



**Agenda for Licensing and Enforcement
Committee
Wednesday, 3rd July, 2019, 9.30 am**

Members of Licensing and Enforcement Committee

Councillors: P Jarvis (Chairman), K Bloxham (Vice-Chairman),
C Brown, M Chapman, I Chubb, S Gazzard, N Hookway,
S Jackson, D Manley, K McLauchlan, C Pepper, J Rowland,
B Taylor, J Whibley and T Wright

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Monday, 24 June 2019

1 Public Speaking

Information on [public speaking](#) is available online

2 Minutes of the previous meeting (Pages 3 - 8)

3 Apologies

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency

Information on [matters of urgency](#) is available online

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which officers recommend should be dealt with in this way.

7 Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis & General (Street Trading) Licensing (Pages 9 - 19)

8 Sex Establishment Licensing Policy (Pages 20 - 54)

9 Proposed Hackney Carriage (Taxi) Tariff Changes (Pages 55 - 63)

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If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

Members of the public exercising their right to speak during Public Question Time will be recorded.

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Licensing and Enforcement Committee held at Council Chamber, Exmouth Town Hall, Exmouth, EX8 1AW on 20 February 2019****Attendance list at end of document**

The meeting started at Time Not Specified and ended at Time Not Specified

16 Public Speaking

There was no public speaking.

17 Minutes of the previous meeting -21 November 2018

The minutes of the meeting of the Licensing & Enforcement Committee held on 21 November 2018, were confirmed and signed as a true record

18 Declarations of interest

Councillor Steve Hall

Minute 18

Disclosable Pecuniary Interest – Private Hire Licence Holder

Councillor John O’Leary

Minute 18

Disclosable Pecuniary Interest – Designated Premises Supervisor

Councillor Steve Gazzard

Minute 19

Personal Interest – Event Organiser

19 Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing

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

1. Licensing Act 2003

Over the previous period relating to this report officers had issued 205 alcohol licenses relating to new and variations of licensed premises, personal alcohol licenses and temporary event notices (TEN’s) throughout the district. Work undertaken by the licensing team during the previous quarter predominantly concerned applications and issuing licences in the run up to Christmas and the New Year festive period.

On 5 November 2018 officers attended the annual Ottery St Mary Tar Barrel event to check the various temporary event notices issued for alcohol sellers and late night refreshment food stalls. A total of 24 checks were made and all were found to be in order.

2. Gambling Act 2005

The licensing team had continued its work to ensure gaming machine permits were submitted on the occasions when licensees left and took over a premises licence. Following approval by the Committee the Council's revised Gambling Policy was successfully published in January 2019 for review in 2022.

The programme of visits to licensed premises and other premises where gaming was permitted continued and whenever a licensed premises inspection occurred, the existence of gaming machines and any issues of compliance were duly considered and inspected. Officers assess compliance and suitability of gaming machines sited in public houses and to date it had not been necessary to take enforcement action.

1. Taxis

Although the previous period saw some taxi licence holders retiring or leaving the trade during the autumn renewal period, this had been balanced by a recent increase in new driver applications over the previous three months.

Reports to this Committee had highlighted the increase in officer time completing new processes and online checks and although some online processes reduce the amount of paperwork that applicants need to provide it has increased the time spent by officers.

In addition to those processes already being completed, advance notice had been issued by DEFRA to all licensing authorities of a forthcoming duty to provide information on licensed taxis and private hire vehicles. Under the Air Quality Regulations 2019, it was proposed that regulations would come into force on 1 April requiring all licensing authorities to provide details on a minimum weekly basis about vehicles that had been licensed including as a minimum, the Registration Number, start and expiry date of the vehicle licence and whether the vehicle was a taxi or Private Hire. A new database would form part of the infrastructure that government was developing to support the introduction of charging Clean Air Zones by some local authorities from 2020 to ensure compliance with statutory nitrogen dioxide limits. These new requirements would further add to processing work that officers undertake in the future.

It was noted that the introduction of a National Register regarding taxi driver revocations and refusals was being implemented by the Local Government Association formalising information sharing between licensing authorities concerning applicants that were revoked or refused a licence. Further progress had not yet been forthcoming and further updates would be provided when available during 2019.

At the previous meeting of the Committee members were informed that the ballot was open following requests by some sections of the taxi trade to review fares that could be charged by taxis. Each hackney carriage proprietor was balloted for a five week period from 5 November to 7 December 2018 asking the question of whether a fare review was necessary. Subsequent responses were two to one in favour of an increase with 66% answering yes to raise fares. A comprehensive update on the proposed tariff increase would be discussed at the next meeting of Officers, Councillors and trade members in early April. Although no new tariff would be introduced before the financial implications of Brexit on 29 March were better understood.

Officers have continued to prepare plans to introduce safeguarding awareness briefings for hackney and private hire drivers in line with protecting safeguarding children and vulnerable adults in society. An additional report had been prepared seeking approval to revise the taxi policy to make attendance at Safeguarding Awareness briefings mandatory.

Members noted that following the festive break officers had received two complaints of taxis overcharging customers for journeys. Each allegation had been investigated by officers comparing the fare tariff costs against the route and fee that customers were required to pay. Calculations for one journey had identified a slight overcharge for which the proprietor had been formally warned. The second allegation was still under review at this time to establish whether the charged fare was correct. At the meeting the Licensing Manager received another complaint over overcharging from a member of the Committee. He confirmed that he would update members on this issue at the next meeting. Meters should be used in taxis except where the customer and driver agree.

The training provider who delivered safeguarding awareness sessions for other Devon authorities had proposed dates to deliver sessions later this year throughout 2019. It remained the aim to provide funded awareness sessions free to licence holders in the first year in advance of costs being charged and included within later fee reviews.

2. General Licensing

Following the introduction of a new street trading regime in October 2017 with further revisions to the policy approved by the Committee in March 2018, there had been 185 street trading consents granted. The trend continued with ten percent of applications granted being for commercial food vendors with 18 consents granted across the district to business traders operating weekly and continually throughout the year.

Amendments to the current street trading policy were addressed under a separate report to the Committee (see minute 19 below).

3. Consultations and Partnership Working

Officers attend Licensees meetings within the East Devon area whenever possible as it was felt that these meetings should be supported and were a useful forum for the exchange of ideas, information and keeping up to date with issues within each area. Officers had attended licensees meetings over the previous period in Exmouth, Sidmouth and Axminster.

Members noted that licensing officers were attending meetings of the Safety Advisory Group (SAG), which had been established earlier in the year and being chaired by managers from Environmental Health. The SAG operated as a multi-agency partnership meeting to provide advice and guidance to event organisers when planning events. Meetings were now arranged quarterly and in advance for 2019 with core members from each Responsible Authority including the licensing authority.

4. Licensing Team update

Since the last meeting of the Committee in November, the licensing officer role vacated as a result of Neil McDonald's retirement had been filled through the recruitment of Licensing Support Officer, Lucy Maxwell being successful in her application.

7. Training for Members

Work by the managers of Licensing and Democratic Services had identified the need for training for Licensing Committee members and it was hoped this would happen during the first week of June, with the Barrister Philip Colvin providing training for members.

RESOLVED:

that the report be noted;

20 **Street Trading Policy**

Following the introduction of a new Street Trading regime in October 2017, with further revisions to the policy in March 2018, it was noted that there was now a need to include amendments including new Guidance to Pedlars, revising the approach to block booking arrangements, addressing environmental concerns and amending processes following feedback from applicants when using street trading consents. This would include a section to ensure that applicants had the relevant insurance.

RESOLVED

- 1 that the revised street trading policy as attached as Appendix A to the report be adopted;
2. that the new guidance to Pedlars as attached as Appendix B to the report be adopted;
3. that the actions that will be taken as a consequence of the above being agreed be noted.

21 **Taxi Licensing Policy**

Members received the report of the Licensing Manager which sought approval to revise the Taxi Licensing Policy, namely an additional requirement that all new driver and renewal applications should be accompanied by evidence that the applicant had attended a Safeguarding Awareness Workshop relating to Children and Vulnerable Adults. This was in line with the Council's commitment to protect the safety of those most vulnerable in our communities.

RECOMMENDED: that Council at its meeting on 24 April 2019 adopts the revised Taxi Policy.

22 **The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018**

The report advised the Licensing & Enforcement Committee of the fee review process which had been carried out in accordance with both DEFRA guidance and the Open for Business requirements.

Members noted that there was no update on the issue of legally regulating professional dog walkers.

RESOLVED: that the following new fees be adopted from 1 April 2019:

- a) New and Renewal applications - £330
- b) Annual Compliance Visit - £50
- c) Minor changes during licence period – No charge
- d) Review of star rating – No charge
- e) Vets Fees – Invoiced per premises where required.

23 **Committee update - National Consultation on Statutory Guidance for Licensing Authorities "Taxi and Private Hire Vehicle Licensing: Protecting Users"**

The report provided an update to the consultation commencing in February and ending on 22 April 2019. The Government hoped to see national standards for taxi and private hire licensing in place across the country. The Committee wished to thank the Licensing Team for their valuable contribution to this initiative.

RESOLVED: that the report be noted.

Attendance List

Councillors present:

S Hall (Chairman)
J O'Leary (Vice-Chairman)
M Armstrong
Chapman
J Dyson
S Gazzard
G Jung
C Nicholas
B de Saram
P Stott

Councillors also present (for some or all the meeting)

Officers in attendance:

Stephen Saunders
Janet Wallace, Principal Environmental Health Officer

Councillor apologies:

B Bailey
C Brown
P Carter
G Pratt

Chairman

Date:

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 3 July 2019

Public Document: Yes

Exemption: None



Agenda item: 7

Subject: **Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis & General (Street Trading) Licensing**

Purpose of report: The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005, Taxi legislation and General Licensing including Street Trading.

Recommendation: **That the report be noted**

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

Officer: Steve Saunders, Licensing Manager

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

Appendix A – Comparison of Street Trading fees

Appendix B – Letter to Street Trading Consent holders

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 This report is to inform the committee regarding work undertaken by the licensing team between the months of March to July 2019 in each licensing category that the service delivers beginning with alcohol related matters. Licensing officers have issued over 500 alcohol licences for new and for amending licensed premises, personal alcohol licences and Temporary Event Notices (TEN's) across the district. The work largely involved applications for licences in the run up to festivals that occur through the summer months including for Sidmouth Folk Week, Beautiful Days and other large outdoor events.

1.1.2 The Home Office (DCMS) require a mandatory annual return for licensing statistics at the end of each financial year concerning all alcohol and late night licences. The requirement was

relaxed this year although DCMS will seek the return in 2020. It has been possible to provide the statistics for year 2018/19 highlighting the volume of work which remains constant annually and the following licences were administered:

- 643 Premises Licences (compared to 621 in 2016/17, 642 in 2017/18),
- 48 Club Licences (compared to 51 in 2016/17, 49 in 2017/18)
- 2416 Personal Alcohol Licences (compared to 2197 in 2016/17, 2310 in 2017/18) and
- 849 Temporary Event Notices issued (compared to 837 in 2016/17, 856 2017/18).

1.1.3 Officers also undertake compliance visits to licensed premises and attended a premises near Exeter in April with Environmental Health staff regarding a noise complaint and to premises in Exmouth together with the police following an assault. Visits with partner agencies occur when there is a need in addition to those inspections completed each month by the team.

1.1.4 On 16 May officers attended the annual Devon County Show event checking the Temporary Event Notices issued to traders that sell alcohol. A total of 31 traders were inspected and were found to be operating properly. The work by the licensing team in the planning phase and run up to the event working with the show organisers works effectively each year.

