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Agenda for Licensing & Enforcement Committee Wednesday, 15 February 2017; 9.30am



[Members of the Committee](#)

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

Contact: [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 8 February 2017

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- 1 Minutes for 16 November 2016 (pages 3-6)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#) – none identified
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

Part A - Matters for Decision

- 6 **Committee Update – Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing, including Apps A - E** (pages 7-11)
- 7 **Street Collection Policy - To seek approval to recommend to Council that the new policy be adopted** (pages 12-18)

- 8 **Street Trading – Designation of Streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982**
(pages 19- 68)
- 9 **Taxi Licensing Policy – To seek approval to consult on the draft Policy**
(pages 69-184)
- 10 **In 2015 changes through deregulation nationally provided additional duration periods of Hackney Carriage and Private Hire driver licences and Private Hire Operator licences with one and three year licence periods available for driver licences. The proposal is to continue with both options but that applicants granted their first licence with East Devon to be limited to a maximum period of 12 months upon initial licensing**
(pages 185-187)

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Committee held at Knowle, Sidmouth on Wednesday, 16 November 2016

Attendance list at the end of the document

The meeting started at 9.30am and ended at 10.20 am

***4 Minutes**

The minutes of the meeting of the Licensing & Enforcement Committee held on 24 August 2016, were confirmed and signed as a true record.

***5 Declarations of interest**

Councillor Steve Hall

Minute 6

Disclosable Pecuniary Interest – Private Hire Licence Holder

Councillor John O’Leary

Minute 6

Disclosable Pecuniary Interest – Designated Premises Supervisor

Brian Bailey

Minute 6

Disclosable Pecuniary Interest – Hackney Carriage Licence Holder

John Dyson

Minutes 6

Involved with Street Collections for Sidmouth Folk Festival and Trustee of Folk Week

Councillor Jenny Brown

Minute 6

Disclosable Pecuniary Interest – Designated Personal Licence Holder

***6 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing**

The Licensing Manager presented his report - the following issues were highlighted and discussed.

1. Licensing Act 2003

During Folk Week between 29 July and 5 August, officers had attended various venues licensed by Sidmouth Folk Week as well as general licensing visits to premises in the town. All venues were found to be in order and working well. On the Wednesday of Folk Week the Chairman and Vice Chairman accompanied by the Licensing Manager completed their usual walk through the seafront stalls as well as visiting the licensed venues at Ham and Blackmore Gardens. The Chairman, reported that he would be pursuing the issue of the Folk Festival paying more for using the Blackmore Gardens for stalls. A member of the Committee also raised the issue of the Council maximising its income for licensing street markets and the use of facilities such as The Strand, Exmouth. Much of this was the responsibility of the Street Scene service.

On the 4 August 2015 an officer attended the annual Honiton Show and various stalls that had been licensed by Temporary Event Notices were checked and found to be in order. As part of the inspection₃ process one stall was identified in the

process of preparing to sell alcohol but had not obtained a licence. The trader was required to cease and to remove the stand from the showground.

On 19 August 2016 an officer attended the Beautiful Days Festival at Escot Park to check on the set up to ensure it complied with the licence issued for the event. One coffee seller was found to be advertising alcohol outside the licence that had been issued and was formally warned to remove alcohol from the stall. This is a well run annual event that has been ongoing for a number of years.

2. Gambling Act 2005

The programme of visits to licensed premises and other premises where gaming was permitted continues and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected.

3. Taxis

The Licensing team had continued the education based enforcement and monitoring approach to the Hackney Carriage and Private Hire drivers. Close liaison was maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality were maintained.

The majority of all hackney carriage driver and vehicle licences expired on the 31 October each year and the Licensing Team had spent a large part of the last six weeks working on renewing these licences. Almost all of the vehicles due for renewal had now been re-licensed as have the majority of the drivers. But there was likely to be a slight overall reduction in the total number of drivers renewing mainly due to retirement from the trade.

A draft taxi licensing policy was submitted to the committee members on 17 February when it was agreed that the draft policy be circulated for formal public consultation, subject to incorporating amendments requested by members at the meeting. However since that time there had been further significant changes in legislation and procedures this year which will need to be included in the draft policy. Whilst the aim had been for the draft policy to be circulated for consultation and then finalised at this committee meeting in November, this had not been possible.

Licensing staff had attended a briefing presentation provided by the UK Immigration Service concerning the requirements of the Immigration Act 2016 on 8 November. The presentation set out the checks and legal requirements necessary under the Act for taxi licensing officers in order to comply and also how to examine documents concerning right to work in the UK. This legislative requirement would require an update in the policy. It was prudent to assess the update from the briefing to establish additions or changes required in the draft policy and also application forms and documents. All drivers who would renew their hackney and private hire driver's licence would need to go through an immigration check.

In response to a question, the Licensing Manager confirmed that the new taxi policy would include a more robust interview policy to determine whether drivers were full or part time to help avoid future situations where drivers were doing excessive work hours.

4. General Licensing

A special inspection has been carried out for one of the six zoos that were licensed with EDDC. Environmental Health requested this special inspection to ensure the zoo had complied with additional conditions that had been added to the licence

following a periodical inspection. The inspectors found that the majority of conditions had been met or were in progress.

The existing policy concerning charitable street collections has been approved for public consultation which will commence later this month. This policy provides guidance for regulating charitable and other collections of money and explains how, when and where individuals and organisations may make a street collection in East Devon. The current policy has been in place since 2007 and has worked well. The results of the public consultation would be reported to the committee in February 2017.

5. Consultations

The bi-annual taxi liaison meeting took place on Thursday 7 April 2016, this meeting was normally attended by the Chairman and Vice Chairman, but other members were welcome to attend. One point reported by the trade concerned delays by the DVLA when arranging taxi driver tests for new employees in the summer of 2015. The discussion prompted additional test appointments being made available by the DVLA this summer for new drivers. The last liaison meeting occurred on Thursday, 3 November 2016 and would be reported upon in the report to committee in February 2017.

6. Licensing Team update

Members noted that since the last meeting held in August, further staffing changes had occurred in the licensing team with the retirement of Douglas Jackson who for many years was involved with taxi licensing. The licensing team has experienced considerable change over the last six months with almost complete change on each of the roles within the team. The Chairman, Vice Chairman and members of the Committee wished to record their thanks for Douglas Jackson's work on behalf of licensing in East Devon and wish him a long and happy retirement and also thanked the Licensing Team for their efforts during a difficult period for the team

RESOLVED:

1. that the report be noted;
2. that the issue of the Council maximising its income for the Folk Festival using Blackmore Gardens and other facilities and licensing street markets and the use of facilities such as The Strand, Exmouth be pursued.

***7 To adopt an equivalent procedure for the driver testing arrangements for Hackney Carriage and Private hire Vehicles Drivers and Operators**

Members received the report of the Licensing Manager which sought approval to amend the current statement of policy through changes in procedures nationally.

All Councils had been formally notified by DVSA that they will no longer provide taxi driving assessment tests after 31 December 2016. It was a requirement of the current policy for all driver applicants to pass this assessment prior to being issued a taxi or private hire driver licence to ensure public safety at all times. The Licensing Manager reported that it was the licensing authority's intention to use Devon Academy to carry out the testing regime, which would also be used by Exeter City and Teignbridge District Councils.

RESOLVED: that the standards assessment equivalent to the Driving and Vehicle Standards Agency (DVSA) taxi driving assessment test be adopted by the district council.

***8 Changes in working arrangements for Environmental Health
Licences and Permits currently issued by the Licensing Authority**

Consideration was given to the report of the Licensing Manager which sought to keep Committee members up to date with proposed changes in procedures for issuing environmental health and general licences.

The Licensing Service was currently responsible for the administration of the Council's animal welfare, skin piercing and scrap metal licensing functions. The process for receiving applications and fees, conducting inspection visits and issuing licences was currently undertaken by staff from two services. It was proposed to transfer the administration work for these services back to Environmental Health from the Licensing Service. It was proposed that a phased transfer of the licences will occur between the teams when the renewal applications for the licences occur in the months ahead.

RESOLVED: that the proposed changes in working arrangements for dealing with general and environmental health licences currently administered by the Licensing Service, be noted.

Attendance list

Councillors present

Steve Hall (Chairman)
Jim Knight (Vice Chairman)
Brian Bailey
Dean Barrow
Colin Brown
Jenny Brown
Maddy Chapman
Bruce de Saram
John Dyson
Geoff Jung
John O'Leary

Officers present

Giles Salter Solicitor
Steve Saunders, Licensing Manager
Emily Westlake, Licensing Officer
Chris Lane, Democratic Services Officer

Apologies

Councillors:
Megan Armstrong
Steve Gazzard

Chairman Date

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 15 February 2017

Public Document: Yes

Exemption: None



Agenda item: 6

Subject: **Committee Update -
Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing**

Purpose of report: The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi legislation together with other general licensing matters.

Recommendation: **That the report be noted**

Reason for recommendation: To keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service.

Officer: Steve Saunders, Licensing Manager, Ext. 2787, ssaunders@eastdevon.gov.uk

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

1.1.1 The numbers of applications received, licences issued and notices given will be provided at the end of the year.

1.2 Premises Risk Ratings

1.2.1 Visits to licensed premises within East Devon have continued throughout the summer with no serious issues being found. The high risk premises are also being checked with 18 outstanding premises to be checked before the end of March this year.

1.2.2 On 10 October 2016 the Licensing Manager attended a de-brief meeting in Exeter for the Beautiful Days Event held at Escot Park. The event had gone well with no major issues.

- 1.2.3 On 17 October 2016 the Licensing Manager and a Licensing Officer together with the Chair of the Licensing Sub Committee accepted an invitation from Exmouth Town Council to make a guest appearance at one of their meetings to discuss and give an update on the procedures for making representations against Licensing Act applications. The Licensing Manager gave a presentation and this was followed by a question and answer session to clarify when and how representations can be made. They discussed issues about previous representations made and appearances by some of their councillors at licensing hearings.
- 1.2.4 On 19 October 2016 an officer accompanied by the Police Licensing Officer attended a garage in Exmouth that has a premises licence allowing off sales of alcohol following a complaint of underage sales. It was found that new owners had just taken over the premises and that the staff member involved was no longer employed at the premises. Suitable advice was given to the new owners and their policies and procedures were checked and verified.
- 1.2.5 On 5 November 2016 an officer attended the Ottery St Mary Tar Barrel event to check on the various temporary event notices issued for late night refreshment for food stalls. A total of 25 checks were made and all was found to be in order. The checks occurred with a member of the licensing and the environmental health service teams allowing a joint food and alcohol inspection on each occasion which worked positively. The arrangements made by licensing with the organisers to plan and check temporary event notices for sellers works effectively.
- 1.2.6 On 8 November 2016 a Folk Festival de-brief meeting was held at the Knowle. It was reported that the festival had another very successful year with minor issues over layout of stalls and music on the esplanade. A request was made by the festival for the authority to consider permanent annual licences for the three main folk week venues rather than the time limited licences they apply for every year. Following consultation with the Police and Environmental Health the festival was advised that permanent licence applications would not be supported. Allowing an application for permanent licences for one off yearly events would also be in contravention of our Licensing Policy.
- 1.2.7 On 15 November 2016 an officer accompanied an Environmental Health Officer to a licensed premise in Exmouth where complaints had been received about light pollution in the car park following a new floodlight being fitted. The licence holders had not been very co-operative with the Environmental Health Officer but following the visit the new light had been lowered alleviating the light pollution to a near neighbour.
- 1.2.8 On 22 November 2016 following information received officers attended a premise in Sidmouth where it was found that the licensed premises area had been substantially altered during renovation of the property. As a result a new premises licence was required and an application was submitted.
- 1.2.9 On 30 November 2016 The Licensing Manager attended a de-brief meeting for the Ottery Tar Barrels event it was agreed that the event was well planned and organised. The event was co-ordinated under Safety Advisory Group (SAG) arrangements and chaired by the Chief Executive of East Devon District Council which provided a forum within which core members and agencies could develop a co-ordinated approach to safety at the event. The planning arrangement for 2017 will fall under the same arrangements.
- 1.2.10 On 1 December 2016 an Officer attended a licensed premise in Chardstock following complaints of loud music being played and also at later hours than allowed on the licence. Suitable advice was given and the timings for all music allowed on site were clarified by checking through the licence with the manager and with a follow up warning letter.
- 1.2.11 Suspended licence notification – PLWA0527 Temptations, 1 Fore Street, Seaton, EX12 2LE licence suspended on 25 January 2017 for non payment of annual fee.

1.3 Hearings

- 1.3.1 The numbers of hearings held will be provided for and at the end of the financial year.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

2.1.1 The numbers of applications received, licences issued and notices given have not been included in this report but will be provided for the end of year period. It should be noted that this year a number of gambling permits that were issued for the maximum ten year period will be due to expire. This licensing authority will work in conjunction with the Gambling Commission when considering applications to renew permits by ensuring that applications meet appropriate requirements under the gambling legislation.

2.2 Enforcement

2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected.

3 Taxis

3.1 Applications Received and Licences Issued

3.1.1 The numbers of applications received and licences issued since the last update have not been included in this report and will be provided at the end of the financial year.

3.1.2 The work undertaken to update and prepare the draft Taxi policy has required considerable time and resources within the team and the policy will be addressed in a separate report.

3.2 Enforcement

3.2.1 The Licensing Team has continued to carry out checks of hackney carriage vehicles parked on the taxi ranks within the East Devon area to ensure that all vehicles comply with the legislation and meet the required standards for both licensed drivers and vehicles.

3.2.2 The licensing team has recognised an increase over the period in reports from members of the taxi trade concerning hackney carriages licensed in East Devon operating whilst not displaying the East Devon taxi roof sign. Officers welcome such reports and each matter is treated independently on a case by case basis being followed up by officers. This emerging trend is also relevant and covered within the draft taxi policy as well as being an existing condition in current policy. All licensed hackney carriage vehicles must display a roof sign of a type and design approved by the East Devon District Council to allow the public to properly identify taxis. Licensing officers will continue to follow up such reports and where evidence suggests repeated removal then disciplinary measures may be considered.

3.2.3 In December officers investigated a licensed hackney carriage licence holder for failing to display the taxi roof sign on the vehicle, this being a condition of use and of the licence. The vehicle proprietor had requested a temporary transfer of a taxi vehicle and during this process officers established the vehicle had been operating without a roof sign and had also arrived at the council offices in that manner. On this occasion officers formally warned the licence holder as to future requirements.

3.2.4 The Council holds two meetings between the trade and the Licensing Committee every year with officers and councillors attending. This allows for positive and continued communication and sharing new legislation and trends in the taxi and private hire trade. A taxi liaison meeting was held in November when an update was given to members of the trade about the new arrangements for taxi driver tests and the Immigration Act 2016. Discussion was also had relating to the licensing policy consultation and whether there was a need for a review of hackney carriage fares. The next liaison meeting will occur during the first week of April 2017 and in the intervening time further contact is proposed by the licensing manager with trade members regarding the taxi policy consultation process.

3.2.5 During November and December officers noted a rise in applications and contact from applicants for hackney carriage driver's licences including some enquiries from drivers living outside of the East Devon area. Although each application is managed on a case by case basis, the issue of whether an applicant will be working and plying for hire in the district is a due consideration under the law that must be confirmed.

3.3 Hearings

3.3.1 There have been no further Sub Committee hearings relating to taxi licensing applications or licence holders during this period.

3.4 Taxi Licensing Policy

3.4.1 A draft taxi licensing policy was submitted to the committee members on 17 February 2016 when it was agreed that the draft policy be circulated for formal public consultation, subject to incorporating amendments requested at the meeting. However since that time there have been further changes in legislation and procedures in the autumn of 2016 which needed to be included in the draft policy. Whilst the aim had been for the draft policy to be circulated for consultation and then finalised last year, this was not possible due to further changes.

3.4.2 It was reported that licensing staff would attend a briefing presentation provided by the UK Immigration Service concerning the requirements of the Immigration Act 2016 on 8 November. It can be confirmed that with effect from 1 December 2016, the act placed a legal standing on all Councils to ensure licences are not issued to people who do not have a Right to Licence which includes those illegally present in the UK, not permitted to work in the UK, or those permitted to work in the UK but are subject to a condition that prohibits them from holding such a taxi or private hire licence. The checks are for persons of all nationalities, including UK citizens, who hold a taxi or private hire driver licence or a private hire operator licence and existing licence holders, upon renewal, will be subject of the prescribed checks. Although the taxi trade had hoped to provide copies of identity documents initially with original documents then being provided at later stage, it is now a legal requirement set down by the act that relevant original documents have to be produced at the Council offices in person so that officers can then check identity against the documents and to ensure that they are genuine.

3.4.3 Although the Immigration Act 2016 is legislation that must be complied with, the legal requirement to examine and inspect original identity documents supports processes within the proposed taxi policy regarding driver applications and renewals. The licensing team will aim to avoid duplicating or repeatedly checking documents for each applicant, although it will be a requirement to check on every licence renewal, as officers will pre-plan meetings to check the documents and also conduct the applicant interview at the same time.

3.4.4 A request to the committee to in November to revise the taxi policy concerning driver testing arrangements was duly implemented. Since cessation of the DVSA driving tests, positive feedback has been passed by applicants, proprietors and the trade regarding the revised driver testing arrangements which are being booked in a more timely manner.

4. General Licensing – Street Collection

4.1 Street Collections Policy

4.2.1. The current policy concerning charitable street collections is subject of an additional report following a period of public consultation in 2016 and the proposal to adopt can be found in that report.

5. Consultations and Partnership Working

5.1 Meeting between Members, Taxi Proprietors and Officers

5.1.1 A liaison meeting for members, officers and taxi proprietors took place on 3 November 2016 with the meeting occurring every six months to allow members of the taxi trade to discuss relevant topics of interest and to exchange views. The Committee's Chairman and Vice

Chairman normally attend these meetings and the next liaison meeting will occur during the first week of April 2017, subject of confirmation and other members are always welcome.

5.2 Meetings between officers and the police licensing team

- 5.2.1 Officers attend formal licensing liaison meetings on a monthly basis with the police licensing team to exchange information and discuss licensing issues within the East Devon Area. This exchange of information is considered useful when specific problems or incidents involving licensed premises require joint investigation.

5.3 Officers attend Licensees meeting

- 5.3.1 Officers attend Licensees meeting within the East Devon area whenever possible as we feel that these meetings should be supported and are a useful forum for the exchange of ideas, information and keeping up to date with issues within each area. Attendance by council, local police and also police licensing staff is keenly sought by the licensing trade to discuss local crime and disorder issues.
- 5.3.2 Whilst support and working arrangements between council and police licensing officers remains positive, it has been evident at recent licensee meetings that local officers and PCSO's have been unable to attend the meetings leaving local policing teams unrepresented and unable to interact with licensee. This licensing authority fully understands the continued and ongoing challenges for Devon and Cornwall police however the need for engagement between local officers and licensees at these forums is considered to be important partnership working and an aid to local problem solving.

6. Licensing Team update

- 6.1 Since the staffing changes to the licensing team reported in November, further recruitment has occurred with Lesley Carlo being recruited as a licensing officer in the team. The beginning of 2017 sees the completion of staff recruitment with the structure for the team now being one manager, three licensing officers and two licensing support officers.
- 6.2 From 1st February, the licensing team will be engaged in revised working arrangements introduced under a pilot scheme by the council to adapt staff core working hours. The pilot will operate under the principle that work will occur at the most effective locations at the most effective times. The work may occur outside previous core office working hours. The change may lead to more time being spent away from the office during daytime hours, in addition to current enforcement and inspection visits that licensing officers already conduct. The team will still have staff to respond to calls and emails although in the first instance it may not always be possible to contact a specific licensing officer. The change will be reported to the taxi trade, other licence holders and interested parties.

7. Member Training

- 7.1 Following requests from committee members it is recognised that a training session is considered as being necessary to support newer members and to refresh knowledge regarding recently introduced legislation or procedures.
- 7.2 Due to the significant content and the policies to be considered at this meeting it is intended that following the next committee meeting in May 2017, a training session will be offered for conducting hearings and taxi legislation. This is opportune with the proposed consultation and adoption of the draft taxi policy also being on the agenda for this meeting.
- 7.3 It is important that members make themselves available for training sessions and if there are specific areas of licensing that are requested or considered worthwhile, this can be provided in training sessions to be run at the end of the Committee's quarterly meetings. Members are also invited to suggest the subjects they would like covered in the future.

Report to: **Licensing and Enforcement Committee**



Date of Meeting: 15 February 2017

Public Document: Yes

Exemption: None

Review date for release: None

Agenda item: 7

Subject: **Street Collection Policy – To seek approval to adopt the new policy at Council**

Purpose of report: This report seeks Members' approval to formally adopt the Charitable Street Collection Policy.

Recommendation: **That the Committee**
1. Note the results of the public consultation undertaken on the Council's draft Street Collections Policy
2. Recommend to Council at its meeting on 22 February 2017 that the East Devon Charitable Street Collections 2017 Policy, as attached at Appendix A & B, be adopted by the Council for the period 2017 to 2022

Reason for recommendation: The legislation does not require the Council to have a policy relating to charitable and other street collections however it is regarded as good practice to have a policy to explain how the policy and regulations are applied in the district.

Officer: Steve Saunders, Licensing Manager, ssaunders@eastdevon.gov.uk tel 01395 517587

Financial implications: Minimal Officer time

Legal implications: The legal implications are set out within the main report.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: **Appendices:**
Appendix A - Street Collections Policy for adoption
Appendix B - Street Collections Regulations for adoption

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Background

- 1.1 This policy gives detailed guidance on the application of regulations to regulate charitable and other street collections, made by the council in 1975. It explains how the collections regulations are to be applied, and where, and how often, an organisation may make a street collection in East Devon.
- 1.2 Permits are required for street collections in the area of East Devon District Council, and must be obtained from the licensing manager before any collection takes place. Collectors will be issued with a copy of the legal regulations they must comply with. East Devon District Council has made Regulations under the Police, Factories (Miscellaneous Provisions) Act 1916 for the control of Street Collections.
- 1.3 The existing policy was last reviewed in 2007 and it is now considered necessary for review and consultation at this time. The draft policy mirrors the existing policy which has been effective.
- 1.4 Members agreed to the consultation being undertaken in 2016 with the consultation carried out over a period of four weeks. Following any comments being received during that period, the proposed policy would be brought back to the Licensing and Enforcement Committee for consideration. If approved it is proposed that the policy should be reviewed at least every 5 years unless a need is identified to review it earlier.
- 1.5 The consultation was circulated on the council's website.

2. Results of consultation

- 2.1. The Consultation exercise for the street collections policy was conducted through the District Council's website.
- 2.2. Due to the effectiveness of the previous policy, there were no proposed changes within the draft policy and subsequently no responses were received.
- 2.3 As no responses to the consultation were provided, the policy has not required updating or further change, other than dates for review and is attached at **Appendix A** to this report together with the draft regulations for adoption and attached at **Appendix B**.

3. Conclusions

- 3.1 The lack of any responses to the draft Street Collections Policy for East Devon seems to demonstrate an overall acceptance of the Policy by charities and the public alike.
- 3.2 Once the Council has approved its Street Collections Policy it will be published on the website. There are no respondents to be contacted. It will also be available through the Council's website.

Steve Saunders
Licensing Manager

Licensing & Enforcement Committee
15 February 2017

East Devon District Council

Street Collections Policy

Reviewed

2016

Policy Approval

Licensing and Enforcement Committee 15 February 2017

Reasons for introducing the Policy

This policy gives detailed guidance on the application of Regulations to regulate charitable and other street collections, made by the Council in 1975. It explains how the collections Regulations are to be applied, and where, and how often, an organisation may make a street collection in East Devon.

Policy Statement

Permits are required for street collections in the area of East Devon District Council, and must be obtained from the Licensing Manager before any collection takes place. Collectors will be issued with a copy of the legal regulations they must comply with.

Terms Explained

East Devon District Council has made Regulations under the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 for the control of Street Collections.

How will we go about it?

We will make information available about how to apply for a permit:

- At the Council's Licensing Office
- On the Council's website.

Specific Policy Areas

There is currently no charge for the issue of a permit.

The legislation does not include statutory criteria for approval or rejection of a permit request. It is a matter for the Council's discretion, and the regulations, together with this policy, set out how the Council will normally deal with permits. An organisation applying for a permit to collect does not need to be a registered charity. Where an application is received that is considered not to be in the public interest the Licensing Manager, in consultation with the Head of Legal, Licensing and Democratic Services, may refuse the application. This is in addition to the general policy set out in paragraph 3.2. If necessary the application will be brought to the Licensing and Enforcement Committee or a Sub Committee of that Committee for consideration.

1. The District Council's general policy for the issue of permits is:

- a) That a collection for one day will be permitted per week in each of the towns in the district including Axminster, Seaton, Honiton, Ottery St Mary, Colyton, Beer, Sidmouth, Budleigh Salterton and Exmouth. Saturday is the day on which most collections take place with the exception of Axminster where Thursdays is the preferred choice of many organisations because of the market. The District Council will always attempt to be flexible and permit an organisation to collect, with prior agreement, on any day they wish providing always there is only one collection held in that town in that week.
 - b) That a collection for one day will be permitted per week on Exmouth Seafront. The District Council will always attempt to be flexible and permit an organisation to collect, with prior agreement, on any day they wish providing always there is only one collection held on the seafront in that week.
 - c) All organisations/charities will only be permitted to collect once in a calendar year in each of the district's nine towns and Exmouth Seafront.
 - d) Permits will be issued to permit collections between 10.00 am and 6.00 pm on the day approved for the collection. Exceptions to these times will be considered at the discretion of the Licensing Manager
 - e) These general restrictions will be relaxed two weeks before Christmas at the discretion of the Licensing Manager but no organisation/charity in the run up to Christmas will be granted a permit to collect on more than one Saturday in the same town.
2. The following exceptions will apply to the policy:
- a) The Royal British Legion will be permitted to collect on two days (Friday and Saturday) of the week before Remembrance Day in all the towns in the district with the exception of Axminster where the organisation will be permitted to collect on three days - Thursday (Market Day), Friday and Saturday.
 - b) Permits granted for collections in the Exmouth Town Centre will prohibit collections along the seafront. This does not prevent a collector applying for a Exmouth Seafront permit in addition.
 - c) Permits granted for collections along the Exmouth Seafront will not permit collections in the town centre and the maximum number of collectors will be restricted to six.
 - d) Where collection permits are issued for Sidmouth Town these will permit no more than two collectors to collect on Sidmouth Esplanade.
3. Collections in the villages will be considered at the discretion of the Licensing Manager.
4. Permits for 'passing through' collections will granted at the discretion of the Licensing Manager. These events are normally sponsored walks, bed pushes or cycle rides etc.
5. Permits for special occasion events, for example - Red Nose Day, Children In Need, Red Arrows Display or one off collections for major disasters will be granted at the discretion of the Licensing Manager. Often these permits are sought with very little notice – applicants should normally provide a months notice but this can be relaxed in special circumstances. Where there is a major disaster, any permission to collect at short notice will normally be given to the group of charities co-ordinating help, rather than to small groups whose credentials cannot easily be

established. These permits will not be issued where there is a clash with a long-term booking. Therefore these special event collections will normally take place on a weekday.

6. Occasionally the District Council will receive applications for permits to enable street collections in circumstances outside the terms of the council's policy. An example might be where an organisation/charity wishes to collect for longer periods or more often than the policy permits. In these circumstances the Licensing and Enforcement Committee or a Sub Committee of the Committee will consider the application.

Outcomes

To regulate charitable and other street collections and ensure that there is clear guidance on our policy as well as proper audits of collections.

Who is responsible for delivery?

The Licensing Manager will operate the policy on a day to day basis, with the involvement, where necessary, of the Head of Legal, Licensing and Democratic Services.

Performance Monitoring

The number of permits issued is monitored on an annual basis. The effectiveness and fairness of the policy will be kept under review by the Licensing Manager.

Policy Consultation

Strategic Management Team, all Town and Parish Councils

Policy Review

The Head of Governance and Licensing will review the policy in 2022.

Related Policies and Strategies

None

EAST DEVON DISTRICT COUNCIL

REGULATIONS MADE BY EAST DEVON DISTRICT COUNCIL WITH REGARD TO STREET COLLECTIONS

IN exercise of the powers conferred upon it by section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, as amended by section 251 of the Local Government Act 1972 and Schedule 29 to that Act and the Criminal Law Act 1977 (Commencement No. 5) Order 1978 No. 712), East Devon District Council hereby makes the Regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place within the district of East Devon to collect money or sell articles for the benefit of charitable or other purposes.

1. In these Regulations, unless the context otherwise requires – “collection” means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word “collector” shall be construed accordingly, “promoter” means a person who causes others to act as collectors; “permit” means a permit for a collection; “contributor” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes; “collecting box” means a box or other receptacle for the reception of money from contributors.
2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within East Devon District unless a promoter shall have obtained from the licensing authority a permit.
3. Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection.

Provided that the East Devon District Council may reduce the period of one month if satisfied that there are special reasons for so doing.

4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The East Devon District Council may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. (1) No person may assist or take part in any collection without the written authority of a promoter.
(2) Any person authorised under paragraph (1) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the East Devon District Council or any constable.
7. No collection shall be made in any part of the carriageway of any street which has a footway. Provided that the East Devon District Council may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.
8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of such person.
10. While collecting:
 - (a) a collector shall remain stationary; and
 - (b) a collector or two collectors together shall not be nearer to another collector than 25 metres:

Provided that the East Devon District Council may, if it thinks fit, waive the requirements of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.
12.
 - (1) Every collector shall carry a collecting box.
 - (2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
 - (3) All money received by a collector from contributors shall immediately be placed in a collecting box.
 - (4) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.
13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.
14.
 - (1) Subject to paragraph (2) below a collecting box shall be opened in the presence of a promoter and another responsible person.
 - (2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.
 - (3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.
15.
 - (1) No payment shall be made to any collector.
 - (2) No payment shall be made out of the proceeds of a collection, either directly or indirectly, to any person connected with the promotion or conduct of such collection, in respect of services connected therewith, except such payments as may have been approved by the licensing authority.
16.
 - (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the East Devon District Council:-
 - (a) a statement in the form set out in the Schedule to these Regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant;
 - (b) a list of collectors;
 - (c) a list of the amounts contained in each collecting box.and shall, if required by the East Devon District Council, satisfy it as to the proper application of the proceeds of the collection.
 - (2) The said person shall also, within the same period, at the expense of that person and after a qualified accountant has given his certificate under paragraph (1)(a) above, publish in such newspaper or newspapers as the East Devon District Council may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected, and the amount of the expenses and payments incurred in connection with such collection.
 - (3) The East Devon District Council may, if satisfied there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.
 - (4) For the purposes of this Regulation "a qualified accountant" means a member of one or more of the following bodies:-
 - the Institute of Chartered Accountants in England and Wales
 - the Association of Certified Accountants
 - the Institute of Chartered Accountants in Ireland.
17. These regulations shall not apply:-
 - (a) in respect of a collection taken at a meeting in the open air, or
 - (b) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 15 February 2017

Public Document: Yes

Exemption: None



Agenda item: **8**

Subject: Street Trading – Designation of Streets Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

Purpose of report: The report sets out the background to and the request for authority for public consultation to be undertaken on changing the current Street Trading arrangements within East Devon so as to provide for more flexibility whilst allowing the Council to retain its control on the issue of Street Trading Consents.

Recommendation:

- (1) That the Committee authorise public consultation in accordance with the legislative requirements on a proposal to:**
 - (a) Rescind all the Council’s previous resolutions to designate streets as ‘Prohibited Streets’ and ‘Consent Streets’ within the District, and**
 - (b) Resolve to designate all ‘streets’ in East Devon as ‘Consent Streets’ as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 save for certain streets in Sidmouth (listed in Appendix D) which shall be ‘Prohibited Streets’ except during Folk Week.**
- (2) That the Committee receive a further report which considers the representations made during the public consultation exercise and which makes further recommendations as to the approach to be adopted by the Council to street trading. Should this approach be to resolve to make additional consent streets then the report shall also detail for the Committee to consider; the likely resource implications, fees to be charged for consent, the Street Trading policy proposed to be adopted and standard conditions to be imposed on any consent granted.**

Reason for recommendation: To allow public consultation to be undertaken to ascertain the level of support to designate all streets in East Devon as ‘Consent Streets’ save for specified streets in Sidmouth.

Officer: Steve Saunders, Licensing Manager: ssaunders@eastdevon.gov.uk

Financial implications: Costs incurred of delivering the proposal to the public to be covered by existing advertising budget by means of marketing and external consultant fees. Previously this has been £400 and minimal Officer time. Provided public consultation has passed, based on a predicted increase

in demand for Street Trading within East Devon, a temporary post of Licensing Officer for a 12 month contract to administer new applications to be passed and reviewed after this temporary period. At a present cost of £24,174 for 2017/18, would require approval for additional Employment Funding but this most likely would not be required until 2018/19.

Legal implications: The legal implications are set out within the report and require no further comment at this stage, prior to consultation.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

- Appendix A - Current list of Designated Streets in East Devon
- Appendix B - The District Council's current Street Trading Policy
- Appendix C - Proposed replacement Street Trading Policy
- Appendix D - Sidmouth Prohibited Streets

Background Papers:

- Street Trading Report, Overview Committee, 30 Jun 2015
- Street Trading Report Minutes, Overview Committee, 30 Jun 2015
- Street Trading Report, Licensing Committee, 26 Aug 2015
- Street Trading Report Minutes, Licensing Committee, 26 Aug 2015
- Street Trading Report to Overview Committee, 29th November 2016

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Background

- 1.1 The Licensing and Enforcement Committee is the Council committee with responsibility for Street Trading within the District. Street Trading is defined as “the selling or exposing or offering for sale of any article (including any living thing) in a street”. “Street” is defined as “including:
- (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”.
- 1.2 Legislation (being section 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982) permits local authorities to adopt provisions to control street trading. This is by way of a regime that permits streets to be designated as prohibited, licensed or consent streets. Streets designated as ‘prohibited’ are not permitted to have any street trading occurring on them. ‘Consent’ and ‘Licence’ streets are permitted to have trading occurring on them provided the Council’s consent or a licence from the Council is obtained first. Controls in respect of the trading can be imposed on any consent granted or licence issued by way of conditions. The ability to issue a consent (as opposed to a licence) is at the discretion of the Council, as is the ability to revoke a consent. It is a criminal offence to trade from a prohibited street or from a consent or licence street without a consent or licence. It should be noted that there are some exemptions which permit certain activities (e.g. such as roundsmen, charitable street collections, news vendors and pedlars) which

are not precluded from prohibited streets nor require any consent or licence under this regime.

- 1.3 The Council adopted these provisions with effect from 1 December 1982 (by virtue of the decision of the Policy Committee of 6th October 1982) and has since designated a number of streets in the District as either 'Prohibited' or 'Consent' streets. The current list of Prohibited and Consent Streets are listed at **Appendix A** to this report. The majority of the streets appearing in the appendix were designated in 1983/84 with further changes being made in 1998. Sidmouth Esplanade and Promenade and parts of Seaton's Esplanade and Square were re-designated as 'Consent Streets' previously being 'Prohibited Streets'. In order to ensure fairness in dealing with applications, the Council adopted policy for considering any applications for street trading consent – this was adopted in February 2009 and can be found at **Appendix B**.
 - 1.4 Councils are permitted under the relevant legislation to change any designations at any time provided a statutory process, including publication of notices inviting comments and consideration of those comments, occurs prior to any changes being made. The process of changing the designation of a street is time consuming and expensive with a legal requirement to place three different public newspaper notices for each designated change.
- 2 Proposed changes to the street trading regime
- 2.1 The popularity and need for street trade has increased since the designation of streets over thirty years ago with outdoor Farmers and Christmas Markets more evident than before. Many councils have reduced the number of 'Prohibited Streets' and control street trading by ensuring that all streets are designated 'Consent Streets'. The changes for councils in Somerset, Gloucestershire and Taunton Deane reported excellent results where all streets are now controlled by way of consent.
 - 2.2 The intention of this report is to seek the Committees approval to undertake public consultation on changes to the current regime so that the whole of the District, with the exception of some streets within Sidmouth, become 'Consent Streets'. This is an issue that has been considered for some time by the Council having been reported to this Committee and Overview previously. Overview Committee required some initial consultation to be carried out, which was done, and which, having been reported to Overview at its November meeting, informs the basis of the recommendations above. The officer report to the Overview Committee [..\..\2016\November\Overview Report Street Trading 29 11 16.docx](#) sets out the economic arguments for why this change would be positive for the District. Ultimately, the aim is to create a street trading environment which complements premises based trading, is sensitive to the needs of residents, provides diversity of consumer choice, and seeks to enhance the character and ambience of local environments and provide overall economic benefits.
 - 2.3 Before any changes to the street designation can be done the legislation requires a notice to be placed in a local newspaper explaining the Council's intention and inviting residents' comments. If the Committee agree with the recommendations, then full consultation will be undertaken with all town and parish councils within the District and the business community and other bodies on the basis of the proposals set out above. Public comment will also be invited.
 - 2.4 As noted above, a designation as a consent street will not allow blanket approval for street trading and all applicants would need to apply to the Council with each case being considered on its own merits and on the basis of a Policy that will be adopted at the same time as the resolution to make the changes is made. A working draft of the Policy is attached at **Appendix C** and this will be further worked upon once the consultation responses are received and to take into account, as far as possible, any issues raised that it would be sensible to address. Standard conditions will be attached to every consent which

detail the holder's responsibilities to maintain public safety, avoid nuisance and to preserve the amenity of the locality. Additional conditions can be imposed where necessary.

- 2.5 Failure to comply with conditions allows a 'consent' to be revoked and any person trading without a consent and not being exempt would be committing a criminal offence and subject to enforcement action.
- 2.6 The effect of this proposed designation would be that, save for certain legal exemptions and those parts of Sidmouth where there could be no street trading other than during Folk Week, street trading in any street will only be allowed having first obtained a street trading consent from the Council.

