



**EU SERVICES DIRECTIVE**  
**TACIT AUTHORISATION POLICY**

## Tacit Authorisation Policy

St Albans City & District Council is committed to building a community which is open, fair and inclusive. To this end it is fully committed to implementing its statutory obligations under the EU Services Directive.

This Policy aims to set out all the authorisation, registration or licensing processes that St Albans City & District Council undertakes if they are affected by the EU Services Directive.

# Contents

Section		Page
<b>Part</b>	<b>Tacit Authorisation</b>	
1	Introduction	5
2	Aims and Purpose	6
3	Scope	6
4	Definition of tacit authorisation	6
5	Definition of working days	7
6	<b>Table</b> showing when Tacit Authority applies and when it does not apply:	
	Animal Boarding establishments	9
	Approved premises (for food)	9
	Caravan & camping site	9
	Club premises certificate	9
	Cooling tower	9
	Environmental Permitting	10
	Food premises notification	10
	House in multiple occupancy	10
	House to House collections	10
	Market stall	10
	Pavement Licence	11
	Pet shop	11
	Premises Licence	11
	Riding establishment	11
	Safety Certificates for sports grounds	11

Sex shop and cinema	11
Street Collection	12
Street Trading (out of scope – For information only)	12
Tattooists, piercing & electrolysis, acupuncture	12
Temporary event notices	12

## Tacit Authorisation Policy

### 1. Introduction

This policy supports the requirements and obligations under the EU Services Directive.

The UK must implement the Directive by 28<sup>th</sup> December 2009 and the Provisions of Services Regulations 2009 are expected by December 2009.

It aims to open up the internal market to make it easier for businesses to obtain the necessary authorisations to operate in any EU country.

The Directive aims to abolish restrictive legislation and practices hindering cross border business provision.

It imposes duties on the local authority:

- screen all the administrative processes to check that they comply with the Directive, i.e. are non-discriminatory, necessary and proportionate
- screen all local legislation for all legislation that falls within the Directive
- provide a system where by all relevant registration/licensing procedures can be completed electronically via the PSC (now ELMS) or the Council's own website
- implement an e-payment process
- amend any authorisations that do not comply
- to assess whether **Tacit Authorisation** should apply to applications

Failure to comply with the Directive may have a negative impact on the Council's reputation.

BIS will set up an ELMS (Electronic Licence Management System) enabling business to find out what licences and authorisations they need to set up a particular type of business venture, and to apply and pay electronically and pay.

## **2. Aims and Purpose**

The aim of this policy document is to show when Tacit Authorisation will apply.

## **3. Scope**

The Policy only refers to matters that are considered 'within scope' for the purposes of the EU Services Directive. No other procedures are considered by this Policy.

Other procedures may be added by Government at a later stage, and will be incorporate at that time.

## **4. Definition of Tacit Authority**

As a result of the Directive there will be a presumption that any application not dealt with in the specified timeframe will be presumed to have been granted, unless it is otherwise stated in the application process.

All applications/ authorisations are required to be completed within a reasonable period of time. It will be necessary to ensure that the public are aware of the timeframe for determination of each process at application stage.

If the Council fail to respond within the advertised timescale then the licence will be deemed granted, unless otherwise stated in this Policy.

The timescale would operate from the time the application is deemed valid.

Tacit authorisation will not apply to all application processes; for some processes the public interest overrides the need for tacit authorisation. For example, where a

safety or suitability inspection is taking place before an authorisation is granted, tacit authorisation may not be appropriate.

This Policy sets out each procedures carried out by the Council that is covered by the EU Services Directive. For each procedure a reasonable timescale is set out to allow sufficient time for the relevant department to determine the application. The Policy states whether or not the tacit authorisation applies to each application. If it does not apply, the policy provides the reasons.

## **5. Definition of working days**

All references to “days” in this Policy are references to “working days”. This means a working day in England excluding bank holidays, and other public holidays, and Saturdays and Sundays.