1.2 Hearings

1.2.1 The licensing team continues to offer mediation meetings when representations have been made against new licensing applications to ascertain whether objectors and applicants can reach an agreed position. Mediation is often successful and reduces the number of contested hearings that need to go before a licensing sub-committee.

1.2.2 Two mediation meetings have occurred for new licence applications over this period, one for a restaurant requiring alcohol sales with the objector and applicant reaching agreement that allowed the objection to be withdrawn. A second mediation meeting occurred for an entertainment venue applying to sell alcohol in the north of the district when agreement could not be reached. A licensing sub-committee hearing then occurred to consider representations and the licence was granted with conditions regarding concerns of local residents.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

2.1.1 The Gambling Commission is the regulatory authority nationally and provides guidance to local authorities. It is the responsibility of councils to oversee gaming and betting premises whilst the commission oversees operators, online betting and other functions. With an additional impact upon coastal licensing authorities by having more amusement arcades and holiday parks, officers attended an annual meeting at the commission's offices to consider legislation, strategies and national updates.

2.1.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The bulletin for April can be viewed online at <https://www.gamblingcommission.gov.uk/PDF/LA-bulletin/June-19-LAB.pdf>

2.1.3 It is a statutory need that all authorities submit an annual return to the commission for the number of gambling licences, permits and notices issued in each district and detailing inspections and enforcement undertaken. Officers completed the return within the required timescale of 10 May.

2.1.4 It was widely reported following a review by DCMS that stakes on gaming machines in betting offices were reduced by £100 to £2 for Fixed Odds Betting Terminals (FOBT's) from 1st April.

2.1.5 Figures obtained on 1st June 2019 reveal that this licensing authority administers 1 Bingo Premises Licence, 4 Adult Gaming Centre Premises Licences, 8 Family Entertainment Centre Gaming Machine Permits, 10 Betting Premises Licences, 17 Club Machine Permits, 1 Prize

Gaming Permit, 9 Alcohol Licensed Premises Gaming Machine Permits and 164 Small Society Lotteries over the last year. In addition, 116 alcohol licensed premises gave notification of having gaming machines in public house premises.

2.2 Enforcement

- 2.2.1 Officers visit licensed and permitted gambling premises and whenever a licensed premises inspection occurs, the presence of gaming machines and matters of compliance are considered. Officers will assess suitability of gaming machines in public houses and to date it has not been necessary to take enforcement action.
- 2.2.2 During the previous period officers have conducted compliance visits in Axminster and in the west of the district inspecting the locations and suitability of machines in licensed premises.

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 Figures taken on the 1st May 2019 show that the licensing authority administers:

- 179 hackney (taxi) driver licences (compared to 206 in 2016/17, 195 in 2017/18),
- 161 hackney carriage vehicle licences (compared to 170 in 2016/17, 165 in 2017/18),
- 30 private hire driver licences (compared to 22 in 2016/17 and 26 in 2017/18),
- 24 private hire vehicle licences (compared to 18 in 2016/17 and 20 in 2017/18)
- 16 private hire operator licences (compared to 15 in 2016/17 and 13 in 2017/18),

The reduction of taxi driver licence holders over the last three years is evident being attributed to a number of drivers retiring. A small number have surrendered licences here in order to be licenced by Exeter City Council allowing them to work in the city. The reduction has been slightly balanced by increases in private hire driver and vehicle applications.

- 3.1.2 Reports to this committee previously highlighted regional and national changes increasing standards for taxi and private hire applications. Procedures now involve online checks with vehicle excise tax, vehicle write-off, MOT and DVLA driver licence codes now being available online. Revising this council's taxi policy in 2017 enhanced requirements for a driver assessments to include geographic, numeracy and policy questions. This occurs in addition to medical, character and driving ability checks to ensure the 'fit and proper' test.
- 3.1.3 In April, officers from licensing and legal services drafted a response to a government consultation for licensing authorities regarding standards and practices for protecting users of taxi and private hire vehicles. The ten week consultation assessed practice in England and Wales with thirty questions that ended on 22 April. The response by this authority outlined compliance with standards and measures being proposed. A summary is due to be published by Department of Transport later this summer and being available online here https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/784216/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf

3.2 Enforcement

- 3.2.1 Officers conduct inspections of taxi vehicles whilst parked on East Devon taxi ranks ensuring that vehicles comply with legislation and meet required safety standards. Officers also inspect new vehicles when determining applications to ensure safety and suitability.
- 3.2.2 The council's taxi policy requires all licensed vehicles when reaching 14 years from date of manufacture will be inspected and currently there are two taxis that will be subject of an extra review before being considered suitable for renewal. There are two further licensed taxis having reached 12 years of age that will be subject of an enhanced review next year unless replaced by the owners before that time.

3.2.3 At the previous meeting of this committee it was reported that two complaints had been investigated for taxis overcharging customers for journeys during the festive period by comparing the fare tariff against routes and fees that were charged. In the previous period a third report regarding fare costs was then received. Fares can increase considerably under Tariff 3 on bank holidays and all three journeys had occurred outside the daytime tariff. One review confirmed a slight overcharge for which the proprietor was warned whilst the other two established that the charged fares were within the set tariff and not being over charged.

3.3 Hearings

3.3.1 A meeting of the Licensing and Enforcement Sub-committee occurred on 10 April January to determine whether a new applicant for a hackney driver licence met the criteria as being fit and proper to hold a licence. The matter had previously been adjourned to allow the applicant to gather further information and the decision was taken to refuse the licence application.

3.4 Taxi Licensing Processes

3.4.1 In May authorities were notified regarding the introduction of a National Register of taxi licence revocations and refusals being implemented by the National Anti-Fraud Network (NAFN) with support of the Local Government Association (LGA). The database is intended to formalise information sharing between licensing authorities regarding individuals refused a licence or upon licence revocation. Further work will be necessary regarding policies and procedures and updates will be provided to this committee when available.

3.4.2 On 1 May 2019 new regulations came into force regarding taxi vehicle emissions under the Air Quality (Taxis and Private Hire Vehicles Database) Regulations 2019 making it a legal requirement for all licensing authorities to provide information on licensed vehicle emissions. DEFRA are leading and reported that there will be a phased approach to collection of the data in forthcoming months. The database forms part of the infrastructure that government is developing to support the introduction of charging Clean Air Zones by some local authorities to ensure compliance with statutory nitrogen dioxide limits. When introduced the task of providing the details for each vehicle will increase processing that officers undertake.

3.5 Fares Review for Hackney Carriages

3.5.1 Over the course of the previous year some sections of the taxi trade in East Devon requested that the council considers increasing fares that taxis can charge of the public. Although fares can be charged below the rate, taxis cannot charge above the fare tariffs set by the council. There are differing views with drivers being for or against a fare increase and because there has been no overall agreement officers circulated a comparison of the East Devon fare tariff against fares set by other Devon authorities together with balloting licence holders seeking their response.

3.5.2 The ballot was open from 5th November to 7th December 2018 asking the question of whether a fare review was sought and the subsequent responses were two to one in favour of a fare increase. Although 66% specified their wish to raise fares the number of responses was relatively low and identified that a third of all respondents still want to keep currently set fares.

3.5.3 The process to review and increase taxi fares has a number of legislative steps to follow involving formal consultation with licence holder and the public. Increasing the fares that taxis charge of the public should not be confused with fees charged for obtaining a licence. A further report is provided today with a recommendation to review the current fare tariff.

3.6 Safeguarding Awareness Training

- 3.6.1 At the last meeting of this committee approval was given revising the taxi policy making it a mandatory requirement that all drivers (taxi and private hire) attend a Safeguarding Awareness workshop within 12 months of their licence being granted or upon renewal.
- 3.6.2 Officers have continued preparing plans to introduce safeguarding briefings with a training provider who delivers safeguarding awareness sessions for other Devon authorities. Dates are being prepared to begin delivering sessions later this year. It remains the aim to provide funded awareness sessions free to licence holders in the first year in advance of costs being considered within later reviews of fees.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. This council adopted the Local Government (Miscellaneous Provisions) Act 1982 provisions with effect from 1982 that provided legislation for local authorities to control street trading. In October 2017, the council introduced the current street trading regime by designating most of the district where street trading can be conducted with prior consent. Following the change, feedback was received from event organisers and those applying regarding complexity of application processes and the charges for obtaining consent. At the meeting of this committee in March 2018 steps were taken with approval to revise the policy and withdrawing charges.
- 4.1.2 Since 2017 the uptake of street trading has been significant with events occurring in villages and towns throughout the year. Organisers now use block booking arrangements when applying and experience shows that representations are far more likely to be received concerning mobile commercial traders rather than for community markets or festivals. In 2018 it was evident that more commercial mobile traders sought to trade in the west and the north of the district with applications for pizza, fish & chip and similar vendors received and generating local consultations. This increases work for officers accepting, consulting, visiting prospective trading locations and processing through to either grant or refusal.
- 4.1.3 It is evident there are two general types of trading arrangements occurring in the district, these being;
 - (a) Short term multiple trading at festivals, community and charitable events, often promoted or requested by parish and town councils (usually lasting for a day or weekend), and
 - (b) Commercial mobile trading businesses for repeated, long term trading in single or rotational locations trading throughout the year (static/mobile food sellers).
- 4.1.4 Refusals that have necessary have been on the grounds of vendors seeking to trade in unsuitable or unsafe locations with each application treated on the basis of their own merits.
- 4.1.5 210 street trading consents have been granted since October 2017 in East Devon and consistently around ten percent of applications received are for mobile traders operating continually throughout the year. Experience over the previous two years shows that short term events using block bookings involve 20 to 50 traders attending.
- 4.1.6 Officers continue to acknowledge feedback from applicants and event organisers and the use of trader lists to assist block bookings to reduce form filling is being supported.

4.2 Enforcement

- 4.2.1. The Council has a Regulatory Enforcement and Prosecution Policy and officers provide guidance and support to new applicants in the first instance for securing compliance. During previous periods officers undertook a visit to a location where an unlicensed trader had been identified and was located. Officers have engaged with that trader to arrange compliance through submission of a street trading application in the future.

4.3 Street Trading during Sidmouth Folk Week

- 4.3.1. In 2008 this committee approved the designation of Sidmouth Esplanade as a consent street for the purpose of street trading allowing the council to provide trading pitches during the annual Sidmouth Folk Week event. Applications are eagerly taken up within days of the process opening each April and are usually oversubscribed.
- 4.3.2 Prior to this arrangement there were repeated, annual problems regarding high numbers of unregulated traders, pedlars and entertainers filling the length of The Esplanade leading to complaints from the public, congestion for those attending Sidmouth Folk Week and increased risks due to the lack of control before 2008.
- 4.3.3 Officers from Licensing, Environmental Health, and Street Scene now engage in the planning arrangements. Partnership meetings held before and after the event now fall under this council's Safety Advisory Group or SAG (see Point 7.2). The trading pitches are managed and regulated by officers to ensure compliance by setting up promptly and operating within the conditions issued with each consent. Recent developments include Street Scene officers marking areas on The Esplanade at the request of the folk week organisers for buskers and folk week entertainers to reduce congestion near to the trading pitches.
- 4.3.4 At a meeting of the SAG late last year regarding folk week trading on Sidmouth seafront, representatives from the fire service specified the need to improve standards of trader gazebos requiring fire resistant material and sturdier gazebos for reasons of public safety at the event in 2019. The council has addressed this need with enhanced risk assessments, to meeting fire resistant standards and more uniformity of the gazebos for this year's event and officers are preparing to issue the trading consents for the event taking place between 2nd and 9th August.
- 4.3.5 The organisers of Sidmouth Folk Week also control trading and performance events in other areas of the town, some of which are licensed in accordance with the activities that take place. Last year the organisers verbally raised an option to take responsibility for the seafront trading pitches managed by this council although it was not followed up with a detailed proposal that allowed consideration before for this year's event.
- 4.3.6 Over the ten years that seafront trading has been administered by the council it has served its purpose by preventing the problems evident before 2008. The success is due to the approach of the numerous officers, council services and partner agencies being involved along with the traders themselves. It is now timely to consider the future approach given the demands upon the council through administering trading applications and pitch allocation from April through to the compliance work necessary at the event each year.