3 Revised Policy (Appendix C)

- 3.1 It is not considered that the current policy (Appendix B) is suitable to deal with the whole of the District being a consent regime (save for those areas of Sidmouth). Accordingly a more detailed and a robust policy has been drawn up, which will form part of the consultation process so that views can be sought on it. It should be noted that this Policy is in draft and it may well be that further changes are required to be made as a consequence of the consultation process. Ultimately, and should the recommendation ultimately be one of progressing a district wide 'consent street' regime, a policy will be brought back for adoption at that time.
- 3.2 In summary in terms of the draft Policy, if the proposed changes to the Street Trading regime in the District are approved, the revised Policy would require the Council, prior to granting any consent, to seek written observations from:
 - The Highways Authority (Devon County Council)
 - Devon and Cornwall Constabulary
 - Fire Authority
 - East Devon District Council Food/ Health and Safety and Pollution Teams
 - The relevant Ward Members
 - The appropriate Parish or Town Council
 - The land owner of the proposed street trading site if it is on private land
 - Occupiers of property within the immediate vicinity of the site
- 3.3 The suggested changes to the Street Trading Policy would provide standards for the council to consider including:
 - Site safety
 - Trading hours
 - Public order
 - Avoiding nuisance to nearby residents or businesses
 - Nature of trade and conflict with other like trading outlets and school premises
 - Compliance with legal requirements in relation to a number of areas (including food safety)
 - Suitability of the applicant
 - Control over mobile trading
- 3.4 Consideration will be given to the nature of goods which may be sold from any pitch or street market and the trading hours that can be carried on, and specifically how this relates to neighbouring business and users and whether there is any conflict in offering. The orientation of trading will be considered to ensure positive trading environments with the existing offering are created (i.e. pitches facing existing retail units to create a thoroughfare

rather than having their back to the existing units). The design / appearance of the trading activities, the suitability of the applicants, impacts in terms of highways / traffic and nuisance to adjoining users will all be taken into account when considering applications. Any subsequent application for a change in the nature or type of goods sold or the trading hours will require a further application or fresh consultation depending on whether it was a pending application or consent had been granted.

- 3.4 The draft Policy also covers the application process, steps that will be taken in that process, how consultation will be carried out and how any responses will be dealt with. It covers how decisions on applications are taken and the process for applicants to try and overcome objections. It deals with the types of consents and the fees payable (this work is yet to be carried out – as detailed below – but will form part of any further report where the recommendation is to proceed with a consent street regime).
- 3.5 Ultimately, the adopted Street Trading Policy will be used as the guidance and basis for determining all applications for consent.

4 Resource implications

- 4.1 There have been a number of different departments involved in administering Street Trading. Historically it fell to the council's Environmental Health Service although the Licensing service effectively took over in 2008 after unregulated traders had set up in contravention of the street trading prohibition during the Sidmouth Folk Week. The stalls and pedlars obstructing the Promenade in 2007 generated complaints to both the Council and the Folk Festival. This led to the current regime that applies today on the Esplanade during Folk Week and gained approval for the Sidmouth Esplanade to be re-designated as a 'Consent Street'. This is led by the Licensing Service being responsible over the last 8 years there has been no increase of any additional resources as the administration and enforcement for the stalls on the Esplanade during Sidmouth Folk Week is achieved through the licensing staff increasing daily and weekend working arrangements for this event but over a short period. It is therefore important to note that street trading has not dramatically increased outside of the Folk Festival in Sidmouth due to the current restrictions in place and this explains why there has been no need for any additional resource.
- 4.2 The above said there has been a few street and farmer markets that have grown in frequency across the district and the administration and enforcement for this has been led by Streetscene particularly when events take place on council owned land. This process has generated new formal booking procedures and conditions of hire. However this work has generally not been co-ordinated with other departments and moreover has not been carried out in the context of the adopted street trading policy.
- 4.3 Bringing the responsibility for administering a consent regime under a single service (Licensing) will be important in ensuring applications are determined in the context of the relevant Policy (**Appendix C**) and are dealt with in a consistent way from the overall perspective of the Council. It will also ensure that the public / traders have a single point of contact within the Council to deal with obtaining a consent for street trading. They may well need to liaise with other departments, where we are the landowner and they need to get our permission for example, but that will be separate from the consenting regime itself.
- 4.4 As this approach has not been adopted before in the District, further research will be necessary to assess the level of resources required to administer and enforce the proposal suggested in this report. The demand for consents, if the regime becomes more flexible, is not currently clear although research conducted with councils that have taken this option revealed an initial increase of resources to implement the changes. Other councils report the early and timely requirement for enforcement sometimes leading to prosecutions in the first year. The demographic of East Devon, our proximity to the coast generating additional

seasonal demands and the large geographic area indicates a considered need to increase staffing to administer new applications and to enforce the consents across the district. As noted below, such costs would be covered by the fees charged.

- 4.5 One option would be to employ a member of staff on a 12 month contract to establish the exact demand for street trading balanced against the level of resources required. This would seem logical so as not to commit the Council to a permanent post that may not be required. This issue will be addressed in the further report to be brought back to this Committee.
- 4.6 Even if the proposal is not adopted the need for street trading in the district is unlikely to diminish. The effect of the historic designation of so many prohibited streets remains a milestone with resources required to enforce the existing large number of prohibited streets in order to meet public expectations under current restrictions.
- 4.7 The legislation permits the council to recover its costs in running the licensing scheme from the fees charged for consents. However no licensing regime is permitted to make a profit and recent case law has reinforced this. There is no reason why the fee regime cannot include the recovery of some costs towards other costs incurred by the Council, including those of streetscene.

5 The Next Step

- 5.1 If the Committee agrees the recommendations to consult on changing the current regime (as set out above) a public notice will be placed in a local newspaper inviting residents' views.
- 5.2 Consultation will also be widely undertaken to include all Town and Parish Councils within the District, the Highways Authority, Devon and Cornwall Constabulary, East Devon District Council Food/Health and Safety and Pollution Teams and Street Scene.
- 5.3 All comments will be collated and the intention is to report back to this Committee at its next meeting. It is anticipated there may need to be some changes to the Council's existing consent conditions to accommodate different circumstances however the special conditions that currently apply to street consents on the Seaton Esplanade are unlikely to need changing.
- 5.4 Having considered the responses to the public notice and the rest of the consultation if the Committee resolves to confirm their decision to change the Street Trading scheme as recommended a further final advertisement process is required to take place. A notice must be placed in the local press for two consecutive weeks to give notice of the Council's decision and of the date it comes into force.

APPENDIX A

List of Designated Streets in East Devon at the 1 November 2016

Within the East Devon District the following are designated as Consent Streets

Exmouth

- Bath Road

Honiton

- Northcote Lane (part only – see plan)

Axminster

- Trinity Square

Seaton

Esplanade from Fisherman's Gap to Beach Road
The Square

Sidmouth

- Esplanade & Promenade

Within the East Devon District the following are designated as Prohibited Streets

A **Prohibited Street** is a street where street trading is at all times forbidden by law.

Within East Devon District the following streets are currently designated as prohibited streets,

Exmouth

- Albert Place
- Albion Place
- Albion Street
- Alexandra Terrace
- Alston Terrace
- Ann Street (this is probably now under London Hotel car park)
- Beacon Place
- The Beacon
- Bickton Place
- Bickton Street – from its junction with Rolle Street to its junction with South Street
- Carlton Hill
- Chapel Hill
- Chapel Street

Exmouth Continued

- ❑ Charles Street
- ❑ Church Road
- ❑ Church Street
- ❑ Churchill Road
- ❑ Clarence Road
- ❑ Clinton Square
- ❑ Cranford Avenue – from its junction with Littleham Rd, to its junction with Barnfield Ave.
- ❑ Crudge's Lane
- ❑ Dagmar Road
- ❑ Dinan Way
- ❑ Elm Grove
- ❑ Esplanade and Queens Drive – from its junction with Victoria Rd to Orcombe Point.
- ❑ Exeter Road – from its junction with the Parade to its junction with Lyndhurst Road
- ❑ Fore Street – from its junction with King Street to its junction with Church Street.
- ❑ George Street
- ❑ Henrietta Road
- ❑ High Street
- ❑ Imperial Road
- ❑ King Street
- ❑ Littleham Road – from its junction with Salterton Road to the Broadway
- ❑ Louisa Place
- ❑ Louisa Terrace
- ❑ Little Bicton Place
- ❑ Lower Fore Street
- ❑ Maer Road – from its junction with Queen's Drive to its junction with Douglas Avenue.
- ❑ Manchester Road
- ❑ Manchester Street
- ❑ Margaret Street
- ❑ Magnolia Centre
- ❑ Marine Way
- ❑ Market Street
- ❑ Meadow Street
- ❑ Meeting Street
- ❑ Morton Crescent
- ❑ Morton Road
- ❑ New North road
- ❑ New Street
- ❑ North Street
- ❑ Palace Cottages
- ❑ Parade, The
- ❑ Pound Street
- ❑ Prince of Wales Drive
- ❑ Queen's Drive
- ❑ Queen Street
- ❑ Rolle Road

Exmouth Continued

- Rolle Street
- Rolle Villas
- Sheppards Row
- St Andrew's Road
- South Street
- Staples Mews (formerly Buildings)
- Strand, The
- Tower Street
- Union Street
- Victoria Road
- Windsor Square

Honiton

- George Street
- King Street
- New Street
- Northcote Lane (part of – see plan))
- Queen Street
- School Lane
- Silver Street

Seaton

- Beer Road, - extending from Queen Street to Westcliff Terrace.
- Castle Hill
- Colyford Road, - as far as the cemetery
- Court Lane
- Cross Street
- Esplanade (except for that part of the Esplanade from Fisherman's Gap to Beach Road)
- Eyrecourt Road
- Fore Street - extending from Marine Place to its junction with Court Lane
- Harbour Road
- Harbour Road Car Park
- Harepath Road - extending from Queen Street to its junction with Homer Lane and including the triangle of grass contained within Harepath Road, Homer Lane and Barnards Hill Lane.
- Harepath Road as far as Harepath Hill
- Highwell Road
- Manor Road
- Marine Crescent
- Marine Place
- Meadow Road
- Orchard Car Park
- Queen Street
- Seafield Road
- Seahill
- Seaton Town Hall – Marsh Road Car Park
- Seaton Town Hall Reserved Car Park
- Seaton Down Road - extending from Harepath Road to Cherry Drive.
- Stock Lane

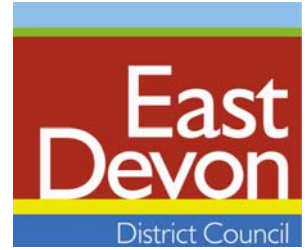
Seaton Continued

- ❑ The Burrow
- ❑ The Underfleet, - together with the roundabout which forms the junction with Underfleet Way and all its surrounding highway (up to and including its junction with Harbour Road Car Park).
- ❑ Trevelyan Road
- ❑ Underfleet Way
- ❑ Unnamed Road - extending from CRS (Pioneer) Supermarket to Seaton Town Hall Reserved Car Park
- ❑ York Road

Sidmouth

- ❑ All Saints Road
- ❑ Bedford Square and including the un-named street leading from Bedford Square to the Esplanade
- ❑ Blackmore View
- ❑ Chapel Road
- ❑ Chapel Street
- ❑ Church Street
- ❑ Coburg Road - between Coburg Terrace and Church Street
- ❑ Dove Lane - and the lane between Dove Lane & New Street
- ❑ Fore Street
- ❑ Fortfield Place
- ❑ Fortfield Terrace
- ❑ Glen Road, - south of Manor Road
- ❑ Ham Lane and East Street - from the Esplanade to Fore Street
- ❑ Ham Playing Field
- ❑ High Street
- ❑ King Street
- ❑ Manor Road
- ❑ Market Place
- ❑ Mill Street, - west of its junction with Russell Street
- ❑ Millford Road, - north of the ford
- ❑ New Street
- ❑ Old Fore Street
- ❑ Peak Hill Road – east from its junction with Cotmaton Road.
- ❑ Prospect Place
- ❑ Radway, - south of the Post Office
- ❑ Salcombe Road
- ❑ Sid Road, - south of Redwood Road
- ❑ Station Road - between Knowle Drive and The Esplanade
- ❑ Streets adjoining the Three Cornered Plot (Known as The Triangle)
- ❑ The Beach – from the mouth of the River Sid westwards to a point opposite Clifton Cottage.
- ❑ The un-named street between Elizabeth Hotel and Marlborough Hotel (now Dukes)
- ❑ Vicarage Road, - south of Connaught Road
- ❑ York Street
- ❑ Vicarage Road, - south of Connaught Road

EAST DEVON DISTRICT COUNCIL



STREET TRADING IN EAST DEVON

Licensing Service
East Devon District Council
Knowle
SIDMOUTH
EX10 8HL

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Appendix A - Standard Conditions

Appendix B - Measures in respect of applications for Street Trading Consents in Seaton made by registered Charities

1. Legislation

- 1.1 East Devon District Council has under section 3 of the Local Government (Miscellaneous Provisions) Act 1982 adopted Schedule 4 of that Act with regard to Street Trading within the district.

Consent Streets

- 1.2 A Consent Street is a street where street trading is prohibited without the consent of the District Council.

Within the East Devon District the following are designated as consent Streets.

Exmouth

- Bath Road

Honiton

- Northcote Lane (part only – see plan)

Axminster

- Trinity Square

Seaton

Esplanade from Fisherman's Gap to Beach Road
The Square

Sidmouth

- Esplanade & Promenade

Prohibited Streets

- 1.3 A Prohibited Street is a street where street trading is at all times forbidden by law.

Within East Devon District the following streets are currently designated as prohibited streets,

Exmouth

- Albert Place
- Albion Place
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- Alexandra Terrace
- Alston Terrace
- Ann Street (this is probably now under London Hotel car park)
- Beacon Place
- The Beacon
- Bicton Place
- Bicton Street – from its junction with Rolle Street to its junction with South Street.
- Carlton Hill
- Chapel Hill
- Chapel Street
- Charles Street
- Church Road
- Church Street
- Churchill Road

Street Trading in East Devon

- Clarence Road
- Clinton Square
- Cranford Avenue – from its junction with Littleham Rd, to its junction with Barnfield Ave.
- Crudge's Lane
- Dagmar Road
- Dinan Way
- Elm Grove
- Esplanade and Queens Drive – from its junction with Victoria Rd to Orcombe Point.
- Exeter Road – from its junction with the Parade to its junction with Lyndhurst Road
- Fore Street – from its junction with King Street to its junction with Church Street.
- George Street
- Henrietta Road
- High Street
- Imperial Road
- King Street
- Littleham Road – from its junction with Salterton Road to the Broadway
- Louisa Place
- Louisa Terrace
- Little Bicton Place
- Lower Fore Street
- Maer Road – from its junction with Queen's Drive to its junction with Douglas Avenue.
- Manchester Road
- Manchester Street
- Margaret Street
- Magnolia Centre
- Marine Way
- Market Street
- Meadow Street
- Meeting Street
- Morton Crescent
- Morton Road
- New North road
- New Street
- North Street
- Palace Cottages
- Parade, The
- Pound Street
- Prince of Wales Drive
- Queen's Drive
- Queen Street
- Rolle Road
- Rolle Street
- Rolle Villas
- Sheppards Row
- St Andrew's Road
- South Street
- Staples Mews (formerly Buildings)
- Strand, The

Street Trading in East Devon

- Tower Street
- Union Street
- Victoria Road
- Windsor Square

Honiton

- George Street
- King Street
- New Street
- Northcote Lane (part of – see plan))
- Queen Street
- School Lane
- Silver Street

Seaton

- Beer Road, - extending from Queen Street to Westcliff Terrace.
- Castle Hill
- Colyford Road, - as far as the cemetery
- Court Lane
- Cross Street
- Esplanade (except for that part of the Esplanade from Fisherman's Gap to Beach Road)
- Eyrecourt Road
- Fore Street, - extending from Marine Place to its junction with Court Lane
- Harbour Road
- Harbour Road Car Park
- Harepath Road, - extending from Queen Street to its junction with Homer Lane and including the triangle of grass contained within Harepath Road, Homer Lane and Barnards Hill Lane.
- Harepath Road as far as Harepath Hill
- Highwell Road
- Manor Road
- Marine Crescent
- Marine Place
- Meadow Road
- Orchard Car Park
- Queen Street
- Seafield Road
- Seahill
- Seaton Town Hall – Marsh Road Car Park
- Seaton Town Hall Reserved Car Park
- Seaton Down Road - extending from Harepath Road to Cherry Drive.
- Stock Lane
- The Burrow
- The Underfleet, - together with the roundabout which forms the junction with Underfleet Way and all its surrounding highway (up to and including its junction with Harbour Road Car Park).
- Trevelyan Road
- Underfleet Way
- Unnamed Road - extending from CRS (Pioneer) Supermarket to Seaton Town Hall Reserved Car Park
- York Road

Sidmouth

- All Saints Road
- Bedford Square and including the un-named street leading from Bedford Square to the Esplanade
- Blackmore View
- Chapel Road
- Chapel Street
- Church Street
- Coburg Road - between Coburg Terrace and Church Street
- Dove Lane - and the lane between Dove Lane & New Street
- Fore Street
- Fortfield Place
- Fortfield Terrace
- Glen Road, - south of Manor Road
- Ham Lane and East Street - from the Esplanade to Fore Street
- Ham Playing Field
- High Street
- King Street
- Manor Road
- Market Place
- Mill Street, - west of its junction with Russell Street
- Millford Road, - north of the ford
- New Street
- Old Fore Street
- Peak Hill Road – east from its junction with Cotmaton Road.
- Prospect Place
- Radway, - south of the Post Office
- Salcombe Road
- Sid Road, - south of Redwood Road
- Station Road - between Knowle Drive and The Esplanade
- Streets adjoining the Three Cornered Plot (Known as The Triangle)
- The Beach – from the mouth of the River Sid westwards to a point opposite Clifton Cottage.
- The un-named street between Elizabeth Hotel and Marlborough Hotel (now Dukes)
- Vicarage Road, - south of Connaught Road
- York Street

Definitions

- 1.4 **Consent Street** – means a street in which street trading is prohibited without the consent of the District Council.

News Vendor – means a person trading where, the only articles sold or exposed or offered for sale are newspapers or periodicals and provided that they are not sold from a stall or similar structure or, if they are, that the structure stands on the carriageway of a street and its dimensions do not exceed one metre in length or width, two metres in height and it does not occupy a ground area of more than 0.25 square metres.

Prohibited Street – means a street in which trading is prohibited

Street – includes any road, footway, beach or other area to which the public have access without payment, and a service area as defined in section 39 of the Highways Act 1980.

Street Trading – means the selling or exposing or offering for sale of any article (including a living thing) in a street but does not include:

- a) trading as a pedlar under the authority of a 'Pedlars Certificate'
- b) anything done at a market or fair which have a right to be held.
- c) trading as a news vendor
- d) trading at a petrol filling station or shop.
- e) selling things, or offering or exposing them for sale as a roundsman.
- f) trading in a street adjoining a shop provided it is part of the business of the shop.

Relevant Offences

1.5 The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

Schedule 4, paragraph 10

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
 - c) contravenes any of the principal terms of a street trading licence; 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) (of this schedule); or
 - e) contravenes a condition imposed under paragraph 7 (9) (of this Schedule), shall be guilty of an offence.
- 1.6 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.
- 1.7 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.
- 1.8 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.

2. Policy

- 2.1 All applications will be considered individually on their merits.
- 2.2 Pitches will be allocated on a first come first served basis.
- 2.3 All street trading consents will be limited to daily trading hours between 8.00 am and 10.00 pm.
- 2.4 On the occasions that consents are issued to commence before 10.15 am then if the consent holder has not occupied the pitch for which they hold a valid consent by 11.45 am on any day when trading is permitted the Council may re-let the pitch for the remainder of the trading hours of that day.
- 2.5 Applications will be encouraged provided they are for goods to be sold from a stall, cart, barrow or other non-motorised vehicle that is in sympathy with the surroundings, adds colour and character to the locality and complies with all relevant legislation.

Street Trading in East Devon

- 2.6 The siting and operation of any stall, barrow etc. operated by a Consent Holder or people employed by them shall be such that it does not cause any problems of highway safety, obstruction to users of the highway, or conflict with the requirement of emergency vehicles.
- 2.7 The appearance of associated equipment or structures shall be of good quality and the precise appearance of the facility shall be identified before consent is granted.
- 2.8 The use for which the pitch is put shall not be likely to cause problems of noise, smell or litter, or be inappropriate to the character of the event with which the permit is connected.
- 2.9 The council will not permit trading unless the Consent Holder or people employed by them have a current insurance policy against public liability and third party risks. The minimum insurance cover shall be £2,000,000, and must cover the use of the Consent Holder's vehicle, stall, barrow and any additional equipment under their control.
- 2.10 The Council will not permit trading unless, where necessary, a road closure order has been obtained by the event organiser or individual applicant.
- 2.11 Standard conditions will be imposed unless circumstances dictate otherwise. Additional conditions may be imposed at the discretion of the District Council.
- 2.12 Where the imposition of conditions is not adequate to control potential problems, applications will be refused.
- 2.13 Refusal or withdrawal of street trading consents will be normal in the following circumstances:
- a) That there are not enough pitches available in the street for the applicant to engage in the trading in which she/he desires without causing undue interference or inconvenience to persons using the street.
 - b) That there are already enough Consent Holders or people employed by them trading in the street from shops or otherwise, in the goods in which the applicant desires to trade.
 - c) An applicant or operator of the stall is under the age of 18 years.
 - d) That a Consent Holder or people employed by them have failed to comply with the conditions attached to the Consent.
 - e) That the street trading may damage the structure or surface of the street.
 - f) When adverse comments are received from the consultees.
- 2.14 The Council may at any time revoke a consent or vary the conditions of an existing consent where there are reasonable grounds for so doing.
- 2.15 Double pitches will only be issued in exceptional circumstances where demand for consents does not exceed the number of pitches available.
- 2.16 The measures set out in Appendix B shall apply to the procedure, policy and guidance in respect of any application for a Street Trading Consent in Seaton made by a Registered Charity.

Fees

- 2.16 The fees for individual pitches will be charged at a daily rate of £25 or the current fee then in force.
- 2.17 Pitches may be booked for a single day or for the duration of an event.

3. General Guidance

- 3.1 For General Guidance on Street Trading in East Devon please contact the Licensing Section in the first instance. The Licensing Section can be contacted on 01395 517410 or by email at licensing@eastdevon.gov.uk

4. Application Process

- 4.1 Only fully completed applications will be considered.
- 4.2 Applications will be considered and consent to trade from pitches will be issued on a first-come first-served basis.
- 4.3 Correctly completed applications consist of:
- a) Completed application form, giving full details of the stall, goods to be sold etc.
 - b) A photograph of the stall/vehicle/barrow to be used.
 - c) Application fee (you are advised to contact the Licensing Service to ascertain the current fee applicable).
 - d) Proof of Public Liability Insurance (minimum of £2m) being in place.
- 4.4 Completed applications should be forwarded to the Licensing Manager, Licensing Service, East Devon District Council, Knowle, SIDMOUTH, EX10 8HL.

Consultation

- 4.5 Details of all applications for street trading consent may be circulated to the following bodies and comments may be invited.
- the Police
 - Trading Standards
 - the Highway Authority
 - the Council's Environmental Health Service
 - Local residents and businesses who may be affected by your application may also be consulted before any Street Trading Consent may be granted

Revocation

- 4.6 The Council may revoke a Street Trading Consent after it has been granted. This may be for a variety of reasons. For example: non-compliance with the conditions, non-payment of the fee or because other agencies, for example, the highways department require access to the trading location.
- 4.7 Should the Council revoke a Street Trading Consent the Council shall not in any circumstances whatsoever be liable to pay any compensation to the Consent Holder or people employed by them in respect of such revocation.
- 4.8 If an application is refused or a Street Trading Consent revoked there is no statutory right of appeal against the Council's decision other than seeking the High Court's permission for judicial review.

5. Conditions

- 5.1 The Local Government (Miscellaneous Provisions) Act 1982 provides for Local Authorities when granting a street trading consent to “attach such conditions to it as they consider reasonably necessary”. Conditions may also be imposed which limit the location of trading and the hours of trade.
- 5.2 A list of standard conditions that the Council may seek to impose upon any street trading consent issued is included at **Appendix A**.
- 5.3 The Act also provides for Local Authorities at any time to:
 - a) vary the conditions of a street trading consent; or
 - b) revoke the street trading consent.

6. Inspections

- 6.1 An authorised officer of the council may inspect any stall, van, barrow, cart or other non-motorised vehicle from which it is intended to trade.

Standard conditions that the Council may seek to impose upon any street trading consents

1. The Consent Holder or people employed by them must produce this Street Trading Consent on demand when so required by a duly authorised officer of East Devon District Council a Police Officer or a Police Community Support Officer.
2. The Consent Holder or people employed by them must return this Consent to East Devon District Council immediately on revocation or surrender of this Consent.
3. The Consent Holder or people employed by them must trade strictly in accordance with this Consent.
4. The Consent Holder or people employed by them must notify the Licensing Manager, Knowle, Sidmouth, EX10 8HL immediately of any convictions or proceedings arising out of the use or enjoyment by the Consent Holder or people employed by them of this Consent.
5. The Consent Holder or people employed by them must not cause any obstruction of the street or danger to people using it and must not permit people to gather around them or any cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any people lawfully using the street.
6. The Consent Holder or people employed by them must not use or suffer or permit any music playing, music re-production or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent.
7. The Consent Holder or people employed by them must not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the previous consent in writing of the Licensing Manager.
8. The Consent Holder or people employed by them must not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
9. The Consent Holder or people employed by them shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any premises within the locality or to members of the public.
10. The Consent Holder or people employed by them must keep their trading position and the adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
11. The Consent Holder or people employed by them must at all times whilst trading provide at their own cost and expense suitable receptacles for the deposit of refuse and remove them and their contents from the site at the end of each day's trading. Any litter or food waste originating from the business and deposited on the highway by customers shall be collected by the Consent Holder or people employed by them.
12. Any stall, or authorised vehicle used for street trading must be immediately removable at all times in the event of an emergency or at any other time be removed at the request of any officers of the emergency services or officer of the Council.

Street Trading in East Devon

13. All stalls must be removed within 30 minutes of the expiry of the trading (consent) hours for the day.
14. The Consent Holder or people employed by them are not permitted to hold any Auction Sale.
15. The Consent Holder or people employed by them or his employees are expressly forbidden to sell, display or wear any article which is or is intended to be offensive either in writing or pictures.
16. The Consent Holder or people employed by them shall not trade in or issue any glass items or vessels.
17. The Consent Holder or people employed by them must comply with all reasonable requirements of the Licensing Manager, or any other authorised officer of the Council, a Police Officer or a Police Community Support Officer.

Applications for Street Trading Consents in Seaton made by Registered Charities

The organising charity must apply in the usual manner using the Charity Street Trading Consent Form

1. The fee will be £25.
2. A copy of the charity's public liability insurance will be required.
 - a) If the policy covers all people who may be trading at the event then no further action will be required.
 - b) If the policy does not cover all people who may be trading at the event the organising charity will be required to ensure all traders have the necessary insurance.
3. No photograph of the stalls will be required for charity street markets.
4. Details of individual traders and numbers of stall should be provided with the application or as soon as possible before the event.
5. A description of goods to be sold will be required for each stall. This information should be provided with the application or as soon as possible before the event.
6. A Street Trading consent will be issued to the organising charity for the esplanade to the organising charity.
7. The Licensing Authority will maintain a light touch overview of the event.
8. The organising charity will be responsible for the allocation of pitches and ensuring that all traders comply with any imposed conditions.

Changes to Policy, Guidance & Conditions

Policy

Policy 2.7

"The appearance of associated equipment or structures shall be of good quality and the precise appearance of the facility shall be identified before consent is granted."

9. The organising charity will be responsible for ensuring compliance.

Policy 2.9

"The council will not permit trading unless the Consent Holder or people employed by them have a current insurance policy against public liability and third party risks. The minimum insurance cover shall be £2,000,000, and must cover the use of the Consent Holder's vehicle, stall, barrow and any additional equipment under their control."

10. The organising charity will be responsible for ensuring compliance.

Policy 2.15

"Double pitches will only be issued in exceptional circumstances where demand for consents does not exceed the number of pitches available."

11. The organising charity shall be responsible for determining exceptional circumstances.

Guidance

4.3 (b)

Correctly completed applications consist of:

- b) A photograph of the stall/vehicle/barrow to be used.
12. This will not apply to applications received from registered charities for charity street markets in Seaton

Conditions

Condition 16

“The Consent Holder or people employed by them shall not trade in or issue any glass items or vessels.”

13. This condition will not apply to charity street markets in Seaton. The organising charity will be required to ensure that they are satisfied with the appropriateness in terms of public safety of any item offered for sale.

These measures only apply for events/street markets arranged and operated by registered charities in Seaton.

EAST DEVON DISTRICT
COUNCIL



Street Trading Consents

Policy and Application Guidance

DRAFT

Licensing Service
East Devon District Council
Knowle
SIDMOUTH
EX10 8HL

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Section 1 General Principles

1. East Devon District Council's ('the Council') street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice, and seeks to enhance the character, and ambience of local environments.
2. These guidelines have been developed to assist persons applying for Street Trading Consents in East Devon. They were agreed by the Licensing and Enforcement Committee on the (*date to be entered*) and set out the standards for determining applications and the enforcement of street trading activities in the East Devon area.
3. East Devon has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. The Council has further designated all of its administrative area as Consent Streets for street trading purposes.
4. 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.
5. East Devon Council will apply these guidelines to street trading activities in its area to ensure consistency of decision making. However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.
6. The requirement to obtain a 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.
7. Advice should be sought from the Licensing Service on the proposed activity/location to see if a Consent is required before starting to trade – see Section 3 for contact details.

1.1 Definitions of terms used in these Guidelines

8. Within the terms of the East Devon District Council's Street Trading Consent Scheme the following definitions apply:

The Council Means the East Devon District Council

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

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 East Devon District Council.

Consent Means a consent to trade on a street by East Devon District Council.

- Consent Holder** Means the person or company to whom the consent to trade on a street has been granted by East Devon District Council.
- Authorised Officer** Means an officer employed by East Devon District Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

1.2 Exempted Street Trading Activities

9. Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that the activities listed below are not 'street trading' and, therefore, prior consent of the Council is not required:
- (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 presumed grant) or acquired or established by 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 i.e. the sale, exposure or offer for sale of newspapers or periodicals, except from a stall or receptacle that exceeds the dimensions set out in schedule 4 of the Act.
 - (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 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, or in or over a highway.
 - (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
 - (i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.
10. With regard to point (f) above it has been established in law that mobile ice cream sales normally will not be deemed to be exempt from street trading controls on the grounds that they are not roundsmen.

1.3 Street Trading Consents for which fees are not payable

11. The Council may remit the payment or part of the payment of fees for the following street trading activities:
- (a) Fetes or community events held for charitable purposes (None of the trading must involve private gain for an individual or company).
 - (b) Non-Commercial Car Boot Sales (i.e. events organised by organisations that will not involve private gain for an individual or company).
 - (c) Sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it providing this is not a commercial concern. For example selling home grown fruit and vegetables, homemade jams etc. Such sales are seen as disposal of surplus domestic produce rather than trading.
 - (d) Trading Concessions granted by the council on their land (a Street Trading Consent will still be required).

(e) farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people)

1.4 Farmers Markets

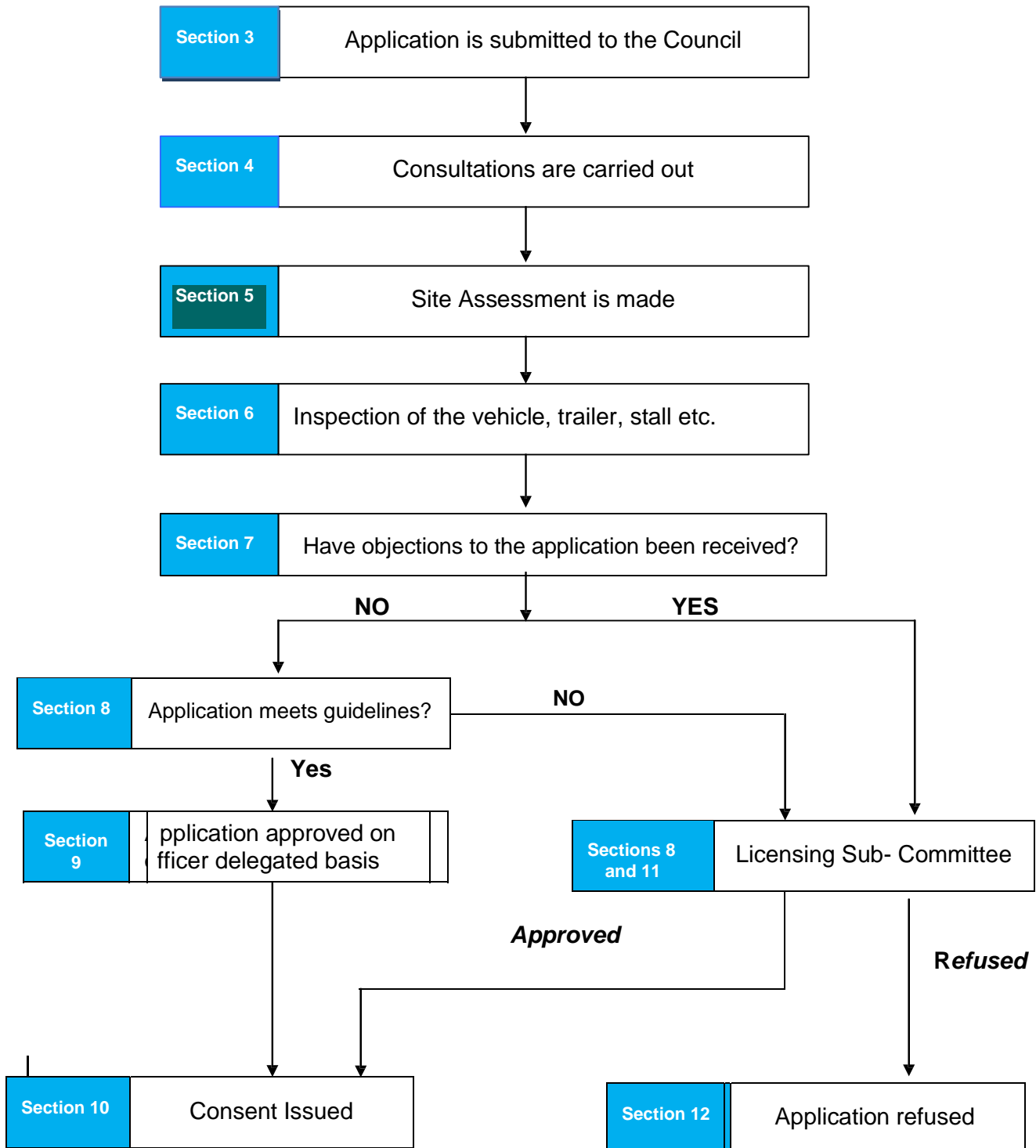
12. Farmers Markets (producer-managed marketplace for local producers to sell their own produce direct to local people) will be subject to the street trading scheme but at a reduced fee.

1.5 Mobile Trading

13. In the case of itinerant street trading (for example an ice-cream van or fish & chip van), where due to the nature of the business there is a genuine need to ply trade in many locations, a general consent will be issued.

Section 2 Procedure for determining Street Trading Consent Applications

14. The application and approval procedure comprises of the following stages. The descriptions on the side of the boxes refer to the explanatory notes in the subsequent sections of this guide:



Section 3 Submission of the Application

15. An application for a Street Trading Consent must be made to East Devon District Council in writing or online. The application form is included in these guidance notes at page 18. If you need any help in completing the application form please contact the Council's Licensing Team on 01395 517410/517411.
16. You will need to submit the following documents and fees with the application:
 - (a) A completed and signed Street Trading application.
 - (b) A deposit of 25% of the full fee for an annual Consent. Fees for all other periods will require submission of the full fee with the application.
 - (c) 3 copies of a map of the trading site to a minimum of 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line. A map is not required for established events – for example applications for Sidmouth Folk Week consents for the Esplanade. If in doubt please check with the Licensing Service.
 - (d) Colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity.
 - (e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000.
 - (f) Written permission from the owner of the land where the street trading is to be carried out on land which is not a public highway. Permissions given by leaseholders to use land for street trading purposes will only be accepted where the terms of the lease permits the type of street trading activity being applied for.
17. An application for a Street Trading Consent will not be entertained where permission of the landowner for the proposed trading site to carry out street trading has not been provided, for whatever reason.
18. Applications may be made in person to the Licensing Team at the East Devon District Council Offices, Knowle, Sidmouth, EX10 8HL during normal office hours however callers are advised to make a prior appointment by phoning 01395 517411 or emailing licensing@eastdevon.gov.uk to ensure an officer will be available. Alternatively you can apply online through the Council's website.
19. Applications will be considered from organisers of Farmers Markets, Commercial Car Boot Sales, Fetes and similar Community Events on the basis of one block consent for each market or event held. The market or event organiser in receipt 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. A separate Consent will be required for each market, car boot sale or event held.
20. An applicant for the first time grant of an annual Street Trading Consent **should give a minimum of 60 days notice to the Council.**
21. Further information about making an application can be obtained by contacting the Licensing Team as follows:

Telephone	01395 517410/517411
Fax	01395 517507
E-mail	licensing@eastdevon.gov.uk

Section 4 Consultations on applications made

22. Before a new pitch is authorised by the Council for the purposes of street trading (non Market) we will, where reasonably practicable, seek comment from:
- The Highways Authority (Devon County Council)
 - Devon and Cornwall Constabulary
 - East Devon District Council Food/ Health and Safety and Pollution Teams
 - The relevant Ward Members
 - The appropriate Parish or Town Council
 - The land owner of the proposed street trading site if it is on private land
23. Where practicable, fourteen days will be given for representations to be received. If no representations are received, the application will be dealt with by the Licensing Manager under delegated authority and granted in the terms applied for, and standard conditions will be considered and may be attached to the consent unless he considers it should be referred to the next available Licensing Sub Committee.
24. All relevant representations relating to the grant of a consent will be referred to a Licensing & Enforcement Sub Committee for consideration as part of the determination.
25. Subsequent renewal of consents to street trade submitted on the same terms as previously granted and for the same site, where there have been no relevant objections to the trading, will be dealt with by the Licensing Manager under delegated authority.
26. No consultation will usually be done on applications for established events or sites – for example applications for Sidmouth Folk Week consents on the Esplanade, the regular applications from registered local charities for consents on the Seaton Esplanade or sites which become established as consent sites in the future.
27. There is no right of appeal to the Magistrates' Court against refusal to issue a consent, however, where an application is refused, payment of the application fee shall be refunded.