**6. Table showing when Tacit Authority applies and when it does not apply**

<b>Procedure</b>	<b>Legislation</b>	<b>Responsible Officers &amp; Department</b>	<b>Timescale to determine the application</b>	<b>Should tacit authority apply?</b>	<b>If not, what are the reasons</b>
Animal boarding establishments – Application for a licence to operate an animal boarding establishment	Animal boarding establishments Act 1963	Liz Jakeman Moira Wollington	<b>20 working days</b>	<b>No</b>	Overriding public interest because of the risk to animals if tacit authorisation applies
Animal boarding establishments – Application for a change an animal boarding establishment	Animal boarding establishments Act 1963	Liz Jakeman Moira Wollington	<b>20 working days</b>	<b>No</b>	Overriding public interest because of the risk to animals if tacit authorisation applies
Animal boarding establishments – Application to renew an animal boarding establishment	Animal boarding establishments Act 1963	Liz Jakeman Moira Wollington	<b>20 working days</b>	<b>No</b>	Overriding public interest because of the risk to animals if tacit authorisation applies
Approved Premises (for Food) – Registration of a food business establishment	Food Hygiene (England) Regulations 2006 EC 853/2004	Heather Johnson Maria Stagg	<b>20 working days</b>	<b>No</b>	Overriding public interest because of the safety of the general public is at risk
Approved Premises (for Food) – Application to change a food premises registration	Food Hygiene (England) Regulations 2006 EC 853/2004	Heather Johnson Maria Stagg	<b>20 working days</b>	<b>No</b>	Overriding public interest because of the safety of the general public is at risk

<b>Procedure</b>	<b>Legislation</b>	<b>Responsible Officers &amp; Department</b>	<b>Timescale to determine the application</b>	<b>Can tacit authority apply?</b>	<b>If not, what are the reasons</b>
Caravan and camping site	Caravan Sites and Control of Development Act 1960	Stephen Hide ?	<b>20 working days</b>	<b>No</b>	Overriding public interest –safety of the general public at risk because of the requirement for planning permission to be granted before the licence is issued.
Club Premises Certificate	Licensing Act 2003	Lesley Cameron Lucy Annetts	<b>28 calendar days for the initial application (in LA03)</b>	<b>BIS require -ment that it applies</b>  <b>Yes</b>	Statutory provision for deemed grant after 28 days (tacit authority in legislation) unless objections received and then it is deemed refusal if not determined within the requisite period of time. Otherwise it is a hearing (within 20 working days) and then a potential appeal (10 working days to send out determination notice then 21 days to lodge appeal, and 3 months plus for Court to list appeal).  For Minor Variations – 10 working days for objections, 15 working days to determine. If fail to determine within 15 working days then deemed refused.
Cooling tower	Notification of Cooling Towers and Evaporative Condensers Regulations 1992	Heather Johnson Maria Stagg	<b>20 working days</b>	<b>Yes</b>	

Environmental Permitting	Environmental Permitting (England and Wales) Regulations,	Stephen Hide	<b>20 working days</b>	<b>Yes</b>	
Food premises notification	SI2007/3538 EC 852/2004	Heather Johnson Maria Stagg	<b>30 working days</b>	<b>No</b>	Overriding public interest because safety of the general public is at risk
House in multiple occupancy	Housing Act 2004	Stephen Hide	<b>20 working days</b>	<b>Yes</b>	
House to house collection	House to House Collections Act 1939	Lesley Young Susan Lovell	<b>20 working days</b>  Save for Annual Distribution – applications sent out in September – no limits on the number of permits. Charities are notified of others proposing to collect in that area, to liaise.	<b>Yes</b>	

