- The trading unit obstructs the safe passage of users of the footway or carriageway, or
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities,
- The site does not allow the Consent or Licence Holder, staff and customers to park in a safe manner,
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

5. Submitting an application

- 5.1** Applicants wishing to have a Street Trading permission will be expected to consider additional factors to ensure that the unit enhances the area, and complements the street scene.

Factors to consider include:

- Visual appearance
- Type of goods being sold
- Location of the unit

5.2 An application for a Street Trading Consent or Licence must be made to North Somerset Council either in writing using the prescribed application forms, or electronically via the Council's [online application system](#) .

5.3 The applicant will normally be required to submit the following with the application:

- A completed Street Trading application form. (Online or hard copy)
- A deposit of 25% of the full fee for an annual Consent or Licence. (Fees for all other periods will require submission of the full fee with the application.)
- A map of the trading site clearly identifying the proposed site and position of any neighbouring properties or other infrastructure such as roads, street furniture, parking etc.
- A colour photograph of the stall, van, barrow, cart etc that will be used for the street trading activity.
- A copy of the public liability insurance covering the street trading activity, minimum cover £5 million.
- Evidence of a formal commercial waste transfer agreement.
- Written permission from the landowner where the street trading is to be carried out on land which is not a public highway.
- Copies of food handlers qualifications/training. These should be a current Level 2 Award in Food Safety in Catering from an accredited training provider and evidence must be provided on application.
- Proof that the trader is registered as a food business with the relevant local authority.

5.4 The following documents must be submitted when renewing a Street Trading Consent or Licence:

- A completed Street Trading application form.
- The full fee unless the renewal is for an annual Consent or Licence.
- A copy of the public liability insurance covering the street trading activity, minimum cover £5 million.
- Evidence of a formal commercial waste transfer agreement.

5.5 Once issued, a Street Trading Licence or Consent must be operated by the Licence holder (or member of staff) and cannot be transferred.

If the Licence holder cannot or no longer wishes to trade, the Licence shall be terminated. Trading will not be then permitted to start until a replacement permission has been applied for and been subject to the usual consultation and issue processes.

The street trading permission only gives the permission to trade from a place. It does not give the right to occupy that space. Therefore there can be no sale of pitch/units/goodwill associated with any change of licence holder.

History of trading at a proposed site is not a guarantee that future trading will be permitted as each case will be taken on its own merits.

5.6 Where an application for a Consent is on private land, it will not be accepted where there is no permission included from the landowner to use the site for trading.

5.7 Applications which have multiple trading units (not applicable to standard commercial pitches) may apply for one “block consent” for each event held.

The organiser of a “block consent” will become responsible for all the individual trading activities, including the collection and payment of the relevant fees to the Council, where appropriate.

- 5.8** Applications for block consents must also include:
- Third Party & Liability Insurance covering all traders, or individual insurance for all traders.
 - Food hygiene and Gas safety certification for all traders
 - A site plan showing the maximum number of expected traders and an indication of the type of goods being sold
 - A final list of all the confirmed traders covered by the block consent must then be provided (with supporting certification) a minimum of 7 working days before the consent is used.

A separate application will still be required for each further event held.

5.8 Where the proposed trading will consist of 5 or more pitches, a “block consent” will be requested from the organiser. The block consent needs to be accompanied by a fully documented operational plan that will incorporate all the terms and conditions of the consent.

Less than 5 pitches must be consented by each individual applying for permission for each individual pitch.

5.9 The Licensing Act 2003 requires persons selling hot food between the hours of 2300 and 0500 hours to hold a Premises Licence. This requirement is in addition to the requirement to hold a Street Trading Consent or Licence. Further details on the application process are available from the Licensing Office. Trading past 2300 hours will not be permitted until such time as the appropriate licence is in place.