Section 5 Site Safety Assessment

28. Street Trading Consents from static locations will **not** be granted where:
1. A significant effect on road safety would arise either from the sitting of the trading activity itself, or from customers visiting or leaving the site, or
 2. Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
 3. There is a conflict with Traffic Orders such as waiting restrictions, or
 4. 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, or
 5. The trading unit obstructs the safe passage of users of the footway or carriageway, or
 6. The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
 7. The site does not allow the Consent Holder, staff and customers to park in a safe manner, or

8. 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.

Section 6 Nature of Trade and Trading Hours

29. The nature of goods which may be sold from any pitch will be specified in the consultation process. No substantial change to the products sold will be permitted without referral back to the Licensing Manager.
30. The Council would not normally grant a new consent for the sale of goods or services which conflict with those provided by nearby traders.
31. Consent holders or their employees are not permitted to sell the New Psychoactive Substances.
32. All street trading consents will normally be limited to daily trading hours between 8.00 am and 10.00 pm. However in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis.
33. On the occasions that consents are issued to commence before 10.15 am then if the consent holder has not occupied the pitch for which they hold a valid consent by 11.45 am on any day when trading is permitted the Council may re-let the pitch for the remainder of the trading hours of that day.
34. The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.

Section 7 Inspection of the Street Trading Unit

35. The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading permissions. The unit to be used for the street trading activity shall comply in all respects to the legal requirements relating to type of street trading activity proposed. In particular the proposed business shall comply with the following legislation:
 - Food Hygiene(England) Regulations 2006
 - The General Food Regulations 2004
 - Regulation 852/2004 on hygiene of foodstuffs
 - Food Safety Act 1990.
 - Health and Safety at Work etc. Act 1974 and any Regulations made under this Act.
 - Environmental Protection Act 1990.

Further advice on any of the above requirements can be obtained from the council's Environmental Health Service on: 01395 517467

Section 8 Objections to the application

36. The application will be referred to a Sub-Committee of the Council's Licensing and Enforcement Committee for determination if relevant objections are received against the granting of a Street Trading Consent from any of the following:
 1. Occupiers of property within the immediate vicinity of the proposed site.

2. East Devon District Council Ward Members (who can object as an individual or on behalf of constituents).
 3. Parish or Town Councils.
 4. Police, Fire or Highway Authorities.
 5. East Devon District Council Food/ Health and Safety or Pollution Teams.
 6. The land owner of the site proposed to be used for street trading.
37. Before such a referral is made officers will assess the objections on the following criteria:
1. Potential, or actual, nuisance to a property occupier from noise, fumes or smells.
 2. Whether any road safety issues have been identified.
 3. Compliance with food and health and safety legislation.
 4. Concern of public order problems resulting from the proposed street trading activity.
 5. Whether there are any fire safety issues present.
 6. Whether the objection is relevant, vexatious or repetitive.
38. If a written objection from the person or organisations listed above is received and deemed appropriate, the application will be referred to the next available meeting of the Licensing Sub-Committee for consideration and determination. The applicant will be informed in writing of the referral of the application to the Licensing Sub-Committee and notified of the date when the application will be considered.
39. Persons making written objections will also be informed of a decision to refer an application to the Licensing Sub-Committee and notified of the date of the hearing of the application.
40. The appropriate Ward Members for the proposed street trading site will be informed of a referral of an application to the Licensing Sub-Committee for consideration.
41. Unless special circumstances apply Licensing Sub Committee meetings are open to the public. Applicants and objectors or their representatives will be permitted to address the Sub Committee.

Section 9 Determination of the Application

42. The Licensing Sub-Committee and officers on a delegated basis will use the criteria listed below in the determination of Street Trading Consents. 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.

9.1 Site Safety

43. The location of the proposed street 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 frequenting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 5 on site safety assessment criteria and observations made by the Highways Authority.

9.2 Public Order

44. The street trading activity should not present a risk to public order in the locality in which it is situated. Observations from the Devon and Cornwall Constabulary will be taken into consideration under this heading.

9.3 Avoidance of Nuisance

45. The street trading activity should not present a substantial risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council's Environmental Protection Team shall be taken into consideration under this heading.

9.4 Conflict with other like trading outlets and school premises

46. The presence of other like trading outlets and proximity of schools shall be taken into consideration as follows:
 1. The presence of like trading outlets already existing in the immediate locality of the proposed street trading site.
 2. Fast food vendors will not normally be permitted to trade within 500m of a school.
 3. On lay-bys and trading estates there shall be no other street trading consents granted within 500 metres of an existing Consent.

9.5 Compliance with legal requirements

47. The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Observations made on the compliance with the requirements of Food Safety and Hygiene, Health and Safety, Environmental Protection and fire safety legislation shall be taken into consideration.

9.6 Observations from members of the public or representative organisations

48. In relation to points 9.1 – 9.4 above consideration will also be given to written observations from other persons or organisations. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made under the criteria set out in this section.

9.7 Permitted Trading Hours

49. All street trading consents will normally be limited to daily trading hours between 8.00 am and 10.00 pm. However in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis. Any trading between 2300 – 0500 hours must be subject to a separate application under the Licensing Act 2003 where hot food is proposed to be sold.
50. The Council retains the right to specify permitted hours of trading that are less than those applied for if local circumstances require it.

9.8 Compatibility of the proposed street trading operation

51. The proposed trading operation should complement the trading area in which it is situated. In assessing this criterion 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.

9.9 Other Criteria

52. Pitches will be allocated on a first come first served basis
53. Where the imposition of conditions is not adequate to control potential problems, applications will normally be refused.

54. Refusal or withdrawal of street trading consents will be normal in the following circumstances:
- a) That there are not enough pitches available in the street for the applicant to engage in the trading in which she/he desires without causing undue interference or inconvenience to persons using the street.
 - b) That there are already enough Consent Holders or people employed by them trading in the street from shops or otherwise, in the goods in which the applicant desires to trade.
 - d) That a Consent Holder or people employed by them have failed to comply with the conditions attached to the Consent.
 - e) That the street trading may damage the structure or surface of the street.
 - f) When adverse comments are received from the consultees.

9.10 Officer decisions on applications made

55. If a relevant objection is made against an application for a Street Trading Consent, the applicant will be offered a meeting to discuss the reasons for a potential refusal of the application. At the meeting the applicant will be informed of the criteria from these Guidelines which are considered to have not been met. The applicant will be given an opportunity to discuss any relevant matters in relation to the application that has been made. If after the meeting the applicant wishes to continue with the application, the application will be referred to the Licensing Sub-Committee for determination.
56. If an applicant refuses an offer of attending a meeting with officers, or fails to attend, a letter will be sent to the applicant confirming the referral of the application to the Licensing Sub-Committee for determination.

Section 10 Approval of Applications

57. The Council's Licensing Sub-Committee or officers on a delegated basis (where no representations have been made against the application) may approve applications meeting the criteria contained within these guidelines.
58. On approving the application the Council will issue a Street Trading Consent to which conditions will be attached. The Consent will also contain specific terms such as days and hours when street trading is permitted, and goods that may be sold. A copy of the Council's standard conditions, which is attached to Street Trading Consents, is shown at page 20 to 22. Additional conditions may be attached to the Standard Conditions if special circumstances apply to the Consent being granted by the Council.
59. The conditions attached to the Consent form part of the approval to carry out street trading in East Devon. They **MUST** be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed. Consent Holders are therefore requested to familiarise themselves with the terms and conditions attached to the Street Trading permission and comply with the requirements at all times.

Section 11 Issue of Street Trading Consents

60. Street Trading Consents will be issued for a maximum period of 12 months. Annual Consents issued will be renewable on the 1 April of any particular year. Shorter term Consents may be issued on a daily or weekly basis. These particular Consents will expire, unless renewed by the expiry date.

61. In all cases when a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the application will be required to go through the full consideration process outlined in these guidelines.
62. Fees for Annual Consents may be paid either in full in advance or on a three monthly basis via direct debit with the fees being due on the following dates:
 - 1 April
 - 1 July
 - 1 October
 - 1 January
63. Failure to maintain payments of the fee on a three monthly basis will be a breach of the conditions attached to the Consent. If fees paid on an instalment basis are not made to the Council, the Consent 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. These payments must be made by direct debit. Please ask for information if you wish to pay by this method.
64. Cheques should be made payable to "East Devon District Council". Payment can also be made by card by telephoning the Licensing Service on 01395 517411.
65. Please note, if a cheque is dishonoured by a bank this may result in revocation of the Street Trading Consent unless payment of the outstanding fees is made in cash within 5 working days. In such cases an administration charge may also be imposed on the Consent Holder.
66. The Council offices are open to members of the public between the hours of 8.30 am and 5.00 pm Monday to Fridays. It is advisable to contact the Licensing Team on 01395 517411 prior to visiting the council offices in order that a member of staff will be available to see you. It will also allow us to prepare in advance any documentation that you might need.

Section 12 Consideration of applications by the Licensing Sub - Committee

67. The Council's Licensing Sub-Committees are established to consider applications in relation to licensing matters. The Sub Committee consists of elected members drawn from the East Devon District Council Licensing and Enforcement Committee who have received specific training in licensing issues. The Committee and Sub Committees are supported by a clerk and a solicitor and meet on a regular basis. Committee and Sub-Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.
68. The role of the Licensing Sub Committee is to:
 1. Determine applications to which objections, as defined in section 8 above, have been made.
 2. Review existing Street Trading Consents where a breach or breaches of the permission granted have occurred.
 3. Review Street Trading Consents where relevant representations have been received regarding the operation of a current trading site.
69. On receipt of a written objection, breach of a Consent condition or an unresolved application that does not meet the criteria in this guidance, arrangements will be made to have the application or matter heard at the next available meeting of the Licensing Sub-Committee.
70. Once arrangements have been made for the application to be heard by the Licensing Sub-Committee persons making the objection or reference to the Sub-Committee will be advised in

writing of the date, time and place where the application will be heard. The Council will endeavour to have applications heard as quickly as possible.

71. The person making a representation against an application or an existing Street Trading Consent to the Licensing Sub-Committee will normally be expected to attend the hearing. The applicant can be represented by a solicitor, or supported by a friend or colleague. The Licensing Sub-Committee will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.
72. In determining an application the Licensing Sub-Committee will consider presentations from the applicant, a person or organisation making an objection and the Council's Licensing Officer. Applicants and persons making objections to an application should notify the Council's Licensing Service at least five working days in advance of the meeting of any witnesses they intend to call and details of any evidence (written, photographic or other material or media) they intend to present at the hearing.
73. Where objections have been raised to the granting a Street Trading Consent the Licensing Sub-Committee will consider the objections or representations made. Only persons who have raised objections to the application will be allowed the opportunity to address the Licensing Sub-Committee and ask questions relating to the application. Letters of objection that have been received by the Council will be published in full in advance of a meeting where a contested application is being considered. Copies of objection letters will also be sent to the applicant.
74. The Licensing Sub-Committee will consider all the evidence presented to it during the hearing and members may ask questions of the applicant, officers and persons making an objection. After hearing the evidence presented to it, the Licensing Sub-Committee will retire and come to a decision on the application. When a decision has been reached the Sub-Committee will inform the applicant of their decision, and the reasons for coming to that particular decision. The decision of the Licensing Sub-Committee will be confirmed in writing to the applicant and objectors within 5 working days of the meeting at which the application was considered.
75. The Licensing Sub-Committee will always strive to ensure that when it is considering an application that all persons get a fair hearing through:
 1. Considering each case on its merits.
 2. Using these guidelines to assess applications where it is felt appropriate.
 3. Dealing with the application in a balanced and impartial manner.
 4. Ensuring that the rules of natural justice are applied at all hearings.
 5. Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Sub-Committee and present information for consideration in support of their objection.

Section 13 Refusal of Applications

76. Where the Council refuses an application the applicant will be informed in writing of the reasons for the refusal.
77. 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 Sub-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.

78. Where a deposit/licence fee has been made with an application, 50% of the deposit/fee will be refunded to the applicant in the case of an application not being granted.

Section 14 General Information on Street Trading Consents

14.1 Planning Permission

79. The issue of any street trading consent in relation to any particular land does NOT constitute the grant of any permission under the Town & Country Planning Act 1990 or any other legislation for the use of the land for that purpose. Use of the land for trading may, therefore, amount to a material change of use for which planning permission is required notwithstanding that a street trading consent may have been granted. You should contact the Council's Development Control on 01395 516551 and seek advice as to whether an application for planning permission needs to be made in respect of the proposed use of the land. Planning enforcement action could be taken in situations where planning permission is required but not obtained.

14.2 Use of biodegradable materials for food packaging

80. Wherever possible food traders will be expected to use biodegradable materials in connection with the packaging of food served to members of the public.

14.3 Production of Consent Document

81. A copy of the Street Trading Consent must be displayed whilst trading and the the consent holder or people employed by them must produce it on demand when so required by a duly authorised officer of East Devon District Council, a Police Officer or a Police Community Support Officer.

14.4 Reimbursement of Fees

82. Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Consent to the Council. Any fee reimbursement will be on the following basis:
1. From the date the Consent is surrendered to East Devon District Council
83. Any refunds of a fee paid in connection with the surrender of a Street Trading Consent will be based on the following formula:
- a) Number of complete days remaining multiplied by the Daily Fee **less** the current administration fee.
 - b) For Consents granted on an annual basis the daily fee will be calculated by dividing the annual fee due by 365.
84. Should the Council revoke a Street Trading Consent the Council shall not in any circumstances whatsoever be liable to pay any compensation or reimburse any fees to the Consent Holder or people employed by them in respect of such revocation.

14.5 Persons under the age of 17 years

85. The Council will not grant a Street Trading Consents to persons under the age of 17 years.

14.6 Access by Council and Police Officers

86. Consent Holders should 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 issued by East Devon District Council. If you have any doubts about a person claiming to be from East Devon District Council ask to see their official identification card. If you remain uncertain please contact the Council on 01395 516551 and ask to speak to the Licensing Manager or the Strategic Lead – Legal, Licensing and Democratic Services.

14.7 Transfer of Permissions Granted

87. The conditions attached to all Street Trading Consents stipulate that a Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent.

The Consent granted is specific to the person it is issued to and is non-transferable.

A change of ownership of the business will require a new application to be made to the Council and the full application and consultation process will apply.

14.7 Miscellaneous Policy Considerations

88. Applications on the Sidmouth Esplanade for Sidmouth Folk Week will be encouraged provided they are for goods to be sold from a stall, cart, barrow or other non-motorised vehicle that is in sympathy with the surroundings, adds colour and character to the locality and complies with all relevant legislation.
89. As there is ample food and take away outlets in close proximity to the Sidmouth Esplanade and in order to prevent excessive littering the sale of food including take away food and ice creams will be permitted from a stall which holds a consent to trade on the Esplanade at Sidmouth.
90. The siting and operation of any stall, barrow etc. operated by a Consent Holder or people employed by them shall be such that it does not cause any problems of highway safety, obstruction to users of the highway, or conflict with the requirement of emergency vehicles.
91. The appearance of associated equipment or structures shall be of good quality and the precise appearance of the facility shall be identified before consent is granted.
92. The use for which the pitch is put shall not be likely to cause problems of noise, smell or litter, or be inappropriate to the character of the event with which the permit is connected.
93. The Council will not permit trading unless, where necessary, a road closure order has been obtained by the event organiser or individual applicant.
94. The Council may at any time revoke a consent or vary the conditions of an existing consent where there are reasonable grounds for so doing.
95. Double pitches will only be issued in exceptional circumstances where demand for consents does not exceed the number of pitches available. This will especially apply to pitches on the Esplanade at Sidmouth
96. The measures set out in Section 19 shall apply to the procedure, policy and guidance in respect of any application for a Street Trading Consent in Seaton made by a Registered Charity.

Section 15 Enforcement of Street Trading

97. East Devon District Council will actively enforce the provisions of the Street Trading Policy within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Licensing Service's Enforcement Policy, copies of which are available free of charge. If you require a copy please contact the Licensing Team on 01395 517411.
98. Our regulatory activities are focussed upon allowing and encouraging economic progress and supporting businesses, individuals and voluntary and community organisations to meet their legal obligations. As part of that we will:
- Keep our regulatory activities and interventions under review to reduce their burden on businesses, clubs and individuals, as much as possible
 - Risk assess our regulatory activities so as to target our resources where they will have greatest effect
 - Carry out inspections only where there is a reason for doing so, for example, as a response to intelligence or as part of our risk assessment process
 - Provide advice when it is requested and to do so proactively where this is practicable
 - Only require data and information when it is strictly necessary for us in carrying out our regulatory activities

Complaints against the Service

99. East Devon District 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 Manager, telephone 01395 517587.
100. If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

Section 16 Licensing Act 2003

101. Under the Licensing Act 2003 persons selling hot food between the hours of 2300 and 0500 hours are required to hold a Premises Licence or a Temporary Event Notice (TEN). This requirement is in addition to the requirement to hold a Street Trading Consent.
102. These notes are intended to cover the Street Trading permissions only, and separate application and consultation arrangements are required under the Licensing Act 2003.
103. If you are intending to sell hot food between the hours of 2300 and 0500 hours, please contact the Licensing Service on 0395 517411 to obtain further information and advice.

Section 17 Renewal and Reviews of Consents

104. Annual/Period Street Trading Consents will be renewed on application by the Consent holder. The Licensing Service will usually send out a reminder to annual/period consent holders along with a renewal form prior to a Consent expiring. The final responsibility for renewing a Consent remains with the licensee. Applications for renewal must be made in plenty of time for the renewal process so that the consent is renewed before it expires.

105. Consultations will be held with the following organisations to ensure that they are satisfied that the Consent should be renewed:
1. Devon and Cornwall Constabulary
 2. Environmental Health (Food/Health and Safety/Pollution)
106. An annual/period Consent will be renewed unless objections are received from the organisations detailed in paragraph 105 above.
107. If during the lifetime of a Consent relevant objections are received from the organisations or persons mentioned in Section 4 of this document, or members of the public, regarding the operation of the permission, the Licensing Service will endeavour to resolve any non-compliance with permissions granted with the Consent Holder. If the matters raised remain unsolved a request to review the permission granted will be referred to a Licensing Sub-Committee for determination.
108. Failure to pay Consent fees will also be the subject of a referral to a Licensing Sub-Committee for a review of the permission.

Section 18 Fee Structure

109. Fee levels and fee structure for Street Trading Consents will be set by Council and will be reviewed, normally, on an annual basis.

Section 19 Seaton Registered Charities Consents

Applications for Street Trading Consents in Seaton made by Registered Charities

110. The organising charity must apply in the usual manner using the Charity Street Trading Consent Form.
1. The fee will be set by Council to reflect the applicant's charitable status.
 2. A copy of the charity's public liability insurance will be required.
 - a) If the policy covers all people who may be trading at the event then no further action will be required.
 - b) If the policy does not cover all people who may be trading at the event the organising charity will be required to ensure all traders have the necessary insurance.
 3. No photograph of the stalls will be required for charity street markets.
 4. Details of individual traders and numbers of stall should be provided with the application or as soon as possible before the event.
 5. A description of goods to be sold will be required for each stall. This information should be provided with the application or as soon as possible before the event.
 6. A Street Trading consent will be issued to the organising charity for the esplanade.
 7. The Licensing Authority will maintain a light touch overview of the event.
 8. The organising charity will be responsible for the allocation of pitches and ensuring that all traders comply with any imposed conditions.

Changes to Guidance

Section 3 – Para. 16

16. You will need to submit the following documents and fees with the application:

- (d) Colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity

This will not apply to applications received from registered charities for charity street markets in Seaton

These measures only apply for events/street markets arranged and operated by registered charities in Seaton.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982



Application for the GRANT or RENEWAL of a Street Trading Consent

PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS AND IN BLACK INK

I/We _____

Address _____

Telephone Number

Email Address _____

Trading a _____

APPLY FOR THE GRANT/RENEWAL of a Street Trading Consent in accordance with the following particulars:

The Street/Location I/We wish to trade is: _____

I/We wish to trade as detailed below

	MON.	TUES.	WED.	THURS.	FRI.	SAT.	SUN.
FROM							
TO							

Date or dates Consent is sought _____

The articles I/We wish to trade in are _____

Please detail toilet facilities for persons working on a static site:

Will the Consent Holder be present when street trading takes place? Yes No

If no, name of the person who will be present and responsible for the unit/stall:

We will be trading from a:

Stall Van Trailer Cart Barrow

Other (describe) _____

Dimensions: _____

Colour _____

Will you have tables and chairs on the site? Yes No

If yes, Number of Tables: _____ Number of Chairs: _____

Will you be trading on private land? Yes No

If yes, name and address of landowner: _____

Do you hold, or have you previously held, or been refused, a Street Trading Consent with this or any other Council? If yes, please give details

I/We declare that I am/we are NOT under the age of 17 years

Date of Birth(s) _____

I/We declare that the information given in this application is true.

Signature of applicants _____

Date _____

Please return this form to:

Data Protection Act 1998

East Devon District Council
Licensing Service
Council Offices
Knowle
Sidmouth
EX10 8HL

The personal data you provide on this form will be used by East Devon District Council to administer your permission. In order to protect public safety, this may include the use of sensitive personal data (criminal offences) to help assess whether you are a fit and proper person to hold a permission.

We may occasionally share your personal data with other Council departments and with other bodies (notably Housing Benefits, the Police, Inland Revenue) for the purposes of protecting public money, preventing and detecting crime and/or fraud and ensuring public safety. Such sharing will only occur on a case-by-case basis where a justifiable purpose in line with legislation has been demonstrated. The information may also be used for internal training.

STREET TRADING CONSENT CONDITIONS



Standard conditions that the Council may seek to impose upon any street trading consents

1. The Consent Holder (which expression where appropriate includes joint holders of this Consent) and any person employed by him to assist him in his trading shall produce the Consent on demand when so required by a duly authorised officer of the East Devon District Council, or by a Police Officer.
2. A copy of this Consent shall kept onsite by the holder and available for inspection by an authorised officer of the Council, or a Police officer.
3. The Consent Holder or people employed by them must notify the Licensing Manager immediately of any convictions or proceedings arising out of the use or enjoyment by the Consent Holder or people employed by them of this Consent.
4. The Consent Holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but may surrender it to the Council at any time.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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

10. 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.
11. The Consent Holder or people employed by them must not use or suffer or permit any music playing, music re-production or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent.
12. 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.

13. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without the approval of the Council. The Consent Holder shall not 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.
14. 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.
15. 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.
16. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
17. Litter and Trade Waste arising from the activities of the Consent Holder shall be removed from the site on a daily basis and disposed of in an approved manner.
18. 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.
19. All stalls, vehicles or other equipment associated with the street trading activity must be removed within 30 minutes of the expiry of the trading (consent) hours for the day.
20. The Consent Holder or people employed by them are not permitted to hold any Auction Sale.
21. The Consent Holder or people employed by them or his employees are expressly forbidden to sell, display or wear any article which is or is intended to be offensive either in writing or pictures.
22. The Consent Holder or people employed by them shall not trade in or issue any glass items or vessels whilst trading on the Esplanade in Sidmouth.
23. Consent holders or their employees shall not sell the New Psychoactive Substances.
24. The Consent Holder or people employed by them must comply with all reasonable requirements of the Licensing Manager, or any other authorised officer of the Council, a Police Officer or a Police Community Support Officer.
25. 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

26. The Consent Holder shall not carry out street trading activities other than those permitted by the Consent.
27. The Consent Holder shall not trade outside the time and days permitted by the Consent.
28. The Consent Holder shall display a copy of the consent issued by the Council on any van, cart, barrow or other vehicle or stall in a conspicuous position that is visible to members of the public.
29. The Consent Holder shall not trade in such a way that is likely to cause undue obstruction to any part of any street or public place.

30. The Consent Holder shall not trade in such a way that is likely to cause any injury to any person using the street or public place.
31. The Consent Holder shall not trade in such a way that is likely to cause damage to any property in the street or public place.
32. 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.
33. All street Trading fees are due in advance on the 1 April of any year. Annual 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.
34. The Consent Holder shall at all times conduct his business in a clean, honest, civil and businesslike manner without interfering with the business of other Traders and Consent Holders.

LEGAL PROVISIONS

35. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his employees or agents from any legal duty or liability.
36. At all times the Consent Holder shall comply with the legislation in force. Particular attention, where appropriate, should be paid to Health and Safety, Food Safety and Food Hygiene, Nuisance and Highways legislation.

REVOCAION OR SURRENDER OF CONSENT

37. 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.
38. The holder shall return this Consent to the East Devon District Council immediately on revocation or surrender of the Consent.

NOTES TO THE CONDITIONS

Within the terms of these conditions the following words have the meanings as described:

The Council	Means the East Devon District Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street,
Street	Includes: (c) Any road, footway, beach or other area to which the public have access without payment. (d) 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 the district council.

Authorised Officer

Means an officer employed by East Devon District Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

THIS CONSENT DOES NOT:

- 1. Permit trading outside the terms of the Consent.**
- 2. Indicate that planning permission is not required.**

Please note:

- (a) That the requirement to obtain planning permission applies to all streets, whether they have been designated Consent Streets or not.**
 - (b) That the grant of one or more street trading consents does not give the trader immunity from planning control.**
 - (c) The Council has discretion whether or not to enforce planning laws in relation to street trading.**
- 3. Indicate that the unit is exempt from business rates.**
 - 4. Over ride parking restrictions or any other traffic regulations.**
 - 5. Imply approval from the highway authority or any other person or authority.**

Prohibited Streets: Sidmouth

A Prohibited Street is a street where street trading is at all times forbidden by law.

Within Sidmouth the following streets are currently designated as prohibited streets,

Sidmouth

- ❑ All Saints Road
- ❑ Bedford Square and including the un-named street leading from Bedford Square to the Esplanade
- ❑ Blackmore View
- ❑ Chapel Road
- ❑ Chapel Street
- ❑ Church Street
- ❑ Coburg Road - between Coburg Terrace and Church Street
- ❑ Dove Lane - and the lane between Dove Lane & New Street
- ❑ Fore Street
- ❑ Fortfield Place
- ❑ Fortfield Terrace
- ❑ Glen Road, - south of Manor Road
- ❑ Ham Lane and East Street - from the Esplanade to Fore Street
- ❑ Ham Playing Field
- ❑ High Street
- ❑ King Street
- ❑ Manor Road
- ❑ Market Place
- ❑ Mill Street, - west of its junction with Russell Street
- ❑ Millford Road, - north of the ford
- ❑ New Street
- ❑ Old Fore Street
- ❑ Peak Hill Road – east from its junction with Cotmaton Road.
- ❑ Prospect Place
- ❑ Radway, - south of the Post Office
- ❑ Salcombe Road
- ❑ Sid Road, - south of Redwood Road
- ❑ Station Road - between Knowle Drive and The Esplanade
- ❑ Streets adjoining the Three Cornered Plot (Known as The Triangle)
- ❑ The Beach – from the mouth of the River Sid westwards to a point opposite Clifton Cottage.
- ❑ The un-named street between Elizabeth Hotel and Marlborough Hotel (now Dukes)
- ❑ Vicarage Road, - south of Connaught Road
- ❑ York Street

Definition

Prohibited Street – means a street in which trading is prohibited

Report to: **Licensing and Enforcement Committee**



Date of Meeting: 15 February 2017

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 9

Subject: **Taxi Licensing Policy – To seek approval to consult on the draft Policy**

Purpose of report: This report seeks Members' approval to formally consult on a proposed Taxi Licensing Policy.

Recommendation: **That the Committee consider this draft Taxi Licensing Policy (attached as Appendix 1) and give approval for the Licensing Service to start the formal public consultation process.**

Reason for recommendation: The legislation does not require the Council to have a policy relating to the licensing of hackney carriages, private hire vehicles, their drivers and private hire operators however it is regarded as good practice to have a policy to indicate the Authority's approach to taxi licensing within its area.

Officer: Steve Saunders, Licensing Manager, ssaunders@eastdevon.gov.uk 01395 517587

Emily Westlake, Licensing Officer, ewestlake@eastdevon.gov.uk, 01395 517411

Financial implications: Minimal Officer time

Legal implications: The Policy is a comprehensive redraft which brings the Council's policy in line with current legislation. There are no further comments to make prior to consultation. The legal implications are full explained within the report.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: **Appendices:**

Appendix 1 - Draft Taxi Licensing Policy prepared for consultation listing main additional proposals that have been included in the draft policy

Background Papers:

- Hackney Carriage Vehicle and Driver Licensing Policy
- Private Hire Vehicle, Operator and Driver Licensing Policy
- Guidelines for advertising on and in licensed hackney carriages
- Horse drawn hackney carriage information
- Relevance of convictions policy

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Background

- 1.1 Hackney carriage (taxi) and private hire vehicles have an important role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available, particularly in rural areas or outside “normal” hours for example in the evenings or at weekends, or for those with mobility difficulties.
- 1.2 The Council is responsible for the regulation of hackney carriage (taxi) and private hire services within the district. The legal framework for the taxi licensing regime is contained in numerous pieces of legislation, but primarily the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.3 To date this responsibility has been exercised in accordance with a number of policies and procedures developed over the years. A comprehensive review of these has now been undertaken to consolidate all the existing policy documents along with some new policies into a single Taxi Licensing Policy. Whilst it had been the aim to provide the committee with a revised policy in 2016, further changes in legislation and national procedures that occurred last year have now been considered and included in the document. This takes into account Best Practice Guidance that has been issued by the Department for Transport and also having taken into consideration good practice from a range of local authority policies across the country. Many of the proposals made in the draft policy are already mirrored in some other Devon authority policies and have been considered to work effectively.
- 1.4 A draft copy of the proposed Taxi Licensing Policy can be found at **Appendix 1** to this report. For easier identification the taxi licensing policies and procedures which have been previously agreed by this council remain in black type font but the proposed additions to the policy can be identified as they appear in **Red** font and are underlined for easy identification when viewing in black and white. The further proposed additions since the draft policy was circulated to the committee in 2016 now appear in **Green** and the green updates are solely to assist the committee members with identifying those further changes that have been included since the document was last seen. Should approval be given to consult on the draft policy the public will be provided with all the proposed changes appearing only in red font to avoid confusion. The list of main additional proposals that have been included in the draft policy are shown at the beginning of **Appendix 1** to this report.
- 1.5 A Hackney Carriage and Private Hire Licensing Policy is not a statutory policy. This means that there is no requirement for the Council to adopt one, although it is good practice to do so as it sets out the Council’s approach to issuing licences and enforcement. Decisions made in accordance with the policy are more likely to be upheld in the event of an appeal. A good policy ensures consistency of approach by the council thus ensuring fairness and transparency for both the trade and public alike.
- 1.6 Providing members agree to the consultation being undertaken it is proposed that the consultation will be carried out over a period of eight weeks. Any comments received during that period would be taken into account before the proposed policy is brought back to the Licensing and Enforcement Committee for consideration. It is planned at this stage for the consolidated version to be brought to the Licensing and Enforcement Committee’s meeting in May 2017 for approval. Once approved it is proposed that the policy should be reviewed at least every 5 years unless a need is identified to review it earlier.
- 1.7 It is proposed that the consultation will be as open as possible and will include the following:

- All current hackney carriage vehicle or driver licence holders licensed by the district council
- All current private hire vehicle, driver or operator licence holders licensed by the district council
- Devon and Cornwall Police
- Local Disability/Access Groups
- Local businesses and their representatives
- Local residents and their representatives
- Parish and Town Councils

Methods of consultation will include direct mail shots including the use of email and the use of the council's website.

DRAFT as at - 15.02.2017



Statement of licensing policy

for:

Hackney carriages, private hire
vehicles, drivers, and private hire
vehicle operators

Date: 2017
(Version Draft 3)

Introduction

Hackney carriage (taxi) and private hire vehicles have an important role to play in an integrated transport system. They have the added advantage of being able to provide services in situations where other forms of public transport are either not available, particularly in rural areas or outside “normal” hours for example in the evenings or at weekends, or for those with mobility difficulties.

The Council is responsible for the regulation of hackney carriage (taxis) and private hire services within the district. The legal framework for the taxi licensing regime is contained in numerous pieces of legislation, but primarily the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

To date this responsibility has been exercised in accordance with a number of policies and procedures developed over the years. A comprehensive review of these has now been undertaken and it is proposed to consolidate all the existing policy documents along with some new policies into a single Taxi Licensing Policy. This takes into account Best Practice Guidance that has been issued by the Department for Transport and also having taken into consideration good practice from a range of local authority policies across the country. Many of the proposals made in the draft policy are already mirrored in some other Devon authority policies.

A draft copy of the proposed Taxi Licensing Policy follows this forward. For easier identification the taxi licensing policies and procedures which have been previously agreed by this Council remain in black type font but the proposed additions or amendments to the policy can be identified as they appear in RED font and are underlined for easy identification when viewing in black and white. Further proposed additions made to the draft policy since it was last circulated to the committee in 2016 now appear in **GREEN**. The list of main changes that have been included in the draft policy are listed in the Index of Proposed Changes at pages 4 to 8 that follow.

A Hackney Carriage and Private Hire Licensing Policy is not a statutory policy. This means that there is no requirement for the Council to adopt one, although it is good practice to do so as it sets out the Council’s approach to issuing licences and enforcement. A good policy ensures consistency of approach by the Council thus ensuring fairness and transparency for both the trade and public alike. An additional advantage is that decisions made in accordance with the policy are more likely to be upheld in the event of an appeal.

Before the policy is finalised and adopted the Council wishes to consult on the proposals. It is proposed that the consultation will be carried out over a period of **eight weeks**. Any comments received during that period would be taken into account before the proposed policy is brought to the Licensing and Enforcement Committee for consideration and approval. Once approved it is proposed that unless a need is identified to review it earlier the policy should be reviewed at least every 5 years.

The consultation is open to all for comment but will specifically include the following:

- All current hackney carriage vehicle or driver licence holders licensed by the District Council
- All current private hire vehicle, driver or operator licence holders licensed by the District Council
- Devon and Cornwall Police
- Devon County Council
- Highways Agency
- Local Disability/Access Groups
- Local businesses and their representatives
- Local residents and their representatives
- Parish and Town Councils

Methods of consultation include direct mail shots including the use of email and the use of the Council's website.