4.4 Street Trading Policy Review

- 4.4.1. At the last meeting of this committee members raised a need for officers to consider a review of the street trading policy by exploring options to re-introduce application charges for commercial street trading consents. The "Open for Business" guidance from LGA on locally set licence fees outlines that local authorities should consider fees that are charged for both administering and processing licences along with subsequent compliance arrangements.
- 4.4.2 Principles to be followed outline that any charges must be reasonable, proportionate and fair. The guidance requires that a local authority should achieve the following:
- a) To recover the reasonable costs of administration and enforcement of each licence,
 - b) To charge separately for application processing and for enforcement,
 - c) To seek service improvements to help reduce costs to businesses, and
 - d) To use evidenced based data as the basis of fee charges and retain this for transparency.

- 4.4.3 Upon implementing the new regime in 2017, the Council approved an additional officer post which has been necessary for delivering the work required to manage applications;
- i. Supporting new applicants in the requirements of making an application (pre-application)
 - ii. Visiting proposed trading locations across the district where trading has not previously been allowed or undertaken to consider suitability (pre-application)
 - iii. Processing applications and all associated documents
 - iv. Consulting other authorities for street trading applications,
 - v. Responding to objections and representations,
 - vi. Determining new and variation applications,
 - vii. Responding to requests to appeal refusals,
 - viii. Administering new consents (up to 12 months),
 - ix. Preparing sub-committee reports where necessary,
 - x. Compliance visits to traders, events and festivals following grant,
 - xi. Enforcement / investigation of traders operating without consent,
 - xii. Potential prosecution of unlawful traders being unwilling to engage.
- 4.4.4 A benchmarking exercise was carried out comparing street trading application fees set by other district and city councils in 2017. Those comparisons are available and shown for 2019 in **Appendix A**.
- 4.4.5 In May 2019 the licensing manager sent a letter to commercial traders (**Appendix B**) that have been granted a street trading consent in the district outlining a proposal to consider introducing application fees for which there was a low return of just three written responses, one of which clarified they would be happy to pay a fee and two requiring further notification and clarification for the reasons for this course of action.
- 4.4.6 Respondent One outlined in summary that “a fee should only be introduced on a pro rata basis” considering frequency and number of days per week that trading occurs along with not understanding why a small business should be charged fees in a difficult economic climate.
- 4.4.7 Respondent Two outlined in summary that as a small business there are a number of checks in place with costs of wages and insurance to pay and that any fee setting “is unfair for those small traders trying to make a simple living.” The respondent asked for 12 months’ notice to allow a decision of whether to cease trading.
- 4.4.8 Respondent Three clarified that they had obtained a street trading consent but had not yet started trading but are planning to work for two days each week concluding “we are happy to pay the fee” but await a right to work permit.
- 4.4.9 This council seeks to retain control over street trading activity ensuring the nature and quality of what is being sold, where it takes place and to ensure trading is acceptable and safe. Administering the regime since 2017 confirms the continuing demand for street trading in East Devon and the proposal to consider application fees will support the current standards and services to both traders and to the public.
- 4.4.10 It would be a matter for officers to prepare a detailed structure to allow further consideration for charging fees in line with the principles for setting fees (outlined in 4.4.2 above) when this committee next meets. A future proposal may consider introducing fees not above the level agreed by this committee previously in 2017 along with sufficient notice given to those who would be affected for applicants applying to trade in new locations or upon renewing an existing consent in 2020. The legislation allows for this to happen and also for consent to be revoked in certain circumstances regarding non-payment.

5.1 Sex Entertainment Venue Licensing

- 5.1.1 In 2010 the Policing and Crime Act 2009 classified lap and pole dancing clubs and similar venues as Sexual Entertainment Venues giving local authorities the option to adopt the

legislation to regulate them as Sex Establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. As a result this Council adopted the legislation requiring that all Sex Entertainment Venues within the district should be licensed.

5.1.2 At the time there was one Sexual Entertainment Venue operating in Exmouth that was subject to licensing arrangements until it closed in 2014. There are no licensed premises now under this category in East Devon and only a relatively low number across Devon.

5.1.3 Although legislation does not require councils to have a policy relating to the licensing of Sex Establishments it is regarded as good practice to indicate the authority's approach to licensing premises by setting out the requirements that will generally apply when making decisions on applications. This Council introduced its policy in 2011 and a further report is provided detailing the review that has been completed with some minor changes that are necessary.

6. General Licensing including Animal Licensing and Skin Piercing

6.1 Animal Welfare, Skin Piercing and Scrap Metal Dealers Licences and Permit

6.1.1 The responsibility for administering these functions was passed over to Environmental Health teams from the Licensing team in 2016 now being responsible for the administration of animal welfare, skin piercing, tattooing and scrap metal licensing.

6.1.2 Under the arrangements, staff from the Environmental Health teams conduct licence application inspection visits, oversee enforcement and have specialist knowledge of those licences types along with setting fees. Environmental Health managers' report to this committee when appropriate regarding changes to legislation, policy and fees.

7. Consultation and Partnership Working

7.1 Officers attend Licensees meeting

7.1.1 Officers attend Licensees meetings in the East Devon area whenever possible as these meetings should be supported and are a useful forum for the exchange of ideas, information and keeping up to date with issues. Attendance by council, local police and also police licensing staff is keenly sought by the licensing trade to discuss local crime and disorder matters. Officers have attended licensees meetings over the previous period where associations exist in Exmouth, Sidmouth and Axminster.

7.1.2 It has been evident in the previous period that staff from other organisations, particularly the police are facing challenges completing this work. Whilst council and police licensing staff work closely, challenges faced by operational police staff continue with very limited attendance.

7.2 Safety Advisory Group (SAG) Meetings

7.2.1 Officers attend meetings of this council's Safety Advisory Group (SAG) including a meeting in the spring and in June considering advanced planning for outdoor events. The SAG operates as a multi-agency, non-statutory group that meets providing guidance to event organisers. Meetings are arranged quarterly and core members from each responsible authority attend to support safely organised events.

7.3 Meeting between Members, Taxi Proprietors and Officers

7.3.1 The council holds two meetings with members of the taxi trade and the Licensing and Enforcement Committee every year with both officers and councillors attending in April and November. The Licensing Committee's Chairman and Vice Chairman normally attend these meetings and all members are welcome. The last meeting took place on 11 April 2019 at the council offices and provides a forum for regular communication allowing the taxi trade to

discuss relevant topics, changes in policy and to exchange views. Over the course of the last year the subject of increasing the fares that can be charged by the trade has been raised and which is subject of an additional report today. Although there is not an overall taxi association in East Devon there is an association of members for taxi drivers in Exmouth.

- 7.3.2 On 3 June 2019 officers attended a meeting of the Exmouth Taxi Association which had been called by the trade to highlight recent assaults upon taxi drivers. The association outlined two specific assaults by members of the public on drivers that were reported to the police and initial options have been proposed to prevent further incidents.
- 7.3.3 The next liaison meeting has been provisionally arranged for Thursday, 7 November 2019 commencing at 1300 hour in the council chamber, Blackdown House, Honiton.

8. Licensing Team update

- 8.1 Since the last meeting of this committee in February, the licensing team has completed staff recruitment following retirement and other changes last year to reach full staffing. The team consists of the manager, three licensing officers and four licensing support officers. Working methods involve lead officers with overall responsibility for taxis, licensed premises (alcohol) and gambling matters along with a duty cover arrangement on a daily working basis.
- 8.2 The support officers have lead responsibilities including managing incoming Temporary Event Notices, premises applications, lotteries and charitable street collections to ensure statutory timescales for receiving and issuing licences are met.
- 8.3 Officers in the licensing team are engaged in a number of IT projects this year, notably involving programming work in preparation to replace the licensing database planned for late 2019. The transformation project to deliver other IT systems will also involve staff from the team over the course of the next year.
- 8.4 Staff in the licensing team also have responsibility for burial and memorial requests in the three cemeteries managed by the council. The manager and one of the support officers oversee this area of work in addition to licensing matters. Policies regarding burial and cemetery matters are not reported to the Licensing and Enforcement Committee.

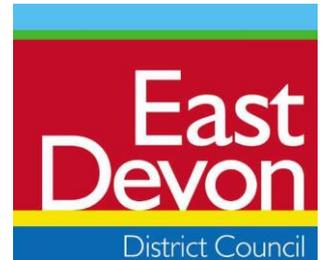
9. Member Training

- 9.1 Initial training was provided for Licensing and Enforcement Committee members last month at locations in Taunton, Yeovil and Honiton delivered by a leading expert, Phillip Kolvin QC. The training provided sufficient understanding for members to attend and to determine contested applications at licensing sub-committee hearings.
- 9.2 Due to the diverse types of licences and permits managed by this licensing authority it is proposed that committee members are provided with additional, short training sessions being provided after each Licensing and Enforcement Committee to inform and refresh knowledge. Experience has shown that contested applications most likely to appear before licensing sub-committees involve taxi and alcohol premises. Should members feel it is useful, sessions could be delivered beginning with these subjects from the next meeting planned in November.

Street Trading Fee Comparison Table:

Council (District or City)	Annual Consent Charged in 2017	Annual Consent Charges 2019
East Devon	£1200 <i>(withdrawn 2018)</i>	No Charge
South Somerset	£1300	£1300
Exeter City	£1825	£1880
Dorset Purbeck	£3400	£3400
Dorset Weymouth	£3300 - £7000	£3300 - £7000
Plymouth	£1281 to £7511	£1337 to £11,099

Figures Obtained May 2019



Date: 2019
Direct email: licensing@eastdevon.gov.uk
Our ref: STC/SS

*Trader Details
Address*

Dear Sir or Madam

Street Trading Consent Fees

We are writing to provide information about the possibility of once again introducing fees to obtain Street Trading Consents in East Devon. You may be aware that the whole of the district was designated to allow street trading in October 2017 and fees were introduced for traders applying to trade. Fees in 2017 were benchmarked against other Devon and Somerset licensing authorities that undertake street trading with the cost of an annual trading consent originally being £1200. You may have been aware of the original fee arrangement if you commenced trading at that time or perhaps had even paid the fee.

This Council made changes by withdrawing all fees in 2018 and reducing complexity of application forms to allow the new trading regime to develop. It still remains the case that the Council wants to retain control over street trading activity ensuring the nature and quality of what is being sold, where it takes place and also to ensure trading is acceptable and safe.