6. Consultation

6.1 Before a Street Trading Consent or Licence is granted the Council needs to carry out a formal consultation process. Consultees will include the following:

- The Highways Authority for North Somerset Council
- Avon and Somerset Police
- Avon Fire & Rescue Service
- Food/ Health and Safety Team for North Somerset Council
- Environmental Protection Team for North Somerset Council

- North Somerset Council Ward Councillors
- The appropriate Parish or Town Council
- Representatives of any town centre partnerships or Business Improvement Districts for the area of proposed trading.

6.2 The consultation period will be dependent on the duration of the Consent or Licence. The consultation period will commence upon receipt of all the necessary documentation required in section 5.

Duration of trading (days)	Consultation period (days)
1-6	7
7-14	14
15 +	28

6.3 For new applications of 15 days or more, applicants are also required to display a notice at the site for a period of at least 28 days. The notice may be provided by the licensing authority and must contain the following information:

- Trading name of the business
- Location being applied for
- Date application made
- Proposed goods to be sold
- Proposed days and times of trading
- The date which comments can be received by the Licensing Authority
- How comments can be made to the Licensing Authority in relation to the application

6.4 The consultation period for applications to renew Licences or Consents will be 14 days and the Council will consult with the following:

- Avon and Somerset Constabulary
- Food/ Health and Safety Team for North Somerset Council
- The appropriate Parish or Town Council
- Any other person or organisation deemed necessary.

6.5 Written observations from any consultee and occupiers of nearby properties (within 100 metres of the proposed site) will be taken into consideration when determining an application made to the Council. Representations must be made within the published consultation period for the application in question and while personal details can be redacted from any published papers, it is expected that anyone raising an observation makes their identity known to the Licensing Authority so that the validity can be verified.

Representations can be made in writing or accepted electronically.

7. Determining an application

7.1 The Licensing Authority will use the criteria listed at section 4 in the determination of Street Trading Consents or Licences. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed.

Each case though will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

- 7.2** Where the Council refuses an application, the applicant will be informed in writing of the reasons for not granting the application.
- 7.3** There is no right of appeal to the Magistrates Court against decisions of the Council in relation to Street Trading Consents under the Local Government (Miscellaneous Provisions) Act 1982. A person aggrieved by a decision of the Licensing Committee may make an application to the High Court for Judicial Review of the decision. There are strict time limits for making such applications. For further information about the potential grounds for Judicial Review and the procedure for making an application, applicants should seek legal advice from a solicitor as soon as they receive notice of the decision.
- 7.4** If an application is refused; either at grant or renewal of a Street Trading permission, any person aggrieved may appeal to the magistrates court against the decision so long as the reason for the decision falls within one of the following categories:
- that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them
 - that the applicant has at any time been granted a street trading consent by the council and has persistently refused or neglected to pay fees due to them for it;
 - that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

There is no right of appeal where refusal is based on:

- not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street
- there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade

A right of appeal must be exercised within 21 days of the date when the decision to refuse a licence was notified to the applicant or permission holder.

8. Objections to an application

- 8.1** Where there are no relevant representations made, the application will be deemed as granted and issued by officers under their scheme of delegated Authority.

8.2 The application will be referred to the Council's Licensing Committee for determination if relevant objections are received against the granting of a Street Trading Consent or Licence from any of the following:

- Occupiers of property within 100 metres of the proposed site.
- North Somerset Council Ward Members (who can object as an individual or on behalf of constituents).
- Parish or Town Councils.
- Police or Highway Authorities.
- North Somerset Council Food/ Health and Safety or Environmental Protection Teams.

8.3 Officers will assess the objections to determine their relevance using criteria such as; but not limited to:

- Potential, or actual, nuisance to a property occupier from noise, fumes or smells.
- Whether any road safety issues have been identified.
- Compliance with food and health and safety legislation.
- Concern of public order problems resulting from the proposed street trading activity.
- Whether there are any fire safety issues present.
- Whether the objection is relevant, vexatious or repetitive.