Index of Proposed Changes

1	<p><u>Introduction</u></p> <p>This provides a greater explanation of the licensing legislation than was previously explained in the Council's documentation.</p> <p>Amongst a number of new innovations, it explains the changes to licence duration partly brought about by legislation amendments and the time scales for the introduction of changes brought in by this policy.</p>	<p><u>Pages 10 to 15</u></p>
2	<p><u>Hackney Carriage & Private Hire Driver's Licence</u></p> <p>a) Sets out a more robust requirement for drivers to provide their full driver licence history.</p>	<p>Page <u>16 & 17</u></p>
	<p>b) Sets out a more robust requirement for all drivers to supply proof of identity and for anyone who has ever lived outside the UK to provide a 'certificate of good conduct'. All applicants must also provide proof of the 'right to work' in the UK.</p>	<p>Page <u>18, 19</u> & Appendix R</p>
	<p>c) Sets out a more robust requirement for all drivers to supply sufficient evidence to confirm that they reach the Group 2 Medical Standard required to drive taxis.</p>	<p>Page <u>19, 20</u> & Appendix A</p>
	<p><u>d) The requirement for all driver's to have knowledge of local geography, locations and routes has been expanded to include a requirement for a knowledge test for all new applicants.</u></p>	<p>Page <u>20 & 21</u></p>
	<p><u>e) Strengthens the requirement for all applicants to be able to demonstrate a reasonable level of spoken English.</u></p>	<p>Page <u>21</u></p>
	<p><u>f) Introduces a requirement for all new hackney carriage driver's to participate in disability awareness training.</u></p>	<p>Page <u>21</u></p>
	<p><u>g) Reinforces the fact that making a false declaration when applying for a licence is a serious criminal offence</u></p>	<p>Page <u>23</u></p>
3	<p><u>Hackney Carriage & Private Hire Vehicle Licences</u></p> <p>a) Introduces a new requirement that hackney carriages and private hire vehicles must predominately operate within the district. This is as a result of national concerns that have affected some west country Councils including East Devon.</p>	<p>Page <u>26</u></p>

	<u>b) Introduces a more robust policy for vehicles which have been subject to an insurance write-off.</u>	<u>Page 26 & 27</u>
	c) More robust advice on permitted vehicle specifications and requirements as to maintenance, appearance and condition	Page 27 & 28
	d) A proposal to reduce the minimum required engine capacity from 1,300 cc to 1,000 cc. Improved engine design together with the proposed stronger new seating measurements should ensure that vehicles have sufficient engine power and internal room to carry the approved passenger numbers safely and in sufficient comfort.	Page 27
	e) Proper definition of vehicle seating requirements.	Page 27 & 28
	f) More robust advice and control on 'grey imports'.	Page 31 & Appendix G
	<u>g) Stricter requirements for vehicles which are over the age of 14 years from date of first registration</u>	<u>Page 31</u>
	h) More detailed information on seat belt requirements and the carriage of children.	Page 31 & 32
	<u>i) Advice on licensing requirements for vehicles powered by liquefied petroleum gas (LPG) and liquefied natural gas (LNG).</u>	<u>Page 32 & 33</u>
	j) Greater emphasis on no smoking in taxis and includes the prohibition of the use of e-cigarettes.	Page 33
	k) Detailed information on the location and sizes of taxi ranks with in the district	Page 33 & Appendix V
	l) Strengthened advice on the <u>display and</u> positioning of roof signs on hackney carriages.	Page 34 & Appendix I
	m) Gives guidance on exemptions for certain types of vehicles and drivers.	Page 37 & 38
	<u>Private Hire Operators</u>	
	a) Makes a requirement that all holders of private hire operator licences must be based within the district with an office in the district.	Page 39
	b) For the first time requires all applicants for a private hire operator's licence to provide a DBS check at the time of application and on each renewal of the licence thereafter. This	Page 39

	would not apply where the applicant/holder was also the holder of a hackney carriage or private hire driver's licence as they already are subject to a DBS check.	
17	<p><u>Appendices</u></p> <p><u>Appendix A- Medical standards for drivers.</u> <u>Includes amendments to requirements in line with the Group 2 medical standards set by the DVLA and gives more detail on how medical reports are assessed.</u></p> <p><u>Appendix B – Byelaws</u> This appendix remains unchanged.</p> <p><u>Appendix C – private hire driver's licence conditions</u> This appendix remains unchanged.</p> <p><u>Appendix D – Guidelines relating to convictions</u> Now includes lists of offences which are considered very serious, serious and less serious to give greater clarification for applicants and officers. It sets out how an offence within one of these categories would normally be considered.</p> <p><u>Appendix E – Rehabilitation of Offenders Act</u> The policy now includes for the first time an appendix on the provisions of the Rehabilitation of Offenders Act.</p> <p><u>Appendix F – Offences</u> The policy now includes for the first time an appendix on offences relating specifically to taxi licensing</p> <p><u>Appendix G – imported vehicles</u> The policy now includes for the first time an appendix relating requirements for imported vehicles</p> <p><u>Appendix H – Advertising</u> This appendix now provides conditions for approving advertising on licensed vehicles rather than guidelines.</p> <p><u>Appendix I – Hackney carriage vehicle licence conditions</u> This appendix now includes additional conditions to reinforce</p>	<p>Page 41</p> <p>Page 44</p> <p>Page 49</p> <p>Page 51</p> <p>Page 59</p> <p>Page 62</p> <p>Page 65</p> <p>Page 66</p> <p>Page 72</p>

	<p>current practices and emphasise existing legislation including:</p> <ul style="list-style-type: none"> • Improved definition on the Council’s requirement for fire extinguishers and first aid kits carried in taxis. • An additional condition relating to spare wheels • An additional condition relating to seatbelts • An additional condition relating to the display of a roof sign • An additional condition relating to the requirements to produce a new MOT when a vehicle has been in an accident <p><u>Appendix J – Private Hire Vehicle Licence Conditions</u></p> <p>This appendix now includes additional conditions similar to those in Appendix I.</p> <p><u>Appendix K – Stretch Limousines</u></p> <p>The policy now includes for the first time an appendix relating to stretch limousines.</p> <p><u>Appendix L – Wheelchair accessible vehicle conditions</u></p> <p>The policy now includes for the first time an appendix setting out conditions and additional requirements that will apply to wheelchair accessible vehicles</p> <p><u>Appendix M - CCTV</u></p> <p>The policy now includes for the first time an appendix relating to CCTV in licensed vehicles. This is not at present mandatory for vehicles but is encouraged and sets out the guidelines that must be adhered to if CCTV is installed.</p> <p><u>Appendix N – Use of trailers</u></p> <p>This appendix remains unchanged.</p> <p><u>Appendix O – Equality Act 2010</u></p> <p>The policy now includes for the first time an appendix relating to the provisions of the Equality Act in relating to taxis and PHV’s</p> <p><u>Appendix P – Private hire operator’s licence conditions</u></p> <p>This appendix remains unchanged except for one further condition requiring public liability insurance for premises.</p>	<p>Page 76</p> <p>Page 80</p> <p>Page 84</p> <p>Page 85</p> <p>Page 87</p> <p>Page 89</p> <p>Page 91</p>
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	<p><u>Appendix Q – code of good conduct</u></p> <p>The policy now includes for the first time an appendix setting out a code of good conduct that all drivers will be expected to adhere to.</p>	Page 92
	<p><u>Appendix R – proof of identity</u></p> <p>The policy now includes for the first time an appendix relating to the specific requirements for proof of identity in relation to the Immigration Act 2016.</p>	Page 95
	<p><u>Appendix S – Non-Motorised Taxis</u></p> <p>The policy now includes for the first time an appendix relating to non-motorised taxis</p>	Page 98
	<p><u>Appendix T – Horse Drawn Hackney Carriage Information</u></p> <p>The policy now includes for the first time an appendix relating to horse drawn hackney carriages</p>	Page 99
	<p><u>Appendix U – Drivers hours</u></p> <p>The policy now includes for the first time an appendix giving guidance on drivers hours.</p>	Page 101
	<p><u>Appendix V – Location of Taxi Ranks</u></p> <p>This appendix gives the location of Ranks in East Devon as of January 2017</p>	Page 102
	<p><u>Appendix W – Spoken English Assessment Test</u></p> <p>This policy now includes for the first time a spoken English test assessment procedure. This will relate to all new applicants and existing licence holders who are unable to demonstrate a good level of spoken English at an interview with officers.</p>	Page 107
	<p><u>Appendix X – Knowledge Assessment Test Procedure</u></p> <p>This policy now includes for the first time a knowledge assessment test procedure. This will relate to all new applicants and any existing licence holders where concerns or complaints are received.</p>	Page 111

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Hackney Carriage and Private Hire Licensing Policy

1. Introduction

- 1.1 The licensing of hackney carriages and drivers, private hire vehicles, private hire operators and drivers is governed by legislation, the Town and Police Clauses Act 1847, as well as the Local Government (Miscellaneous Provisions) Act 1976. There is some subsequent legislation but those are the two main acts that provide the parameters for hackney carriage and private hire licensing.
- 1.2 In formulating this policy, advice contained in the Taxi and Private Hire Vehicle Licensing: Best Practice Guidance issued by the Department for Transport in March 2010 has assisted the Authority. However, local circumstances and requirements have also been taken into account in the policy.
- 1.3 The policy serves four main purposes:
1. To assist the Licensing Authority in determining licence applications
 2. To inform and advise applicants
 3. To inform and advise residents and businesses
 4. To inform a court at appeal.
- 1.4 Hackney carriage and private hire licensing is the responsibility of the relevant local authority and in this case East Devon District Council.
- 1.5 In general licensing decisions will be taken by licensing officers using powers granted under the Council's scheme of delegation. Decisions on non-standard or contentious cases or on matters which fall outside this policy will be referred to the Council's Licensing and Enforcement Committee or a Sub-Committee of that Committee.
- 1.6 In setting out this policy, the Council seeks to promote the following objectives:
- The protection of public safety
 - The protection of the environment
 - Access to an efficient and effective public transport service
 - The maintenance of a professional and respected hackney carriage and private hire trade
 - The licensing requirements are in proportion to the risk it aims to address
- 1.7 The Council endeavours to achieve this by a fair and transparent licensing regime that complies with the law.
- 1.8 Despite the existence of this policy, each application or enforcement measure shall be considered on its own merits. Where it is necessary for the Licensing Authority to depart substantially from its policy, clear and compelling reasons shall be given for so doing.
- 1.9 The aim of the licensing process in this context is to regulate the hackney carriage and private hire trade in order to promote the objectives set out in this document. It is the Licensing Authority's wish to facilitate well-run and responsible businesses which display sensitivity to the wishes and needs of the general public **within the district.**

- 1.10 This policy shall be kept under review and revised as appropriate. A full review will take place every five years or more frequently if required.
- 1.11 This policy does not replace the legislation governing hackney and private hire operations, nor does it set out what that legislation is. It gives guidance on this Council's particular requirements in complying with that legislation and we expect that hackney carriage and private hire operations will always be conducted lawfully.
- 1.12 If any person is aggrieved by a decision made by the Council in relation to any application for a hackney carriage or private hire licence then there is a right of appeal to the relevant Magistrates Court, or in the case of a hackney vehicle licence to the Crown Court.
- 1.13 Further information can be obtained by contacting the Licensing Service at East Devon District Council, Council Offices, Knowle, Sidmouth, Devon, EX10 8HL, telephone 01395 517411 or email licensing@eastdevon.gov.uk. If you intend visiting the Council offices to speak to an officer it will always be necessary to make an appointment in advance to ensure the relevant person is available.
- 1.14 All licence holders and applicants must comply with the requirements of this policy immediately upon its implementation except where different compliance requirements are specifically set out in this policy or for the exceptions listed below: Where because of changes to the Council's previous licensing policy:
- (i) A licensed vehicle no longer complies with the policy then, that vehicle can continue to be licensed, providing it complies in all other respects to the policy, until the **licence is next due for renewal.**
 - (ii) Existing fire extinguishers and first aid kits which do not comply with this policy and providing they are still fully serviceable are not required to be replaced until the 1 April 2018 or the licensed vehicle is replaced or transferred whichever is the sooner.
- 1.15 East Devon District Council encourages all drivers/operators to obtain a nationally recognised vocational qualification for taxi and private hire operators. This covers customer care including how best to meet the needs of people with disabilities. A number of national training providers offer the training to NVQ level 2. Many Councils already require this qualification and although this Council has no immediate plans to adopt this approach it **may become necessary in the future.** These qualifications provide evidence that a driver is competent in the transportation of others and has a thorough understanding of current transportation and health & safety legislation and the principles of customer service good practises.
- 1.16 The legislation makes a distinction between hackney carriages and private hire vehicles. Hackney carriages may 'ply for hire' – that is be hailed in the street or wait in taxi ranks; they do not need to be pre-booked. Private hire vehicles may only be pre-booked, either in person or on the phone, through a private hire operator. Hackney carriages are also fitted with a meter set to a tariff approved by the Council and drivers must not charge more than the fare shown, but they are allowed to discount that fare. The Council is unable to set a fare tariff for private hire and potential customers should be quoted a fare when they make their bookings. Hackney carriages may also be used for private hire bookings but must not charge more than the metered fare when used in this way. **The appearance**

and standards set out in this policy that apply to hackney carriage vehicles will remain in force regardless of the circumstances of hire.

- 1.17 Hackney carriage and private hire vehicles must be constructed to carry no more than eight passengers. Applicants are recommended to seek advice from the authority before purchasing a vehicle to ensure it is suitable for licensing. The authority will accept no liability for any vehicle which subsequently proves to be unsuitable for licensing.
- 1.18 This Council's hackney carriages can be distinguished from private hire vehicles by the display of a roof light/sign which is predominantly yellow. They also display a predominantly blue and white plate on the rear, indicating the maximum number of passengers and vehicle details. Private hire vehicles may not display a roof sign and must display a predominantly yellow plate on the rear, indicating the maximum number of passengers and vehicle details.
- 1.19 There is no limit to the number of vehicles that this Council will licence as long as the vehicle has reached the criteria set by the authority.
- 1.20 The Council issues 5 types of hackney and private hire licences.
1. Hackney carriage drivers licence.
 2. Hackney carriage vehicle licence.
 3. Private hire drivers licence.
 4. Private hire vehicle licence.
 5. Private hire operator's licence.
- 1.21 The Council has adopted a policy in relation to the relevance of convictions when applying for a hackney carriage or private hire driver's licence. Please seek advice from the Licensing office should there be any doubt about the relevance of convictions before applying for a licence. Guidance relating to the relevance of convictions appears at **Appendix D.**
- 1.22 The national legislation permits that only a licensed hackney carriage driver can drive a licensed hackney carriage and only a driver holding a private hire driver's licence can drive a private hire vehicle. **In the case of both hackney carriages and private hire vehicles both the driver and vehicle licence must be issued by the same Licensing Authority.** This applies even when the vehicle is being used for private purposes. The only exception to this is where an engineer/mechanic is testing the mechanical fitness of a hackney carriage. It should be noted that there is no similar exception permitted for private hire vehicles. A private hire operator's licence will licence the private hire address from where the business is run. A hackney carriage driver cannot drive a private hire vehicle unless they also hold a private hire driver's licence and vice versa.
- 1.23 **The Council has appointed taxi ranks for hackney carriages within the district of East Devon.** The location of existing taxi ranks is shown in **Appendix V.**

2 Licence Duration

2.1

In East Devon, all driver licences for hackney carriage and private hire will be issued for 1 year upon first grant providing the applicant has satisfied all elements of the application process. Thereafter, drivers will have the option of renewing their licence for either 1 year or 3 years.

Officers may decline to renew for more than 1 year if there are concerns regarding the conduct of a driver. This is subject to a right of appeal to Members at a Licensing and Enforcement Committee or Sub-Committee hearing.

It is a requirement of this Council that when an applicant is granted a hackney carriage or private hire driver licence by this Council, any driver licences held in or with another Council authority area will be surrendered within 1 month from grant of the licence. Where a hackney carriage or private hire driver granted a licence by this Council retains a hackney carriage or private hire driver licence with another Council, the licence held with East Devon will not be renewed.

2.2 Those drivers who subsequently obtain a 3 year driver's licence must allow the Council to carry out an annual review of their driving record. Our policy requires all drivers to produce their DVLA driving licence and share their electronic driving licence record with the Licensing Authority at initial application, at each renewal and at the end of year one and two of a three-year hackney carriage or private hire driver's licence.

2.3 The Council offers as standard a 5 year private hire operator licence.

2.4 The standard length of a hackney carriage and private hire vehicle licence is one year however operators may apply for a 6 month vehicle licence.

2.5 All hackney carriage and private hire licences will be issued to expire one day before the 1 year or 3 year anniversary of the licence being granted, depending on the duration of licence that has been applied for. For example if a 1 year vehicle licence was issued from the 26 February it would expire the following year on the 25 February.

3 Licence Fee Structure

3.1 The Council may charge such fees relating to hackney carriage and private hire licensing as it may decide from time to time. These will be reviewed annually as part of the Council's budgetary process. Following the approval of any changes any public notice as required by the legislation will be placed in a newspaper circulating in the district. Licence holders will be notified of any changes and the current scale of fees will be supplied to new applicants at the time of application.

3.2 The fees raised in aggregate should be sufficient to ensure that the costs of the taxi licensing service, including the cost of issue and administration, so far as possible, be met from fee income. The Council is aware that it is not permitted to seek to make a profit from licence fees that are within its discretion. The Council may recover, in the form of licensing fees, the reasonable administrative or other costs incurred in connection with the licensing, control and supervision of taxis.

4 DVLA Diver Licence History Checks

4.1 As part of the Council's fit and proper test, applicants and, existing licence holders, are required to enable the Council to carry out a check of their DVLA driver's licence and driver's record. Every holder of a DVLA driving licence will be asked to complete a DVLA driving licence check **free of charge**. This ensures that driving licence histories are checked properly and reflect the current driving status

of the applicant.

4.2 Applications for the grant of a licence will not be approved until all driving licence entitlement and endorsement data is received by the Council and it proves satisfactory in accordance with this policy.

4.3 Further details on the policy and procedures relating to drivers, vehicles and operators are set out in the relevant sections in this document.

5 Renewal and lapse of existing licences

5.1 The licensing service will endeavour to remind licence holders of the pending expiry of any licence they hold however, it remains the responsibility of each licence holder to **renew** all appropriate licences and submit all other necessary documentation in advance of expiry. **To ensure a licence is renewed before it expires all renewal applications shall be made no later than 10 working days before the expiry date of the current licence.**

5.2 **Should the licence fail to be renewed, the licence will lapse. There is no provision for any extension of time after the expiry date and the new application must be granted before you are allowed to drive a licensed vehicle.**

For this reason, applicants **who have not applied to renew their licence within the required timescales** will normally be required to make a new application in full as though applying for the first time. It is therefore in each licence holder's self-interest to ensure that any application for renewal is made in full and in good time.

6 Disclaimer

The District Council accepts no liability for rejection, loss or any delay incurred due to late submission, the submission of documents of questionable validity or submission of an incomplete application.

7 Disability Discrimination

The Council takes seriously its responsibilities in respect to the disability discrimination legislation and similarly will expect all licensed drivers and proprietors to reflect that responsibility. Information on the legal requirements placed on operators and drivers appears at **Appendix O** of this policy.

8 Driver Code of Conduct

The District Council is committed to encouraging professional standards of the hackney carriage/private hire trade and has produced a code of good conduct which serves to promote the Licensing Authority's licensing objectives. The Council considers that all drivers should conform to the code of good conduct in the way they behave, dress and operate. Failure to meet with these standards may lead to the Licensing Authority determining that a licensed driver is no longer a 'fit and proper' person to hold a licence. Please see Appendix Q for Code of Good Conduct.

9 Drivers Hours

Working long hours as a taxi or private hire driver is not recommended. Part time drivers may already have worked on the same day in other employment before

commencing work as a taxi driver. Drivers must be aware of this, especially drivers who have already completed a day's work and are now taxi/private hire driving. The Licensing Authority advises all operators of hackney carriages and private hire vehicles to maintain a record of the hours that their driver's work to show that they are monitoring safe working practises.

All new applicants for a hackney carriage or private hire driver licence will be required to attend an interview. At that interview Licensing Officers will question applicants about whether they will be working full time or part time and what hours they expect to work. If Officers feel that a driver will be exceeding the hours set out in the guidance at Appendix U, the application may be referred to the Licensing and Enforcement Sub-Committee as this may raise concerns about the safety of passengers who are travelling with a driver who may experience signs of tiredness or fatigue.

Driver's hours will include any time spent travelling from a driver's home address to the district of East Devon where they will be predominantly expected to work.

Please see Appendix U for guidance relating to drivers hours.

10 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

10.1 Introduction

- 10.1.1 The Council will need to be satisfied that the applicant is a fit and proper person to hold either a hackney carriage or private hire driver's licence and can require from licence applicants such information as may be considered reasonably necessary to determine whether the licence should be granted. The statutory and practical criteria and qualifications for a hackney carriage driver are broadly similar to those for a private hire driver. This part of the policy therefore applies equally to private hire and hackney carriage drivers unless the document indicates differently.
- 10.1.2 The functions of the Council in regard to hackney carriage and private hire licensing may be exercised by the Licensing and Enforcement Committee, a Sub-Committee of that Committee or officers acting under delegated authority.
- 10.1.3 The Strategic Lead (**Governance & Licensing**) and Licensing Manager have delegated power to issue and renew all hackney carriage and private hire licences to applicants, subject to all Members of the Council being given 7 days' notice of an officer's proposal under delegation in cases where a driver has 6 to 9 penalty points on their licence issued in one year or 9 penalty points in a three year period and if within this 7 day period a representation has been made by a Member, the decision be made in consultation with the Chairman of Committee.
- 10.1.4 Applications may also be referred to a Licensing and Enforcement Sub-Committee where officers consider that the matter should be considered by members. For example, where during the application process it is revealed that the applicant has convictions for relevant offences which fall outside the Council's policy in relation to the relevance of convictions, or for any other reason.
- 10.1.5 The Council will consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.

10.2 STANDARDS AND FITNESS OF APPLICANTS

In support of the application made either online or on paper (completed to the District Council's satisfaction) the applicant will be required to satisfy the requirements listed below:

- 10.2.1 Provide one Passport size colour photograph on a clear background. **This should be a photograph that has been taken within the last 3 months and is a good likeness of the applicant.**
- 10.2.2 The applicant must hold or have held for at least twelve months prior to making the application, a licence granted under Part III of the Road Traffic Acts 1972 and 1988 (not being a provisional licence) authorising them to drive a motor car. Alternatively, a Northern Ireland or European Economic Area (EEA) country (to include Accession states) driving licence of equivalent standing and produce the licence for inspection. (Note that the 12 month requirement is set down by UK legislation).
- 10.2.3 **DVLA Driver Licence History Checks**
As part of the Council's fit and proper test, applicants and, existing licence holders, are required to enable the Council to carry out a check of their DVLA driver's licence and driver's record. Every holder of a DVLA driving licence will be

asked to complete a DVLA driving licence check free of charge.. This ensures that driving licence histories are checked properly and reflect the current driving status of the applicant.

- 10.2.4 The Licensing Authority also requires all hackney carriage and private hire vehicle drivers who hold an EC/EEA driving licence to register their non-GB driving licence with the Driver and Vehicle Licensing Agency (DVLA). When licence holders register they will be allocated a UK driver number. Any driving convictions and endorsements subsequently incurred by the licence holder in the UK will be recorded by the DVLA. If at the time of implementation of this policy, there are existing holders of EC/EEA driving licences who already hold a taxi driver's licence issued by this Council they are required within 3 months of the adoption of this policy to register their EC/EEA driver's licence with the DVLA and obtain a UK driver number. If a licensed driver cannot obtain a UK driver number before their existing taxi licence expires, the new licence will be issued on condition that the driver produces their new DVLA driving licence and an unused DVLA 'Check Code' to the Council within 3 months.
- 10.2.5 Having their EC/EEA licence registered by the DVLA and a UK driver number issued benefits drivers by allowing them to take part in the fixed penalty system for road traffic offences rather than having to attend court and incur a greater penalty as well as costs. In addition, if a driver loses or has his or her national driving licence stolen, they may not be able to get a duplicate from the issuing country. However, once registered with the DVLA they will be able to apply for a UK driving licence.
- 10.2.6 In order to register an EC/EEA licence with the DVLA and obtain a UK licence number the applicant must be resident in the UK. **Applicants can** register and obtain a UK licence number free of charge from the DVLA.
- 10.2.7 All non-UK licence holders will still be required to provide a copy of their EC/EEA driving licence with their application.
- 10.2.8 Applications for the grant of a licence will not be approved until all driving licence entitlement and endorsement data is received by the Council and it proves satisfactory in accordance with this policy.
- 10.2.9 Where an applicant's DVLA drivers licence permits only the driving of automatic cars this will not prohibit the issue of a hackney carriage or private hire driver's licence. However, a licence holder must still conform to the restrictions on the DVLA driver's licence and therefore is not permitted to drive vehicles fitted with manual gearboxes.

10.2.10 **Taxi driver assessment test**

New applicants for a hackney carriage or private hire driver's licence who have not held one issued by the District Council in the 12 months immediately before making the application or who have had their licence revoked are required to have passed the driving standard assessment equivalent to the Driving and Vehicle Standards Agency taxi driving assessment test prior to issue of a licence or **be able to** produce a pass certificate which has been issued by the DVSA not earlier than 12 months before the application date. New applicants **must seek advice from the authority before booking a** driving test.

- 10.2.11 Any existing licensed hackney carriage or private hire driver whose DVLA licence shows 6 or more penalty points issued in a 1 year period or 9 or more penalty points in a 3-year period is required to take a driving standard assessment equivalent to the DVSA taxi driving assessment test within 3 months of being notified in writing of the requirement by the Licensing Manager. The pass

certificate must be produced to the Licensing Authority 14 days of taking the assessment. Failure to produce a satisfactory assessment pass within this time period will immediately trigger referral to the Licensing and Enforcement Committee or Sub-Committee of that Committee for review of the licence.

10.2.12 **Enhanced Disclosure and Barring Service (DBS) Checks**

All new applicants for a hackney carriage or private hire driver's licence must undertake an enhanced Disclosure and Barring Service (DBS) check and **must then undertake** further enhanced DBS checks every three years. An explanatory leaflet will be sent out to the applicant explaining the procedure. Currently, although this may change during the life of this policy the checks must be completed on line by the applicant/licence holder. The DBS and administration fees and the relevant **original** identity and supporting documents must then be produced to the Council's licensing office for checking. Licensing officers can give assistance if required.

Existing holders of hackney carriage and private hire driver's licences must retake an enhanced Disclosure and Barring Service (DBS) check every three years.

All applicants and existing holders of driver's licences issued by the Council are recommended to subscribe to the DBS update service. If you've already applied for a DBS check, you can register for the update service using your DBS certificate number. **You must do this within 19 days of the certificate being issued or you will have to wait until your next DBS check application.**

The Council is bound by rules of confidentiality, and shall not divulge information obtained with a DBS check to any third parties except where legally permitted.

Before the Council will issue or renew a driver's licence the applicant must provide to the Licensing Authority the completed, enhanced DBS certificate or result.

All existing hackney carriage and private hire drivers are required to update their DBS check every 3 years. If a driver has not provided the Council with a new DBS certificate or result within 1 month of their previous DBS having expired, then their licence will be suspended.

Retention

Once a decision has been made, we do not keep disclosure information for any longer than is necessary.

Disposal

Once the retention period has elapsed, we will ensure that any disclosure information is immediately destroyed by secure means (shredding). Disclosure information will not be kept in any insecure receptacle (for example waste bin or confidential waste sack). We will not keep any photocopy or other image of the disclosure or any copy or representation of the contents of a disclosure. However, we may keep a record of the date of issue of a disclosure, the name of the subject, the type of disclosure requested, the position for which the disclosure was requested, the unique reference number of the disclosure and the details of the decision taken based on the disclosure result.

10.2.13 **Overseas applicants and those UK applicants who have lived abroad**

Where an applicant has lived outside of the UK for any period exceeding 3 months at any time between the age of 10 years old and the date of their driver application then in addition to the Disclosure and Barring Service

check, the applicant will be required to provide a Certificate of Good Conduct or a criminal record check from each and every country in which they have lived. It may also be possible to get such a check through the relevant embassy in the UK and the applicant will be responsible for providing this at their own expense.

The process for getting these checks abroad varies between countries and more information can be found on the Home Office website.

- 10.2.14 Convictions and warnings received after the completion and submission of an application must be reported in writing to the Council within seven days; failure to do so may render the licence, if granted, liable to suspension or revocation.

10.3 Medical Examinations

- 10.3.1 Applicants for the grant of a hackney carriage or private hire driver's licence will be required to produce a medical signed by a registered medical practitioner from the applicant's own medical practice or surgery and who has access to his/her medical history, certifying that the applicant is physically fit to Group 2 medical standards for vocational drivers' licences. The medical examination must have been carried out within 3 months of the application being received. All costs relating to the examination shall be borne by the applicant. Applicants who have Diabetes Mellitus may also apply and can be treated as exceptional circumstances as long as they reach certain criteria as outlined in **Appendix A** relating to the medical standards of fitness required.
- 10.3.2 Further medical certificates will be required every 5 years, on renewal of the licence until the applicant reaches the first anniversary of the licence renewal date after his/her 65th birthday or on his/her 66th birthday, whichever comes first and then annually at the licence renewal date thereafter. In the case of insulin treated diabetes and occasionally in exceptional circumstances an annual medical certificate will be required before a driver's 65th birthday. Each case will be treated on its own merits.
- 10.3.3 All medical reports must be completed on the East Devon District Council Medical Report form which is an A4 double-sided booklet style document and will be sent on request to all new applicants. We will not accept forms from other Councils or forms which are not presented in booklet format.
- 10.3.4 Where an applicant is from an EU member state or other country and has not been registered with a doctor in the UK for at least five years then, in addition to the medical examination by a UK registered doctor, they must produce a medical certificate from their previous doctor or doctors they have been registered with over the 5 years prior to the date of receipt of the application. A medical certificate may be translated in the applicant's country of origin and approved by a Notary Public (or someone holding an equivalent qualification in countries not recognising Notary Publics). Otherwise the certificate can be translated in the UK by an approved translation service. In either case it is necessary that the name of the doctor, their signature, address of the doctor's practice and any stamp is clearly legible. All medical certificates will be provided at the applicant's own expense.
- 10.3.5 Holders of current PSV and/or HGV licences, where the holder is able to provide proof of a current recent medical examination (within 6 months) to support the issue of such a licence, will not be required to undergo further medical examinations. Any medical supplied to be no more than 6 months old.

- 10.3.6 Without prejudice to any part of this policy, the District Council may require any new applicant to undergo an examination to ascertain their physical fitness to be the driver of a hackney carriage. The cost of any such examination will be at the applicant's own expense.
- 10.3.7 Similarly, during the currency of any hackney or private hire driving licence the council may require the licence holder to undergo an examination to ascertain their physical fitness to be the driver of a hackney carriage or private hire vehicle. The examination to be carried out by a registered medical practitioner selected by the Council, the cost to be borne by the District Council.
- 10.3.8 Where there remains any doubt about the fitness of any applicant or existing licence holder, the District Council's Licensing and Enforcement Committee or a Sub-Committee of the Committee will review the medical history and make a decision in the light of the medical evidence available including where necessary a report from an occupational health medical consultant with specialist knowledge of Group 2 medical standards for vocational drivers' licences. Where there is concern over the fitness of an existing licensed driver to continue to hold a licence issued by the Council then if the licence is not first surrendered and if it is not expedient to bring the matter before a sub-committee the Strategic Lead (Governance & Licensing) may make the decision after providing the licence holder the opportunity to appear before him and make representation.
- 10.3.9 All existing hackney carriage and private hire drivers are required to provide a medical report every 5 years. If a driver has not provided the Council with a new medical report within 1 month of their previous report having expired, then their licence will be suspended.
- 10.4 In satisfying itself that the applicant is a fit and proper person to whom a driver's licence can be granted the District Council will also take the following into account:
- (a) Character (to be supported by one personal references and one employer's reference)
 - (b) Previous conduct whilst being the holder of a hackney carriage or private hire driver's licence
 - (c) Knowledge of local geography, principal locations, most direct routes, etc.

All applicants for a hackney carriage driver's licence or private hire driver's licence will, prior to any licence being granted, be required to undertake and pass a knowledge test to ensure that they have a good working knowledge of the East Devon area, as well as Highway Code, relevant legislation and basic numeracy. The test will be conducted in English only, at the Council Offices. Failure to attend without prior notice will mean forfeiture of any monies paid and any fees incurred will be at the applicant's expense. Oral tests will only be conducted under exceptional circumstances which can be discussed when initially applying.

Any applicant who fails to achieve the pass shall be invited to take a different test on another occasion. They shall not be issued with a driver badge unless or until they have achieved the requisite pass rate. All applicants will be allowed three attempts at the test. If the required pass rate has not been achieved by the third test, the applicant will not be considered to be a fit and proper person to hold a licence and there

will be a minimum period of 12 months before new testing may take place.

Existing licence holders may also be required to undertake the knowledge test at the discretion of the Licensing Manager, in particular in response to relevant complaints being received.

Should an existing licence holder fail to renew a licence by the expiry date of their licence, the licence will lapse and will not be valid. It will be a requirement to submit a new application which will include taking the knowledge test as part of the procedure and process to obtain a licence from the Council.

Paid professional drivers therefore require relevant knowledge, skills and experience to safely and effectively discharge their role and their responsibilities to passengers and other road users.

This Council's knowledge test policy is shown at appendix X.

- (d) Applicants must demonstrate an adequate and reasonable level of spoken English and be able to converse with authorised officers and members of the public. The purpose of the requirement is to ensure that members of the public and drivers are safeguarded by making sure that licensed drivers can communicate and give and understand most instructions.

Applicants who cannot demonstrate an adequate or reasonable level of spoken English and/or a suitable qualification will be required to undertake an independent assessment of their spoken English. The procedure for the spoken English assessment is detailed at Appendix W.

If the Licensing Authority has concerns that an existing licensed driver cannot demonstrate an adequate or reasonable level of spoken English and/or a suitable qualification they may be referred to the Licensing Committee with the recommendation that they undertake an independent assessment of their spoken English.

- (e) All prospective applicants for a hackney carriage and private hire driver's licence will, within 12 months of the licence being granted, provide documentary evidence of completing disability/diversity awareness training, and which will be approved by the Licensing Authority.

- (f) Payment of the licensing fee. Any applicant or licence holder who presents a cheque which is not honoured will have the licence immediately suspended and this will be subsequently be revoked unless the payment is honoured within 7 days of the applicant being advised by the Council. Any additional bank charges incurred by the Council must be paid by the applicant.

- (g) Employment
(i) Confirmation from the prospective hackney carriage or private hire proprietor that the applicant will be employed as a taxi driver if the licence application is granted. All applicants and existing licence

holders must notify the Licensing Authority of any change of employer within 14 days.

- (ii) Confirmation of any intended self-employment as a hackney carriage or private hire driver.
- (iii) Details of any other occupation or profession being followed by the applicant to ensure that the nature, location or duration of that employment will not adversely affect the driver safety standards of the applicant if the licence is granted.
- (iv) **Applicants must be conversant with the appropriate laws concerning the type of licenced vehicle that they are driving.**

(h) Immigration Act 2016

All applicants for a hackney carriage or private hire driver's licence or renewal will need to demonstrate that they have the right to work in the UK before they can be issued with a licence. Further information can be found at Appendix R.

10.5 Application procedure

10.5.1 The Council will consider the application once the appropriate fee has been received and the application form and all supporting documents are completed in full. The licence will not be issued until all requirements in this policy have been met.

10.5.2 During the application process and before any decision has been made all applicants for driving licences will be interviewed by a Council licensing officer.

10.5.3 We may refer the application to a Sub-Committee of the Licensing and Enforcement Committee for members to make a decision on whether to grant a licence. For example, if an applicant has any recent criminal convictions we will refer the decision to a Sub-Committee. When this applies we will always inform the applicant.

10.5.4 In the case of applications heard by a Committee or Sub-Committee responsible for hackney carriage licensing, applicants will be given the opportunity to appear before that Committee or Sub-Committee and make representation before the application is determined.

10.5.5 Applicants will be advised, in writing, of the decision made in respect of their application.

10.5.6 Unsuccessful applicants for the grant of a hackney carriage driver's licence may, in pursuance of section 59(2) of the Local Government (Miscellaneous Provisions) Act 1976 (as amended), appeal to a Magistrates' Court against that decision.

10.5.7 Successful applicants at either Officer, Committee or Sub-Committee interview, subject to any further requirements to support the application, for example completed satisfactory medical examination certificate, etc., will be issued with the relevant driver's licence.

10.5.8 Where licence holders surrender their licence prior to their expiry date the Licensing Authority is unable to make any refunds in respect of the licence fees.

10.6 INTERVIEWING OF APPLICANTS

10.6.1 When being interviewed by a licensing officer the applicant will be questioned on aspects of the relevant licensing law in relation to their application. Whilst some guidance will be available from licensing officers applicants are responsible for ensuring they are fully conversant with the law in relation to the type of licence they are applying to hold. They will be given a copy of the Council's taxi licensing policy and a copy of a locally produced note on hints and guidelines produced to help the applicant understand what is expected from him when they commence hackney or private hire work. They will be asked to sign a receipt for the documentation and given a copy to retain.

10.6.2 Any abusive, offensive, aggressive or insulting language or behaviour towards reception or licensing staff will not be tolerated, and will lead to the appointment being terminated instantly, and the licensing process stopped.

10.6.3 A report concerning such behaviour may then be submitted to a licensing committee hearing which will determine the fitness of that applicant to hold, or continue to hold, a Hackney Carriage or Private Hire drivers licence'.

10.6.4 Potential and current drivers should be in no doubt that unacceptable behaviour will not be tolerated.

10.6.5 Applicants should note that to make a false declaration to obtain the licence is a serious criminal offence, punishable upon conviction by imprisonment for a term not exceeding 2 years or a fine or both to be decided by the Court. This statutory declaration may in certain circumstances be forwarded to the police.

10.6.6 If an applicant has been found to have made a false statement, whether in their application form, during an interview or at any stage of the application or renewal process then the applicant will be considered to have breached the fit and proper test. This may result in a licence being refused or revoked.

10.6.7 Interviews with applicants will be undertaken in private. Applicants may wish to bring 1 support with them to the interview who is independent of their employer where the interview may contain matters of confidentiality. This is to ensure that applicants will suffer no prejudice from procedural fairness.

10.7 Previous Application History

10.7.1 In recognition that applicants may previously have applied for and/or held licences that may have been refused, suspended and/or revoked by other authorities, the Licensing Authority requires all applicants to declare -

10.7.2 Whether or not any such applications have previously been made to any other Licensing Authority, the date of any such application, together with details of (i.e. the reasons for) the outcome; and/or

10.7.3 Whether or not any such licences have previously been held with any other Licensing Authority, the dates any such licences were held, together with the details of any actions that resulted in suspension, revocation and/or the refusal to renew any such licence.

10.7.4 Where appropriate, the Licensing Authority will check the status and outcome of any other applications made to and/or licences held with other authorities together with the reasons for any actions that may have been taken in connection with them.

10.8 DRIVING LICENCE CONDITIONS

10.8.1 In accordance with current hackney carriage legislation the District Council does not attach conditions to hackney carriage driving licences. However licenced drivers must comply at all times whilst driving a hackney carriage licensed by this Council with the Council's hackney carriage byelaws (**Appendix B**) and with all relevant legislation relating to hackney carriages as well as national road traffic legislation.

10.8.2 In accordance with private hire legislation the Council has agreed conditions to be attached to private hire driver's licences. A list of these conditions appear at **Appendix C**. Whilst driving private hire vehicles licensed by this Council all licensed drivers must comply with these conditions and with all relevant legislation relating to hackney carriages as well as national road traffic legislation.

11. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENCES

11.1 Introduction

- 11.1.1 The functions of the Council in regard to hackney carriage and private hire licensing may be exercised by the Licensing and Enforcement Committee, a Sub-Committee of that Committee or officers acting under delegated authority.
- 11.1.2 The Strategic Lead (**Governance & Licensing**) and Licensing Manager have delegated power to issue and renew all hackney carriage and private hire vehicle licences which conform to the Council's policy.
- 11.1.3 The Council will consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete and the fee has been paid. Only once a completed application form and all correct supporting documents have been provided will the Council consider an application and, if satisfied that the vehicle is suitable, grant a licence. Any applicant who presents a cheque which is not honoured will have the licence immediately suspended and this will be subsequently be revoked unless the payment is honoured within 7 days of the applicant being advised by the Council. Any additional bank charges incurred by the Council must be paid by the applicant.
- 11.1.4 Applications may be referred to a Licensing and Enforcement Sub-Committee where officers consider that the matter should be considered by members especially where the application does not conform to this policy.
- 11.1.5 The type of vehicle that may be licensed is wide and the criteria laid down are fairly general. These are set out below and apply to both hackney and private hire unless exceptions apply. These are explained within this policy.
- 11.1.6 No restriction is placed on the size of vehicles other than the requirement that they are able to carry a minimum of four adult passengers, and a maximum of eight passengers plus a driver. Purpose-built 'taxis' (for example TX4 & TX5 London taxi type) will only be licensed as hackney vehicles (Legislation requires that private hire vehicles must not look like a hackney carriage). The maximum number of passengers to be carried will be displayed on the vehicle plate and must not be exceeded. Luggage should be secure and prevented from becoming dislodged in an accident in such a manner as may cause injury. Security can be by means of a net or sheet, which could be anchored to the floor of the luggage area. If the luggage compartment is not physically separated from the passenger compartment, then care must be taken so as not to carry any hazardous items. For example, fuel cans, detergents or other loose items, which could leak if they become damaged.
- 11.1.7 The Council has no policy on specific vehicle colours or livery with the exception of the signage requirements permitted on hackney carriages and private hire vehicles. This will be kept under review and may be reconsidered.

11.1.8 Out of area working

11.1.8.1 Following the guidance given by the High Court in its judgment, and the declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008] all hackney carriages and private hire vehicles licensed by the district Council must operate in East Devon and principally work from or within the district. Vehicle licence holders and applicants will need to demonstrate that the majority of journeys will either start or end in East Devon.

11.1.8.2 When an application is made to licence a vehicle as a hackney carriage, or to renew a current licence, the Council will require information pursuant to Section 57 of the Local Government Miscellaneous Provisions Act 1976 as to whether the applicant intends to use the vehicle to stand or ply for hire in East Devon District Council's area and also if the applicant intends to use the vehicle entirely or predominantly remotely from East Devon District Council's area on a pre-booked basis. Whilst each application will be considered on its own merits, the Council will have regard to the geographic location of an applicant's home and business address.