The Council is now proposing to re-introduce fees later this year to maintain the current standards and services to traders and the public. This means when applying to trade in new locations or upon renewing an existing consent that a fee could be charged for this service. Legislation allows for this to happen and also for consent to be revoked in certain circumstances. The proposal would involve establishing fees at the same level when set in 2017 without an increase. A date has not yet been confirmed to reset street trading fees and if you would like to comment upon this proposal we would ask that you make contact in writing by 15 June 2019 to:

**The Licensing Manager, East Devon District Council,
Blackdown House, Border Road, Honiton, EX14 1EJ**

Email: Licensing@eastdevon.gov.uk

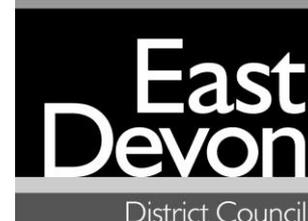
Yours sincerely

Stephen Saunders
Licensing Manager

Blackdown House, Border Road
Heathpark Industrial Estate
Honiton, EX14 1EJ

Email: csc@eastdevon.gov.uk
eastdevon.gov.uk
@eastdevon

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Report to: **Licensing and Enforcement Committee**

Date of Meeting: 3 July 2019

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 8

Subject: **Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 – Sex Establishment Licensing Policy and Standard Conditions. To seek approval to make minor amendments to update existing policy.**

Purpose of report: This report updates the Licensing & Enforcement Committee on revisions to the existing policy.

Recommendation: **That the Committee:**

- 1. Approve minor revisions to the Council's Sex Establishment Licensing Policy and**
- 2. Recommend to Council at its meeting on the 9 July 2019 that the revised Policy be adopted**

Reason for recommendation: The legislation does not require the Council to have a policy relating to the licensing of Sex Establishments however it is regarded as good practice to have a policy to indicate the authority's approach to licensing premises of this type within its area.

Officer: Steve Saunders, Licensing Manager, ssaunders@eastdevon.gov.uk
01395 515616

Financial implications: The revisions maintain the Council's policy in line with current legislation. Councils that operate without properly adopted Policy may be liable to legal challenge which if successful could entail costs being awarded against the Council.

Legal implications: These are incorporated within the report.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: **Appendices:**
Appendix A - Draft of Revised Sex Establishment Licensing Policy

Background Papers:

- ❑ Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009
- ❑ Sexual Entertainment Venues – Home Office Guidance for England and Wales (March 2010)
- ❑ Statement of Licensing Policy for Sex Establishments 2011

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

1 Background and Proposed Draft Amendments to the Existing Policy

- 1.1 With effect from the 1 January 1983 East Devon District Council resolved to apply Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982, providing that anyone wishing to operate a 'sex establishment' within the district must first obtain a licence from the council. At that time the term 'establishment' related to shops and cinemas used for that purpose.
- 1.2 Following the reclassification of lap dancing style premises as sexual entertainment venues (Section 27 of the Policing and Crime Act 2009) the Council resolved that with effect from the 1 February 2011 the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 would apply. All sex establishment venues including lap dancing style premises within the East Devon District are required to be licensed by this Council.
- 1.3 The legislation does not require the Council to have a policy relating to the licensing of sex establishments however it is regarded as good practice in order to indicate the authority's approach to licensing premises of this type. In July 2011 the Council introduced a Statement of Licensing Policy for Sex Establishments setting out the requirements for premises to be licensed including applications, standard conditions and fees which followed full consultation with parish and town Councils, local residents, the statutory responsible authorities and holders of premises licences under the Licensing Act 2003.

2. Amendments to Policy

- 2.1. The policy explains the application process, provides information on what is expected of applicants and sets out the policies the Council will generally apply when making decisions on applications.
- 2.2 All policies should be reviewed and revised where appropriate and with regard to this policy, significant amendments should only be implemented after further consultation with those who are likely to be affected to include existing licence holders and statutory responsible authorities. Specific examples of a significant amendment are provided as significant financial change, procedural changes or those effecting the community.
- 2.3 Following a review of the Sex Establishment Licensing policy minor amendments have been identified only to general information relating to updating the profile of East Devon and changing contact details for some of the responsible authorities.
- 2.4 The amendments are shown in red font of the revised policy.
- 2.5 There are no amendments at all to legislation, to existing fees, procedures or conditions. The changes are minor in nature and will not impact upon individuals, organisations or the community. Accordingly there is no requirement to undertake a further consultation.
- 2.6 Currently there are no licensed premises having relevance to this policy in East Devon.
- 2.7 A copy of the revised policy is attached at **Appendix A**.

3 Conclusions

- 3.1 The licensing authority will review the policy when it identifies a need or as required by legislation or procedural change. Following this review, it has not been necessary to make significant amendments to the Sex Establishment Licensing Policy that would prompt further consultation, the revisions being of a minor nature.
- 3.2 Changes to the Sex Establishment Licensing policy that are approved by the Licensing and Enforcement Committee must be recommended to full Council, being the procedure to formally adopt that policy.
- 3.3 Once adopted the revised policy it will be available through the Council's website.



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Sex Establishment Licensing Policy

**Licensing & Governance
East Devon District Council
Blackdown House, Border Road
Honiton, EX14 1EJ**

**Tel: 01395 515616
Email: licensing@eastdevon.gov.uk
www.eastdevon.gov.uk/licensing**

For the period 9 July 2019 to 8 July 2024

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Foreword

This Licensing Policy sets out East Devon District Council's requirements for premises to be licensed as sex establishments within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009). This legislation shall be referred to thereafter as 'the Act'.

Section 2 of the Act provides that local authorities may resolve that Schedule 3 will apply to their area, which has the effect of requiring premises operating as sex establishments in that authority's area to be licensed. The adoption of Schedule 3 also allows the Council to set terms and conditions and fees for the grant, renewal, variation and transfer of such licences and the number of licences that may be issued in the area, which may be nil.

The Council does not take a moral stand in adopting this policy. It recognises that parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a Licensing Authority to administer this licensing regime in accordance with the law.



1.0 Introduction

- 1.1 East Devon District Council with effect from the 1 January 1983 resolved to apply Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, providing that anyone wishing to operate a 'sex establishment' within the district must first obtain a licence from the council. At that time the term 'establishment' related to shops and cinemas used for that purpose.
- 1.2 Following the reclassification of lap dancing style premises as sexual entertainment venues by Section 27 of the Policing and Crime Act 2009 the Council resolved that with effect from the 1 February 2011 the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 would apply to the District. This means that all sex establishment venues including lap dancing style premises within the East Devon District are required to be licensed by this Council.
- 1.2 This Statement of Licensing Policy for Sex Establishments sets out the council's requirements for premises to be licensed as 'sex establishments' within the meaning of the Act.
- 1.3 The information contained in the appendices attached and referred to within this policy should be read as an inclusive part of this policy document.
- 1.4 Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act or schedules issued under the Act.

Definition of Sex Establishment

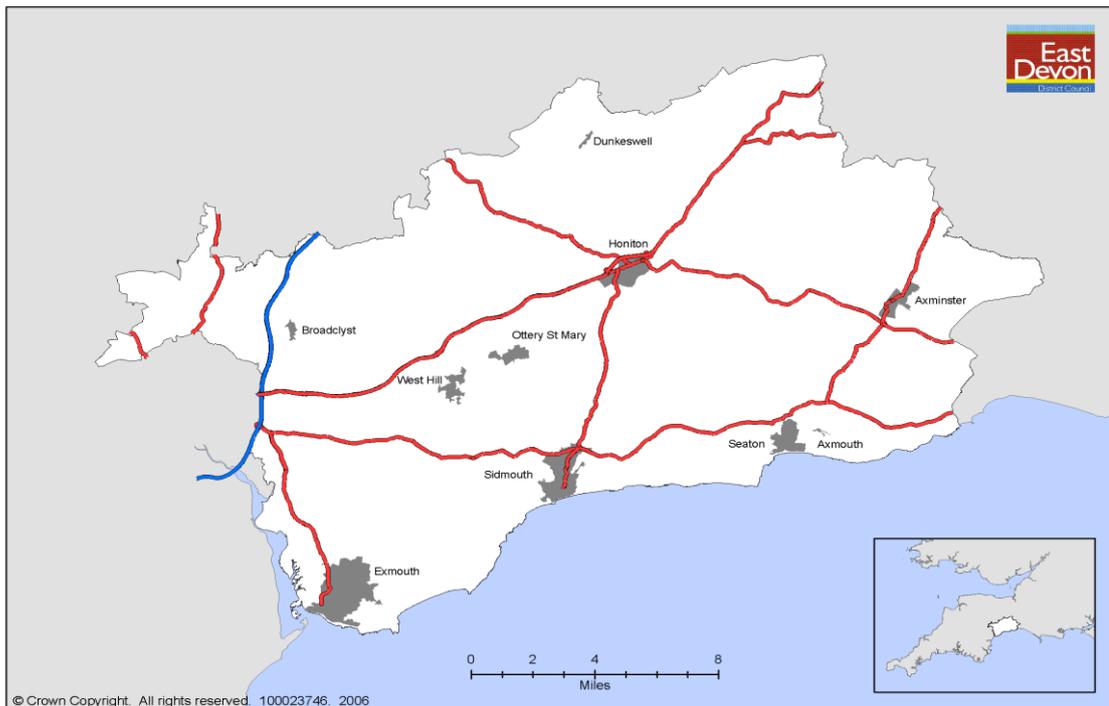
- 1.5 A 'sex establishment' is defined under the Act as a 'sex shop', a 'sex cinema' or a 'sexual entertainment venue'. Full definitions of those and other relevant terms can be found in **Appendix A**. This appendix also provides detail on when a sexual entertainment venue is exempt from the provisions of the Act.
- 1.6 Sex establishments include any premises, vehicle, vessel or stall used as a sex establishment but does not apply to the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

The Geographical Area

- 1.7 East Devon is one of eight Devon districts and, in population terms, it is the largest in the County.
- 1.8 The District has a dispersed and mainly rural population. The rural nature of the area is emphasised by the low population density of ~~1.67 per hectare~~ **175 per square km** (the England and Wales average is ~~3.4~~ **427**. **Of our 32 wards 21 of the have a population density below the England average. The District is fully parished with 68 Town and Parish Councils.** Areas of Outstanding Natural Beauty and the World Heritage Coast cover a high proportion of the District.
- 1.9 The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population ~~35,762~~ **48,613**), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets.



- 1.10 The District's population estimates stand at ~~135,643~~ 142,300: 63,900 males and 68,900 females. Predominantly East Devon residents are from a white British background. Just 1.59% of the district's population is from an ethnic background ~~The black and ethnic minority population of East Devon is considerably small—only 2.5% (3400 people described their ethnic group as non-white in the 2006 ethnicity census, with Mixed race being the single largest grouping at 1,100).~~



The population of East Devon has an older age profile with the average age of its residents being 50.7 years (national average is 40.1 years). East Devon has a highest age profile of all of the districts in Devon with the largest percentage of those aged 65+ at 30.06%, this equates to 42,758 people.