8.4 If a relevant objection is made against an application for a Street Trading Licence or Consent, the applicant will be contacted to discuss content.

During this discussion the applicant will be informed of any criteria that may not have been met, and they will be given an opportunity to discuss any relevant matters in relation to the application.

Copies of representations made will be shared with applicants (personal details may be withheld) so they can address where possible any concerns raised.

If after this discussion the applicant still wishes to continue with the application, the application will be referred to the Licensing Committee for determination.

8.5 If a written objection from the person or organisations listed above is received and accepted, the application will be referred to the Licensing Committee for consideration and determination.

Anyone making a valid representation will be invited to attend the licensing hearing to speak in support of their submission.

8.6 The Licensing Committee will always strive to ensure that when it is considering an application that all persons get a fair hearing by:

- Considering each case on its merits.
- Using these guidelines to assess applications.
- Dealing with all parties in a balanced and impartial manner.
- Ensuring that the rules of natural justice are applied in any hearings held.
- Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Committee and present information for consideration in support of their objection.

9. Issue of Street Trading Consents & Licenses

- 9.1** Street Trading Consents or Licences will be issued for a maximum period of 12 months. Annual Consents or Licences issued will be renewable on the anniversary of the original issue date.

Shorter term Consents or Licences may be issued on a weekly basis.

- 9.2** In all cases when a Consent or Licence has expired, and an application has not been submitted to the Council for renewal, a new application will be required. In such cases the application will be subject to the full consideration process outlined in this statement of principles.

- 9.3** The Consent Holder will not be permitted to sub-let or transfer this Consent, but may surrender it to the Council at any time.

- 9.4** Fees for each category will be stated within the Council's published fees and charges and subject to annual review.

Fees for Annual Consents or Licences may be paid either in full in advance or on a three monthly basis. Applications for annual licences must be accompanied by the first quarter's payment with following payment being requested by invoice.

All other applications must be accompanied by the full fee.

If an application is refused any fees paid on application will be returned, less an administration fee.

If an annual licence or permit is surrendered, consideration will be given to refunding fees for any remaining months paid for in advance. No refunds will be available for any other length consents or licences.

- 9.5** Failure to maintain payments of the fee on a three monthly basis will be a breach of the conditions attached to the Consent or Licence. If fees paid on an instalment basis are not made to the Council, the Consent or Licence issued by the Council will be considered for revocation.

It is essential that traders electing to pay on an instalment basis ensure that such payments are made on the due dates.

- 9.6** On approving the application the Council will issue a Street Trading Consent or Licence to which conditions will be attached. The conditions attached to the Consent or Licence form part of the approval to conduct street trading in North Somerset and must be complied with at all times. Failure to do so could lead to the Consent or Licence being either revoked, or not renewed.
- 9.7** Additional conditions may be added on a case-by-case basis and be requested by any of the stated consultees or by the Licensing Committee. These may include specific terms such as days and hours when the street trading is permitted, and goods that may be sold.
- 9.8** A copy of the Council's standard conditions, which are attached to Street Trading Consents, are shown at **Appendix D**.
- 9.9** Annual consents or licences will be subject to a three-month probationary period.

10. Conditions & Enforcement

- 10.1** North Somerset Council will actively enforce the provisions of the Street Trading Scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Council Enforcement Protocol, copies of which are available free of charge. If you require a copy please contact the Licensing Team. Contact details are shown at **Appendix E**.
- 10.2** The following principles will be adhered to when carrying out street trading enforcement activities:
- **Openness:** The Council will be open about how it enforces the legislation in relation to street trading. It will consult with interested parties and ensure that officers discuss compliance failures or problems with persons experiencing difficulties.
 - **Helpfulness:** The Council will work with people to 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. Officers will have regard 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. Officers will have regard to national Codes of Practice and guidelines and the contents of this document.
- 10.3** North Somerset Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of Street Trading Services you should in the first instance contact the Licensing Team Manager.
- 10.4** If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