11.1.8.3 If the Council believes that the hackney carriage is to be used entirely or predominantly remotely from East Devon District Council's area on a pre-booked basis then the application for a licence may be refused.

11.1.9 For further guidance on the licensing of stretched limousines please refer to **Appendix K** of this policy.

11.1.10 For further guidance on the licensing of wheelchair accessible vehicles please refer to **Appendix L** of this policy.

11.1.11 For guidance on the use of CCTV in vehicles licensed by the Council please refer to **Appendix M** of this policy.

11.2 **MAINTENANCE, APPEARANCE AND CONDITION**

11.2.1 **Vehicle specifications**

Licensed vehicles must be of manufacturers' specification and shall comply in all respects with the Motor Vehicle (Type Approval Regulations 1980), Motor Vehicle (Type Approval) Regulations 1984 and the Road Vehicles Construction and Use Regulations 1986. In addition, all vehicles must comply in all respects with all the British and European vehicle regulations which apply to that type of vehicle and be a type that complies with the requirements of the M1 category of European Whole Type Approval 70/156/EEC as amended. Vehicles converted from vans which have a type approval other than M1 will not be acceptable unless they are presented with approved M1 certification for the resultant vehicle. If the vehicle has been registered with the DVLA and issued with the appropriate registration index number, no change, structural alteration or rearrangement of detail shall be carried out unless the vehicle has received subsequent M1 Whole Type Approval.

11.2.2 **Insurance write-offs**

For reasons of public safety the Licensing Authority will not normally accept any vehicle that has been subject to such damage as to be categorised as a category A or B write off by a relevant insurance company under the Code of Practice for the Disposal of Motor Vehicle Salvage. As damage at this

level cannot always be detected or fully repaired. This policy will apply regardless of whether or not the vehicle has since been repaired to an MOT pass standard.

Vehicles categorised as a category C or D write off by a relevant insurance company under the Code of Practice for the Disposal of Motor Vehicle Salvage may be considered for licensing by a Licensing and Enforcement Sub-Committee subject to higher levels of examination and vehicle reports. Where examinations provide any cause for the safety of the public such applications may be refused.

This will apply to all vehicles that have not been previously licensed as a hackney carriage or a private hire vehicle with this authority before the date of approval of this policy.

If any vehicle which is currently licensed with this authority as a hackney carriage or private hire vehicle is subsequently categorised as a category A, B, C or D write off by a relevant insurance company under the Code of Practice for the Disposal of Motor Vehicle Salvage after the commencement date of this policy then this must be declared to the Licensing Authority. The vehicle licence will then be reviewed by the Licensing and Enforcement Sub-Committee who will provide a decision based on the public safety of the vehicle.

A serious view will be taken where any applicant for a hackney carriage or private hire vehicle licence or an existing licence holder fails to declare that a vehicle has been categorised as a category A,B, C or D write off by a relevant insurance company under the Code of Practice for the Disposal of Motor Vehicle Salvage.

This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a “fit and proper person”, but criminal proceedings.

11.2.3 Vehicles must have a minimum of four doors.

11.2.4 Vehicles may be licensed to carry up to eight passengers plus the driver.

11.2.5 The minimum engine capacity of vehicles to be licensed must not be less than 1000 cc. The Council recognises that low emission vehicles such as hybrids and electric vehicles can have a positive impact on the environment and these will be given special consideration if they do not meet the Council’s criteria in respect of the minimum engine size.

Vehicle – Interior

11.2.6 Passenger Comfort

Every passenger seat in the vehicle must meet the following minimum dimensions:

- Minimum individual seat width – 45cm (18”)
- Bench seat width (for example the rear seat of a saloon vehicle) – 130cm (52”)
- Seat squab height measured from vehicle floor - 30cm (12”)

- ❑ Seat squab depth – 45cm (18")
- ❑ Headroom measured from centre of seat to underside of roof – 87.5cm (35")
- ❑ Legroom measured from seat back diagonally to vehicle floor) – 92.5cm (37")
- ❑ Unobstructed space in front of seat measured from seat back – 62.5cm (25")

There shall be no obstructions or features in the vehicle (for example prominent transmission tunnels, door furniture, vehicle controls, etc.) which in the opinion of the Council materially interfere with the comfort of any passenger.

- 11.2.7 There must be sufficient space between each row of seats in their minimum spaced configuration to accommodate passengers in safety, reasonable comfort and with adequate legroom.
- 11.2.8 There must be sufficient space between each seat cushion at its highest point and the lowest part of the roof to accommodate passengers in safety and in reasonable comfort.
- 11.2.9 Seats which are not constructed to the same design or specification as the standard seats in the vehicle (e.g. seats which fold down to create additional luggage space in the rear of a vehicle) may not be suitable for the carriage of passengers. In order to ensure the safety and comfort of passengers, the authority may refuse to include such seats in the total licensed seating capacity of the vehicle.
- 11.2.10 The arrangement of seats in the vehicle must not impede or restrict access into or egress from the vehicle. Vehicles with seats which need to be folded or moved to permit access to/egress from the vehicle may not be suitable for licensing. In order to ensure the safety, comfort and convenience of passengers, the authority may refuse to licence such vehicles or may require such seats to be removed or may licence the vehicle for such lesser numbers of passengers as it considers appropriate.
- 11.2.11 Seats and seat fixings must not be moved or modified from the manufacturer's original installation unless the modification is carried out and certified safe by the manufacturer, an authorised dealer/agent or a firm authorised or approved to carry out such work.
- Licensed vehicles and their fittings and equipment shall, at all times when in use, be kept in a safe, tidy and clean condition, and in good working order. This applies equally to the interior and the exterior of the vehicles. Seat covers and carpets must be maintained in a clean and good condition.
- 11.2.12 Vehicles with minor dents or scratches on three or more panels where such dents or scratches are more than 5cms in diameter/length or a single dent or scratch of more than 20cms in diameter/length will be considered unacceptable and must be repaired without delay. Any vehicle presented in this condition for initial licensing will need to be repaired before licensing.
- 11.2.13 Vehicles will be liable to be inspected and tested at any time. If public safety is compromised by any defects or dents and scratches as set out above are present, the further use of the vehicle may be prohibited until the defects have been addressed and the vehicle has successfully undergone a further inspection.
- 11.2.14 Where a six month / annual vehicle licensing inspection report is not provided by a proprietor following requests by the Licensing Service the vehicle may be suspended until an inspection report is provided.

11.2.15 RUST

Any vehicle presented should be free from any significant areas of visible rusting. Although very minor blemishes should not constitute a failure. The following general criteria should be followed - any vehicle with more than three visible rust patches of more than 20 square centimetres may be refused a licence.

11.3. **INSURANCE**

11.3.1 Insurance cover (to be a minimum of £5,000,000) in accordance with Part VI of the Road Traffic Act 1988, must be in place in respect of all hackney carriage and private hire vehicles.

11.3.2 The responsibility for ensuring that continuous and appropriate insurance cover is in place for the vehicle rests with the vehicle proprietor/licence holder. The authority will accept no liability for accident injury loss or compensation if a proprietor fails to ensure that the vehicle and any driver is not properly insured.

11.3.3 Proprietors must ensure that their insurance carries the correct cover for the type of licence they hold. For example, hackney carriage cover must include cover for 'public hire'.

11.3.4 A vehicle licensed by East Devon District Council can only be driven by a driver licensed by East Devon District Council who must be covered by the vehicle insurance. All vehicle proprietors must ensure that their insurance does not include any other person other than those with a driver's licence issued by East Devon.

11.3.5 It is the responsibility of the vehicle proprietor to ensure that any licensed driver using the vehicle is covered by the vehicle insurance. This includes temporary licence arrangements.

11.4 **VEHICLE TESTING**

11.4.1 **Hackney carriage vehicles:** A Ministry of Transport test certificate (MOT) is required when the vehicle reaches **12 months of age** and it must be produced for inspection. Officers will consider any advisory information on the MOT and may require this to be remedied. If an applicant does not wish to remedy the defect the application may be referred to the licensing Sub-Committee.

11.4.2 **Private hire vehicles:** A Ministry of Transport test certificate (MOT) is required when the vehicle reaches **36 months of age** and it must be produced for inspection. Officers will consider any advisory information on the MOT and may require this to be remedied. If an applicant does not wish to remedy the defect the application may be referred to the licensing Sub-Committee.

11.4.3 **Compliance Testing of Hackney Carriage and Private Hire Vehicles**

In addition to the MOT certificate the Council requires that all hackney carriages and private hire vehicles must hold a current compliance test report/certificate to the standard set by the Council. Where the compliance inspection report lists test items that correspond to items tested during the MOT inspection then the standard required for the compliance report is the same as the MOT standard. The vehicle proprietor must have the vehicle tested by a garage nominated by the Council (currently any garage authorised to issue MOT certificates). Proprietors shall produce with the licence application form a completed and satisfactory original vehicle compliance report and in a form provided by the Council. Photocopies will not be accepted. The form must be signed by a person authorised to sign

Department of Transport Test Certificates at the inspecting garage that the vehicle has passed an inspection relating to safety, comfort and mechanical condition to the standards set by the Council. Proprietors should note that the items to be tested vary slightly between those required for hackney carriages and private hire vehicles and each type of licence has a separate inspection form.

11.4.4 The taxi meters that must be fitted in all hackney carriages must be checked by the inspecting engineer over the measured distances which matches with the Council's fare tariffs prevailing at the time of the test. The engineer must also check that the meter is functioning and recording correctly. The cost of the inspection will be borne by the vehicle proprietor.

11.4.5 There is no requirement for taxi fare meters to be fitted in private hire vehicles licensed by this authority. Where proprietors voluntarily fit meters in licensed private hire vehicles the law requires that such meters are accurate and correctly calculates the advertised fare tariff*. Meters therefore fitted in any private hire vehicle licensed by the Council must be checked by the inspecting engineer for accuracy and against the fare tariff used by the operator. The engineer must also check that the meter is functioning and recording correctly. The cost of the inspection will be borne by the vehicle proprietor.

* The fare tariffs used by private hire operators are independent of the fare tariff agreed by the Council for hackney carriages in the district and do not need to be approved by the Council.

11.5. VEHICLE AGE POLICY

11.5.1 The Council's policy is that on initial licensing as a hackney carriage or private hire vehicle a vehicle shall be not more than **four** years old from the date of first registration as shown on the vehicle registration document. Licensed vehicles of more than eight years old shall only continue to be licensed subject to a satisfactory East Devon vehicle compliance report being obtained every six months from the date of licence issue. The test must be carried out by an authorised M.O.T examiner at a testing station approved by the Ministry of Transport, and must be conducted against an inspection checklist. This is in addition to an M.O.T, which for hackney carriages is required at 1 year-old and thereafter. This policy shall not exclude a vehicle from being licensed as a hackney carriage or private hire by reason of being more than 4 years old if the vehicle was initially licensed by the Council and continually licensed thereafter as either a hackney carriage or private hire vehicle and the change merely being the transfer of the type of licence.

11.5.2 Where exceptional circumstances may apply applications to licence vehicles that are more than four years old from the date of first registration as shown in the vehicle registration document will be considered by the District Council on a case by case basis. The presumption is that licences will not be granted for vehicles over 4 years old, but each such application will be considered on its own merits. Factors such as the condition of the vehicle and the mileage will be relevant. The application will be considered by a Sub-Committee of the Licensing and Enforcement Committee. The Sub-Committee will need to be satisfied that the vehicle is in exceptional condition for its age. The Council would expect the vehicle to have a full service history and a certification that the recorded mileage is correct. When considering to licence an older vehicle members will expect to be provided with an AA 'Comprehensive' test report or a RAC 'Essential Plus' report to indicate the condition of the vehicle. These reports must be provided at the applicant's own expense. Providing these documents does not mean that the vehicle licence will be automatically issued, but is a starting point at which the Council can make a

decision to licence the vehicle or not, based on the vehicle condition. All the other relevant documents necessary for licensing must also be produced. This provision shall not apply to non-motorised vehicles.

Licensed vehicles over 14 years of age must be presented for inspection by a Licensing Officer prior to further renewal of the vehicle licence. In circumstances where a vehicle is not considered by an Officer to be of sufficient standard then the application will be referred to the Sub-Committee of the Licensing and Enforcement Committee who will decide whether to grant the renewal of the vehicle licence. If an appointment for an inspection is not made prior to the vehicle licence renewal date, the licence will automatically expire.

11.5.3 For the avoidance of doubt, where the date of manufacture is unrecorded, the date of first registration (shown on the vehicle registration document) will be taken to be the date of manufacture as long as the vehicle registration document shows that the vehicle was declared new at first registration.

11.5.4 "Grey Imports" of any age from outside the European Community (EC) or one of the other countries in the European Economic Area (EEA) will not normally be acceptable to be licensed as a hackney carriage. With such vehicles it is very difficult to confirm their history or verify their mileage. Each case will be taken on its merits and decided by a Licensing and Enforcement Sub-Committee. See also Appendix G.

11.5.5 **Private hire vehicles only** – Where an application is received to licence an older specialist Classic Car over 4 years the Strategic Lead – **Licensing & Governance** in consultation with the Chairman of the Licensing and Enforcement Committee may approve the grant of a **private hire** vehicle licence.

11.5.6 The vehicle registration document must be produced in support of each application for a vehicle licence or renewal of a licence.

11.6 SEAT BELTS

11.6.1 All seats, including the driver's, shall be provided, where possible, with a lap and diagonal 3-point seat belt and, where not possible, a 2-point lap seat belt appropriate for the type and position of the seat as laid down in European Directive 76/115 EEC (as amended by 90/629 EEC) and Regulation 46 and 47 of The Road Vehicle (Construction and Use) Regulations 1986 whether or not those Directives or Regulations apply to that particular seat or the vehicle. All seat belts shall be fitted to the vehicle with the number of anchorage points appropriate for the type of seat belt and shall comply with the above Directive or EEC Regulation 14, even if those instruments do not apply to that particular anchorage or the vehicle. Wheelchair passengers shall be provided, where possible, with a 3-point seat belt, and where not possible, a 2-point lap seat belt, complying with the above Directive and Regulations, whether or not those regulations apply to that particular seat or the vehicle. All seat belts fitted shall comply with Regulation 47 of the Road Vehicle (Construction and Use) Regulations 1986 and bear the designated mark required by that Regulation whether or not those Regulations apply to that seat belt or vehicle.

11.6.2 Transporting Children

Hackney carriages and private hire drivers cannot be expected to have the right child seat or booster unless parents have brought one with them but it would be best practice if taxi and private hire drivers made one available for use.

In a licensed vehicle a child can travel without a child car seat in some circumstances. As a minimum, drivers must comply with the requirements set out in the table below:

	<u>Front Seat</u>	<u>Rear Seat</u>	<u>Who is responsible?</u>
<u>Child up to 3 years</u>	<u>Correct child restraints must be used</u>	<u>Correct child restraint must be used. If a restraint is not available in a licensed hackney carriage or private hire vehicle, the child may travel unrestrained.</u>	<u>Driver **</u>
<u>Child from 3rd birthday up to 135 cms in height or 12th birthday, whichever they reach first</u>	<u>Correct child restraints must be used</u>	<u>Where seat belts are fitted, the correct child restraint must be used. The child must use adult belt if the correct child restraint is not available as follows: (i) in a licensed hackney carriage or private hire vehicle; or (ii) for a short distance in an unexpected necessity; or (iii) two occupied child restraints prevent fitting of a third. A child 3 years and over may travel unrestrained in the rear seat of a vehicle if seat belts are not fitted in the rear seat</u>	<u>Driver **</u>
<u>Child over 135 cm in height or 12 or 13 years old</u>	<u>Seat belt must be worn if available*</u>	<u>Seat belt must be worn if available.</u>	<u>Driver**</u>
<u>Passengers aged 14 years and over</u>	<u>Seat belt must be worn if available*</u>	<u>Seat belt must be worn if available.</u>	<u>Passenger</u>

11.7 Vehicles Powered by Liquefied Petroleum Gas (LPG)/Liquefied Natural Gas (LNG)

11.7.1 Environmental considerations are an important part of the licensing regime and dual fuel vehicles are permitted. If the vehicle was manufactured with the LPG conversion already fitted, then the V5C form should identify this fact. If the vehicle was converted after manufacture the commissioning log or conversion certificate must be provided to identify when the conversion took place, who carried out the conversion, the tank number and vehicle identification details to cross reference

with. This is a key document and the installer will be checked against a list of LPGA (Liquid Petroleum Gas Association) approved installers. If the original commissioning log or conversion certificate is not available the vehicle must be taken to an approved installer for a safety check report. The cost of this check must be borne by the vehicle proprietor.

11.7.2 An applicant for a licence involving a vehicle that has been converted to run on LPG or LNG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Association Code of Practice; and that the vehicle is therefore considered safe. The certification shall be kept available for inspection by an authorised officer of the Council and shall form part of the vehicle licence renewal application

11.7.3 If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it is a requirement that an amount of space remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle.

11.8 SPARE WHEEL

Each hackney carriage or private hire vehicle shall carry a spare wheel in the vehicle and tools to affect a wheel change. Modern vehicle manufacturers do not always provide a full size spare wheel, but instead supply a (smaller) emergency wheel. Consequently, the vehicle does not have a suitable space in which to safely carry a full size spare wheel. As a result a smaller space is provided to accommodate a space saving wheel. As long as the wheel meets the vehicle manufacturer's specification it can be used only on a get you home basis. No further journeys or hirings must be undertaken until the wheel/problem has been repaired/replaced.

11.9 NO SMOKING

11.9.1 The Health Act 2006 came in to force on 1 July 2007 and from that date it required all enclosed public and work places to be smoke free. This also includes vehicles used for public transport. The legislation covers all **hackney carriages** and **private hire vehicles**. Any commercial vehicle carrying members of the public will be required to be smoke free **at all times** (even when no passengers are being carried). The legislation requires a manager to ensure all commercial vehicles used to transport members of the public are smoke free. A no smoking sign must be displayed in the vehicle.

11.9.2 Electronic cigarettes must not to be used/smoked in hackney and private hire vehicles at any time.

11.10 WAITING ON STANDS

11.10.1 It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare; drivers who park on a stand and leave their vehicle unattended are committing an offence. See **Appendix V** for a list of ranks in East Devon.

11.11 SIGNS ON HACKNEY CARRIAGES

11.11.1 A hackney carriage must be of such design or appearance or carry such distinguishing marks as the District Council shall require so as to clearly identify it as a Hackney Carriage.

11.11.2 **Roof Sign** - All vehicles **upon being licensed** as a hackney carriage must display a roof sign of a type and design approved by the East Devon District Council. The sign to include the word "TAXI" in black letters which must appear on the front and rear of the sign. The sign to be yellow **and red** in colour and the words "FOR HIRE" will be included on each side of the word "TAXI".

The size of the roof sign must be either:

- (1) 750 mm (30 inches) in width by 150 mm (6 inches) deep by 165 mm (6.5 inches) high **or**
- (2) 450 mm (18 inches) in width by 150 mm (6 inches) deep by 165 mm (6.5 inches) high.

11.11.3 With the exception of the above-described lettering, no other markings will be permitted on the roof signs. Purpose-built and converted vehicles with integral signs will be exempted from the requirements as to sign size, colour and the wording on the back. All roof signs must be illuminated and connected to the taxi meter and operate so that the sign light is extinguished when the hackney carriage is hired.

11.11.4 All roof signs are to be located centrally on the roof of the vehicle with the yellow "for hire" sign displayed to the front and the red "for hire" sign displayed to the rear. Vehicles must not display the roof sign so that the lettering appears to the side of the vehicle. That is the longest faces of the sign must face towards the front and rear of the vehicle and the sign must be placed centrally on the roof and not to one side.

11.11.5 One association badge not exceeding 100 mm x 100 mm (4" x 4") may be carried on the near side of the windscreen. Otherwise no signage is permitted on the windscreen, rear window and side windows.

11.12 ADVERTISING ON HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

11.12.1 All advertising on and in licensed hackney carriages must be authorised by the Licensing Authority prior to being applied to any vehicle. From the date of this policy all vehicles currently displaying advertising material or livery must ensure that they have obtained written authority from the Licensing Authority

11.12.2 Taxis are principally intended for conveying passengers to their destination and advertising is incidental to that function. Similarly, East Devon District Council's primary role in relation to licensing hackney carriages and private hire vehicles is to ensure the safety of the travelling public and the approval of advertising material is afforded a lower priority than the licensing of vehicles and drivers.

11.12.3 Private Hire Vehicles

Advertising on private hire vehicles is restricted to two adverts/notices on the outside front doors of the vehicle, below the level of the bottom of the windows.

These signs must not exceed 70 cm x 35 cm in size. Only one advertisement shall be displayed on each door. No other notices or adverts are permitted on the vehicle.

11.12.4 Hackney Carriage Vehicles

It is recognised that innovation plays an important part in advertising. The Council has prepared guidelines to reflect the Licensing Authority's requirements in relation to hackney carriage vehicles licensed by the Council. Amendments will be issued as and when necessary. The advertising conditions appear at **Appendix H** to this document.

11.13 HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE APPLICATION PROCEDURE

- 11.13.1 The application form or online application (when available) must be completed to the Council's satisfaction and accompanied by the appropriate fee. Any applicant who presents a cheque which is not honoured will have the licence immediately suspended and this will be subsequently be revoked unless the payment is honoured within 7 days of the applicant being advised by the Council. Any additional bank charges incurred by the Council must be paid by the applicant.
- 11.13.2 Insurance cover (to be the minimum of £5,000,000) in accordance with Part VI of the Road Traffic Act 1988 must be effected in respect of the vehicle and evidence thereof produced to the Council with the application form. Such insurance cover must extend to include use of the vehicle for purposes of 'public hire' for hackney carriages and 'private hire' for private hire licensed vehicles. The responsibility for ensuring that continuous and appropriate cover is in place for the vehicle rests with the vehicle proprietor. The authority will accept no liability for accident injury loss or compensation if a proprietor fails to ensure that the vehicle, or any driver, is not properly insured.
- 11.13.3 A Ministry of Transport test certificate is required if the vehicle, in the case of a hackney carriage is more than 1-year-old and in the case of a private hire vehicle is more than 3 years old. The vehicle registration document must be produced in support of each application for a licence or renewal of licence.
- 11.13.4 The application form shall be accompanied by a completed and satisfactory Vehicle Inspection Report in a form approved by the Council and relating to safety, comfort and mechanical condition of the vehicle. The form must be completed by a person entitled to issue a Department of Transport test certificate.
- 11.13.5 The application for renewal of a vehicle licence shall be made not later than 10 working days before expiry of the current licence, except where the vehicle is awaiting repair or test arising from mechanical breakdown or accident which occurred before the 10 working day period commenced and is not being used, whereupon application for renewal shall be made not later than 28 days after expiry of the current licence. In every other case applications that are made late will be treated as for the initial grant application of a licence.
- 11.13.6 When licensing a vehicle for the first time it must be presented for inspection by a licensing officer before a licence can be issued.
- 11.13.7 The Council reserves the right to photograph any hackney carriage or private hire vehicle that is or has been subject of a licence issued by the Council.

- 11.13.8 It is only once the Council has received and verified all of the documents relating to the vehicle including the vehicle inspection tests that the Council can issue a licence.
- 11.13.9 If there is a query or a problem with any of the information we will contact the applicant. We may refer the application to a Sub-Committee of the Licensing and Enforcement Committee for members to make a decision on whether to grant a licence. For example, if the vehicle is more than 4 years old when an application is made to licence it as a taxi for the first time. When this applies we will always inform the applicant.
- 11.13.10 In the case of applications heard by a Committee or Sub-Committee responsible for hackney carriage licensing, applicants will be given the opportunity to appear before that Committee or Sub-Committee and make representation before the application is determined.
- 11.13.11 Applicants will be advised, in writing, of the decision made in respect of their application.
- 11.13.12 Unsuccessful applicants for the grant of hackney carriage and private hire vehicle licences may appeal against the decision although the court venue for each is different. Appeals against the refusal to grant a hackney carriage vehicle licence is to the Crown Court (Public Health Acts, 1875, 1890 & 1907 & Crown Court Act 1971) and unsuccessful applications for a private hire vehicle licences are to the Magistrates Court. (Local Government (Miscellaneous Provisions) Act 1976, Section 48(7).
- 11.13.13 Successful applicants at either Officer, Committee or Sub-Committee interview, subject to any further requirements to support the application, for example completed satisfactory inspection certificate, etc., will be issued with the relevant vehicle licence.
- 11.13.14 All vehicle licence plates issued to hackney carriage and private hire vehicles remain the property of this Council at all times and upon suspension, surrender, transfer or revocation of any vehicle licence the plate must be returned to the Council within 14 days.
- 11.13.15 Where licence holders surrender their licence prior to their expiry date the Licensing Authority is unable to make any refunds in respect of the licence fees.

11.14 VEHICLE LICENCE CONDITIONS

- 11.14.1 In accordance with both the hackney carriage and private hire legislation the Council is able to attach conditions to licences issued to vehicles licensed by this Council.
- 11.14.2 The Council has agreed two separate sets of conditions to be attached to hackney carriage and private hire vehicle licences:
- (a) The hackney carriage vehicle conditions appear at **Appendix I.**
- (b) The private hire vehicle conditions appear at **Appendix J.**
- 11.14.3 The Council may also attach additional conditions to both hackney carriage and private hire vehicle licences.

11.15 USE OF TRAILERS WITH HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

11.15.1 Hackney Carriages and private hire vehicles licensed by the District Council are permitted to tow trailers providing the conditions at **Appendix N** are complied with at all times.

11.16 MISCELLANEOUS GUIDANCE - PRIVATE HIRE VEHICLE LICENSING

11.16.1 Private Hire Licensing – Executive Hire, Chauffeur Services, Airport Travel etc.

There is no exemption for a vehicle from licensing where it is used only for carrying passengers for hire or reward under a contract for the hire of the vehicle for a period of not less than 7 days. The abolition of a previously existing exemption by Section 52, Road Safety Act 2006 requires all such vehicles to be licensed as Private Hire Vehicles and drivers of these vehicles must hold a private hire driver's licence. In general, the following vehicles, if they seat up to eight persons require licensing as Private Hire vehicles:

- Stretched Limousines
- Executive Hire
- Chauffeur services
- Airport transfer services
- Hotel Cars
- Club & Pub Transport
- Courtesy Services where passengers are driven
- Some hospital car services and school car services- if they are used for both
- patient transfer and social events.

If you are in any doubt as to whether you need a private hire vehicle licence or not, you should contact the Council's licensing service.

11.16.2 Private Hire Licensing – Exemptions

Section 80 of the Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as:

A motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle or a London cab or tramcar, which is provided for hire with the services of a driver for the purpose of carrying passengers". Clearly there are a range of vehicles that could potentially fall within this definition, certainly more so than those which are solely used to provide a conventional 'minicab 'service. In deciding what is and what is not a private hire vehicle, East Devon District Council will take a balanced view of the facts of any one case, taking into account any relevant case law and the 'Department for Transport's Private Hire Vehicle Licensing – A Note For Guidance from the DFT'.

11.16.3 Funeral Vehicles

There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral, or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals.

11.16.4 Wedding Vehicles

A vehicle does not need to be licensed while it is being used in connection with a wedding. Where a person "providing a wedding service" claims an exemption, he/she is required to obtain a written certificate of the exemption from the

Licensing Authority. If granted a certificate will restrict the use of the vehicle to specific wedding contracts and for no other use.

11.16.5 **Volunteer Drivers**

Volunteer drivers are unlikely to need to obtain a private hire vehicle licence if they do not receive payment for the use of their time and vehicle other than the reimbursement of reasonable expenses.

11.16.6 **Childminders**

Childminders transporting children in their care to school are unlikely to need a licence, unless there is a specific requirement in their contract with the family for the provision of transport in return for the payment provided.

11.16.7 **Ambulances/Vehicles Operating as Formal Patient Transport Services**

Drivers operating these types of vehicles are unlikely to need a licence provided they carry patients who have been assessed as having a medical need for transport, are subject to the laws of patient confidentiality and driver training and background checks have been carried out under a Patient Transport Service scheme.

If you are in any doubt as to whether you need a private hire vehicle licence or not, you should contact the Licensing service.

11.17 PRIVATE HIRE OPERATORS

11.17.1 Requirement for Licence

Any person who operates a private hire service must apply to the Licensing Authority for a private hire operator's licence.

11.17.2 Obligations

A private hire vehicle may only be dispatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle. A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.

11.17.3 Application

Application for an operator's licence is made on the prescribed form, together with the appropriate fee. The Licensing Authority shall decide whether the applicant is a fit and proper person to hold an operator's licence, and if so, grant a licence for a period of one year.

11.17.4 Fees

Where licence holders surrender their licence prior to their expiry date the Licensing Authority is unable to make any refunds in respect of the licence fees.

11.18 REQUIREMENTS TO BE SATISFIED BEFORE A LICENCE IS ISSUED

11.18.1 Upon the grant of an operator's licence, the Council will specify the address from which the operator may operate. This will be the premises where the records required to be kept by all private hire operators and listed in **Appendix P** are kept and where bookings are made. The Council will not grant a licence to an operator whose premises are located outside the district. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.

11.18.2 The Council will need to be satisfied that an applicant for an operator's licence is a fit and proper person to hold such a licence. If the applicant does not hold a hackney carriage or private hire drivers licence with this Council a basic disclosure certificate, or Subject Access Check not more than one calendar month old from its date of issue, must be produced to the licensing office, on application for an Operator's licence and at each renewal of the licence thereafter.

11.18.3 The application form must be completed to the Council's satisfaction and accompanied by the appropriate licence fee.

11.18.4 Convictions recorded after the completion of the application form must be reported in writing to the Council within seven days; failure may render the licence, if granted, liable to suspension.

11.18.5 Subject to the provisions of Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 the fee for the grant of a licence shall be as determined by the Council.

11.18.6 Appropriate public liability insurance has been taken out for the operating premises that are open to the public and that a copy is produced annually at renewal for inspection to the Licensing Authority.

11.19 PRIVATE HIRE OPERATORS LICENCE – CONDITIONS

11.19.1 In accordance with the private hire legislation the Council is able to attach conditions to operator licences by this Council.

11.19.2 The Council has agreed a set of conditions to be attached to private hire operator licences and these appear at **Appendix P.**

11.20 The following conditions must be satisfied before a licence is issued:

11.20.1 The application form will include the following details:

- (i) Name and address of applicant;
- (ii) Business address;
- (iii) Confirmation that planning legislation has been compiled with;

Please note Provided the property does not become a base for the parking of other taxis or as a control centre for the running of a taxi business then no change of use occurs and planning permission would not be required. This provision only applies for one vehicle. If circumstances are likely to change or your business is likely to increase you must contact the Planning Department of East Devon District Council immediately.

- (iv) Previous applications made for an Operator's Licence;
- (v) Revocation or suspension of previous Operator's Licence;
- (vi) Any convictions recorded against the applicant (and in the case of a partnership - all partners) not protected by the Rehabilitation of Offenders Act 1974;
- (vii) In addition, information will be required in accordance with Section 57(2) (c) of the Act if appropriate;
- (viii) Names of three referees, none of whom shall be related to the applicant, his partners, his fellow directors, or the secretary, neither should they be a fellow director, the secretary or partners.

11.20.2 Omissions or incorrect statements of a serious nature will render the licence liable to suspension or revocation and the applicant liable to prosecution.

Convictions recorded after the completion of the form must be reported to the Strategic Lead (Governance and Licensing), within seven days, and may render the licence, if granted, liable to suspension.

11.20.3 The Council shall not grant an operator's licence for an operator with an operating base, which is outside the East Devon District Council area. This is to ensure that proper regulation and enforcement measures may be taken by the Council, and is in no way intended to be a restraint of trade.

MEDICAL STANDARDS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

This Council uses the Group 2 medical standards for vocational drivers' licences as set out by the Driver and Vehicle Licensing Agency.

All applicants for a hackney carriage or private hire driver's licence require a medical assessment by their registered medical practitioner or a GP within their usual medical practice.

In most cases, the medical standards for Hackney Carriage and Private Hire drivers are higher than for car drivers.

The Group 2 medical standards may change from time to time and the Council will adapt its required medical standards accordingly by constantly reviewing this policy.

Specific conditions which are a bar to obtaining or holding a Hackney Carriage or Private Hire driver's licence are as follows:

1 EPILEPSY/SEIZURE

Applicants must have been free from epileptic seizures for at least the last ten years and have not taken anti-epileptic medication during the last ten-year period. The Council must refuse or revoke the licence if these conditions cannot be met.

2 EYESIGHT

All drivers, for whatever category of vehicle, must be able to read in good daylight a number plate at 20.5 metres (67 feet) and if glasses or contact lenses are required to do so these must be worn whilst driving. In addition:

(i) All new applicants for a Hackney Carriage or Private Hire driver's licence must have:

- A VISUAL ACUITY OF AT LEAST Snellen 6/7.5 (Snellen decimal 0.8) IN THE BETTER EYE
- A VISUAL ACUITY OF AT LEAST Snellen 6/60 (Snellen decimal 0.1) IN THE POORER EYE

IF THESE ARE ACHIEVED BY CORRECTION THE CORRECTIVE POWER SHOULD NOT EXCEED +8 DIOPTRIS IN ANY MERIDIAN OF EITHER LENS

An applicant, who held a licence before 1 January 1997 and who has an uncorrected acuity of less than 3/60 in only one eye, may be able to meet the required standard and should check with the Licensing Office, East Devon District Council, Knowle, Sid mouth, Devon, EX10 8HL or telephone 01395 517411.

An applicant who has held a Hackney Carriage or Private Hire driving licence before 1 March 1992 but who does not meet the standard in (i) above may still qualify for a licence. Information about the standard and other requirements can be obtained from the Licensing Office at the above address.

- (ii) Applicants are also barred from holding a hackney carriage or private hire driving licence if they have:
- UNCONTROLLED DIPLOPIA (DOUBLE VISION)
 - DO NOT HAVE A NORMAL BINOCULAR FIELD OF VISION

3 DIABETES

An insulin treated diabetic may obtain a licence to drive hackney and private hire vehicles, provided they meet certain exceptional circumstances as follows.

The criteria for exceptional circumstances, is that the individual must:

- (a) Not be able to apply for a taxi driving licence or in the case of an existing licensed driver not to drive a licensed taxi until their condition has been stable for a period of at least one month;
- (b) Not have had any hypoglycaemic attacks requiring assistance of another person within the previous 12 months;
- (c) Regularly monitor their condition by checking their blood glucose levels at least twice daily and at times relevant to driving (no more than two hours before the start of the first journey and every two hours while driving). More frequent testing may be required if for any reason there is a risk of hypoglycaemia, for example after physical exercise or altered meal routine, using a glucose meter, with a memory function to measure and record glucose levels. The glucose meter must have memory functions to ensure 3 months of readings are recorded and are available for assessment. The advice is the use of a modern blood glucose meter which has a memory chip.
- (d) Must arrange to be examined every 12 months by a Consultant Diabetologist. At the examination the consultant will require sight of their blood glucose readings for the last 3 months.
- (e) Have no other condition which would render the driver a danger when driving hackney carriages and private hire vehicles;
- (f) Sign an undertaking to comply with the directions of the doctor(s) treating the diabetes **and** to report immediately to the East Devon District Council's Licensing Service any significant change in their condition.
- (g) Must have full awareness of hypoglycaemia.
- (h) Must demonstrate an understanding of the risks of hypoglycaemia .

AN APPLICANT (OR EXISTING LICENCE HOLDER) FAILING TO MEET THE EPILEPSY, DIABETES OR EYESIGHT REGULATIONS MUST BE REFUSED BY LAW

4 OTHER MEDICAL CONDITIONS

In addition to those medical conditions covered by law, applicants (or licence holders) are likely to be refused if they are unable to meet the national recommended guidelines in the following cases:

- Within 3 months of myocardial infarction, any episode of unstable angina, CABG or coronary angioplasty
- A significant disturbance of cardiac rhythm occurring within the past 5 years unless special criteria are met
- Suffering from or receiving medication for angina or heart failure
- Hypertension where the resting BP is consistently 180mm Hg or higher systolic and/or 100mm Hg or more diastolic
- A stroke or TIA within the last 12 months
- Unexplained loss of consciousness within the past 5 years
- Meniere's and others conditions causing disabling vertigo, within the last 12 months, and with a liability to recurrence
- Recent severe head injury with serious continuing after effects, or major brain surgery
- Parkinson's disease, multiple sclerosis or other "chronic" neurological disorders likely to affect limb power and co-ordination where the condition is progressive, disabling or there is clinically significant variability in motor function
- Suffering from Acute psychotic disorder, Hypomania or mania in the past year
- suffering from dementia
- Alcohol dependency or misuse, or persistent drug or substance misuse or dependency in the past three years
- Insurmountable difficulty in communicating by telephone in an emergency
- Any other serious medical condition which may cause problems for road safety when driving a Hackney Carriage or Private Hire Vehicle
- If major psychotropic or neuroleptic medication is being taken
- Any malignant condition within the last 2 years likely to metastasise to the brain e.g. Ca lung or malignant melanoma.

The list of medical conditions within this appendix is not exhaustive and each applicant's or licence holder's medical records will be assessed in accordance with the medical standards for Group 2 drivers.

Without prejudice to any part of this policy, the District Council may require the applicant or licence holder to undergo an examination to ascertain their physical fitness to be the driver of a hackney carriage. Similarly, during the currency of any hackney or private hire driving licence the Council may require the licence holder to undergo an examination to ascertain their physical fitness to be the driver of a hackney carriage or private hire vehicle.

**EAST DEVON DISTRICT COUNCIL BYELAWS RELATING TO HACKNEYCARRIAGES
THROUGHOUT THE DISTRICT OF EAST DEVON**

Byelaws made under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875 by the District Council of East Devon with respect to hackney carriages in the District of East Devon.

Interpretation

- 1 Throughout these byelaws "the Council" means the District Council of East Devon and "the district" means the District of East Devon.

Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence shall be displayed.