~~East Devon also has a high percent of elderly residents with 34% of the population over 60 years of age.~~

- 1.11 ~~The overall population is expected to increase by 14,300 people between 2017 and 2027, a rise of 10%. East Devon population is set to grow over the next few years, projected to reach 145,800 in 2016 although this is less than had been projected before the recession. Currently those in 60 to 64 year aged 65+ form the largest age group in the district.~~
- 1.12 The entertainment industry within the District is a major contributor to the economy of East Devon. ~~South West Tourism data shows the financial contribution of visitors to the economy of East Devon~~ # attracting tourists and visitors, makes for vibrant towns and communities and is a major employer

(Sources of data: Knowing East Devon – Release 4 May 2019)

Policy Development

- 1.13 This Licensing Policy sets out the policies the Council will generally apply when making decisions on applications. This document explains the application process and provides information on what is expected of applicants. In addition, the processes by which representations may be made about an application are explained.
- 1.14 Whilst this policy stands alone, applicants are advised to also have regard to the Council's Licensing Act 2003 Policy which may impact on applicants, particularly those wishing to undertake other licensable activities such as the retail sale of alcohol.
- 1.15 In addition to considering the requirements of the Act, consideration has been given to the following requirements in developing this policy:
- (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the district;
 - (b) The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
 - (c) The Provision of Services Regulations 2009 to ensure requirements are:
 - (i) non-discriminatory;
 - (ii) justified by an overriding reason relating to the public interest;
 - (iii) proportionate to that public interest objective;
 - (iv) clear and unambiguous;
 - (v) objective;
 - (vi) made public in advance; and
 - (vii) transparent and accessible.
- 1.16 At the time of adopting this policy, the Council has no licensed sex establishments. ~~but there is one premises that falls within the new definition of a sexual entertainment venue. Under the legislation this business has twelve months from the 1 February 2011 to become licensed or to stop trading in its current form.~~

Consultation

- 1.17 ~~The pubic consultation in relating to the draft policy~~ The Council has had due regard of the need to consider public consultation which took place between the 1 March 2011 and



the 25 May 2011 when fully adopting the policy. ~~, in line with the HM Government Code of Practice on Consultation (published July 2008), which is available at www.berr.gov.uk/files/file47158.pdf. Consultation was conducted with local residents, the statutory responsible authorities under the Licensing Act 2003, and holders of premises licences under the Licensing Act 2003 in the District.~~

Amendments to Policy

- 1.18 Any significant amendment to this policy will only be implemented after further consultation with those who are likely to be affected by the amendments. If required this will include existing licence holders and statutory responsible authorities under the Licensing Act 2003. ~~The revision of more minor details within this policy such as changes to geographic data and updating contact information will not require consultation unless impacting upon points 1.19 (a to c).~~
- 1.19 For the purposes of clarity any significant amendment is defined as one that:
- (a) is likely to have a significant financial effect on the licence holders, or
 - (b) is likely to have a significant procedural effect on the licence holders, or
 - (c) is likely to have a significant effect on the community.
- 1.20 Any minor amendment to this policy may be authorised by the ~~Strategic Lead, Licensing and Governance Corporate Legal and Democratic Services Manager~~ in consultation with the Chairman of the Licensing and Enforcement Committee.
- 1.21 The Authority will review the Policy when it identifies a need or as required by legislation changes or following government guidance.

Exchange of Information

- 1.22 The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its statutory objective of reducing crime in the area.
- 1.23 Details of applications and objections which are referred to a Licensing Sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.
- 1.24 The names and addresses of objectors will not be disclosed to applicants or published in public reports in accordance with the Act. Such details will be made available to Councillors on the Licensing Sub-Committee.

Further Information

- 1.25 Should you have comments regarding this policy please write to the address on the front of this document or email licensing@eastdevon.gov.uk.
- 1.26 Relevant legislation can be viewed at www.opsi.gov.uk.



2.0 Primary Considerations

- 2.1 East Devon District Council being the Licensing Authority for the purposes of the Act recognises that it can set a quantity limit in relation to the number of sex establishments in an area but has not chosen to do so based on the specific geographical characteristics and nature of this District.
- 2.2 Whilst the Council has not imposed a limit on the number of premises that may be licensed in any area, and whilst treating each application upon its own merits, the Council will not licence premises in proximity to:
- (a) a predominantly residential area;
 - (b) premises, areas or access routes to such premises or areas which are designed for or attract children or families, such as school, play areas, parks, children's centres, youth clubs, nurseries or leisure facilities, or any other similar establishment;
 - (c) a place of public religious worship;
 - (d) historic buildings and conservation areas, cultural and tourist attractions;
 - (e) educational establishments;
 - (f) community facilities and public buildings;
 - (g) an area with a history of social difficulties;
 - (h) a gateway to an identifiable locality.

3.0 The Application and Determination Process

Making an Application

- 3.1 Whilst not required, the council would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.
- 3.2 The Authority expects that applicants will have consulted with local residents, businesses and/or community groups in the vicinity of the premises so far as is reasonable practicable.
- 3.3 Applicants are advised to consult the Licensing Authority's pool of sex establishment conditions in order to ascertain the standard of the premises required, and the types of controls typically applied.
- 3.4 The Authority recognises that a partnership approach is more likely to ensure the licensing objectives are achieved and maintained. Pre-application discussions between the applicant, the Council's Licensing Service and other relevant agencies will be encouraged so that the licensing process can be as trouble free as possible.
- 3.5 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must also state where it is to be used as a sex establishment.
- 3.6 Applications should be made in line with **Appendix B** to the policy, which explains the Council's application process including that required by legislation. Examples of these requirements include the requirement to notify the Police of an application and the display and publication of public notices giving notice of the application. Application forms can be downloaded from the Council's web site, completed online or are available upon request to the Council's Licensing Service.
- 3.7 An application form and relevant documentation for the new licence, renewal, variation or transfer must be completed and returned with the appropriate fee as set down by the Council. The current fee levels can be obtained by reference to the Council's Licensing Service.

Duration of Licences

- 3.8 Licences will generally be issued on an annual basis but can be issued for a shorter term if deemed appropriate.

Commenting on Licence Applications

- 3.9 Unlike some other licensing regimes (for example those for alcohol, entertainment, or gambling), a wide range of people can raise objections about sex establishment licences. The police are a statutory consultee for all applications. Objectors should have something to say which is relevant to the statutory grounds for refusal that are set out in the Act.
- 3.10 Representations must state the grounds on which the objection/positive representation is made. Objections must be made in writing and should ideally:
 - be made in black ink;



- indicate the name and address of the person or organisation making the representation;
 - indicate the premises to which the objection relates;
 - indicate the proximity of the premises to the person making the representation.
- 3.11 Representations may only be made within the period of 28 days following the date on which the application was given to the Licensing Authority.
- 3.12 The Licensing Authority will not normally consider any objection or positive representation that does not contain the name and address of the person making it.
- 3.13 Representations received that are frivolous or vexatious or which relate solely to moral grounds are likely to be given lesser weight.
- 3.14 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason, for example - malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 3.15 Where representations are made the Council will provide copies to the applicant. The Council will not divulge the identity of the objector(s) to the applicant without the objector's permission to do so.

Determination of Applications

- 3.16 When considering applications, the Licensing Authority will have regard to:
- The Local Government (Miscellaneous Provisions) Act 1982 (as amended);
 - Any supporting regulations;
 - This Licensing Policy
 - Any supporting Government Guidance
- 3.17 This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.
- 3.18 When determining applications, the Licensing Authority will take account of any comments made by the Chief Officer of Police and any representations made.
- 3.19 We take the following approach to deciding applications:
- Each application will be decided upon its merits. This authority will not apply a rigid rule to its decision making;
 - Objectors can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Elected councillors may represent interested parties providing they do not also sit on the Licensing Sub-Committee determining the application in question;
 - We will give clear reasons for our decisions.
- 3.20 Where objections are made and not withdrawn, a hearing before a Licensing Sub Committee will normally be held within 20 working days of the end of the period during which representations may be made, unless all parties agree that a hearing isn't necessary.



- 3.21 Objections will be considered by a Licensing Sub Committee, where both applicants and objectors will be provided with an equal opportunity to address the Sub Committee.

Conditions

- 3.22 As provided for by Paragraph 13 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 the Authority will maintain a set of “standard conditions” to be attached to each sex establishment licence granted, renewed or transferred by the Authority unless expressly excluded or varied. The standard conditions will be kept under review by the Council’s Licensing and Enforcement Committee and if the need is identified separate sets of standard conditions will be maintained for sex shops, sex cinemas and sexual entertainment venues. Further conditions may be attached to individual licences where the authority considers it necessary. A copy of the District Council’s CCTV Standards Policy appear at **Appendix C** and a copy of the District Councils Standard Licensing Conditions appear at **Appendices D and E**.
- 3.23 Should the Authority decide to grant a licence issues that it may seek to restrict by way of condition are:
- The hours of opening and closing
 - Display and advertisements on or in the sex establishment
 - The visibility of the interior of a sex establishment to passers-by
 - Any change of use from one kind of sex establishment to another
- 3.24 The Authority will seek to avoid duplicating licence conditions where a premises holds licences under both the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982.

Opening Hours

- 3.25 In the case of sex establishments (other than Sexual Entertainment venues), for example shops and cinemas, the Licensing Authority will normally expect that these premises will only open between 9.30 am and 6.00 pm and remain closed on Sundays, all bank holidays and public holidays.
- 3.26 In the case of sexual entertainment venues the Licensing Authority will normally expect that these premises to only provide sexual entertainment between the hours of 12 noon and 12 midnight on Mondays to Saturday inclusive. However in the case of premises that already hold a Premises licence under the Licensing Act the opening hours will normally be no earlier than 12 noon or the start time for the regulated entertainment of dancing at those premises whichever is the later and the closing time no later than the closing time for the premises as shown on the Premises licence issued under the Licensing Act 2003.

Refusal of licences

3.27 Except where the council is prohibited from granting, renewing, varying or transferring a licence, the council will not refuse a licence without first:

- Notifying the applicant or holder of the licence in writing of the reasons;
- Giving the applicant or holder of the licence the opportunity of appearing and making representations before a Licensing Sub Committee.

Mandatory Grounds for Refusal

3.28 The council must refuse to grant or transfer a licence to:

- (a) A person under the age of 18;
- (b) A person who is for the time being disqualified from holding a licence;
- (c) A person who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
- (d) A body corporate which is not incorporated in an EEA state; or
- (e) A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

Discretionary Grounds for Refusal

3.29 An application for grant or renewal of a licence may be refused on one or more of the grounds shown below:

- (a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) That the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which the council considers is appropriate for that locality (nil may be an appropriate number for these purposes).
- (d) That the grant or renewal of the licence would be inappropriate having regard to:
 - i. The character of the relevant locality;
 - ii. The use to which any premises in the vicinity are put; or
 - iii. The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.30 An application for transfer of a licence may be refused on either or both of the grounds shown in paragraphs (a) and (b) in paragraph 3.28 above.



Revocation of licences

3.31 The council may revoke a licence:

- on any of the grounds specified in paragraph 3.27 (Mandatory Grounds for Refusal);
- on either of the discretionary grounds specified in paragraph 3.28 (a) and (b).

3.32 The council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a Licensing Sub Committee.

Cancellation of licences

3.33 The licence-holder may surrender the licence at any time and may request the council in writing to cancel the licence.

3.34 In the event of the death of a licence-holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.

3.35 Where the council are satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, it may extend or further extend the period in which the licence remains in force.

Appeals

3.36 Section 27 of the Act permits appeals by the applicant/licence holder against the decisions of the Council in relation to sex establishments. The Magistrate's Court will hear appeals in the first instance. Under normal circumstances a request for an appeal must be made to the Magistrates Court within 21 days of the Council's decision being notified to the applicant/licence holder.

3.37 An appeal can be made in the following circumstances:

- Refusal of an application for the grant, renewal or transfer of a licence.
- Refusal of an application to vary terms, conditions, or restrictions on or subject to which any licence is held.
- A grievance relating to any term, condition or restriction on or subject to which a licence is held.
- Revocation of a licence.

3.38 There is a right of appeal against refusal on mandatory grounds, only where the appellant alleges the ground did not apply to them.

3.39 There is no right of appeal against refusal on the grounds that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.

3.40 There is no right of appeal for objectors.



3.41 A person wishing to appeal against a Council decision on a sex establishment is strongly advised to seek legal advice prior to commencing any action in a Court of Law.