Procedure	Legislation	Responsible Officers & Department	Timescale to determine the application	Can tacit authority apply?	If not, what are the reasons
Market stall	Markets and Fairs Clauses Act 1847  Charter Market	Chris Tofts Jeff Smyth Lesley Cameron	<b>20 working days</b>	<b>Yes</b>	It is likely that the Charter Market will cover the markets held in the district
Permission to run business on pavement	Highways Act 1980	Lesley Cameron Lucy Annetts	<b>30 working days</b>	<b>No</b>	Overriding public interest  Public Safety at risk – Highways used inappropriately creates risk to the public
Pet shop	Pet Animals Act 1951	Liz Jakeman Moira Wollington	<b>20 working days</b>	<b>No</b>	Overriding public interest because of the danger to animal welfare if the premises are not inspected /checked.
Premises Licence	Licensing Act 2003	Lesley Cameron Lucy Annetts	<b>28 calendar days for the initial application (in LA 03)</b>	<b>BIS require -ment that it applies</b>  <b>Yes</b>	Statutory provision for deemed grant after 28 days (tacit authority in legislation) unless objections received and then it is deemed refusal if not determined within the requisite period of time. Otherwise it is a hearing (within 20 working days) and then a potential appeal (10 working days to send out determination notice then 21 days to lodge appeal, and 3 months plus for Court to list appeal). For Minor Variations – 10 working days for objections, 15 working days to determine. If fail to determine within 15 working days then deemed refused.

<b>Procedure</b>	<b>Legislation</b>	<b>Responsible Officers &amp; Department</b>	<b>Timescale to determine the application</b>	<b>Can tacit authority apply?</b>	<b>If not, what are the reasons</b>
Riding establishment	Riding Establishments Act 1964	Liz Jakeman Moira Wollington	<b>20 working days</b>	<b>No</b>	Overriding public interest because of the safety of animals if the premises are not inspected /checked.
Safety certificates for regulated stands at sports grounds	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27)	Jeremy Saxton John Young	<b>20 working days</b>	<b>Yes</b>	
Safety certificates for sports grounds	The Safety of Sports Grounds Act 1975 (c. 52)	Jeremy Saxton John Young	<b>20 working days</b>	<b>Yes</b>	
Sex shop and cinema – application for a sex shop and cinema licence	Local Government (Miscellaneous Provisions) Act 1982	Lesley Cameron Lucy Annetts	<b>30 working days</b>	<b>No</b>	Application is still considered even with nil resolution – overriding public interest because the Police and local residents share an interest in outcome from public safety perspective.
Sex shop and cinema – application to change a sex shop and	Local Government (Miscellaneous Provisions) Act 1982	Lesley Cameron Lucy Annetts	<b>30 working days</b>	<b>No</b>	Application is still considered even with nil resolution – overriding public interest because the Police and local residents

cinema licence					share an interest in outcome from public safety perspective.
Street Collection	Section 5 of the Police, Factories, etc. (Miscellaneous Provisions Act 1916, as amended by the Local Government Act 1972 and Schedule 29)	Lesley Young Susan Lovell	<b>20 working days</b>	<b>Yes</b>  <b>Except for the Annual Distribution</b>	Save for Annual Distribution – applications sent out in September – all responses diarised on ‘first come, first served’ basis and issued by December. It is in the public interest as it promotes equality.

Procedure	Legislation	Responsible Officers & Department	Timescale to determine the application	Can tacit authority apply?	If not, what are the reasons
Street Trading	Local Government (Miscellaneous Provisions) Act 1982 <b>Adopted</b>	Chris Tofts Jeff Smyth Lesley Cameron			Only if have adopted this in respect of 'sale of services'  outside of scope for SADC
Tattooists, piercing and electrolysis (incl Acupuncture)	Local Government (Miscellaneous Provisions) Act 1982 (not London)	Heather Johnson Maria Stagg	<b>20 working days</b>	<b>No</b>	Public safety is at risk of premises are deemed granted without inspections etc. (overriding public interest).
Temporary Event Notice	Licensing Act 2003	Lesley Cameron Lucy Annetts	<b>20 working days</b>	<b>BIS require-ment that it applies</b>  <b>Yes</b>	48 hours for police to object, if no objection, granted unless counter notice served.