- 2 (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.
- (b) A proprietor or driver of hackney carriage shall: -
- (i) Not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) Not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided

- 3 The proprietor of a hackney carriage shall: -
- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) If such hackney carriage is mechanically propelled, cause the roof or covering to be kept water-tight;
 - (c) If such hackney carriage is mechanically propelled, provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) Cause the seats to be properly cushioned or covered;
 - (e) Cause the floor to be provided with a proper carpet, mat, or other suitable covering;
 - (f) Cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) Provide means for securing luggage if the carriage is so constructed as to carry luggage;
 - (h) Provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use; and
 - (i) If such hackney carriage is mechanically propelled, provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
- 4 The proprietor of a motorised hackney carriage shall cause the same to be provided with a taximeter so constructed, attached, and maintained as to comply with the following requirements, that is to say: -

- (a) the taximeter shall be fitted with a key, flag or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) Such key, flag, or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by time as well as for distance in pursuance of the tariff fixed by the Council;
- (d) The word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
- (f) The taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges

- 5 The driver of a motorised hackney carriage provided with a taximeter shall: -
 - (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
 - (b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
 - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise, and also at any other time at the request of the hirer.
- 6 A proprietor or driver of a motorised hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
- 7 The driver of a motorised hackney carriage shall, when plying for hire in any street and not actually hired: -
 - (a) Proceed with reasonable speed to one of the stands appointed by virtue of Section 63 Local Government (Miscellaneous Provisions) Act 1976;
 - (b) If a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;

- (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
 - (d) From time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
- 8 A proprietor or driver of a hackney carriage, when standing or plying for hire shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
- 9 The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 10 The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
- 11 A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of passengers than the number of passengers specified on the plate affixed to the outside of the carriage.
- 12 If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
- 13 The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage: -
- (a) Convey a reasonable quantity of luggage;
 - (b) Afford reasonable assistance in loading and unloading; and
 - (c) Afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.

Provisions for fixing the rates or fares to be paid for hackney carriages within the district, and securing the due publication of such fares

- 14 (a) The proprietor or driver of a motorised hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance and time, unless the hirer expresses at the commencement of the hiring his desire to engage by time.
- Provided always that where a motorised hackney carriage furnished with a taximeter shall be hired by distance and time, the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.
- (b) The proprietor or driver of a horse drawn hackney carriage shall be entitled to demand and take for the hire of the carriage the fare prescribed by the Council, such fare being calculated by measured distance over a number of prescribed routes.

- 15 (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof

- 16 The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
- 17 The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him: -
- (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to a police station in the district, and leave it in the custody of the officer in charge of the station on his giving a receipt for it; and
- (b) Be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the police station, whichever be the greater) but not more than five pounds.

Provisions in respect of horse drawn hackney carriages

- 18 The driver of a horse drawn hackney carriage shall, when plying for hire, stand only on ranks specially appointed for the purpose.
- 19 A proprietor or driver of a horse drawn hackney carriage shall not, while standing, plying or driving for hire, drive or allow to be driven or harness or allow to be harnessed to the carriage any animal in such condition as to expose any person conveyed or being in such carriage, or any person traversing any street, to risk of injury.
- 20 The driver of a horse drawn hackney carriage shall, while standing, plying or driving for hire, cause every part of the harness of any horse hitched up to the carriage to be kept in order, so that the horse shall be properly and securely attached to the carriage, and under due control.
- 21 Every proprietor of a horse drawn hackney carriage shall provide the carriage with a sufficient drag chain and slipper or other sufficient brake.
- 22 A proprietor or driver of a horse drawn hackney carriage shall not, in any street, feed or allow to be fed any horse harnessed or otherwise attached to such a carriage, except with food contained in a proper bag or other receptacle suspended from the head of such horse or from the centre pole of the carriage, or which is held in and delivered with the hand of the person feeding such horse.

- 23 A proprietor or driver of a horse drawn hackney carriage shall not exercise his calling between half an hour after sunset and half an hour before sunrise.
- 24 A proprietor or driver of a horse drawn hackney carriage shall not permit a **horse used to draw a hackney carriage to be harnessed or otherwise attached** to such carriage for more than seven hours in any one day or for more than four consecutive hours.

Penalties

- 25 Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefore.

PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

- 1 The driver of a vehicle shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 2 A driver who has agreed or has been hired to be in attendance with a vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at such appointed time and place.
- 3 The driver when hired to drive shall not, without reasonable cause unnecessarily prolong, in distance or time, the journey for which the vehicle has been hired.
 - (a) The driver shall not convey or permit to be conveyed in a licensed vehicle a greater number of persons than that prescribed in the licence for that vehicle.
 - (b) The driver shall not, without the consent of the hirer of the vehicle, convey or permit to be conveyed any other person in that vehicle.
- 4 The driver's badge issued by the Council (following a deposit determined from time to time by the Council) shall be worn in such a manner as to be plainly and distinctly visible. The driver shall upon expiry (without immediate renewal), revocation or suspension of the licence forthwith return to the Council the badge failing which the deposit shall not be refundable by the Council.
- 5 The driver of a vehicle shall, when requested: -
 - (a) Convey a reasonable quantity of luggage
 - (b) Afford reasonable assistance in loading and unloading luggage
 - (c) Afford reasonable assistance in removing such luggage to or from the entrance to any house, station or place at which he may pick up or set down such person
- 6 No driver shall drive a private hire vehicle unless that vehicle and the operator thereof are licensed to operate within the area under the control of the Council.
- 7 The driver shall not ply for hire.
- 8 After completion of each hiring, drivers will return with the vehicles to their base of operations unless previously booked for hiring.
- 9 The driver shall keep **in his vehicle in the form of a hard back book with consecutively pre-numbered pages** a current record which shall contain:
 - (i) Name and address of person for whom the booking is made
 - (ii) Pick-up point
 - (iii) Time of pick-up
 - (iv) Destination
 - (v) Time of arrival at destination
- 10 The record shall be produced on demand to an authorised officer of the Council, or any police constable.
- 11 The driver shall notify the Council in writing of any change of address within seven days.

- 12 No radio communication system fitted or carried in the vehicle shall be used by any person whether directly or indirectly for the purpose of making any contract for carriage in that or any other vehicle.

**GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS
HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS**

GENERAL POLICY

1. Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.

The overriding consideration is the safety of the public and whether a driver is a fit and proper person. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.

Hackney carriage and private hire drivers are listed occupations under the Rehabilitation of Offenders Act 1974. This means that an applicant must disclose ALL convictions when applying for the grant of a licence. The Council may take into account anything they consider relevant to the determination of the application.

When the relevant required information has been returned, the application will be considered in the light of the information provided. The information will be used to ascertain whether the information given on the original application form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage.

2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. A series of offences over a period of time is more likely to give cause for concern than an isolated, minor conviction. A serious view will be taken when an applicant shows a pattern of offences.
4. While each case will be decided on its own merits, persons with convictions for sexual offences involving children or vulnerable adults or other very serious offences such as, but not limited to, those set out at number 9 of this appendix will not normally be issued with a licence.

While each case will be decided on its own merits, persons with convictions for serious offences such as, but not limited to, those set out at number 10 of this appendix will normally only be issued with a licence where more than 5 years have passed since the conviction.

While each case will be decided on its own merits, persons with convictions for less serious offences such as, but not limited to, those set out a number 11 of this appendix will normally only be issued with a licence where more than 3 years have passed since the conviction.

5. A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This is a criminal offence and, as such, may lead, not only to consideration of the applicant as not being a “fit and proper person”, but criminal proceedings.
6. The Council generally considers that offences committed by licensed hackney carriage and private hire drivers should be considered more seriously than offences committed by individuals when not licensed. This is because current licensees have previously been judged as fit and proper and are aware of the standards required of them and are expected to maintain those high standards of personal conduct.
7. The aim should not be to punish twice but to ensure that public safety is not compromised.
8. The following examples afford a general guide on the action to be taken where convictions are admitted.

(a) MINOR TRAFFIC OFFENCES

New Applicants

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account. In certain instances it may be appropriate to issue a licence together with a strong warning as to future driving requirements. If a significant history of offences is disclosed, refusal of an application may result.

New applicants who have received 9 or more penalty points (in respect of minor traffic offences) on their driving licence during the 12 months prior to the date of application may be refused. Applicants who have recently been disqualified from driving under the “totting-up” procedure will not normally be granted a licence unless they have held a licence for at least 6 months following the expiry of the period of disqualification and can show a significant improvement in a history of traffic offences received during that period.

Existing Licence Holders

Any current driver disqualified from holding a DVLA licence under the “totting-up” procedure should expect to have his/her hackney carriage or PHV driver licence revoked. At least 6 months should then elapse (after the restoration of the DVLA licence) before he/she is considered for a licence and then a licence should only be granted if he/she can show a significant improvement in a history of traffic offences received during that period.

In the case of an existing hackney carriage or PHV driver where the “totting-up” disqualification of a DVLA licence is considered by the court, even if the court does not disqualify, the Council is likely to revoke the hackney carriage or PHV licence. At least 6 months should elapse before the individual is then considered for a licence (see above).

(b) MAJOR TRAFFIC OFFENCES

An isolated conviction for **careless driving** or driving without due care and attention etc should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last 2 years should merit refusal and no further application should be considered until a period of 6 months free from convictions has elapsed.

Similarly, a first conviction during the period of a hackney carriage or PHV drivers licence will lead to a warning as to future conduct, and may lead to revocation of that licence for subsequent convictions. At least 6 months should elapse (after the restoration of the DVLA licence) before the individual is considered for a licence.

(c) INSURANCE OFFENCES (WITH A MOTOR VEHICLE)

- (i) A serious view should be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past should not necessarily debar an applicant,. More than one conviction for these offences should raise grave doubts as **but a written warning should be given as to future behaviour** to an applicant's fitness to hold a hackney carriage or PHV drivers licence. At least 12 months should elapse (after the restoration of the DVLA driving licence) before an applicant, who has been disqualified from driving for insurance offences, is considered for a hackney carriage or PHV driving licence.
- (ii) A driver found guilty of driving passengers for hire and reward whilst without insurance should expect to have his/her hackney carriage or PHV drivers licence revoked immediately and be banned from holding a hackney carriage or PHV drivers licence with the Council for a minimum of 12 months.
- (iii) Any applicant with three insurance offences or more should not normally be considered fit and proper to hold a hackney carriage or PHV drivers licence with the Council.

(d) DRUNKENESS

(a) With Motor Vehicle

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. **A conviction for this offence should raise grave doubts as to the applicant's fitness to hold a licence.** At least 12 months should elapse (after the restoration of the DVLA driving licence) before an applicant is considered for a licence.

If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic, a period of 5 years should elapse after treatment is complete before a further licence application is considered.

A hackney carriage or PHV driver found guilty of a drink driving offence should expect to have his/her drivers licence revoked immediately and be banned from holding such a licence with the Council for 12 months, after the restoration of the DVLA Driving Licence.

(b) With a Licensed Vehicle

A driver found guilty of driving passengers for hire and reward whilst under the influence of drink should expect to have his hackney carriage or PHV drivers

licence revoked immediately and be banned from holding a hackney carriage or PHV drivers licence with the Council for a minimum period of 3 years after the restoration of his DVLA Driving Licence.

(c) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (a) above). In some cases, a warning may be sufficient.

In cases of severe alcohol abuse, a significant period after the last conviction must elapse before an application is considered and then only after examination by a consultant with a special interest in such cases with confirmation being provided of satisfactory liver enzyme tests and mean cell volume (MCV).

(e) DRUGS

A serious view is taken of any drug related offence. An applicant with a conviction for a drug related offence (including the supply or trafficking of drugs) should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict. More than one conviction for a drugs related offence should debar an applicant for 5 years or more. A specialist medical examination may be required with negative urine screen for drugs or abuse.

Applicants who have served a sentence of imprisonment for supplying controlled drugs **will not normally be granted a licence.**

A hackney carriage or PHV driver found guilty of driving whilst under the influence of drugs, or found guilty of any drug-related offence, should expect to have his/her drivers licence revoked immediately and be banned from holding such a licence with the Council for 3 years.

(f) INDECENCY OFFENCES

As hackney carriage and PHV drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, or any serious sexual offence, should be refused until they can show a substantial period free of such offences. It is unlikely that anyone with more than one conviction of this kind will ever be licensed. **An applicant who was required to register on the National Sex Offenders Register as a result of an offence of a sexual nature will not normally be granted a licence.**

A driver found guilty of indecency offences during the period of a licence should expect to have his/her hackney carriage or PHV licence revoked immediately. It is unlikely that anyone in this situation will ever be licensed again.

(g) VIOLENCE

As hackney carriage and PHV drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for violence. **Applicants with convictions such as but not limited to those shown at number 9 of this policy will not normally be issued with a licence. Applicants with convictions such as, but not limited to, those shown in number 10 of this appendix will need to show that they have had at least 5 years free of such convictions** before an application is entertained and even then a strict warning should be administered. **Applicants with convictions such as, but not limited to, those shown in number 11 of this appendix will need to**

show that they have had at least 3 years free of such convictions before an application is entertained and even then a strict warning should be administered.

A hackney carriage or PHV driver found guilty of a violent offence should expect to have his/her licence revoked immediately and not be re-granted a licence until a minimum period of 5 years has elapsed. It is unlikely that any hackney carriage of PHV driver found guilty of a very serious offence will ever be re-licensed.

(h) DISHONESTY

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property, taking children to school and families on holiday, is indicative of the trust that people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become “fair game” for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by any lost property being kept by an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 5 years free of conviction should be required before entertaining an application.

A hackney carriage or PHV driver found guilty of a dishonest offence should expect to have his/her licence revoked immediately and be banned from holding such a licence with the Council for 5 years.

(i) PLYING FOR HIRE

In the case of an existing PHV driver found guilty of an offence of plying for hire, or a hackney carriage driver found guilty of plying for hire outside the district where they are licensed, the Council may decide to order the licence to be suspended or revoked.

Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976. (Taxi and PHV Licensing Legislation)

One of the main purposes of the licensing regime is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the above licensing Acts. A serious view will be taken of an applicant who has been convicted of an offence under the Acts at any time during the 12 months preceding the application. In certain instances it may be appropriate to issue a licence together with a written warning as to future conduct. An applicant, who has more than one conviction within the last 2 years preceding the date of application, will normally be refused.

In the case of a current hackney carriage or PHV driver the Council may consider suspension or revocation of the licence.

(j) CAUTIONS

Adult cautions are not regarded as convictions but, being admissions of guilt, may be taken into consideration.

Fixed penalty Notices or Penalty Notice for disorder are not convictions but being admissions of guilt, may be taken into consideration.

9. VERY SERIOUS OFFENCES

In relation to convictions for the following offences, and other offences considered to be very serious, the recommendation to the Licensing Sub-Committee will be to refuse an application for the grant of a licence or revoke the existing licence:

- Arson
- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Rape
- Serious Sexual Offences
- Similar offences or offences which may replace the above offences
- CD40 Causing death through careless driving when unfit through drink
- CD50 Causing death through careless driving with alcohol level above the limit
- CD70 Causing death through careless driving then failing to supply a specimen for analysis
- DD40 Dangerous Driving
- DD60 Manslaughter or culpable homicide while driving a vehicle
- DD80 Causing death by dangerous driving
- MS50 Motor racing on a highway
- UT50 Aggravated taking of a vehicle
- Any offence of Aiding, Abetting or procuring the above offences. (Note, the offence code will have the 0 replaced by a 2).
- Any offence of causing or permitting the above offences. (Note, the offence code will have the 0 replaced by a 4).
- Inciting any of the above offences. (Note, the offence code will have the 0 replaced by a 6).

10. SERIOUS OFFENCES

In relation to convictions for the following offences, and other offences considered to be serious, where less than 5 years since conviction or end of any custodial sentence whichever is later, the recommendation to the Licensing Sub-Committee will be to refuse an application for the grant of a licence or revoke the existing licence:

- Theft
- Theft – shoplifting
- Theft – employee

- Theft – from vehicle
- Burglary and theft – dwelling
- Burglary and theft – non-dwelling
- Burglary – aggravated
- Fraudulent use
- Handling
- Receiving
- Forgery
- Conspiracy to defraud
- Obtain money by deception
- Obtain money by forged instrument
- Deception
- False accounting
- False statement to obtain benefit
- Going equipped
- Taking/driving or attempting to steal a vehicle
- Allow to be carried in a stolen vehicle
- Perverting the course of justice
- Malicious wounding or grievous bodily harm
- Assault occasioning actual bodily harm
- Assault with intent to cause grievous bodily harm
- Assaulting a Police Officer in the execution of their duties
- Malicious wounding
- Common assault by beating
- Battery
- Violent disorder
- Riot
- Affray
- Robbery
- Offences relating to the supply of drugs
- Similar offences or offences which may replace the above offences.

11. LESS SERIOUS OFFENCES

In relation to convictions for the following offences where less than 3 years since conviction or end of any custodial sentence whichever is later the

recommendation to the licensing Sub-Committee will be to refuse an application for the grant of a licence or revoke the existing licence:

- Common assault
- Criminal damage
- Obstructing an officer
- Resisting an arrest
- Offences relating to possession of drugs
- Public order offences not listed in number 11
- Other minor offences
- Similar offences or offences which may replace the above offences

12 OTHER OFFENCES

Any other offences which do not easily fit within one of the above categories will still be considered when deciding the suitability of an individual to hold a hackney carriage and/or PHV driver's licence. Each case will be considered on its own merits.

Where a binding order or restraining order has been imposed by the Court, this should be declared by the applicant and no licence, existing or new, should be considered whilst that order is still current and a period free of convictions for at least 3-5 years should have elapsed, after the expiry of the order, before an application will be considered.

SUMMARY

To summarise, a current conviction need not bar an applicant permanently from becoming licensed, but he/she should be expected to remain free of conviction for 3 to 5 years, according to circumstances, before an application can be processed. Obviously some discretion may be introduced if the offence is isolated and there are mitigating circumstances, but the overriding consideration should be the protection of the public.

The list of offences above are not exhaustive and every application will be considered on its own merits. Offences which are not mentioned on the lists above may still lead to an application being refused.

However, applications will be referred to the Licensing Sub-Committee where the applicant's record includes one or more of the following:

- Any term of imprisonment or custody
- Any conviction for a violent or sexual offence, or dishonesty which is of a serious nature
- Any serious motoring offence, such as dangerous driving, driving whilst disqualified or drink driving

REHABILITATION OF OFFENDERS ACT

Principles of the Rehabilitation of Offenders Act 1974

Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.

The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.

Where a person is sentenced to imprisonment for a period exceeding four years, the conviction can never become spent.

Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of taxis is listed as a "Regulated Occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Although the Act does not prevent judicial authorities (inclusive of the Licensing Authority) from taking spent convictions into account; such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a fit and proper person to hold a licence.

The determination as to whether certain convictions are spent, therefore, may be a relevant exercise.

The rehabilitation periods to which reference is most commonly made are set out below. For a detailed commentary on the periods of rehabilitation applicable to all sentencing options, reference shall need to be made to a specialist textbook on the Act.

Rehabilitation periods

How long the rehabilitation period will last depends on the length of the sentence handed down for a crime, rather than the crime itself. If you were released early on parole from a prison sentence, the length of the rehabilitation period will still depend on the original sentence you were given – for example, if you were sentenced to 8 months in prison, but were released after 4 months, your rehabilitation period would be 4 years, rather than 2 years.

The rehabilitation period does not start until the end of the custodial sentence.

Custodial sentences lasting over four years never become spent.

<u>Sentence</u>	<u>Rehab Period – aged 18 or over when convicted</u>	<u>Rehab Period – aged 17 and under when convicted</u>
<u>Prison sentences [1] of 6 months or fewer</u>	<u>2 years</u>	<u>18 months</u>
<u>Prison sentences [1] of more than 6 months to 2 and a half years</u>	<u>4 years</u>	<u>2 years</u>

<u>Sentence</u>	<u>Rehab Period – aged 18 or over when convicted</u>	<u>Rehab Period – aged 17 and under when convicted</u>
<u>Prison sentences [1] of more than 2 and a half years to 4 years</u>	<u>7 years</u>	<u>3.5 years</u>
<u>Prison sentences [1] of more than 4 years</u>	<u>Cannot be spent</u>	<u>Cannot be spent</u>
<u>Fines</u>	<u>1 year</u>	<u>6 months</u>
<u>Compensation orders</u>	<u>Spent once paid in full</u>	<u>Spent once paid in full</u>
<u>Youth Rehabilitation Orders</u>	<u>N/A</u>	<u>6 months</u>
<u>Absolute discharge</u>	<u>Spent immediately</u>	<u>Spent immediately</u>
<u>Probation [2], supervision, care order, conditional discharge or bind-over</u>	<u>Spent at end of the order</u>	<u>Spent at end of the order</u>
<u>Hospital orders (with or without a restriction order)</u>	<u>Spent at end of the order</u>	<u>Spent at end of the order</u>

1. Including suspended sentences, corrective training, detention in a young offender institution, and youth custody (abolished in 1988).
2. For people convicted before 3 February 1995.

Disqualifications from driving

When a driver is disqualified from driving, the rehabilitation period will be the same length as the period of disqualification. It is important to note, however, that if more than one penalty is imposed at once, the rehabilitation period takes the length of the longer sentencing.

For example, a motorist who is prohibited from driving for seven years and is also hit with a fine which will take five years to become spent, faces a rehabilitation period of seven years, as it is the longer rehabilitation period of the two.

Driving endorsements

An endorsement is what you will receive if you are convicted of a driving offence and have points put on your licence. Endorsements are not covered by the Rehabilitation of Offenders Act; it does not have any effect on rehabilitation periods for road traffic convictions.

If you were to be fined for an offence and also have your licence endorsed, the rehabilitation period would be defined by the rehabilitation period for a fine, and the endorsement would not factor in at all.

Further convictions

If you commit an offence while you are partway through the rehabilitation for a previous offence, it will have an effect on the rehabilitation period. The effect on the rehabilitation period is based on the seriousness of the new offence.

If a minor offence is committed during a rehabilitation period – ‘minor’ meaning a ‘summary’ offence which will be heard in a magistrate’s court – this will not affect the rehabilitation

period of the original offence. The rehabilitation period for the first offence will expire at the same time it initially would have.

However, when a more serious offence – one which could go before the Crown Court – is committed, neither of the convictions will become spent until both rehabilitation periods have elapsed. This means that both of the convictions would need to be disclosed in relevant situations until the longer rehabilitation period ended.

It also means that committing an offence for which the conviction never becomes spent – ie: leading to a jail sentence of longer than 4 years – will lead to a situation in which any other offences for which one is still within the rehabilitation period will never become spent, either.

Further offences do not affect any convictions whose rehabilitation period has already ended.

Concurrent and consecutive sentences

If you are given two prison sentences at once, the rehabilitation period is defined by whether the sentences are intended to run concurrently (at the same time) or consecutively (one after another). For example, if two six-month sentences are intended to run consecutively, they count as a single 12-month sentence for the purposes of establishing a rehabilitation period. However, two concurrent six-month sentences are only counted as a single six-month sentence for the purpose of establishing a rehabilitation period.

Prison sentences which are intended to run consecutively to sentences which are already being served are unaffected by this.

APPENDIX F

OFFENCES

Hackney Carriages and Private Hire Vehicles

Two statutes principally create offences relating to Hackney Carriages and Private Hire Vehicles:

Town Police Clauses Act 1847.

Local Government (Miscellaneous Provisions) Act 1976.

The offences are set out below.

In relation to the maximum penalties specified, the levels of fine are currently as follows:

Level 1 - £200;

Level 2 - £500;

Level 3 - £1,000;

Level 4 - £2,500.

Town Police Clauses Act 1847

<u>Section</u>	<u>Offence</u>	<u>Maximum Penalty</u>
<u>40</u>	<u>False information on application for HC proprietor's licence</u>	<u>Level 1</u>
<u>44</u>	<u>Failure to notify change of address of HC proprietor</u>	<u>Level 1</u>
<u>45</u>	<u>Plying for hire without HC proprietor's licence</u>	<u>Level 4</u>
<u>47</u>	<u>Driving a HC without HC driver's licence</u>	<u>Level 3</u>
<u>47</u>	<u>Lending or parting with HC driver's licence</u>	<u>Level 3</u>
<u>47</u>	<u>HC proprietor employing unlicensed driver</u>	<u>Level 3</u>
<u>48</u>	<u>Failure by HC proprietor to hold HC driver's licence</u>	<u>Level 1</u>
<u>48</u>	<u>Failure by HC proprietor to produce HC driver's licence</u>	<u>Level 1</u>
<u>52</u>	<u>Failure to display HC plate</u>	<u>Level 1</u>
<u>53</u>	<u>Refusal to take a fare</u>	<u>Level 2</u>
<u>54</u>	<u>Charging more than the agreed fare</u>	<u>Level 1</u>
<u>55</u>	<u>Obtaining more than the legal fare</u>	<u>Level 3 and 1 month's imprisonment until the excess is refunded</u>
<u>56</u>	<u>Travelling less than the lawful distance for an agreed fare</u>	<u>Level 1</u>
<u>57</u>	<u>Failing to wait after a deposit to wait has been paid</u>	<u>Level 1</u>
<u>58</u>	<u>Charging more than the legal fare</u>	<u>Level 3</u>
<u>59</u>	<u>Carrying other person than the hirer without consent</u>	<u>Level 1</u>
<u>60</u>	<u>Driving HC without proprietor's consent</u>	<u>Level 1</u>
<u>60</u>	<u>Person allowing another to drive HC without proprietor's consent</u>	<u>Level 1</u>
<u>61</u>	<u>Drunken driving of HC</u>	<u>Level 1</u>
<u>61</u>	<u>Wanton or furious driving or wilful misconduct leading to injury or danger</u>	<u>Level 1</u>
<u>62</u>	<u>Driver leaving HC unattended</u>	<u>Level 1</u>
<u>64</u>	<u>HC driver obstructing other HC's</u>	<u>Level 1</u>

Local Government (Miscellaneous Provision) Act 1976

<u>Section</u>	<u>Offence</u>	<u>Maximum Penalty</u>
<u>49</u>	<u>Failure to notify the transfer of a HC proprietor's licence.</u>	<u>Level 3 (by virtue of s76)</u>
<u>50(1)</u>	<u>Failure to present a HC for inspection, as required.</u>	<u>Level 3 (by virtue of s76)</u>
<u>50(2)</u>	<u>Failure to inform the Licensing Authority where the HC is stored, if requested.</u>	<u>Level 3 (by virtue of s76)</u>
<u>50(30)</u>	<u>Failure to report an accident to the Licensing Authority.</u>	<u>Level 3 (by virtue of s76)</u>
<u>50(4)</u>	<u>Failure to produce the HC proprietor's licence and insurance certificate.</u>	<u>Level 3 (by virtue of s76)</u>
<u>53(3)</u>	<u>Failure to produce the HC driver's licence.</u>	<u>Level 3 (by virtue of s76)</u>
<u>57</u>	<u>Making a false statement or withholding information to obtain a HC driver's licence</u>	<u>Level 3 (by virtue of s76)</u>
<u>58(2)</u>	<u>Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence.</u>	<u>Level 3 plus daily fine of £10</u>
<u>61(2)</u>	<u>Failure to surrender a driver's licence after suspension, revocation or refusal to renew.</u>	<u>Level 3 (by virtue of s76)</u>
<u>64</u>	<u>Permitting any vehicle other than a HC to wait on a HC stand.</u>	<u>Level 3 (by virtue of s76)</u>
<u>66</u>	<u>Charging more than the meter fare for a journey ending outside the district, without prior agreement.</u>	<u>Level 3 (by virtue of s76)</u>
<u>67</u>	<u>Charging more than the meter fare when HC used as private hire vehicle.</u>	<u>Level 3 (by virtue of s76)</u>
<u>69</u>	<u>Unnecessarily prolonging a journey.</u>	<u>Level 3 (by virtue of s76)</u>
<u>71</u>	<u>Interfering with a taximeter.</u>	<u>Level 3 (by virtue of s76)</u>
<u>73(1)(a)</u>	<u>Obstruction of an authorised Officer or Constable.</u>	<u>Level 3 (by virtue of s76)</u>
<u>73(1)(b)</u>	<u>Failure to comply with a requirement of an authorised Officer or Constable.</u>	<u>Level 3 (by virtue of s76)</u>
<u>73(1)(c)</u>	<u>Failure to give information or assistance to an authorised Officer or Constable.</u>	<u>Level 3 (by virtue of s76)</u>
<u>46(1)(a)</u>	<u>Using an unlicensed PH vehicle.</u>	<u>Level 3 (by virtue of s76)</u>
<u>46(1)(b)</u>	<u>Driving a PH vehicle without a PH driver's licence.</u>	<u>Level 3 (by virtue of s76)</u>
<u>46(1)(c)</u>	<u>Proprietor of a PH vehicle using an unlicensed driver.</u>	<u>Level 3 (by virtue of s76)</u>
<u>46(1)(d)</u>	<u>Operating a PH vehicle without a PH operator's licence.</u>	<u>Level 3 (by virtue of s76)</u>
<u>46(1)(e)</u>	<u>Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle.</u>	<u>Level 3 (by virtue of s76)</u>

Local Government (Miscellaneous Provision) Act 1976 (continued)

<u>Section</u>	<u>Offence</u>	<u>Maximum Penalty</u>
<u>46(1)(e)</u>	<u>Operating a PH vehicle when the driver is not licensed as a PH driver.</u>	<u>Level 3 (by virtue of s76)</u>
<u>48(6)</u>	<u>Failure to display a PH vehicle plate.</u>	<u>Level 3 (by virtue of s76)</u>
<u>49</u>	<u>Failure to notify transfer of a PH vehicle licence.</u>	<u>Level 3 (by virtue of s76)</u>
<u>50(1)</u>	<u>Failure to present PH vehicle for an inspection, as required.</u>	<u>Level 3 (by virtue of s76)</u>
<u>50(2)</u>	<u>Failure to inform the Licensing Authority where the PH vehicle is stored, if requested.</u>	<u>Level 3 (by virtue of s76)</u>
<u>50(3)</u>	<u>Failure to report an accident to the Licensing Authority.</u>	<u>Level 3 (by virtue of s76)</u>
<u>50(4)</u>	<u>Failure to produce a PH vehicle licence and an insurance certificate.</u>	<u>Level 3 (by virtue of s76)</u>
<u>53(3)</u>	<u>Failure to produce a PH driver's licence.</u>	<u>Level 3 (by virtue of s76)</u>
<u>54(2)</u>	<u>Failure to wear a PH driver's badge.</u>	<u>Level 3 (by virtue of s76)</u>
<u>56(2)</u>	<u>Failure by a PH operator to keep records of bookings.</u>	<u>Level 3 (by virtue of s76)</u>
<u>56(3)</u>	<u>Failure by a PH operator to keep records of PH vehicles operated by him.</u>	<u>Level 3 (by virtue of s76)</u>
<u>56(4)</u>	<u>Failure to produce a PH operator's licence on request.</u>	<u>Level 3 (by virtue of s76)</u>
<u>57</u>	<u>Making false statement or withholding information to obtain a PH driver or operator's licence.</u>	<u>Level 3 (by virtue of s76)</u>
<u>58(2)</u>	<u>Failure to return plate after notice given following expiry, revocation or suspension of a PH vehicle licence.</u>	<u>Level 3 plus daily fine of £10</u>
<u>61(2)</u>	<u>Failure to surrender a driver's licence after suspension, revocation or refusal to renew.</u>	<u>Level 3 (by virtue of s76)</u>
<u>67</u>	<u>Charging more than the meter fare when a HC used as PH vehicle.</u>	<u>Level 3 (by virtue of s76)</u>
<u>69</u>	<u>Unnecessarily prolonging a journey.</u>	<u>Level 3 (by virtue of s76)</u>
<u>71</u>	<u>Interfering with a taximeter.</u>	<u>Level 3 (by virtue of s76)</u>
<u>73(1)(a)</u>	<u>Obstruction of an authorised Officer or Constable.</u>	<u>Level 3 (by virtue of s76)</u>
<u>73(1)(b)</u>	<u>Failure to comply with a requirement of an authorised Officer or Constable.</u>	<u>Level 3 (by virtue of s76)</u>
<u>73(1)(c)</u>	<u>Failure to give information or assistance to an authorised Officer or Constable.</u>	<u>Level 3 (by virtue of s76)</u>

Transport Act 1980

<u>Section</u>	<u>Offence</u>	<u>Maximum Penalty</u>
<u>64(2)(a)</u>	<u>Driving a PH vehicle with a roof sign, which contravenes s64 (1).</u>	<u>Level 3</u>
<u>64(2)(b)</u>	<u>Causing or permitting a PH vehicle to be driven with a roof sign which contravenes s64 (1).</u>	<u>Level 3</u>

IMPORTED VEHICLES

It may be that from time to time a local authority will be asked to licence as a taxi or PHV a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet the local authority's criteria for licensing, but the local authority may nonetheless be uncertain about the wider rules for foreign vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. For passenger cars up to 10 years old at the time of first GB registration, this means meeting the technical standards of either:

- A European Whole Vehicle Type approval;
- A British National Type approval; or
- A British Single Vehicle Approval.

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. The technical standards applied (and the safety and environmental risks covered) under each of the above are proportionate to the number of vehicles entering service

Strict checks by the Council will need to be carried out to ensure that the vehicle is fit to be licensed as a hackney or private hire vehicle which will include all the normal checks carried out for UK registered vehicles along with the AA or RAC report on its roadworthiness, and any other check deemed necessary. This is only a starting point and does not guarantee that the vehicle will be licensed.

A lot of information is available [on the home office website.](#)

CONDITIONS FOR ADVERTISING ON AND IN LICENSED HACKNEY CARRIAGES

INTRODUCTION

1. Taxis are principally intended for conveying passengers to their destination and advertising is incidental to that function. Similarly, East Devon District Council's primary role in relation to licensing Hackney Carriages is to ensure the safety of the travelling public and the approval of advertising material is afforded a lower priority than the licensing of Hackney Carriages and Hackney Carriage drivers.
2. It is recognised that innovation plays an important part in advertising and can provide a valuable income stream to a proprietor. These conditions reflect the Licensing Authority's requirements at the date of issue of this policy. Amendments may be issued as and when necessary.

LEGISLATION

3. Section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides for the authority to attach to Hackney Carriage vehicle licences such conditions, as the District Council considers reasonably necessary

ADVERTISING SURFACES

4. Advertising on the EXTERIOR of a Hackney carriage will only be subject to prior approval:
 - *Full or part livery*, i.e. the advertising material covers the complete or part exterior body shell except for
 - the boot lid *
 - back door (below the window line) in the case of a MPV type vehicle *
 - back double doors where fitted (below the window line) *
 - the front elevation, i.e. radiator grill and the area either side of it
 - the windows and any other glass areas
 - the wheels
 - the bumpers
 - *Single doors*, i.e. the advertising material covers only the lower panels of both front and rear side doors on both sides of the vehicle;
 - apart from vehicle manufacturers' badges with the Chief Executive's prior approval
5. Advertising on the INTERIOR of the vehicle may be on:
 - the base of the occasional (tip-up) seats;
 - leaflets contained in an approved leaflet dispenser;
 - the top of the partition bulkhead (non-glass area) where fitted;
 - floor carpets (logo of vehicle manufacturer or immediate carpet supplier only).

6. Advertising is not permitted on any other surfaces, including:
- seats (other than base of tip-up seats)
 - roof lining
 - partition
 - interior door panels (apart from leaflet dispenser)

PROCEDURE FOR OBTAINING APPROVAL FOR AN ADVERTISEMENT OR LIVERY

7. All applications for advertising and/or livery on Hackney Carriages licensed by the East Devon District Council shall be addressed to the Chief Executive, Council Offices, Knowle, Sidmouth, EX10 8HL. Applications must be submitted and approved prior to being placed upon any vehicle.
8. The quality of submissions from applicants must be to an acceptable standard. It is essential that all the detail of the proposed advertisement or livery be shown on the original submission.
9. Applications that conform will be approved by the Council's Licensing Officers on behalf of the Chief Executive. Where the Licensing Officers are unable to approve an application it will be placed before the next meeting of the Committee or Sub-Committee of the Council responsible for the licensing and enforcement of Hackney Carriages for a decision unless previously withdrawn.
10. Where an approval has been granted the Hackney Carriage should be presented for inspection of the completed livery/signage before being put back into use as a Hackney Carriage. Where approval has been provided but the signage has not been implemented, it will expire twelve months after the date the original approval was granted. The District Council reserves the right to seek removal of any unauthorised advertising, markings or signs from a vehicle licensed by this authority. Any refusal to remove advertising or markings will result in referral to Licensing Sub-Committee and may lead to suspension or revocation of a licence.
11. Where the District Council permits livery/advertisements, the vehicle's proprietor will be expected to ensure that the livery/advertisements are maintained at all times, in a good condition. Should the livery/advertisements not be maintained, or where unauthorised advertising, markings or signs are placed on a vehicle, the Council may refuse to renew the Hackney Carriage licence until such time as the signage is restored to an acceptable condition or the vehicle is restored to its pre-signage colour scheme or an acceptable alternative. Any repeated breach of these conditions may give cause to consider the driver/proprietor is not fit and proper for the purpose of holding a licence.

ADVERTISEMENT CONTENT

12. All advertisements must comply with the British Code of Advertising Practice and it is the responsibility of the agency or individual seeking the Licensing Authority's approval to ensure that they do so.

13. Each proposal is considered on its merits but the following advertisements **WILL NOT BE APPROVED:**

- those with political, ethnic, religious, sexual or controversial texts;
- those for escort agencies, gaming establishments or massage parlours;
- those displaying nude or semi-nude figures;
- those which seek to advertise tobacco;
- those which seek to involve the driver as an agent of the advertiser;
- those likely to offend public taste (including material depicting bodily functions (such as urination) and genitalia and the use of obscene or distasteful language);
- those which seek to advertise more than one company/service or product;
- those which detract from the integrity and/or identity of the vehicle
- **those which seek to advertise any company located outside the district East Devon**

MATERIALS TO BE USED

14. Materials, which may be used, should be of a quality not easily defaced, soiled or detached.
15. The advertisement may be affixed direct onto the body of the vehicle. Use of magnetic panels are **not approved** as they lack adequate adhesion.
16. Reflective material is not to be used for advertising purposes.
17. All materials used in the manufacture of, and for the purpose of affixing, advertisements to the vehicle must be approved by the District Council.