4.0 Complaints and Enforcement

- 4.1 Where possible and appropriate the council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 4.2 The council is responsible for the administration and enforcement of the licensing regime and will have regard to the Department of Business Enterprise & Regulatory Reform's Regulators' Compliance Code, the Better Regulation Commission's five Principles of Good Regulation and the Licensing Services' own enforcement policy. The council will carry out its regulatory functions in a fair, open and consistent manner.
- 4.3 Specifically, the council is committed to:
- (a) be proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed;
 - (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
 - (c) be consistent – to implement rules and standards fairly;
 - (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
 - (e) target its regulatory action at cases in which action is needed.
- 4.4 The council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law or breach the conditions of the licence.
- 4.5 The council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the council will undertake its role and how the principles of effective enforcement will be achieved.
- 4.6 This policy is freely available from the Licensing Service as are details of the corporate complaints procedures, both of which can also be viewed on the Council's web site.

□ Definition of a 'Sex Establishment'

A 'Sex Establishment' is defined under the Act as a 'Sex Shop', a 'Sex Cinema' and a 'Sexual Entertainment Venue'.

It includes any premises, vehicle, vessel or stall used as a sex establishment but does not include a private dwelling to which the public are not admitted.

□ Meaning of a 'Sex Cinema'

'Sex Cinema' means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:

- (a) Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity
- (b) Are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling house to which the public is not admitted.

□ Meaning of a 'Sex Shop'

'Sex Shop' means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- (a) Sex articles; or
- (b) Other things intended for use in connection with, or for the purpose of stimulating or encouraging:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.

- **'Sex Article'** means:

- (a) anything made for use in connection with, or for the purpose of stimulating or encouraging:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity
- (b) anything to which sub paragraphs (1) and (2) below applies.

This sub paragraph applies –

- (1) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- (2) to any recording of vision or sound, which:
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity



- (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to genital organs or urinary or excretory functions.

- **Sex Articles and Significant Degree**

Licences for sex shops are required where 18R films are being sold, or where there is a “significant degree” of “sex articles”.

The phrase ‘sex articles’ is defined in the 1982 Act, (as explained previously) but the phrase ‘a significant degree’ is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider:

- (a) the ratio of sex articles to other aspects of the business;
- (b) the absolute quantity of sales;
- (c) the character of the remainder of the business;
- (d) the nature of the displays in the business;
- (e) turnover;
- (f) other factors which appear to be materially relevant.

- **Meaning of a ‘Sexual Entertainment Venue’**

A ‘sexual entertainment venue’ means:

“any premises at which relevant entertainment is provided before a live audience for financial gain of an organiser. For the purposes of the Act it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

- **‘Relevant entertainment’** means:

- (a) Any live performance; or
- (b) Any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means). An audience includes an audience of one.

- A **‘display of nudity’** means:

- (a) In the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
- (b) In the case of a man, exposure of his pubic area, genitals or anus;

- An **organiser** means:

Any person who is responsible for the organisation or management of;

- (a) The relevant entertainment; or
- (b) The premises.

- **Exempt Premises**

The following are not sexual entertainment venues for the purposes of this policy:

- (a) premises at which the provision of relevant entertainment is such that:
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months;
 - (ii) no occasion has lasted for more than 24 hours; and



- (iii) no occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided

For the purposes of this policy, relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser before an audience and involves partial or full nudity.

Note: Whilst the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 provides this exemption from the need to have a sex establishment licence in the circumstance set out above there is no exemption from the Licensing Act 2003 where licensable activities take place. This includes dancing and the sale of alcohol.



Requirements for Applying for Grant, Variation, Transfer or Renewal of a Sex Establishment Licence

1. Grant of a licence

To apply for the grant of a sex establishment licence an applicant must: -

- (a) send to the council: -
 - i) a completed application form (copies can be obtained from the Council's Licensing Service);
 - ii) a plan to the scale of 1:100 of the premises to which the application relates;
 - iii) a non-returnable application fee determined from time to time by the Licensing Authority [currently set at the time of the approval of this policy at £2,000];
 - iv) a 'hearings' fee determined from time to time by the Licensing Authority [currently set at the time of the approval of this policy at £4,000] (returnable if a committee hearing is not required);
- (b) display a notice on or near the premises (template notice available from the Council's Licensing Service);
- (c) advertise the application in a local newspaper (template notice available from the Council's Licensing Service);
- (d) send a copy of the application and plan to the Chief Officer of Police, Licensing Office, Devon & Cornwall ~~Police Constabulary, Police Station, Exmouth, EX8 1JZ~~ within 7 days of making the application to the council.

2. Plan requirements

2.1 The plan shall show: -

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) the location of escape routes from the premises;
- (d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- (e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) in a case where the premises includes any booths the location and area relative to the floor;
- (h) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (i) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;

- (j) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (k) the location of a kitchen, if any, on the premises.

2.2 The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

2.3 Applicants should be aware that the Fire Authority will require a suitable risk assessment to be carried out by the responsible person “in order to ensure the safety of all relevant people”.

3. Public notices

3.1 A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the council, where it can be conveniently read from the exterior of the premises.

3.2 Where the premises cover an area of more than 50 square meters, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

3.3 The notice must be on white paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16. A template of a blank notice can be obtained on request from the Council’s Licensing Service.

3.4 The notice must state: -

- (a) details of the application and activities that it is proposed will be carried on or from the premises,
- (b) the full name of the applicant,
- (c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
- (d) the date, being at least 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
- (e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5,000) for which a person is liable on summary conviction for the offence.

3.5 A similar notice must be published in a local newspaper within 7 days of giving the application to the council.

4. Variation of a licence

4.1 The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

4.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

5. Renewal of a licence

5.1 The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.



5.2 The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

6. Transfer of a licence

6.1 A person may apply for transfer of a licence at any time.

6.2 The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

CCTV Standards Policy

Where the provision of CCTV system is a requirement of the conditions of a Sex Establishment licence the system must comply with at least the East Devon District Council's CCTV minimum standard. This has been set in consultation with the police to ensure that the systems provide a tool to prevent criminal and anti-social behaviour and to ensure that the images provided by the systems meet the recognition and identification standards necessary for the detection and prevention of crime and disorder.

The Minimum Standard

- (1) All installed CCTV systems must be of an evidential standard and installed and operated to the satisfaction of the Licensing Authority and the Police. It should cover all areas to which the public have access, excluding, where relevant, the inside of toilets. Images must be recorded at a frame rate no less than 25 frames per second. All cameras located on entrances must be able to produce images of an evidential standard as defined by the Home Office Guidance Manual or any guidance replacing it. Entrance cameras must be capable of providing good quality head and shoulder images of persons entering/leaving the premises. They should be high-resolution colour cameras complete with an auto iris vari-focal lens. Cameras in the main areas of the premises must be able to cope with the extreme lighting conditions that may be present. The cameras, recording equipment and all ancillaries should be maintained according to the manufacturers' instructions to ensure that the standard of the image is not compromised.
- (2) The numbers of cameras located within the premises and where appropriate for external coverage must be appropriate for the type of licensing activity carried out at the premises. The numbers of cameras, locations and views provided by these cameras must be to the satisfaction of the East Devon District Council as the Licensing Authority and Police. All cameras must provide evidence of identification and be correctly maintained.
- (3) Where, to satisfy the East Devon District Council and the Police, there is a requirement to provide an external camera for coverage of entrances it must be a high resolution, minimum of 450tvl colour day/night camera, complete with an auto iris vari-focal lens, fitted in a heated weatherproof external housing.
- (4) In all areas where cameras are operating including externally the lighting must be of sufficient brightness to complement the quality of the camera images.
- (5) The CCTV recordings must be stored on a digital multiplex recorder with either an on board CD/DVD re-writer and/or a USB port for evidence recovery.
- (6) The system must be capable of producing single images and forward, reverse, pause and slow motion at full screen resolution.
- (7) CCTV images must be retained for a minimum of 14 days and be produced on the request of the Police or a Licensing Officer of East Devon District Council. Recording media must be set to 25 frames per second.

- (8) Recordings of incidents occurring at the premises must be made secure and held for possible inspection.
- (9) All equipment shall have constant time/date generation.
- (10) Unless otherwise agreed in writing by the Licensing Authority there must be sufficient members of trained staff available during the hours of operation to be able to download evidence at the request of the police including the creation of evidential discs. Where an exemption to this requirement is agreed in writing then the evidence requested must be provided no later than 48 hours after the request.
- (11) Premises licence holder must be able to demonstrate that they have devised a recording management system that prevents recordings being tampered with, stolen, misplaced or failure to record. Recording equipment must be housed in a secure room/cabinet where access is restricted and the operation is strictly limited to authorised persons.
- (12) The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Council's Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book.
- (13) A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act ~~2002~~.

Sex Establishment Licensing Conditions



Standard Sex Shop Conditions

- 1) Where any special conditions appear on any licence issued by the Council which appear to be inconsistent with these regulations, the regulations shall prevail.
- 2) The grant of a licence for a sex shop shall not be deemed to convey any approval or consent which may be required under any enactment, bye-law, regulation or order other than the Third Schedule to The Act.
- 3) Where marginal notes and headings have been inserted in these regulations, this has been done for the purpose of information and convenience only and shall not affect in any way the meaning or construction thereof.
- 4) The Council reserves the right from time to time in any special case to add to or modify these Licence Conditions.

Opening Times

- 5) Except with the prior consent of the Council, a Sex Shop shall not be open to the public before 9 am and shall not be kept open after 6 pm.
- 6) Sex shops must not operate on Good Friday, Easter Sunday, Christmas Day, and Boxing Day.

Conduct and Management

- 7) Where the Licensee is a body corporate or an incorporated body, any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
- 8) The Licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Shop in his absence and of whom details (including photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the Premises during the whole time they are open to the public.
- 9) The name of the person responsible for the management of a Sex Shop at any particular time it is open to the public shall be prominently displayed within the premises throughout the time he or she is responsible for its conduct.



- 10) The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Shop in his or her absence and the names and address of all those employed in the Sex Shop. The Register is to be completed each day of the Sex Shop opening for business and is to be available for inspection by the Police and Authorised Officers of the Council.
- 11) The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.
- 12) The Licensee shall maintain good order in the Premises.
- 13) No person under the age of 18 years shall be admitted to the Premises or employed in any position with regard to the business of a Sex Shop.
- 14) The Licensee shall ensure that the public are not admitted to any part of the Premises other than those parts which have been approved by the Council.
- 15) The Licensee shall ensure that no part of the Premises shall be used by prostitutes (male or female) for soliciting or for any immoral purpose.
- 16) Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Shop by means of personal solicitation outside or in the vicinity of the Premises.
- 17) The Licensee shall comply with all statutory provisions and any regulations made there under.
- 18) The Licensee shall ensure that during the hours the Sex Shop is open for business, every employee shall wear a badge of a type approved by the Council indicating his or her name and that he or she is an employee.
- 19) The copy of the Licence and of these Regulations required by be exhibited in accordance with Paragraph 14(1) of Schedule 3 to the Act shall, if reproduced, be to the same scale as the originals issued by the Council. The copy of the Licence required to be displayed as aforesaid shall be suitably framed and a copy of these regulations shall be retained in a clean and legible condition.

Use

- 20) A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
- 21) The Premises shall only be used as a shop.
- 22) No residential use shall be made of any part of the Premises unless a separate access is provided from the outside of the Premises.
- 23) No change of use of any portion of the Premises from that approved by the Council shall be made until the Consent of the Council has been obtained thereto.

Goods available in Sex Shops

- 24) All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to



show to persons who are inside the Premises the maximum prices to be charged.