APPENDIX A – MAP OF NORTH SOMERSET



APPENDIX B - GUIDANCE FOR PEDLARS

North Somerset Council is applying a clearer and more modern definition of pedlary to enable genuine pedlars to continue to trade. The definition is taken from the recent Government consultation on Street Trading and Pedlary and recent case law. The guidance is given below:

1. As a Pedlar you must 'go from town to town' so you must not frequent the same town every day.
2. As a pedlar you must 'travel and trade on foot' so you should not use a motor vehicle to carry your goods to and around North Somerset.
3. A pedlar can remain static in the same location for a maximum of 10 minutes after arrival. As a pedlar, you should then move on (at a reasonable speed) to a location which is at least 50 metres away from the first location, and again you should not remain in that second location for more than 10 minutes. You cannot immediately return to the first location, nor to any other location which you have occupied within 50 metres or within the previous three hourly period. These requirements are intended to keep a pedlar trading while on the move.
4. However, we do recognise that a pedlar may be approached by potential customers during the 10 minute period mentioned above but you may be unable to conclude the transaction with that customer during that period. Similarly, we recognise that a pedlar may be approached by potential customers while travelling from one location to a location at least 50 metres away. Since we do not want to place unreasonable restrictions on a pedlar's ability to do business, there is an exception to the above limitations to enable a pedlar who is approached in this way to remain in his location beyond the 10 minute period or to stop to conclude those transactions. Once all such transactions have been concluded (or aborted) the pedlar must continue to move away immediately.
5. So, if as a pedlar you are not actively making a sale or being approached by a customer at the 10 minute cut-off point, you must immediately start to move away from the location towards a location at least 50 metres away from that location. If while on the move to your next location, you are approached by a customer, you may stop to deal with that customer. But, as soon as the sale is concluded, you should continue on the move towards your next location (unless, of course, you are approached again by another customer on your way there).
6. Pedlars should not use large, wheeled trolleys or similar as a device to carry and expose for sale all, or the vast majority of goods as these can cause an obstruction of the highway which is an offence under Section 137 of the Highways Act 1980.
7. You should be aware that many areas of North Somerset are monitored by CCTV (Closed Circuit Television) and officer foot patrols.
8. Pedlar's Certificates can be obtained from Avon & Somerset Police, Town Hall, Walliscote Grove Road, Weston super Mare, BS23 1UJ at a cost of £12.25. It is an offence to peddle without a certificate and an offence to lend a certificate or use someone else's. The Council, in partnership with Avon & Somerset Police, will take formal action against illegal Street Trading under Paragraph 10(1) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

APPENDIX C – GLOSSARY OF TERMINOLOGY

Within the terms of the North Somerset Council's Street Trading Consent Scheme the following definitions apply:

The Council	Means the North Somerset Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street.
Street	Includes: (a) Any road, footway, beach or other area to which the public have access without payment. (b) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	Means a street in which street trading is prohibited without the consent of North Somerset Council.
Licence Street	Means a street in which street trading is prohibited without a licence granted by North Somerset Council.
Consent/Licence	Means a consent or licence to trade on a street by North Somerset Council.
Consent Holder	Means the person or company to whom the consent to trade on a street has been granted by North Somerset Council.
Licence Holder	Means the person or company to whom a licence to trade on a street has been granted by North Somerset Council.
Authorised Officer	Means an officer employed by North Somerset Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Concession	Concessions are a lease to occupy and to run businesses, issued via a competitive tender process. They are usually located on North Somerset Council managed land.