EXTERIOR ADVERTISING

Hackney Carriage Advertisements and Signage

18. Coloured artwork of each elevation (front, rear and sides) must be submitted when approval is sought. All completed vehicles must then be presented at the Council Offices for inspection of the finished livery prior to the final approval being given.
19. No secondary advertising naming the company preparing the vehicle or the name of the advertising agency will be permitted unless included within the originally approved artwork.
20. Generally Hackney Carriages used for advertising should be less than 2 years old. Any vehicle older than this may only be used if any defects in bodywork have been remedied to a standard acceptable to the District Council before the livery/advertisement is affixed
21. Provision must be made for the immediate replacement of any damaged panels. Hackney Carriages will not be permitted to work with damaged or unmatched panels nor will they be accepted for re-licensing in this condition.

22. As part of the livery/advertising contract, at its completion, a re-spray back to black or a recognised manufacturer's base colour of the vehicle owner's choice should be included. This re-spray should be of a standard acceptable to the owner and the District Council. The work should be timed for completion within an agreed period at the end of the contract to avoid any delay in having the vehicle re-sprayed to its new colour.
23. The boot (back door(s)) and front elevation are to be a plain base colour (thereby, maintaining the visibility of the rear registration licence plate, taxi plate and any front 'identifier' which may in due course be introduced).

Single Door Advertisements

24. The same advertisement must be displayed on BOTH sides of the vehicle.
25. The advertisement should cover only the lower part of both rear side door panels.

INTERIOR ADVERTISING

Bulkhead

26. In purpose built or converted hackney carriages with a non-glazed area above the glass partition between the driver and passengers compartments, advertising may be permitted on that part of the bulkhead.
27. A bulkhead advertisement may incorporate an approved design of dispenser for leaflets directly related to the advertisement.
28. No material may be placed on, where fitted, the glazed passenger driver partition other than notices, which may be approved from time to time.

Occasional/tip-up seats

29. Advertisements may be displayed within the passenger compartment on the base of the occasional seats where fitted.
30. Occasional seat advertisements must be encapsulated in clear non-flammable plastic. Consideration will be given to advertisements printed on non-flammable plastic but in such instances it must not be possible to erase or deface the printed matter.

Illuminated occasional/tip-up seats

31. The primary concerns of the Licensing Authority are twofold:
 - the safety of the illumination medium;
 - the intrusiveness level created in the passenger compartment.

32. In regard to these concerns the following are essential issues to be addressed in any proposals submitted for approval:

- details of any BSI approvals or other safety standards met by the materials/construction used;
- provision of a detailed specification of the manner in which illumination is achieved including connection to the vehicle engine, if appropriate;
- evidence that the level of illumination produces an evenly diffused, subdued, subtle lighting effect which enhances advertisement definition only;
- confirmation that the unit will continue to operate safely even if its integrity is breached;
- confirmation of robustness and reliability after test.

Leaflet dispensers

33. Dispensers must:

- be fitted to the bulkhead above the glazed area in purpose built and converted Hackney Carriages and subject to an assessment by the District Council's Licensing Office on the rear doors of a conventional vehicle;
- be lockable;
- only deliver one leaflet at a time;
- be designed to prevent unauthorised leaflets being fed into the dispenser;
- be manufactured in suitable material i.e. fireproof, shatterproof etc.;
- not intrude significantly into the passenger compartment and should be moulded without sharp edges to avoid possible injury.

34. Only one dispenser per vehicle will be allowed.

35. Only one design of leaflet per vehicle will be allowed.

MOVING IMAGES

36. Moving images, e.g. television, video, computer, are NOT permitted.

AUDIO MATERIAL

37. Audio systems in Hackney Carriages are not approved for the purposes of advertising. Only scheduled public radio broadcasts or audio material which is generally on sale to the public (i.e. CDs, audio tapes), may be transmitted to the passengers. Audible advertisements are permitted only if they are received via a scheduled broadcast from a public radio station.

38. The audio material must be of a standard that would be acceptable to the Broadcasting Standards Council and the Radio Authority for broadcasting to all age groups, i.e. it must not contain sexually explicit lyrics, profanities or any other language or sounds likely to cause offence.

39. A current copyright music licence must be obtained from the Performing Rights Society for the Hackney Carriage concerned and be available for inspection whenever the vehicle is presented for licensing at the District Council Offices.
40. An audio system fitted in the rear compartment of a Hackney Carriage must be approved by the District Council's Licensing Office before installation.

GENERAL

41. Further information and guidance on advertising matters can be obtained from the District Council's Licensing Office.
- 42. The Licensing Authority does not consider that a vehicle livery (i.e. a defined colour or specific Council markings for vehicles on doors, etc) to be necessary at the present time however this may be subject to review. This will be subject to the continuing clear visual distinction of hackney vehicles as being licensed by East Devon.**

HACKNEY CARRIAGE VEHICLE LICENCE CONDITIONS

- 1 The proprietor of a hackney carriage hire vehicle shall: -
- (a) Provide sufficient means by which a person in the carriage may communicate with the driver;
 - (b) Cause the roof or covering to be kept water-tight;
 - (c) Provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) Cause the seats to be properly cushioned or covered and maintained at all times whilst the vehicle is in use carrying fare paying passengers;
 - (e) Cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) Cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public use;
 - (g) Provide means for securing luggage particularly if a vehicle is a hatchback, people carrier, estate or TX4 or TX5 type taxi.
 - (h) Provide and maintain in the vehicle, at all times when in use or available for hire, a suitable and efficient fire extinguisher and a suitable and properly stocked first-aid kit that conform to the Council's policy. Such equipment shall be carried in such a position as to be readily visible, clearly marked and available for immediate use in an emergency.
- 2 Fire extinguisher: - An appliance for extinguishing fire must be carried in a safe position in the vehicle (the boot is the preferred position) to be readily available for use and must comply with the following requirements: -
- Dry Powder or AFFF (Foam) type;
 - Conforms to BS EN3 as a minimum;
 - Capacity: - Minimum 1-kilogram Dry Powder, 2-kilogram Foam;
 - Have a fitted pressure gauge.
- Extinguishers must be clearly marked with the vehicle licence plate number. They must be checked regularly to ensure they are in working order and be replaced at the end of the expiry period shown on the extinguisher.
- 3 First aid kit: - Each hackney carriage shall carry a First Aid Kit to comply with BS 8599-2 for medium sized vehicles. This includes:
- 1 First aid guidance Leaflet
 - 1 Trauma dressing - 10 x 18cm
 - 1 Medium sterile dressing - 12 x 12cm
 - 1 Non sterile non-woven triangular bandage
 - 10 Sterile saline cleansing wipe in foil sachet
 - 20 Assorted wash proof plasters
 - 2 Nitrile examination gloves - Large
 - 1 Foil emergency blanket - Silver - Adult
 - 1 Vent aid resuscitation face shield
 - 2 Steropore 10 x 8cm dressing
 - 2 Burn shield dressing 10 x 10cm
 - 1 Heavy duty shears
 - 1 Hard case or 1x soft case
- Kits must be checked regularly to ensure they are still fit for purpose and contain sufficient supplies.
- 4 Each licensed vehicle shall carry a spare wheel in the vehicle and tools to affect a wheel change. Modern vehicle manufacturers do not always provide a full size spare wheel, but instead supply a (smaller) emergency wheel or other solution. As long as the wheel or solution meets the vehicle manufacturer's specification it can

be used only on a get you home basis. No further journeys or hirings must be undertaken until the wheel/problem has been repaired/replaced.

- 5 All passengers must use seat belts while seated and the vehicle is in motion. The number of people carried in licensed vehicles may not exceed the number of available seats fitted with seat belt or child restraint.
- 6 The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say:
- (a) The taximeter shall be fitted with a key, flat or other device, the operating of which will bring the machinery of the taximeter into action and cause the word HIRED to appear on the face of the taximeter.
 - (b) Such key, flat or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter.
 - (c) When the machinery of the taximeter is in action, there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance and time in pursuance of the fare tariff fixed by the District Council.
 - (d) The word "FARE TARIFF" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon.
 - (e) The taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring.
 - (f) The taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.
 - (g) Tariff sheets must be displayed inside the vehicle at all times.
- 7 When the vehicle to which this licence is granted is used as a hackney carriage it must display a roof sign of a type and design approved by the Council. The sign to include the word "TAXI" in black letters which must appear on the front and rear of the sign. The sign to be yellow in colour and the words "FOR HIRE" will be included on each side of the word "TAXI".
- The size of the roof sign must be either:
- (1) 750 mm (30 inches) in width by 150 mm (6 inches) deep by 165 mm (6.5 inches) high **or**
 - (2) 450 mm (18 inches) in width by 150 mm (6 inches) deep by 165 mm (6.5 inches) high.
- 8 With the exception of the above-described lettering, no other markings will be permitted on the roof signs. Purpose-built and converted vehicles with integral signs will be exempted from the requirements as to sign size, colour and the wording on the back. All roof signs must be illuminated and connected to the taximeter and operate so that the sign light is extinguished when the hackney carriage is hired.
- 9 All roof signs are to be located centrally on the roof of the vehicle with the yellow "for hire" sign displayed to the front and the red "for hire" sign displayed to the rear. Vehicles must not display the roof sign so that the lettering appears to the side of the vehicle. That is the longest faces of the sign must face towards the front and rear of the vehicle and the sign must be placed centrally on the roof and not to one side.

- 10 The proprietor of the vehicle shall give notification of transfer of ownership to the Council in writing within fourteen days of transfer specifying the name and address of the person to whom the hackney carriage has been transferred (s.49 Local Government (Miscellaneous Provisions) Act 1976)
- 11 The licence and plate shall relate exclusively to the vehicle in respect of which it is issued and shall not be transferred to any other vehicle without the Council's approval.
- 12 A fee determined by the District Council will be charged whenever a vehicle is substituted for one already licensed during the licensing year.
- 13 All accidents causing damage materially affecting safety, performance or appearance of a vehicle or comfort or convenience of passengers, shall be notified in writing to the Council by the proprietor as soon as reasonably practicable and in any case within seventy-two hours (s.50(3) Local Government (Miscellaneous Provisions) Act 1976)
- 14 The operator of any hackney carriage vehicles licensed with this authority shall produce for inspection to the Licensing Authority a new MOT Test Certificate and East Devon compliance test if they have had an accident or have had damage caused, materially affecting the vehicle. The new MOT and compliance test to be completed within seven days of the rectification of the defects, and produced to the Council's licensing service as soon as they have been issued and before the vehicle is put back into service.
- 15 Where hackney carriages licensed by this Council receive a prohibition notice issued under section 60 or 68 Local Government (Miscellaneous Provisions) Act 1976 the vehicle must undergo a new MOT test and a Council compliance test and these must be produced to a Council officer before the prohibition can be lifted.
- 16 The licence may be revoked or suspended if the licence holder fails to provide a vehicle for inspection when required to do so by the Council in accordance with the Local Government (Miscellaneous Provisions) Act 1976 or fails to supply within the time specified information of the address at which the vehicle is kept.
- 17 Insurance cover in accordance with Part VI of the Road Traffic Act 1988 and a Department of Transport certificate, if appropriate, as to the condition of the vehicle must be maintained in respect of the vehicle and evidence of the existence of this this must be produced to an authorised officer of the Council on demand. An authorised officer of the Council may carry out a check of the vehicle at any time.
- 18 The licensee shall notify the Council in writing of any change of address within seven days of such change.
- 19 A hackney carriage vehicle shall be driven only by an appropriately licensed and insured driver except when driven by a mechanic on test. This restriction also includes for social, domestic and pleasure purposes.
- 20 The proprietor shall within seven days disclose to the Council in writing details of any convictions imposed on him during the period of the licence (s.57 LG (Local Government (Miscellaneous Provisions) Act 1976) (and if the proprietor is a company or partnership, any conviction against any of the directors, the secretary or partners).

- 21 A hackney carriage vehicle licensed by the East Devon District Council shall not at the same time be licensed as a hackney carriage or private hire vehicle by any other District Council.
- 22 The plate supplied by the District Council identifying it as a hackney carriage vehicle and displaying the licence number and passenger seat capacity of the vehicle shall be affixed on the outside of the vehicle on, immediately above or below the rear bumper and shall be kept clean and clearly visible at all times. The licence number must also be displayed on the inside of the vehicle.
- 23 A proprietor of a hackney carriage shall:
- (a) Not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (b) Not cause or permit the carriage to stand or ply for hire with any such plate so defaced that any figure or material particular is illegible.
- 24 Vehicles to be licensed by East Devon District Council as hackney carriage vehicles must be right hand drive.

PRIVATE HIRE VEHICLE LICENCE CONDITIONS

- 1 The proprietor of a private hire vehicle shall: -
- (a) Provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) Cause the roof or covering to be kept water-tight;
 - (c) Provide any necessary windows and a means of opening and closing not less than one window by passengers on each side;
 - (d) Cause the seats to be properly cushioned or covered;
 - (e) Cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) Cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) Provide means of securing luggage if the vehicle is so constructed as to carry luggage;
 - (h) Provide and maintain in the vehicle, at all times when in use or available for hire, a suitable and efficient fire extinguisher and a suitable and properly stocked first-aid kit that conform to the Council's policy. Such equipment shall be carried in such a position as to be readily visible, clearly marked and available for immediate use in an emergency.
- 2 FIRE EXTINGUISHER - An appliance for extinguishing fire must be carried in a safe position in the vehicle (the boot is the preferred position) to be readily available for use and must comply with the following requirements: -
- Dry Powder or AFFF (Foam) type;
 - Conforms to BS EN3 as a minimum;
 - Capacity: - Minimum 1-kilogram Dry Powder, 2-kilogram Foam;
 - Have a fitted pressure gauge.
- Extinguishers must be clearly marked with the vehicle licence plate number. They must be checked regularly to ensure they are in working order and be replaced at the end of the expiry period shown on the extinguisher.
- 3 First aid kit: - Each private hire vehicle shall carry a First Aid Kit to comply with BS 8599-2 for medium sized vehicles. This includes:
- 1 First aid guidance leaflet
 - 1 Trauma dressing - 10 x 18cm
 - 1 Medium sterile dressing - 12 x 12cm
 - 1 Non sterile non-woven triangular bandage
 - 10 Sterile saline cleansing wipe in foil sachet
 - 20 Assorted wash proof plasters
 - 2 Nitrile examination gloves - Large
 - 1 Foil emergency blanket - Silver - Adult
 - 1 Vent aid resuscitation face shield
 - 2 Steropore 10 x 8cm dressing
 - 2 Burnshield dressing 10 x 10cm
 - 1 Heavy duty shears
 - 1 Hard case or 1x soft case
- Kits must be checked regularly to ensure they are still fit for purpose and contain sufficient supplies.
- 4 All passengers must use seat belts while seated and the vehicle is in motion. The number of people carried in licensed vehicles may not exceed the number of available seats fitted with seat belt or child restraint.

- 5 Each private hire vehicle shall carry a spare wheel in the vehicle and tools to affect a wheel change or other solution. Modern vehicle manufacturers do not always provide a full size spare wheel, but instead supply a (smaller) emergency wheel. As long as the wheel or other manufacturer solution meets the vehicle manufacturer's specification it can be used only on a get you home basis. No further journeys or hirings must be undertaken until the wheel/problem has been repaired/replaced.
- 6 The proprietor of the private hire vehicle shall give notification of transfer of ownership to the Council in writing within fourteen days of transfer specifying the name and address of the person to whom the hackney carriage has been transferred (s.49 Local Government (Miscellaneous Provisions) Act 1976)
- 7 The licence and plate shall relate exclusively to the vehicle in respect of which it is issued and shall not be transferred to any other vehicle without the Council's approval.
- 8 A fee determined by the District Council will be charged whenever a vehicle is substituted for one already licensed during the licensing year.
- 9 All accidents causing damage materially affecting safety, performance or appearance of a vehicle or comfort or convenience of passengers, shall be notified in writing to the Council by the proprietor as soon as reasonably practicable and in any case within seventy-two hours (s.50(3) Local Government (Miscellaneous Provisions) Act 1976)
- 10 The operator of any private hire vehicle licensed with this authority shall produce for inspection to the Licensing Authority a new MOT Test Certificate and East Devon compliance test if they have had an accident or have had damage caused, materially affecting the vehicle. The new MOT and compliance test to be completed within seven days of the rectification of the defects, and produced to the Council's licensing service as soon as they have been issued and before the vehicle is put back into service.
- 11 Where a private hire vehicle licensed by this Council receives a prohibition notice issued under section 60 or 68 Local Government (Miscellaneous Provisions) Act 1976 the vehicle must undergo a new MOT test and a Council compliance test and these must be produced to a Council officer before the prohibition can be lifted.
- 12 The licence may be revoked or suspended if the licence holder fails to provide a vehicle for inspection when required to do so by the Council in accordance with the Local Government (Miscellaneous Provisions) Act 1976 or fails to supply within the time specified information of the address at which the vehicle is kept.
- 13 The licensee shall notify the Council in writing of any change of address within seven days of such change.
- 14 A private hire vehicle shall be driven only by a holder of a private hire driver's licence issued by the East Devon District Council (this includes for social, domestic and pleasure purposes).
- 15 The proprietor shall within seven days disclose to the Council in writing details of any convictions imposed on him during the period of the licence (s.57 LG (Local Government (Miscellaneous Provisions) Act 1976) (and if the proprietor is a

company or partnership, any conviction against any of the directors, the secretary or partners).

- 16 A private hire vehicle licensed by the East Devon District Council shall not at the same time be licensed as a hackney carriage or private hire vehicle by any other Licensing Authority.
- 17 The plate supplied by the District Council identifying it as a private hire vehicle and displaying the licence number and passenger seat capacity of the vehicle shall be affixed on the outside of the vehicle on, immediately above or below the rear bumper and shall be kept clean and clearly visible at all times. The licence number must also be displayed on the inside of the vehicle.
- 18 A proprietor of a private hire vehicle shall:
 - (a) Not wilfully or negligently cause or suffer any such number to be concealed from public view while the vehicle is working;
 - (b) Not cause or permit the vehicle to work with any such plate so defaced that any figure or material particular is illegible.
- 19 Vehicles to be licensed by East Devon District Council as private hire vehicle must be right hand drive.
- 20 Insurance cover in accordance with Part VI of the Road Traffic Act 1988 and a Department of Transport certificate, if appropriate, as to the condition of the vehicle must be maintained in respect of the vehicle and evidence of the existence of this must be produced to an authorised officer of the Council on demand. An authorised officer of the Council may carry out a check of the vehicle at any time.
- 21 The licence may be revoked or suspended if the Licence holder fails to produce a vehicle for inspection when required to do so by the Council in accordance with the Local Government (Miscellaneous Provisions) Act 1976 or fails to supply within the time specified, information of the address at which the vehicle is kept.
- 22 Notification of transfer of ownership shall be given to the Council in writing within fourteen days of transfer.
- 23 No radio communication system fitted or carried in the vehicle shall be used by any person whether directly or indirectly for the purpose of making any contract for carriage in that or any other vehicle.
- 24 There shall be no signs on the vehicle's roof.
- 25 The notices/adverts are permitted to be displayed on the outside front doors of the vehicle, below the level of the bottom of the windows. These signs must not exceed 70 cm x 35 cm in size. Only one advertisement shall be displayed on each door. No other notices or adverts are permitted on the vehicle.
- 26 No private hire vehicle licensed by the Council shall display the words "Taxi", "Cab", "Kab" or any phonetically or visually similar words or names on the car or on any advertisements attached to the vehicle. The names of all private hire firms must be agreed by the Council before a licence is issued.
- 27 No use shall be made of "For Hire" signs, nor illuminated or self-adhesive letters to that effect in or on the vehicle.

- 28 The proprietor shall cause to be clearly marked and maintained inside the vehicle in such a position as to be visible at all times to persons conveyed therein the words "Private Hire Vehicle", the number of the licence and passenger seating capacity prescribed in the licence.
- 29 The vehicle shall not be of such design and appearance as to lead persons to believe it to be a hackney carriage.

STRETCH LIMOUSINES

Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 states that a District Council shall not grant a licence unless they are satisfied that the vehicle is suitable in size type and design for use as a private hire vehicle not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage, in a suitable mechanical condition, safe and comfortable and that there is in force in relation to the use of the vehicle a policy of insurance.

1 Definition of a Limousine

For the purposes of this policy and licence conditions a stretch limousine shall be defined as follows:

A stretch limousine is a motor vehicle that has been lengthened by the insertion of an additional body section and modified by a coachbuilder to contain luxury facilities and fixtures and is capable of carrying up to but not exceeding 8 passengers. Prior to the introduction of this policy these vehicles could not be licensed by the Council as a Private Hire Vehicle.

2 It has become clear that many Council's Private Hire Licence conditions effectively prohibit the licensing of limousines, issues such as left hand drive, tinted windows, seating capacity and side facing seats have meant that limousines cannot comply with traditional licensing conditions

3 At present East Devon District Councils policy is that on initial licensing with this authority as a private hire, a vehicle shall not be more than 4 years old from the date of first registration.

That applications for initial licensing of older specialist cars of a type approved by the Chief Executive in consultation with the chairman or vice chairman of the District Council's committee or subcommittee responsible for the licensing of private hire vehicles at the time may be granted for private hire purposes only.

4 That vehicles to be licensed for the first time from 1 March 2004 by EDDC as private hire vehicles must be right hand drive.

5 It is recognised that in recent years there has been rapid growth in demand for the hire of limousine vehicles and the industry had been largely unlicensed and unregulated in terms of either drivers or vehicles being licensed.

6 This document provides a transparent and consistent framework for the Licensing of Limousines within the East Devon area and has been finalised following the publication of the Department of Transport's Taxi and Private Hire Vehicle Licensing – Best Practice Guidance.

7 The following conditions have been compiled to ensure, as far as possible, passenger safety, with a consistent approach to their licensing, and are in addition to the conditions already in use for the licensing of private hire drivers, vehicles and operators with this authority.

Conditions

- 7.1 That on initial licensing stretch limousines presented for licensing as private hire vehicles may be more than the age policy at the time, at the discretion of the Head of Governance & Licensing and the Licensing Manager
- 7.2 A front seat to accommodate the driver only.
- a) That the vehicle has a valid Single Vehicle Approval Certificate
 - b) A maximum passenger accommodation of eight (note for the purpose of calculating seating capacity the measure unit of a single seat shall be 43cm (17") per person
 - c) All seat positions fitted with approved seat belts.
 - d) In addition to the driver the front passenger doors, two doors allowing access to the rear passenger compartment shall be provided on the near and offside of the vehicle.
 - e) An engine rating providing adequate power relative to the size of the vehicle.
 - f) Produce the current Vehicle Inspectorate MOT Test certificate immediately following each mechanical inspection and upon request.
 - g) Produce such insurance documents as may be required, specifying that the vehicle is insured for hire and reward.
 - h) Produce vehicle registration documents or any other evidence of proprietorship of the vehicle as may be requested by the Council.
 - i) That vehicles with a seating capacity of more than 8 seats (9 for a stretch limousine) plus a driver will not be licensed with this authority.

Note, after the issue of a Private Hire Vehicle Licence the vehicle may only be driven by a driver holding a private hire drivers licence issued by this authority.

8 Appearance of vehicle

The proprietor shall ensure that the limousine is of a type approved by the Council.

- (a) The maximum length of the vehicle "stretch" shall not exceed 3048 millimetres (120 inches), with the exception of the Cadillac which shall not exceed 3302 millimetres (130 inches).
- (b) An overall minimum vehicle height of 135 cm (53")
- (c) The vehicle should be equipped with a minimum of four road wheels and one full sized spare wheel. The tyres shall be of an approved rating as specified by the tyre manufacturer for weight and speed of the vehicle e.g. 235/75R 15 108S (BF Goodrich Extra Load or equivalent).
- (d) The front windscreen shall allow 75% light transmittance and the front driver and passenger windows shall allow 70% light transmittance.
- (e) No self-adhesive material (tinted or clear) shall be affixed to any part of the glass without the prior written approval of the Council.
- (f) There must be adequate internal light to enable passengers to enter and leave the vehicle safely.
- (g) The internal fittings and furniture of the limousine must be kept in a clean, well-maintained condition and in every way fit and safe for public use.
- (h) Facilities must be provided for the conveyance of luggage safely and protection from inclement weather.
- (i) The vehicle must have at least two doors for use of persons conveyed in limousine and a separate means of ingress and egress for the driver.

- (J) The exterior of the limousine must be kept in a clean condition especially during inclement weather.
- (k) Facilities must be provided to ensure that any person travelling in the limousine can communicate with the driver.
- (l) That all spare parts used as repairs or replacements for the vehicle are genuine parts made by the vehicle manufacturer.

9 Documentation Required

The following documentation in original form or certified copies (not photocopies) shall be produced prior to licensing:

- (a) Completed importation documentation
- (b) A qualified Vehicle Modifier certificate – (QVM). This is issued by the Coach Builder, or
A CMC (Cadillac Master Coachbuilder) certificate
A valid SVA certificate issued by VOSA
A current MOT Test Certificate issued by an MOT testing garage) the MOT to be carried out twice a year
A current EDDC compliance check issued by an MOT testing garage to be carried out twice a year
- (c) In addition to the MOT and compliance tests to be carried out twice a year, VOSA state that all PSV and vehicles on a restricted O licence, this includes stretch limousines, licensed by them, have a safety inspection check every 10 weeks, this ensures that a vehicle is in good working order, safe and fit for fee paying passengers. It is recommended that this check is part of the conditions to licence a stretch limousine and is carried out on an inspection record sheet issued by EDDC compiled with the guidance from VOSA in the “guide to maintaining roadworthiness document issued by them. And is completed by an MOT testing garage.
- (d) DVLA registration document (V5).
- (e) Insurance documents covering Hire and Reward and Public Liability Insurance.
- (f) Vehicles converted to run on LPG must produce an installation certificate from a LPGA approved UK vehicle conversion company, with the conversion parts being kept in the boot area over the rear axle and not stored in the vehicle compartment.
- (g) Documentation to show the overall weight of the vehicle (as displayed on the vehicle).
- (h) Valid Road Vehicle Excise licence disc.

10 Passengers

- (a) The limousine shall not carry a greater number of passengers than the number prescribed in the licence i.e. to a maximum of 8 persons (N.B. A babe in arms is classed as a person whatever age).
- (b) Where the passengers in the vehicle consist of persons under the age of 14 years they must be accompanied by a responsible adult, other than the driver, who is over the age of 18 years.
- (c) All passengers must remain seated at all times when the vehicle is in motion.
- (d) Passengers will not be carried in the front of the vehicle.
- (e) In accordance with Construction and Use Regulations, where seat belts are fitted they must be used by all passengers.

11 Stretch Limousine Vehicles

- (a) The proprietor of the vehicle shall:
 - ensure that the vehicle is at all times only driven by a person who holds a
 - current Private Hire drivers licence issued by East Devon District Council
- (b) Not permit to be conveyed in the vehicle more than the number of persons for which the vehicle is licensed, regardless of the age or size of the passengers;
- (c) Not supply any intoxicating liquor in the vehicle unless there is in force an appropriate licence permitting the sale or supply of same.

12 This policy will be reviewed in the light of further guidance issued by the Department for Transport.

13 The Authority will not license these vehicles as hackney carriages as their length makes them unsuitable to operate from a taxi rank.

14 Driver and Operator licensing requirements

14.1 In addition to the limousine being licensed as a private hire vehicle with EDDC the limousine operator is required to hold a private hire operators' licence with the Council.

14.2 All bookings for a limousine licensed as a private hire vehicle must be booked through the licensed private hire operator.

14.3 Once licensed as a private hire vehicle, the limousine can only be driven by a licensed private hire driver (this licence must also be issued by EDDC).

14.4 Details in respect of applications for private hire drivers' licences and Private Hire Operators' Licences can be obtained from the Licensing Office.

15 Right of appeal

The Local Government (Miscellaneous Provisions) Act 1976 sections 48 and 77 details an applicant's right of appeal. In general terms where an applicant is aggrieved by the Council's decision to refuse to grant a private hire vehicle licence or by any conditions imposed on a private hire vehicle licence the applicant has a right of appeal to the Magistrates Court within 21 days of the applicant being notified of the Council's decision.

APPENDIX L

1 WHEELCHAIR ACCESSIBLE VEHICLE CONDITIONS

- 1.1 Wheelchair internal anchorages must be of the manufacturers design and construction and secured in such a position as not to obstruct any emergency exit.
- 1.2 If wheelchairs and luggage are to be carried together then the emergency exit must be unobstructed.
- 1.3 A suitable restraint must be available for the occupants of all wheelchairs; this is in addition to any wheelchair clamps.
- 1.4 Access ramps or lifts to the vehicle from outside the vehicle must be securely fixed prior to use and be able to support the wheelchair, occupant and helper.
- 1.5 Ramps and lifts must be securely stored in manufacturer's authorised positions before the vehicle moves off.
- 1.6 No side facing seats are permitted.
- 1.7 Wheelchair accessible vehicles will be required to comply with all relevant legislation. The system for the effective anchoring of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces and shall comply with M1 standards laid down in European Directive 76/115 EEC (as amended by 90/629) whether or not those directives apply to those devices or the vehicle.
- 1.8 Drivers and operators of wheelchair accessible vehicles should be familiar with the particular requirements of the vehicle in order to safely load, transport and unload wheelchair passengers. Information on the transport of disabled people is available from the Disabled Persons Transport Advisory Committee (DPTAC) website at www.dptac.gov.uk.

2 Additional Requirements for Wheelchair Accessible Vehicles

- 2.1 The vehicle must be fitted with suitable wheelchair anchorages. Either chassis or floor linked.
- 2.2 A suitable 3-point belt or harness must be available and be either chassis or floor linked, for a wheelchair and the wheelchair user.
- 2.3 Suitable ramps must be available to assist in loading a wheelchair into the vehicle from the near side of the vehicle. Rear loading wheelchair vehicles are not permissible.
- 2.4 Passenger door entrances must have grab handles or rails, which must be conspicuously coloured or marked and constructed to assist elderly, disabled or visually impaired passengers.
- 2.5 The rear nearside passenger entrance and any steps integral to that entrance must be designed and constructed to assist elderly and disabled passengers get into and out of the vehicle. The entrance and steps must also be conspicuously marked or adequately illuminated to assist visually impaired passengers.

CCTV FOR USE IN HACKNEY CARRIAGE, PRIVATE HIRE AND STRETCH LIMOUSINES.

1 Relevant Legislation

- 1.1 The Local Government (Miscellaneous Provisions) Act 1976 allows a Council to attach conditions to private hire and hackney carriage vehicle licences.
- 1.2 The Human Rights Act 1998 affords individuals the right to privacy. In order to comply with legal requirements any CCTV system would need to be compliant with the Data Protection Act 1998.
- 1.3 **Benefits of CCTV in Hackney Carriage and Private Hire Vehicles**
- 1.4 In addition to passenger safety, the safety of vehicle drivers is a key issue for both the hackney carriage and private hire trade
- 1.5 Lone female passengers can be vulnerable especially late at night.
- 1.6 Female drivers may be more likely to seek employment with proprietors who have CCTV installed in their vehicles.
- 1.7 Installation of CCTV cameras may have a positive impact on reducing crime and anti social behaviour. It provides an additional tool for the identification of persons travelling in a private hire / hackney carriage vehicle. This would be beneficial to passengers, drivers and the police.
- 1.8 The Hackney Carriage & Private Hire trade provides a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance. CCTV cameras can be a valuable deterrent as well as protecting the driver from unjustified complaints.
- 1.9 It is not proposed to make the provision of CCTV cameras in vehicles a requirement of the licensing scheme, as it is considered that it is a matter best left to the judgement of the owners and drivers themselves. The hackney carriage and private hire vehicle trades are however encouraged to consider the installation of CCTV cameras in their vehicles on a voluntary basis and it will then be incumbent upon the operator to handle relevant data gathered in an appropriate and secure manner. Systems having an encrypted recorder that only the police can access are recommended.

2 Closed Circuit Television Systems (CCTV)

- 2.1 No CCTV system shall be installed in a vehicle unless it has been approved by the Authority.
- 2.2 Where fitted, the CCTV system must comply with the minimum specification set out below.
- 2.3 Any vehicle in which a CCTV system is installed must display prominently in each compartment of the vehicle where it can be easily read by all passengers a notice stating that a CCTV system is operating in the vehicle.

- 2.4 CCTV cameras, where fitted, must be located in positions where they do not interfere with the driver's field of vision or can be tampered with by a passenger.
- 2.5 The proprietor of the vehicle shall ensure that the CCTV system, where fitted, is regularly maintained and serviced by a suitably qualified person in accordance with the manufacturer's instructions. Written records of all maintenance and servicing shall be retained by the proprietor for a minimum of 12 months and shall be made available for inspection at the request of a police officer or authorised officer of the Authority.
- 2.6 Upon request for image retrieval by a police officer or an authorised officer of the Authority, the proprietor of the vehicle shall ensure that the CCTV system and any recorded images are made available as soon as is reasonably practicable and no later than five days of the request.
- 2.7 The proprietor of the vehicle shall ensure that any driver of the vehicle is given proper instruction in the use of the CCTV system and the need to comply with the relevant conditions of licence.
- 2.8 The proprietor of the vehicle shall ensure that notification is made to the Information Commissioner to cover the purposes for which the CCTV system is used.
- 2.9 The proprietor of the vehicle shall ensure that the CCTV system is operated in accordance with the current CCTV Code of Practice issued by the Information Commissioner's Office.

3 Specification for In-car CCTV Systems

- 3.1 The system shall, as a minimum:
- (i) be capable of date and time system identification stamping
 - (ii) be capable of recording and storing images for a minimum period of seven days
 - (iii) be capable of capturing images that, in low light conditions, must be of sufficient quality to enable identification of any person travelling in the vehicle and be of such quality that they can be used for the purposes of prosecution
 - (iv) be capable of storing images in a manner which prevents them being removed, downloaded or viewed by the driver of the vehicle, a passenger in the vehicle or by any other unauthorised person
 - (v) Provide that images are only capable of being downloaded by the system administrator
 - (vi) provide that the data unit is stored separately from the camera(s) and out of sight of the person travelling in the vehicle
 - (vii) provide that, where the system uses a DVD recorder, the system is protected from shock and vibration.
 - (viii) ensure that any area recorded by the camera does not extend outside the vehicle
 - (ix) be marked with the EMC (Electro Magnetic Certification) which signifies that it meets the European Industry Standard.

USE OF TRAILERS WITH HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

Hackney Carriages and private hire vehicles licensed by the District Council are permitted to tow trailers providing the conditions agreed by the Council and appearing below are complied with at all times.

- 1 The licensed towing vehicle's insurance must cover the towing of a trailer.
- 2 Trailers must not be left unattended anywhere on the highway.
- 3 When hackney carriages are plying for hire on a rank trailers must not be used.
- 4 The speed restrictions applicable to trailers must be observed at all times.
- 5 A spare wheel for the trailer and adequate tools to change a wheel must be carried at all times by a licensed vehicle whilst towing a trailer.
- 6 The tow bar must meet with the type approval regulations in respect of all tow bars fitted to cars after August 1998.
- 7 The towing of a trailer by a licensed vehicle shall only permit conveyance of luggage and belongings owned by a passenger whilst the vehicle is hired by a passenger within the vehicle.
- 8 Drivers of vehicles towing trailers must ensure that they have the correct driving licence group to permit them to tow the relevant trailer.
- 9 Only those trailers that comply with the following conditions will be permitted to be towed by a hackney carriage licensed by the East Devon District Council:
 - (a) Trailers must have been manufactured by a recognised manufacturer and have not been structurally altered since manufacture.
 - (b)
 - (i) A District Council Licensing Officer must initially approve all trailers in regard to size and type of construction.
 - (ii) When initial approval is granted and then annually when the towing vehicle undergoes its Council test, an authorised Department of Transport Tester/Inspector must inspect the trailer at a garage located within East Devon. The tester/inspector must certify that the trailer meets the equivalent standards that would normally be required to pass a Ministry of Transport (MOT) test. The garage's authentication stamp must be applied to the certificate supplied by the inspector.
 - (iii) When the tester/inspector has certified the trailer, that trailer, together with the licensed vehicle to be used to tow the trailer, will be presented for inspection to a district Council licensing officer.
 - (c) A trailer may be used by more than one licensed towing vehicle but each licensed vehicle used to tow the trailer must be separately approved and the additional licence fee paid for each towing vehicle.
 - (d) An additional licence plate will be issued by the Council for each licensed vehicle licensed to tow trailers and the relevant plate must be affixed to the rear of the trailer near the number plate whenever an approved trailer is towed by the licensed vehicle.
 - (e) Unbaked trailers shall be less than 750 KGs gross weight.
 - (f) Trailers over 750 KGs gross weight shall be braked acting on at least two road wheels.
 - (g) The towing vehicle must have a kerb weight of at least twice the gross weight of the trailer.

- (h) A suitable lid or other approved means of enclosure shall be fitted to secure the contents within the trailer when in use and to keep it watertight.
- (i) The maximum permissible length of the trailer shall be 7 metres including the drawbar and coupling.
- (j) The width of the trailer shall not be greater than the towing vehicle subject to no trailer being wider than 2.3 metres.
- (k) The maximum length for braked twin axle trailers is 5.54 metres.
- (l) The trailer must at all times comply with all Road Traffic legislation requirements in particular those as laid down in the Road Vehicles (Construction and Use) Regulations 1986.
- (m) The trailer's body must be constructed of either glass-reinforced plywood/fibreglass or fully galvanised steel.
- (n) The trailer's full frame must be made of galvanised steel with a straight drawbar.
- (o) With the exception of the sub-condition below, the trailer shall not display any form of sign or advertisement not required or approved by the district Council or Road Traffic legislation.

A trailer towed by a hackney carriage may display signs or advertisements approved by the District Council. Reference should be made to the District Council's "Guidelines for Advertising on and in Licensed Hackney Carriages".

Equality Act 2010 – Taxis and Private Hire Vehicles

Introduction

The Equality Act 2010 brings together in one Act a number of different pieces of legislation about discrimination, - including disability discrimination. The Act includes many of the taxi and private hire vehicle (PHV) provisions which were in the Disability Discrimination Act 1995, but it also includes some important changes.

Sections 160 to 173 of the Equality Act 2010 relate specifically to taxis and private hire vehicles (PHVs).

The Equality Act 2010 can be viewed at http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_1

Duties to assist passengers in wheelchairs.

Sections 165, 166 and 167 of the Equality Act 2010 deal with the imposition of duties on the drivers of wheelchair accessible taxis and PHVs to assist passengers who use wheelchairs.

The duties - Section 165 places duties on drivers of designated wheelchair accessible taxis and PHVs. Designated vehicles are those listed by the licensing authority under section 167 (see 'Lists of wheelchair accessible vehicles', below).