- 25) All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be prominently displayed within the Sex Shop.
- 26) No film or video film shall be exhibited, sold or supplied unless it complies with the Videos Recording Act 2010 and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
- 27) The Licensee shall, without charge, display and make available in the Sex Shop such free literature on counselling in relation to sexual problems, published by any organisation as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all sale points in the Sex Shop.
- 28) No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except: -
 - (a) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a Licence granted by the Council.
 - (b) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
- 29) The entrances to the Premises shall be of a material or covered with a material which will render the interior of the Premises not visible to passers by.
- 30) Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have been suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This Regulation shall not be construed as lessening the obligation of the Licensee under Regulation 28 hereof.

State, Condition and Layout of the Premises

- 31) All parts of the Premises shall be maintained in good repair and in a clean and wholesome condition.
- 32) A lobby area shall be provided at the entrance to the shop to ensure that the inside of the shop is not visible when the front door is opened.
- 33) Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Shop is open to the public.
- 34) The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements
 - (a) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "EXIT".
 - (b) Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "PRIVATE".



- (c) Save in the case of emergency, no access shall be permitted through the Premises to any unlicensed Premises adjoining or adjacent.
- 35) The external doors to the Sex Shop shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 36) The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.
- 37) No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
- 38) Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.

Safety

- 39) The Licensee shall take all reasonable precautions for the safety of the public and employees.
- 40) The Licensee shall comply with any fire precautions and safety measures that may be required of him by East Devon District Council or **Devon and Somerset Fire and Rescue Fire-Authority**.
- 41) The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.



Standard Sex Entertainment Venue Conditions

General

- 1) The Licensee must remain in personal control of the Premises at all times or nominate an individual in writing over the age of 18 with the authority to organise/arrange/facilitate activities within the Premises.

Management Operation Manual (A guide to the safe operation of the venue including safety and security information)

- 2) The Licensee must produce a Management Operation manual detailing all aspects of procedure when the Premise is operating the relevant entertainment. This document shall be regularly reviewed and be available for inspection by East Devon District Council, Police or civilian Police Licensing Officers upon request.
- 3) Control measures must be in place as part of the Management Operation Manual to ensure the safety of performers when they leave the Premises following a period of work.

House Rules (A guide to the acceptable conduct of customers and performers)

- 4) The Premises must provide a copy of its House Rules or any revisions to the Council and the Police before the premises open under its Sex Establishment Licence.
- 5) The Licensee must ensure that all performers and staff, including door supervisors, shall be made aware of the House Rules.
- 6) All dancers, staff and door supervisors shall read a copy of the House Rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the Premises as part of their due diligence. They shall be available for inspection by East Devon District Council, Police or civilian Police Licensing Officers upon request.
- 7) A clear copy of these conditions and the House Rules shall be exhibited at all times in or near the performers' changing room(s) in such a manner as they can be read by the performers. These conditions shall be protected against theft, damage or defacement.
- 8) A large print copy of the House rules must be clearly displayed at the entrance/lobby of the premises and each customer shall be advised of the House rules prior to entry.
- 9) House Rules on the performance of relevant entertainment will be displayed throughout the Premises and be clearly visible to customers. This will include any private individual booth area. The use of table/bar notices or prominent signage throughout the premises would be satisfactory.

Staff

- 10) The Licensee shall ensure that all performers and all staff working within the sexual entertainment venue, if not a United Kingdom citizen, hold the required Work Permit.

Performers

- 11) Performers shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks using recognised photographic documentation, such as a passport or driving licence. Copies of these documents must be retained by the premises licence holder from the date of the start of employment for at least 12 months after the performer left the licence holder's employment.
- 12) A log book shall be maintained on the Premises detailing the names, start and finish times, of the individual performers involved in all forms of adult entertainment.
- 13) Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.
- 14) No performer shall be allowed to work if, in the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
- 15) Performers must get dressed at the end of each performance to the extent that their breasts and genitals are fully covered.
- 16) Performers shall not accept any telephone number, email address, address or contact information from any customer.

Performances

- 17) Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed premises as may be agreed in writing with the Council.
- 18) There shall be no physical contact between customers and the performers except for the placing of money or tokens into the hands of the dancer or into an arm band, waistband, garter or similar receptacle at the beginning or conclusion of a performance.
- 19) Customers must be seated in an upright position against the back of the booth or seat with either their hands by their sides or under their buttocks (sitting on their hands), depending on the house rules, before a dancer can start a table or private dance.
- 20) Performers must not:
 - (a) Climb onto any furniture unless provided as an on stage prop for the purpose of their performance.
 - (b) Simulate any sex acts.
 - (c) Undertake any performance involving a sex act with any other performer, persons in the audience or any object.
 - (d) Use inappropriate, suggestive or sexually graphic language at any time.
- 21) In the event of the relevant entertainment being performed for private viewing, the customer shall be informed of the duration



and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designed for private relevant entertainment.

Door Supervisors

- 22) Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority or any replacement organisation.
- 23) An adequate number of registered Door Supervisors shall be on duty on the Premises whilst relevant entertainment takes place. There shall be at least one Door Supervisor on each entrance and in each separate part of the Premises. Provision must also be made for the security of performers, with either a door supervisor located at the entrance to the changing rooms or a secure entry mechanism such as a PIN door lock installed on the changing room door.

Customers

- 24) No person under the age of 18 shall be admitted to the Premises. Customers who appear to be under the age of 25 must be asked to provide approved photographic proof of their age, i.e. passport, driving licence or pass-scheme. The Licensee must provide prominent notices at each entrance to the Premises to this effect.
- 25) No customer shall be admitted to the Premises if, in the judgement of the management or the SIA door staff, they appear to be intoxicated, or under the influence of illegal substances.
- 26) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
- 27) Customers must remain appropriately clothed at all times.

Closed Circuit Television (CCTV)

- 28) CCTV must be installed, operated and maintained to the satisfaction of the East Devon District Council and the Chief Officer of Police in accordance with the requirements set out in the EDDC Sex Establishment Licensing Policy.
- 29) CCTV images must be retained for a minimum of 14 days and be produced on the request of the Police or a Licensing Officer of the East Devon District Council. Recording media must be set to 25 frames per second.
- 30) The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book.
- 31) A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002.



- 32) CCTV shall be installed and maintained in all private performance areas to the satisfaction of the East Devon District Council and the Chief Officer of Police in accordance with the requirements set out in the EDDC Sex Establishment Licensing Policy.
- 33) Other than recordings made in accordance with the conditions relating to CCTV, no filming, recording or electronic transmission of performances shall take place without the prior consent of the Licensing Authority.

Layout of Premises and Safety of Performers

- 34) The approved activities shall only take place in the areas designated by the Licensing Authority.
- 35) A suitable system must be installed to ensure the safety of performers whilst in private booths. This should include a combination of CCTV and door supervisors and be fully documented as part of the Premises Management Operation Manual. Where the Premises is unable to satisfy East Devon District Council and/or the Police that the measures in place adequately protect performers, then all dance booths used as part of the approved activities must be equipped with a panic alarm for safety. Procedures shall be put in place to ensure that this alarm system is monitored at all times during approved entertainment.
- 36) The Licensee shall ensure to the Council's satisfaction (including, where required, necessary planning or building control consents) that the interior of the premises is not visible from the outside of the Premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from outside of the Premises.
- 37) The Licensee shall ensure that any occupancy limits set by East Devon District Council are not exceeded whilst sexual entertainment takes place on the premises.
- 38) Information shall be clearly displayed within the internal exit areas of all sexual entertainment venues, reminding customers to behave in a responsible and appropriate way towards all persons, after leaving the venue.

Advertising

- 39) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.
- 40) Where the Council has given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.
- 41) The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises and which may be offensive.



- 42) The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall distribute flyers direct to residential premises, advertising the venue.

Documentation

- 43) The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.





Report to: **Licensing and Enforcement Committee**

Date of Meeting: 3 July 2019

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 9

Subject: **Proposed Hackney Carriage (Taxi) Fare Tariff Changes**

Purpose of report: The Licensing and Enforcement Committee is asked to consider a proposed increase to the Hackney Carriage Fare Tariff.

Recommendation: **That That the Committee consider the contents of this report and the proposed Hackney Carriage Tariff increase options set out in Appendix C including the extras charges and approve a tariff to be adopted as the maximum fare tariff and used by Hackney Carriage vehicles licensed in East Devon from a date to be fixed in 2019**

Reason for recommendation: To enable the Hackney Carriage trade within the District to continue to operate economically whilst still maintaining an efficient, safe and cost effective service for those residents of and visitors to East Devon who need to use the services of a Hackney Carriage

Officer: Steve Saunders, Licensing Manager, ssaunders@eastdevon.gov.uk
01395 515616

Financial implications: There are minimal costs mentioned in the report as a public notice in the local newspaper will be required before any alteration to charges. Also If there are any objections this will need to be referred to Committee which would incur minimal officer time.

Legal implications: The statutory context is set out within the report and requires no further comment

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: **Appendices:**

Appendix A - Current Taxi Fares Tariff

Appendix B – Comparison of Current Taxi Fare Tariffs

Appendix C – Proposed Increase Taxi Fare Tariff 2019

Background Papers:

- Local Government (Miscellaneous Provisions) Act 1976

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

1 Background Information

- 1.1 Section 65 of the of the Local Government (Miscellaneous Provisions) Act 1976 permits district councils to set the fares tariff for hackney carriages (taxis) licensed in the district. The tariff sets the maximum fares that taxis can charge the public when using their vehicles. This Council, in common with most other Councils, have used this power for many years and the last tariff increase was agreed by this Committee in December 2012. A copy of the tariff table approved in 2012 appears at **Appendix A** to this report.
- 1.2 All changes to the hackney carriage tariff table in use in East Devon must be approved by the Licensing and Enforcement Committee. The legislation requires that before any alteration to the tariff table can take effect a public notice explaining the changes must be placed in a local newspaper. The public then must be provided with a period of at least 14 days to make comment on the proposals. If no adverse comment/objection is received the approved changes must take effect. Alternatively if adverse comment/objection is received then the matter must be returned to allow the Committee to consider the representation(s). Providing members agree a new fare tariff table at today's meeting it is proposed a public notice will be published in local newspapers explaining the changes and inviting observations.
- 1.3 Since the 2012 increase the subject of fare increases have been kept under review and discussed at the twice yearly meetings held between taxi proprietors, the chairman and vice chairman of this committee and licensing officers. The taxi trade's opinion has generally been divided over the last two years in view of the economic situation that some did not wish to see a fare increase as the costs for fares are met by the public using taxis. At the meetings held in 2017 the divided view on fares continued although more members of the taxi trade began to raise the need for a fare increase to be considered.
- 1.4 Because the geography of East Devon is a large and widely rural district with towns being widespread there is not one overall taxi trade association and so all licence holders are invited to the Council's twice yearly meetings to communicate matters. There is a trade association in Exmouth being well represented by its members and officers attend the quarterly meetings.
- 1.5 With no overall taxi trade association across the district and because of the divided opinion, this committee approved in May 2018 that officers produce and circulate a comparison of the East Devon fare tariff against fares set by the other authorities in Devon. This was undertaken in conjunction with issuing a ballot to all hackney carriage licence holders seeking their response as to whether a rise in taxi fares was required.

2. Evidence to Consider a Fare Tariff Increase

- 2.1. The ballot was conducted from 5th November to 7th December 2018 asking the question of whether a fare review was necessary. There were 33 responses of which 22 were in favour of a fare increase but with 11 being against a fare rise. Officers acknowledged the outcome in writing to all who responded and the result was reported back to this committee at its meeting in February 2019. The timing then identified an implication of setting a new fare tariff prior to Brexit occurring, then due on 29th March, as a considered risk. It was considered necessary to initially assess the impact and any changes after 29th March on fuel prices although Brexit did not subsequently occur.