Appendix D - Street Trading Conditions

GENERAL CONDITIONS

1. A copy of this Consent shall be kept onsite by the holder and available for inspection by an authorised officer of the Council, or a Police officer.
2. The Consent Holder shall not sub-let or transfer this Consent or any part thereof, but may surrender it to the Council at any time.
3. The Consent Holder shall observe and comply with any directions in relation to the use of the street or public place by a duly authorised officer of the Council.
4. Nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent
5. The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy for a minimum of 5 million pounds to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
6. This Consent does not infer or grant exclusive right rights to the holder for use of the location specified in the permission. If at any time at the permitted trading location other statutory bodies or organisations require access and use of the location to carry out emergency or other remedial works, they shall be afforded such access for such time as the required works need to be completed.
7. The Council may vary the Conditions attached to the Consent at any time, subject to reasonable notice being given to the Consent Holder.

SITE CONDITIONS

8. The Consent Holder 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. The sanitary accommodation arrangements shall be approved by the local authority.
9. The Consent Holder shall not use any sound or music amplification equipment whilst trading which is audible beyond 5 metres from the site.
10. The Consent Holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever except with the previous consent in writing from the Council.
11. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without the approval of the Council.
12. The Consent Holder shall make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street, or place or fix equipment or markings of any description in the said surface except with the previous consent from the Council in writing.
13. The Consent Holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Council and he 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.
14. The Consent Holder shall keep his trading position and the area within 25m of the pitch in a litter free condition during the permitted hours and also leave the same in a litter free condition at the end of each daily period of use under the terms of this Consent.
15. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
16. Litter and Trade Waste arising from the activities of the Consent Holder shall be removed from the site on a daily basis. The consent holder shall have in place a formal commercial waste transfer arrangement.

17. The Consent Holder shall make such provision as is necessary to prevent the deposit in any street or public place of solid or liquid refuse and shall not discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
18. Any special costs, other than those legally required to be borne by the Council, incurred in preparing a pitch fit for purpose shall be borne by the applicant.

TRADING CONDITIONS

19. The Consent Holder shall not carry out street trading activities other than those permitted by the Consent.
20. The Consent Holder shall not trade outside the time and days permitted by the Consent.
21. The Consent Holder shall keep on any van, cart, barrow or other vehicle or stall, a street trading consent document that has been issued by the Council.
22. The Consent Holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity. Noise from equipment used in connection with consented street trading activity shall not be audible inside nearby residences so as to be deemed a Statutory Nuisance.
23. Annual street trading fees will be collected by quarterly invoice and shall be paid in line with the North Somerset Council standard payment terms. Fees for shorter durations shall be paid on application. Other fees may by agreement be paid by instalments. Failure to pay an annual or instalment fee will render the consent holder liable to action by the Council to revoke this consent
24. Static street trading units, vehicles or other equipment associated with the street trading activity shall be removed from the site at the cessation of trading each day.

Legal Provisions

25. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his employees or agents from any legal duty or liability.
26. At all times the Consent Holder shall comply with the appropriate primary legislation in force.

Revocation or surrender of consent

27. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
28. The holder shall return this Consent to the North Somerset Council immediately on revocation or surrender of the Consent.

Appendix E - Useful contact details

Licensing Team

North Somerset Council
Walliscote Grove Road
Weston Super Mare
BS23 1UJ

01934 426800

licensing@n-somerset.gov.uk

Food, Health and Safety Team

Castlewood
Tickenham Road
Clevedon
BS21 9AX

01934 634 633

foodandsafety@n-somerset.gov.uk

Environmental Protection Team

Town Hall,
Walliscote Grove Road,
Weston-super-Mare
BS23 1UJ

01275 884 882

environmental.protection@n-somerset.gov.uk

Avon and Somerset Police Licensing

Weston-super Mare Police Station,
PO Box 441,
Weston-super-Mare
BS23 1WS

01934 638 211

northsomersetpoliceliquorlicensingteam@avonandsomerset.police.uk

Avon Fire & Rescue Service

Police & Fire Headquarters
PO Box 37, Valley Road
Portishead
Bristol
BS20 8JJ

Licensing@avonfire.gov.uk