The duties are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

Exemptions from the duties - Section 166 allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

Consequently, taxi and PHV drivers who drive designated wheelchair accessible taxis or PHVs will be able to apply for exemptions.

Lists of wheelchair accessible vehicles – Section 167 allows licensing authorities to maintain a list of “designated vehicles”, that is, a list of wheelchair accessible taxis and PHVs licensed in their area. The consequence of being on this list is that the driver must undertake the duties in section 165.

It will be possible for drivers to appeal against a decision by the licensing authority not to grant an exemption; the appeal will go to the magistrates' court.

It will be possible for the owner of a vehicle to appeal against a licensing authority's decision to include his or her vehicle on the list. This appeal will also go to the magistrates' court.

Guide Dogs and Assistance Dogs

Sections 168 to 171 of the Equality Act 2010 deal with the carriage of guide dogs and other assistance dogs and England and Wales.

This Act imposes duties on the driver/operator of a hackney carriage or private hire vehicle which has been hired or booked by or for a disabled person who is accompanied by an assistance dog, or by another person who wishes to be accompanied by a disabled person with an assistance dog.

The driver must carry the disabled person's dog and allow it to remain with that person and must not make any additional charge for doing so.

The driver commits an offence by failing to comply with a duty imposed by this section.

A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Assistance dogs in taxis: exemption certificates

A licensing authority must issue a person with a certificate exempting the person from the duties imposed by sections 168 and 170 (an "exemption certificate") is satisfied that it is appropriate to do so on medical grounds. In deciding whether to issue an exemption certificate the authority must have regard, in particular, to the physical characteristics of the taxi or private hire vehicle which the person drives or those of any kind of vehicle in relation to which the person requires the certificate.

An exemption certificate is valid in respect of a specified taxi or private hire vehicle or a specified kind of vehicle for such period as is specified in the certificate.

The driver of a taxi is exempt from the duties imposed by section 168 and 170 if an exemption certificate issued to the driver is in force with respect to the taxi or private hire vehicle, and the prescribed notice of the exemption is exhibited on the taxi or private hire vehicle in the prescribed manner.

PRIVATE HIRE OPERATORS LICENCE CONDITIONS

- 1 A licence will be granted for the period stated therein, subject to suspension or revocation.
- 2 The operator to keep current records in the form of a hard backed book with consecutively pre-numbered pages containing information as follows, and preserve these for 12 months, which shall be made available on request to an authorised officer of the Council or to any police constable for inspection.
 - (a) As to bookings (particulars are to be entered before commencement of each journey): -
 - (i) Date and time of booking
 - (ii) Name and address of person for whom booking is made
 - (iii) Pick-up point
 - (iv) Destination
 - (v) The registration number of the vehicle allocated for the booking.
 - (b) As to vehicles: -
 - (i) Registration number and make of vehicle
 - (ii) Seating capacity of each vehicle, excluding driver
 - (iii) The insurance company insuring each vehicle and the policy number
 - (iv) The name(s) and address(es) of the proprietor(s) of the vehicle
 - (v) Address at which each vehicle is normally kept when not in use
- 3 The records shall be produced on demand to an authorised officer of the Council or any police constable.
- 4 Any change of address of the operator or change of address at which the vehicle is kept shall be notified to the Council in writing within fourteen days.
- 5 The operator shall within fourteen days, disclose to the Council in writing details of any convictions imposed on him (and if the operator is a company or partnership, on any of the directors, the secretary or partners) during the period of the licence.
- 6 Any changes in secretary, directorship or partnership shall be notified to the Council in writing within seven days. The Council shall have the right to review the licence.
- 7 The Licensee shall not operate any vehicle as a private hire vehicle if: -
 - (a) A current private hire vehicle licence is not in force, or
 - (b) The driver does not have a current private hire driver's licence granted by the Council.
- 8 The operator shall arrange for the punctual attendance of the vehicle at the appointed time and place, subject to it being delayed or prevented by some sufficient cause
- 9 There must be appropriate public liability insurance in respect of premises that are open to the public.

Code of Good Conduct

The Licensing Authority has introduced a Code of Good Conduct for Hackney Carriage and Private Hire drivers, which serves to promote the Licensing Authority's licensing objectives. Failure to meet with these standards may lead to the Licensing Authority determining that a licensed driver is no longer a 'fit and proper' person to hold a licence.

The Code of Good Conduct should be read together with the other statutory and policy requirements in this document. By accepting a licence from this Licensing Authority, licensed drivers will be deemed to have read and accepted the Council's Code of Good Conduct, therefore agreeing to follow its contents.

1. Responsibility to Clients

- **to wear a driver's identification badge at all times when working**
- **to undertake a daily check to ensure that the vehicle is in a roadworthy condition prior to carrying passengers. Where faults of any description are identified which undermines the roadworthy condition of the vehicle, the driver should not drive the vehicle and should report the faults to the proprietor as soon as possible**
- **to be professional and understanding to other road users**
- **to maintain their vehicles in a safe and satisfactory condition at all times**
- **to keep their vehicles clean and suitable for hire to the public at all times**
- **to attend punctually when undertaking pre-booked hiring**
- **to assist, where necessary, passengers into and out of vehicles**
- **to offer passengers reasonable assistance with luggage.**

2. Responsibility to Residents

- **not to sound the vehicle's horn illegally**
- **to keep the volume of car stereo/ audio system and VHF radios to a minimum**
- **to switch off the engine if required to wait**
- **to take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood.**
- **to use due consideration to the potential impact on neighbours when parking a licensed vehicle which is not in use**

3. Behaviour on the ranks

At taxi ranks and other places where hackney carriages ply for hire by forming queues drivers shall, in addition to the requirements above:

- **rank in an orderly manner and proceed along the rank in order and promptly wait their turn to pick up fare**

4. General

- **Passengers are entitled to expect a vehicle that is odour free and clean inside and out. This includes the boot or any luggage space.**
- **A vehicle should be kept free of any rubbish.**

- Pay attention to personal hygiene and dress so as to present a professional image to the public
- be polite, helpful, courteous and fair to passengers
- drive with care and due consideration for other road users and pedestrians and in particular shall not use a hand held mobile phone whilst driving
- obey all Traffic Regulation Orders and directions at all times
- comply with the highway code
- not to smoke in the vehicle
- not to use electronic cigarette or similar device within the vehicle
- not to consume alcohol immediately before or at any time whilst driving or being in charge of a hackney Carriage or Private Hire Vehicle
- not drive while having misused legal or illegal drugs
- not to use a handheld mobile phone or similar devices whilst driving
- fulfil their responsibility to ensure compliance with legislation regarding the length of working hours

5. Private Hire Offices

- In the event of a pre-booked vehicle being unable to fulfill a booking the driver or operator will be expected to let the customer know as soon as possible to allow for alternative arrangements to be made.
- not allow their car stereo/ audio system or VHF radios to cause disturbance to residents of the neighbourhood;
- take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood which might arise from the conduct of their business.

6. Inappropriate behaviour

- Rude gestures to other licensed drivers or members of the public,
- Aggressive or threatening behaviour to other drivers or members of the public,
- Road rage,
- Rude or offensive notes on windows of premises or vehicles,
- Swearing at other drivers or members of the public.

7. Inappropriate behaviour towards other licensed drivers

It is important that drivers have respect for each other and treat other members of their profession fairly and courteously.

8. Disregarding Requests or Failing to Notify Information to the Council

- Disregarding repeated warnings for incorrect plate display, failure to display roof sign, failure to produce insurance, MOT certificates and any other requested documentation may lead to the licence holder being referred to the Licensing & Enforcement Sub-Committee.
- Failing to inform the Council of any significant medical issues that arise during the course of your licence that might affect your ability to drive. Anything that would impact upon the group 2 standard - this includes diabetes, heart disease, angina, TIA's or stokes, any black outs, serious head injuries, significant deterioration of eyesight, sleep disorders and cancer. It is always best to talk to an officer as early as possible if you are in any doubt and we will advise whether you may continue to drive or not. Failure to inform

the Licensing Authority may put the safety of the public at stake and lead to disciplinary proceedings.

- Following any conviction or the issue of a fixed penalty notice which results in penalty points being endorsed on the licence holder's DVLA driving licence, the licence holder must notify the Licensing Authority within 5 working days of the endorsement of the licence.
- In the event of a conviction before a court resulting in disqualification from driving, a licensed driver shall immediately inform the Licensing Authority and surrender their driver licence.
- Failing to notify any change of address during the period of the licence within 7 working days of such change taking place.
- Failing to notify change of hackney employer details within 14 days
- The driver shall inform the Council in writing or by telephone within 72 hours of any vehicle accident in which the driver is involved (whilst driving a Hackney Carriage/Private Hire Vehicle).

PROOF OF IDENTITY

East Devon District Council may not grant a Hackney Carriage and/or Private Hire Licence to any person who is not able to provide proof of their right to work.

Authorisation to Work in the United Kingdom

All applicants will need to demonstrate that they **have the right** to work in the UK before an application for the grant of a licence may be considered. The Licensing Authority will operate its application procedures in line with guidance issued by **UK Home Office**.

Further information can be obtained from **this Council and from the Home Office website**. Identification documents may be copied and forwarded to the Home Office for verification.

Right to live and work in the United Kingdom

All applicants for a hackney carriage or private hire driver's licence must provide documentary evidence confirming their right to live and work in the United Kingdom.

The UK **Home Office** has produced a list of documents that can provide this evidence. These are listed below. Documents provided from **List A** establish that the person **has a permanent right to remain** in the UK; documents from **List B** indicate that the person has **a temporary right** to be in the UK. A copy of every document produced will be kept by the authority.

The provision of a National Insurance number in isolation is not sufficient for the purposes of establishing the right to live and work in the UK. The National Insurance number can only be used for this purpose when presented in combination with one of the documents listed below.

Licences granted to drivers whose leave to remain in the UK is time-limited will only be granted for **up to** the period for which they are entitled to work in the UK. **Driver licences can only be issued for either 1 or 3 years and each case will be considered individually**. In order for the licence to be extended (up to the maximum three years) drivers must produce further evidence to prove that they have the right to work in the UK.

In the event of an **existing driver who is wishing to renew their licence, the proof of right to work in the UK must be provided before the licence can be renewed. If it is not provided, the licence will not be renewed and the driver will not be licensed. However, if the licence holder is then able to submit the proof of right to work within three months of the initial expiry of the licence, subject to there being no other concerns, the licence will be reinstated and treated as a renewal application. However, any driver submitting this evidence more than three months after the expiry of the initial licence will not be afforded this privilege. In such cases the driver will be treated as a new application, requiring a new medical examination and all other documentation and checks that would be required when applying for a new licence. The applicant will be required to wait until all necessary checks have been completed before a licence can be issued.**

In the event that a driver does not have his licence extended, he will, on request, be entitled to a refund of a pro-rata proportion of the grant of licence fee.

List A

Documents which establish ongoing entitlement to work in the UK. These documents prove that an applicant has no restrictions on right to work in the UK. Once an applicant/licence holder has undertaken the necessary check one, they will not have to repeat the check when they subsequently apply to renew their licence.

1. A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.
2. A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of the European Economic Area or Switzerland.
3. A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of an European Economic Area country or Switzerland.
4. A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
6. A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.
7. A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom together with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
8. A full birth or adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
10. A certificate of registration or naturalisation as a British citizen together with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

List B

Documents which indicate restricted entitlement to work in the UK. Applicants or licence holders may be issued with a licence but this will not exceed their date of permission to work. Licence holders will have to provide proof of right to work each time they apply to renew their licence.

1. A current passport endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question.
 2. A Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.
 3. A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
 4. A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the United Kingdom, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
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1. A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is **less than 6 months old together with Verification** from the Home Office Evidence and Enquiry Unit. The licence may be granted for six months from the date of the Certificate of Application.
 2. A **Verification** issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK because they have an in time application, appeal or administrative review and which is outstanding. The licence may be issued for six months from the date of the licence decision.

Additional requirements for applicants who have lived outside the UK

These additional requirements do not relate to the Immigration Act 2016 but are necessary to ascertain whether a driver is a "fit and proper" person to hold a licence.

Where an applicant has lived outside of the UK for any period exceeding 3 months at any time between the age of 10 years old and the date of their driver application then in addition to the Disclosure and Barring Service check, the applicant will be required to provide a Certificate of Good Conduct or a criminal record check from each and every country in which they have lived for over 3 months. It may also be possible to get such a check through the relevant embassy in the UK and the applicant will be responsible for providing this at their own expense.

Non-UK applicants, as part of the licensing process must register their non-UK driving licences with the DVLA in order that a UK counterpart can be issued.

NON-MOTORISED TAXIS

Vehicles

Any person wishing to use a non-motorised vehicle (for example a horse-drawn carriage, rickshaw, pedicab etc.) for hire and reward must apply for a taxi vehicle licence. Non-motorised vehicles may not be licensed as private hire vehicles as the legislation defines a private hire vehicle as a 'motor vehicle'.

In order to determine if a non-motorised vehicle is suitable for licensing, the Council will require the following documentation:

- (i) a certificate or report of the roadworthiness and safety of the vehicle and its equipment provided by an inspector approved by the Council,
- (ii) a satisfactory report from a veterinary surgeon approved by the Council of the fitness of any horses used in drawing any carriage, cart or similar vehicle,
- (iii) a valid certificate of public liability insurance with sufficient cover to meet any potential insurance claims.

Because of the unusual design and construction of non-motorised vehicles, some of the Council's standard regulations and conditions attached to a vehicle licence may not be applicable or appropriate. The authority may, at its discretion, exempt applicants from such requirements. The authority may attach such conditions to the licence as it considers appropriate for the health, safety and welfare of the public. Each application will be considered on its individual merits.

The Council will not permit any licence granted to a non-motorised vehicle to be transferred to a motorised vehicle.

Drivers

Any person wishing to drive a licensed non-motorised vehicle must apply to the Council for a Taxi/Private Hire Driver's Licence.

In respect of a horse drawn vehicle, in order to determine if an applicant is competent to drive a horse(s) in harness, the authority will require the applicant to produce a certificate confirming that they have passed the Road Driving Assessment set out in the Department for Transport's *Code of Practice for Horse Drawn Vehicles*. The authority may, at its discretion, accept other equivalent qualifications or evidence of competence.

Because of the unusual design and construction of non-motorised vehicles, some of the authority's standard regulations and conditions attached to a Taxi/Private Hire Driver's Licence may not be applicable or appropriate. The authority may, at its discretion, exempt applicants from such requirements. The authority may attach such conditions to the licence as it considers appropriate for the health, safety and welfare of the public. Each application will be considered on its individual merits.

HORSE DRAWN HACKNEY CARRIAGE INFORMATION

Licensing Fees:

Please see the Council's website for the current licence application fees.

Note: The licensing fees are reviewed annually.

Driver Information

Introduction

The Council will need to be satisfied that the applicant is a fit and proper person to hold a hackney carriage driver's licence and can require such information as may be considered reasonably necessary to determine whether the licence should be granted. A police check is always carried out.

Guidance for Standards of Driving

Driving a Hackney Carriage is a responsible role where the driver has the responsibility to ensure the safety of the fare paying public in addition to other road users. An applicant will need to satisfy the District Council that he/she is competent to hold a Horse Drawn Hackney Carriage Driving Licence. In order to do this, he/she should hold one of the two following qualifications or other qualification that the Council approve:

- British Driving Society's examination in Carriage Driving Competence to include qualifications to both Level 1 and Level 2. Details can be obtained from the *British Driving Society at 27 Dugard Place, Barford, WARWICK, CV35 8DX. Telephone 01926 624420*
- Department of the Environment, Transport and the Regions Road Driving Assessment. This is a minimum qualification for those wishing to drive horses/ponies and vehicles carrying fare-paying passengers on the public highway. Application for an assessment may be made to either the *British Driving Society* (contact details above) or the *Heavy Horse Training Committee at British Equestrian Centre, Stoneleigh Park, Kenilworth, Warwickshire, CV8 2LR. Telephone 01203 696697* who appoint a panel of assessors. There is a fee for the assessment and on satisfactory completion a certificate of competence (Road Driving Certificate) will be granted. The assessment takes approximately two hours and details can be obtained from either of the above named organizations or from the D of ETR Web site (www.detr.gov.uk/roads/vehicle/standards/horse/index.htm).

Medical Standards

Applicants will be required to produce a certificate signed by a registered Medical Practitioner certifying that the applicant is physically fit to be the driver of such a vehicle, to Group 2 Medical Standards for vocational drivers. Further certificates are required every three years on renewal of the licence until the applicant reaches the age of 65 years. Thereafter the applicant must provide an annual certificate.

The doctor's certificate must be submitted on the form supplied by the District Council.

The cost of the medical will be the applicant's responsibility.

CARRIAGE AND HORSE INFORMATION

Licensing Fees:

Please see the Council's website for the current licence application fees.

Note: The licensing fees are reviewed annually.

Guidance note Carriage Safety

Before a Horse Drawn Hackney Carriage vehicle licence can be issued the following criteria must be satisfied:

Public Liability insurance must be provided to a minimum of £5,000,000

The Hackney Carriage proprietor shall have the carriage tested by an inspector approved by the District Council. The District Council will supply the necessary inspection sheet. The inspector will use the check criteria laid down by the D of ETR, copies of which can be obtained from the District Council's Licensing Office. The cost of the carriage inspection will be the applicant's responsibility.

Guidance note Horse Standards

The horse(s) to be used to draw the carriage must be identified to the District Council. A vet will examine all these animals and a Certificate of Veterinary Inspection will be supplied to the Council. The District Council will supply blank copies of the necessary vet's certificate. The cost of the vet's fees will be the applicant's responsibility.

It is advised that any horse, which is to be used for the carriage of passengers, should not normally be less than six years of age.

The District Council will have regard veterinary advice on the type of operation and working hours planned for the carriage and the number of horses available to draw the carriage. For example a single horse may not be considered suitable to operate a regular daily service.

DRIVERS HOURS

(Based on Road Transport (working time) guidance.)

The following information provides guidance for drivers on the maximum hours they should spend driving. While this is a guide, all drivers have a duty to ensure that they never drive when they are tired. All hackney and private hire drivers and operators should be aware of the latest guidelines issued by the Department for Transport and VOSA.

While they do not apply to hackney carriage or private hire drivers, the EU rules and GB domestic rules on driving hours provide useful guidance.

1. A driving shift should not exceed 10 hours, in any 24-hour period and if working at night ideally no more than 8 hours, with correct breaks for rest and refreshment during that time. With at least 2 breaks of a minimum of 30 minutes,
2. Should work an average of 48 hours per week,
3. Should not exceed 60 hours in any single week averaged over 17 weeks
4. When driving on long journeys a break every 2 hours is recommended
5. If driving for longer than 4.5 hours a break of at least 45 minutes is required.
6. Two clear rest days are taken in a 2-week period as a minimum.
7. Part time drivers and employers must also be aware that the driver may have already been at work at another occupation, and take the general advice listed above.

In relation to hours worked and breaks, as a minimum guide for part time and full time drivers, any sign of tiredness/fatigue or a driver exceeding hours should be treated accordingly by extra rest breaks or termination of the shift, if required.

The regulations define night time as the period between 23.00 and 06.00, though can be slightly varied by agreement A night worker is someone who regularly works for at least three hours during this period.

Operators and drivers are recommended to follow this general advice as a minimum standard. Operator's are advised to maintain a record of the hours that their driver's work to show that they are monitoring safe working practices.

APPENDIX V

Location of taxi ranks in East Devon and their authorisations - March 2016

Town	Street	Description	No of Spaces	Date	Authority	
Exmouth 02.03.2010	The Strand	24 Hour Rank On the north-east side of road from a point 11 metres south-east of The Strand's junction with Victoria Road for a distance of 50 metres in a south-easterly direction Restriction: No Waiting At Any Time except taxis	10	09.04.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 02.03.2010 Advertised In place
Exmouth 24.11.2009	The Parade	Evening Only Rank Side of road south from a point 95 metres west of its junction with Albion Street for a distance of 15 metres in a westerly direction Restriction: No Waiting 6pm-midnight and midnight-8am except taxis.	3	08.01.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 24.11.2009 Advertised In place
Exmouth 24.11.2009	Imperial Road	24 Hour Rank Side of road south-west from a point 18 metres north-west of its junction with Rolle Street for a distance of 15 metres in a north-westerly direction Restriction: No Waiting At Any Time except taxis	3	08.01.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 24.11.2009 Advertised In place

Exmouth 24.11.2009	Victoria Road	24 Hour Rank Side of road south from a point 11 metres west of its junction with road from The Strand to Chapel Hill: for a distance of 21 metres in a westerly direction Restriction: No Waiting At Any Time except taxis	4	08.01.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 24.11.2009 Advertised In place
Exmouth 24.11.2009	Esplanade	24 Hour Rank South West side of the Esplanade nearly opposite the Pavilion from a point 43 metres north-west of the southern boundary line of the Beach Gardens for a distance of 13 metres in a north-westerly direction Restriction: No Waiting at Any Time except taxis.	2	08.01.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 24.11.2009 Advertised In place
Exmouth 24.11.2009	Chapel Street	24 Hour Rank West side of Chapel Street from its junction with Church Street for a distance of 13 metres in a northerly direction Restriction: No Waiting at Any Time except taxis.	2	08.01.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 24.11.2009 Advertised In place

Ottery St Mary	Mill Street	North side from a point 55 metres west of its junction with Broad Street to a point 66 metres west of that junction	2	16.03.1988	Byelaw 13A & Section 63(4) LG(MP)Act 1976 In force 01.06.1988	In place 1988
Honiton 29.09.2009	High Street	24 Hour Rank On the northern side of the High Street, Honiton located 77 metres east of its junction with Dowell Street for a distance of 16 metres in an easterly direction Restriction: No Waiting at Any Time except taxis	4	04.11.2009	Local Government (Miscellaneous Provisions) Act 1976	Committee 29.09.2009 Advertised In place
Honiton 29.09.2009	High Street	24 Hour Rank On the northern side of the High Street, Honiton located 98 metres east of its junction with Dowell street for a distance of 10 metres in an easterly direction Restriction: No Waiting at Any Time except taxis	3	04.11.2009	Local Government (Miscellaneous Provisions) Act 1976	Committee 29.09.2009 Advertised In place
Axminster	Trinity Square	SW side from a point 21.5 metres SE of its junction with the A35, in a South Easterly direction for a distance of 2.5 metres to the North side of the church path	1	30.11.1989	Byelaw 13A & Section 63(4) LG(MP)Act 1976 In force 01.04.1990	In place 1990

Axminster	Castle Hill	SW side from a point 4 metres NW of its southerly junction with Market Place in a North Westerly direction for a distance of 11 metres	2	30.11.1989	Byelaw 13A & Section 63(4) LG(MP)Act 1976 In force 01.04.1990	In place 1990
Seaton 02.03.2010	Queen Street	West side of road from a point 61 metres north from its junction with Beer Road for a distance of 6 metres in a northerly direction Restriction: No Waiting At Any Time except taxis	1	07.04.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 02.03.2010 Advertised In place
Seaton 02.03.2010	Fore Street	West side of road from a point 156 metres from its junction with Manor Road for a distance of 12 metres in a southerly direction Restriction: No Waiting At Any Time except taxis	2	07.04.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 02.03.2010 Advertised In place
Seaton 02.03.2010	Fore Street	East side of road from a point 61 metres north of its junction with Marine Place to a point 73 metres north of that junction Restriction: No Waiting At Any Time except for taxis between the hours of 21.00 and 03.00 hours only	2	07.04.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 02.03.2010 Advertised In place

Seaton 02.03.2010	Marine Place	North side from a point 3 meters east of its junction with Seahill for a distance of 15 meters in an easterly direction Restriction: No Waiting At Any Time except taxis	2	07.04.2010	Local Government (Miscellaneous Provisions) Act 1976	Committee 02.03.2010 Advertised In place
Sidmouth	High Street	That length of High Street on its east side from a point 51 metres south of its junction with All Saints Road southwards for a distance of 5 metres.	1	04.03.05	Local Government (Miscellaneous Provisions) Act 1976	Committee 13.12.04 Advertised 04.02.05 In place
Sidmouth	High Street	That length of High Street on its west side from a point 20 metres north of its junction with Old Fore Street northwards for a distance of 10 metres.	2	04.03.05	Local Government (Miscellaneous Provisions) Act 1976	Committee 13.12.04 Advertised 04.02.05 In place
Sidmouth	New Street	That length of New Street on its north side from a point 18 metres west of its junction with Fore Street to a point 38 metres west of that junction.	4	04.03.05	Local Government (Miscellaneous Provisions) Act 1976	Committee 13.12.04 Advertised 04.02.05 In place

Spoken English Assessment Test Procedure

(Guidance for Officers and new Applicants)

1. It is a requirement of East Devon District Council that ALL new applicants for both Hackney Carriage and Private Hire Driver licenses can demonstrate an adequate and reasonable level of spoken English.

2. The purpose of these requirements are to:

- a) Ensure that members of the public are safeguarded by ensuring licensed drivers can competently communicate and give and understand most instructions.
- b) Ensure that applicants are safeguarded by ensuring licensed drivers can competently communicate and give and understand most instructions.
- c) Ensure impartiality and fairness in determining applications.
- d) Accommodate all eligible applications.

3. The criteria for all new applicants for Hackney Carriage and Private Hire Driver licences are:

- a) Applicants for whom English is not their first language may be asked to provide evidence of having gained a qualification that was taught and assessed in English.
- b) Applicants who have some difficulty understanding spoken advice on the telephone or face to face and who have similar issues expressing themselves in English will be asked to provide a certificate showing the successful completion of a course of study or qualification in any subject or skill that was taught and assessed in English. (Examples are but not limited to, GCSE's, 'O Levels' GCE, NVQ, BTEC, RFQ, City and Guilds or similar, Degree, HND, HNC etc. or a qualification equivalent to any previously listed issued by a recognised examining body in an English speaking country other than the UK). The weight given to the subject and grade achieved will be assessed on a case by case basis.

c) Applicants who cannot demonstrate an adequate or reasonable level of spoken English and/or a suitable qualification will be required to undertake an independent assessment of their spoken English.

d) Applicants who are clearly fluent English speakers will require no further assessment and may proceed with their application in full.

4. The initial assessment of all new applicants' level of spoken English, whether on the telephone or in person will be made by a Licensing Officer. Where in the opinion of the Licensing Officer the applicant does not have an adequate or reasonable level of spoken English the applicant will be informed of the spoken English requirement and procedure.

5. Applicants who have difficulty in clearly expressing themselves and who cannot produce a suitable qualification listed above will be referred to the Licensing Manager who will make a second assessment and if necessary advise the applicant of the requirement to undertake the spoken English assessment test.

6 Existing licence holders may also be required to undertake the language test at the discretion of the Licensing Manager, in particular in response to relevant complaints being received or where licensing officers have serious concerns regarding the ability of the licence holder to communicate in spoken English.

7. The Licensing Manager's decision is final.

TAKING THE TEST

8. The spoken English assessment test is a pre-application requirement undertaken at the applicant's own expense at a cost and payable before the test is taken. The test must be successfully completed before proceeding with the full application procedure.

9. The applicant will be required to submit a completed application form (no fee to be paid at that time) together with photographic proof of identification i.e. passport and/or driving licence. A passport photograph will also be required from the applicant at the time of submission of the application form and the applicant's identity will also be confirmed at the time of taking the test.

10. Tests will be taken in an East Devon District Council building.

11. Mobile telephones must be switched off to avoid any interruptions.

12. Applicants will be told that the tests are recorded by the test provider and any attempt to cheat, for example by using their mobile telephone to attempt to get a fluent English speaker to complete the test will be detected by the system. The applicant will be automatically failed and will not be permitted to undertake another test or proceed with their application.

13. Test dates will depend on demand, room booking availability and appointments will be specified.

TEST PROCESS

14. On the day of the test, the applicant will be escorted to the designated room by a Licensing Officer who will dial the number to the test provider and pass the telephone to the applicant and leave the room.

15. The English test assessment consists of a 15 minute exercise, taken by and over the telephone during which applicants will be tested on various aspects of their speaking and listening ability.

16. The assessment is provided by a specialist education and testing company and consists of:

- a) Repeating back sentences that are read to the applicant over the phone.
- b) Answering simple questions asked over the phone.
- c) Constructing sentences from fragments read to the applicant over the phone (sentences divided into 3 or 4 parts)
- d) Answering open questions asked over the phone (speaking for up to 30 seconds per question).

17. The test is entirely automated, and questions will be asked by a variety of voices.

18. All of the questions will relate to normal life and the applicant's day-to-day activities; there are no trick questions.

19. The applicant will also be graded separately on sentence usage, vocabulary, fluency and pronunciation, all of which contribute to the overall score.

20. At the end of the test the Licensing Officer will contact the test provider via the website, access the applicant's result, a report will be produced (a copy of which will be provided to the applicant) with a score indicating their overall ability.

21. For licensing purposes, the Council will require applicants to score at least 56 out of 80. This indicates a good overall ability in use of the English language, where applicants will be able to speak fluently on a range of everyday topics and be able to give and understand most instructions.

22. When passed, the pass certificate will be downloaded direct from the test providers website the same day and provided to the applicant.

23. Failure to pass the minimum test level B2 (56 out of 80) will require a further test to be taken.

24. There is no right of appeal where the applicant has failed to attain the minimum pass level of 56.

25. Unsuccessful applicants should be given an information sheet with the contacts of local colleges and courses where they may undertake further study to improve their spoken English. All training will be done at the applicant's own expense.

26. No person may re-sit the test within 28 days of taking a previous test.

27. Returning applicants may demonstrate a reasonable standard of spoken English either through the production of a certificate demonstrating the successful completion of an accredited spoken English qualification at level 1 or above, or successfully completing the spoken English assessment test detailed above.

28. Applicants choosing to re-take the spoken English assessment test will have to pay the required fee.

Knowledge Assessment Test Procedure

The Testing of Applicants

1. Introduction

1.1 New Applicants for hackney carriage and/or private hire drivers' licenses are required to undergo tests as part of the process of satisfying the Council that they are suitable persons to hold a licence. This is in addition for the Council needing to be satisfied as to the medical fitness and character of applicants seeking a licence.

1.2 To ensure that those who are providing a hackney carriage and/ or private hire driving service to the general public have a good working knowledge of the area and of the Highway Code, all new drivers will be required to pass a test of knowledge.

1.3 There is no charge for an initial test which can be booked by contacting the Licensing Department to arrange an appointment.

2. Knowledge Test

2.1 Applicants shall be tested on their knowledge of geography, by recording the shortest routes between locations in the area and on the location of principal buildings in the district as well as questions on the highway code, numeracy, and taxi law.

2.2 Existing licence holders may also be required to undertake the knowledge test at the discretion of the Licensing Manager, in particular in response to relevant complaints being received.

2.3 In circumstances should an existing licence holder fail to renew a licence by the expiry date of their licence, the licence will lapse and will not be valid. It will be a requirement to submit a new application which will include taking the knowledge test as part of the procedure and process to obtain a licence from the Council.

3. The Test

3.1. A Licensing Officer will invigilate and monitor behaviour during the test, and ensure that the test is conducted in accordance with test rules and policy.

3.2. If, in the opinion of the Licensing Officer, the test has not been conducted in accordance with the test rules and policy, all test results and question papers etc are void.

3.3. If an applicant has any questions before or during the test, they may ask the Licensing Officer however, the officer will not explain subject-specific terms or expressions or otherwise say or do anything that could be interpreted as giving applicants an advantage.

3.4. All question papers and answers etc will be provided in English only.

3.5. No translation or interpretation of questions/answers, question papers or other such matter associated with the test shall be permitted and/or accepted.

3.6 An applicant must not use or have in their possession any of the following equipment / materials whilst taking the test.

(a) Mobile Phone

(b) Calculator

(c) Pager

(d) Personal Laptop/PC

(e) Other communications equipment

(g) Paperwork/documentation

(h) Any books, magazines or similar

(i) Any other equipment/materials that may help with the test

3.7. If an applicant is in possession of any of the above items at the time of taking a test, they must ensure that these are handed to the officer for supervision before taking the test. Possession and/or use of any such equipment/materials will result in automatic disqualification and all results will be void.

3.8. Except for the officer, applicants are not permitted to take anyone else to sit with you whilst taking a test. Contact and/or discussion with anyone else during a test will result in automatic disqualification and all results will be void.

4. Cheating

4.1. A serious view will be taken of any action(s) that may be interpreted as cheating during a test. Hackney carriage and/or private hire drivers are expected to be persons of trust. Therefore, in all cases of proven or otherwise suspected cheating, all test results and question papers etc will be void. Suspected cheating may also be taken into consideration in determination of whether an applicant is a sufficiently fit and proper person.

5. Safety & Welfare

5.1. If a fire alarm goes off during a test, the applicant should leave the building with the officer and must remain with the officer at all times until the disruption is over. Where appropriate, it may be necessary to make an appointment to retake the test at a future point.

5.2. Should an applicant need to leave the test room during the test (e.g. to use the toilet), they must ask the officer. The officer or another Council employee may accompany the applicant to ensure that the test is conducted in accordance with test rules and policy.

5.3. If an applicant feels unwell and/or too ill to continue the test, the officer should be told. Where appropriate, it may need an appointment to retake the test at a future point.

6. Points of dispute

6.1. If an applicant feels aggrieved by the results of the test or believes that the results are incorrect, they should direct concerns or enquires (in writing) to the Licensing Manager at East Devon District Council.

7. Test Failure

7.1 Any applicant who fails to achieve the pass shall be invited to take a different test on another occasion. They shall not be issued with a driver badge unless or until they have achieved the requisite pass rate.

7.2 If an applicant does not pass first time, they will have to wait a minimum of two weeks to re-sit the test again.

7.3 There is a limit of three attempts to pass the test in a twelve month period and a fee of £30 will be levied before taking each further test after failing.

7.4 In circumstances where existing licence holders are required to take the test and subsequently fail, the licence(s) will be suspended until a satisfactory pass rate is achieved.

7.5 In circumstances under 7.4 where an existing licence holder is required to take the test and fails, the licence(s) will not be renewed should the anniversary date for renewal be reached until a satisfactory pass rate is achieved.

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 15 February 2017

Public Document: Yes

Exemption: None



Agenda item: 10

Subject: **In 2015 changes through deregulation nationally provided additional duration periods of Hackney Carriage and Private Hire driver licences and Private Hire Operator licences with one and three year licence periods available for driver licences. The proposal is to continue with both options but that applicants granted their first licence with East Devon to be limited to a maximum period of 12 months upon initial licensing.**

Purpose of report: The proposal to change the current taxi policy licence issue a licence for a period of one year to new driver applicants who have previously been licensed with this authority.

Recommendation: **From 15 February 2017 that the Committee adopts a change to the current taxi policy;**
a. To issue licences for hackney carriage drivers, private hire drivers and dual driver licences, upon first licensing with this authority, for an initial period of one year and thereafter to offer drivers wishing to renew their licences to do so for a period of three years or one year, and
b. To issue private hire operator licences, upon first licensing with this authority, for an initial period of one year and, thereafter to renew licences for five years where required.

Reason for recommendation: To change existing taxi policy relating to applicants upon being granted their first licence with this council to allow an annual review after 12 months. The proposed change has been adopted by other authorities to good effect. The proposed change does not prevent a right to licence for new applicants providing the required standards under fit and proper requirements are still met.

Officer: Steve Saunders, Licensing Manager, Ext. 2787, ssaunders@eastdevon.gov.uk

Financial implications: Minimal reduction in Officer administration if a license is renewed for a period of over 1 year for appropriate applicants.

Legal implications: The proposed change to current policy provides EDDC Licensing with the ability to deal with a potential increase in Hackney and PHV applications following Deregulation in 2015 and the adoption of the new robust Taxi Licensing Policy later in 2017. The legal implications are explained within the body of the report.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

None

Background Papers:

- [Deregulation Act 2015](#)

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

- 1 Taxi and Private Hire Deregulation
 - 1.1 The Deregulation Act 2015 introduced deregulation measures including two regarding hackney carriage and private hire licensing. One of the measures provided a standard licence duration of three years for taxi and private hire vehicle driver licences, in addition to the one year duration and also a duration of five years for a private hire vehicle operator licence.
 - 1.2 This council issues one year and three licences for hackney carriage and private hire driver licences. Prior to 2015 East Devon retained annual licences believing that they provided better opportunity to ensure licence holders remained and were still suitable (fit and proper) to hold the licences.
 - 1.3 From 1 October 2015 deregulation offered three year hackney and private hire driver licences and five years for private hire operator licences however all taxi vehicle licences remain as one year licences without any flexibility to issue for longer periods.
 - 1.4 In East Devon driver licences are currently issued for one year or three years following first grant, once the applicant has satisfied and met all elements of the application process. The requirement in the future, should the change be adopted, will be to issue a driver licence for one year to applicants who have not previously been licensed by this council. It will allow newly licensed drivers to demonstrate that they are fit and proper people to hold a licence and for the Council to monitor any issues which may be highlighted or evident. Thereafter, drivers will have the option of renewing the licence for either three years or one year.
 - 1.5 Officers may decline to renew for more than one year, if there are concerns or reports regarding the conduct of a driver, subject to a right of appeal to members at a Licensing and Enforcement sub-committee hearing.
 - 1.6 In East Devon private hire operator licences are currently issued on an annual basis or for five years and the Council can inspect the operator's premises and records to monitor any issues highlighted.
 - 1.7 The disclosure (DBS) checks occur every three years and medical checks are also currently every three years (but proposed to increase to five years). These checks are conducted independently of the renewal process so they will be unaffected unless there is a reported change in the character or health of an applicant which should be duly notified.
 - 1.7 The value of the initial annual renewal for applicants who have not previously been licensed by this council will allow an opportunity to annually review the licence holder's driving record which will remain a requirement for all licensed drivers regardless of a one of three year licence period.
 - 1.8 Officers are suggesting that new operator's licences for applicants not previously licensed with this council should be issued for one year and that, provided that no issues are identified, that renewals should be considered for a period of five years.
 - 1.9 Officers may decline to renew for more than one year, if there are concerns regarding the conduct of an operator, subject to a right of appeal to members at a at a Licensing and Enforcement sub-committee hearing.

- 1.10 In the case of both driver and operator licences, should concerns be evident at any stage during the life of the licence, about licence holders being fit and proper persons to continue holding licences, the Licensing Sub-Committee can be asked to consider whether a licence should be suspended, or revoked or whether it should not be renewed, following a hearing.