- 2.2. A comprehensive update on the proposal for a tariff increase was then discussed at the next meeting of officers, councillors and the trade members on 11 April 2019 although attendance levels on behalf of the trade were very low. Unlike the previous fare increase that occurred in 2012, the trade has not proposed specific details of an increase on this occasion and in 2012 the request was for a rise between 5% and 8% as put forward.
- 2.3. Officers have researched and produced a comparison table of current fares set by this and other authorities in Devon (**Appendix B**) The comparison takes into account the position of highest to lowest fares set by all 362 licensing authorities in England and Wales based upon costs of the first two miles journey prepared by the national Private Hire and Taxi Monthly magazine. The present East Devon Tariff 1 cost for a two mile journey is **£3.30**.
- 2.4. Although this Council has not reset its fares since 2012 that is not the longest period for an increase and Mid Devon District Council has not reviewed fares since 2010. This Council's tariff is not the lowest charging against the first two miles and EDDC sits mid table in the Devon comparison. Other factors that are evident from the comparison include;
- a) Plymouth and South Hams Councils have reset their taxi fares more recently in the previous two year yet both tariffs remain lower than present EDDC fare charges,
 - b) North Devon, South Somerset and Torbay Councils increased fare tariffs more recently in 2016 being only marginally above the EDDC tariff by 1.42% to 3.9%
 - c) Although EDDC has not recalculated fares since 2012, this Council still sits within the top third of all council charging fares being 96th out of 362 Council tariffs.

3 Explanation of the Normal Fare Tariff Structure

- 3.1 Members may find it useful for an explanation of the tariff structure operated in this district and there are three Tariff levels:

Tariff 1

This is a daytime tariff operative between 7 am and 7 pm on all weekdays with the exception of the days covered by Tariff 3.

Tariff 2

This is an evening/night and Sunday tariff operated between 7 pm and 7 am on all weekdays with the exception of the days covered by Tariff 3. It is also operative all day on Sundays with the exception to the days covered by Tariff 3.

Tariff 3 This is a Bank Holiday, Christmas and New Year tariff operative on all Bank Holidays (24 hours) and from 7 pm on Christmas Eve until 7 am on 27 December and from 7 pm on New Year's Eve until 7 am on 2 January.

- 3.2 Changes to the normal fare structure provides within each tariff band for an upfront charge for an initial set distance or part of that distance. This distance varies according to the fare structure approved by the authority but is usually a distance of between a quarter and half mile. Currently for example on Tariff 1 a customer in East Devon would pay £3.00 for the first half a mile travelled (approximately 880 yards) or part of that distance as set in 2012. The taxi trade call this the "Flag" (the point when the 'for hire' flag would be dropped on the original manual style meters). Thereafter the customer would pay 20 pence for each 176 yards covered or part of that distance. On the occasions the taxi is stationary, for example at traffic lights, the meter changes from charging by distance to charging by time.

4 Fare Tariff Pricing Proposals

- 4.1 Given that licence holders have not offered or proposed any details of a fare increase that should be considered by the Council, the option to address an increase in Tariff 1 to the 'flag'

fare in a similar manner to that in 2012 is an option. An increase amounting to an additional 20 pence on Tariff 1 which would mean a £3.20 initial 'flag' charge rather than the current £3.00 – a 6.66% increase.

- 4.2 Taxi tariff tables are very complicated especially as they need to be set to enable them to work correctly and evenly in meters fitted to hackney carriages. This means that with three Tariffs it is impossible to set a fixed increase across the whole distance range. The option exists to set an increase against Tariff 1 whilst maintaining current charges on Tariff 2 and Tariff 3. Officers have reported that recent investigations regarding taxis overcharging customers for journeys have not concerned Tariff 1 but were relevant to the other tariffs. By comparing those fare tariffs against routes and fees that were charged, two reviews established that the charged fares were rightly within the set tariff and were not over charged.
- 4.3 A more detailed analysis of the Tariff 1 option is contained in **Appendix C**. This compares the current pricing structure and the increases per mile are shown in red font.
- 4.4 The proposed increase to just Tariff 1 would revise the position of East Devon in the Devon and the national fare comparison tables taking the first two mile journey cost to **£3.60**. This option would result in EDDC sitting in second place in the Devon fares comparison table and EDDC would also become one of 16 Council's in the national table that have set the charge of £6.60 for the first two miles of a journey. The comparison table of proposed fares set by this and other authorities in Devon, Dorset and Somerset appears at **Appendix D**.
- 4.5 The proposal for the increase in Tariff 1 and increasing the two mile journey will reflect the current fare charges set by Exeter and East Dorset Councils currently, both being neighbouring Councils.
- 4.6 The Private Hire and Taxi Monthly magazine is published every month nationally and regularly carries a number of detailed national and regional taxi tariff league tables. The proposed changes to East Devon District Council Tariff 1 will take this council to between the 52nd and 67th places shared amongst 16 councils with the same fare tariff for a two mile journey. There are 362 Councils listed in the table. The table shows that currently the most expensive hackney carriage tariff in the country relates to those operating in and around Heathrow airport at £10.60 and Luton airport then at £9.20. The lowest fare set by a Council in the national table relates to Newcastle Under Lyme at £4.20.
- 4.7 Also included in **Appendix C** are details of the extra charges that apply to taxi proprietors having to valet and clean vehicles when soiled by customers for which the cost is passed to the customer concerned. It is proposed to change present fees charged by private valeting companies at £80. This fee is intended to compensate the operator for the cost of cleaning the vehicle's interior and for the loss of earnings while the taxi is off the road.
- 4.8 There is no proposal to increase the extras charges relating to baggage, additional passengers and carriage of dogs which remains at 20 pence per item. However it is proposed that all tolls, ferry and car parking fees should be included as extras. This will permit an operator to charge for these additional costs associated with a taxi journey.
- 4.9 There is no proposal to amend the current permitted booking fee which would remain at £12. The booking fee is a discretionary charge imposed by the operators and only becomes payable when a customer books a taxi and is told at the time of the booking what the fee will be. This enables the customer to go elsewhere if he/she does not want to pay the fee. Experience shows that operators seldom levy this charge. The need for the ability to make such a levy occurs a lot in rural areas. Taxi proprietors are unable to charge for the journey taken to collect a passenger and the journey back to base. In an urban area the distances between pickups are usually not great and operators are able to absorb these extra costs. The difficulty comes in the more rural areas when these 'dead' journeys are reasonably long. Without the ability to make a booking fee a taxi operator may feel they would make a loss over the total journey and therefore could decline to transport the customer being a situation that benefits no one.

5 Recommendation

- 5.1 Members will note from the contents of this report that the current fare tariff table in East Devon has not actually fallen significantly behind although an increase has been requested from a majority of the taxi trade that responded to the ballot. If members are minded to agree the option to increase Tariff 1 it will mean that the maximum permitted 'Flag' fee (first 880 meters) will increase by 20 pence or 6.66%. There after the percentage increase for each full mile reduces and so the first 2 miles will increase by 20 pence but that will only be a 4.76% along with the same increase on each subsequent mile. A 10 mile journey would increase by £1.10 but still be a 4.76% increase. Therefore the proposal to increase Tariff 1 costs between 4.76% and 6.66% would provide a similar increase requested in 2012 by the trade when that rise was between 5% and 8%.
- 5.2 When considering the proposal members are reminded that the tariff that is set should be regarded as the maximum fares that can be charged whilst taxi proprietors are not tied to charging the maximum fare but are not permitted to charge more than the maximum tariff. Market forces are known to come into play, and for instance because of the level of competition in Exmouth the charges levied in that area are often less than the maximum tariff.
- 5.3 If the proposal is approved the new changes could come into use before the Christmas period begins later this year. As explained earlier in this report Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 requires that before any alteration to the tariff table can take effect a public notice explaining the changes must be placed in a local newspaper. The public then have 14 days to make comment on the proposals. If no adverse comment/objection is received the approved changes can take effect and it is planned that they should come into use in early December.
- 5.4 Alternatively if adverse comment/objection is received then the matter must be returned to allow this Committee to consider the representation(s).

APPENDIX A**FARES FOR HACKNEY CARRIAGES**

Effective from 5 December 2012

FARES FOR DISTANCE OR TIME	TARIFF 1	TARIFF 2	TARIFF 3
	Daytime Rate	Evening & Night Rate	Bank Holiday, Christmas and New Year Rate
	Applies on weekdays between 7 am and 7 pm	Applies on weekdays between 7 pm and 7 am and on Sundays	All Bank Holidays (12mn to 12mn) and from 7 pm on 24 December to 7 am on 27 December; and from 7 pm on 31 December to 7 am on 2 January
TO HIRE THIS TAXI FOR THE FIRST HALF OF A MILE	£3.00	£4.00	£5.20
FOR THE FIRST WHOLE MILE	£4.20	£5.25	£6.80
FOR EACH MILE THEREAFTER	£2.10	£2.50	£2.80
WAITING TIME	£0.30 for 37.50 seconds	£0.25 for 31.25 seconds	£0.40 for 50 seconds
PRICE GUIDE			
1 mile	£4.20	£5.25	£6.80
2 miles	£6.30	£7.75	£9.60
3 miles	£8.40	£10.25	£12.40
5 miles	£12.60	£15.25	£18.00
10 miles	£23.10	£27.75	£32.00
EXTRAS			
Soiling Charge	£50.00	£80.00	£80.00
* Must inform customer at time of booking	Maximum Booking Fee *		£12.00
	Baggage Fee per Bag		20 pence
	Each Additional Passenger after the first		20 pence
	Carriage of Dogs		20 pence
	Assistance Dogs and Wheelchairs		Free of charge
	Toll, ferry & car park fees incurred with journey		Actual Fee

**Comparison Hackney Carriage Fares
All Devon Taxi Tariffs**

POSITION (All England Councils)	COUNCIL	2 MILE FARE COST	DATE OF LAST FARE INCREASE
51	TORRIDGE	£6.62	2017
58	EXETER	£6.60	2013
68	NORTH DEVON	£6.55	2016
73	SOUTH SOMERSET	£6.50	2016
92	TORBAY	£6.39	2016
96	EAST DEVON	£6.30	2012
125	TEIGNBRIDGE	£6.20	2013
158	PLYMOUTH	£6.00	2017
161	SOUTH HAMS	£6.00	2017
221	MID DEVON	£5.70	2010

362 total

Figures obtained from Private Hire & Taxi Monthly (PHTM) June 2019

Note

- a) Plymouth and South Hams Councils reset taxi fares more recently in the previous two year yet still both Councils remain lower than EDDC present charges,
- b) North Devon, South Somerset and Torbay Councils increased fare tariffs more recently in 2016 being only marginal increases above EDDC (between 1.42% to 3.9%)
- c) EDDC has not recalculated fares since 2012 yet remain 96th out of 362 Councils and within the top third of higher charging fares

APPENDIX C

FARES FOR HACKNEY CARRIAGES



Effective from – **Date to be Agreed**

FARES FOR DISTANCE OR TIME	TARIFF 1	TARIFF 2	TARIFF 3
	Daytime Rate	Evening & Night Rate	Bank Holiday, Christmas and New Year Rate
	Applies on weekdays between 7 am and 7 pm	Applies on weekdays between 7 pm and 7 am and on Sundays	All Bank Holidays (12mn to 12mn) and from 7 pm on 24 December to 7 am on 27 December; and from 7 pm on 31 December to 7 am on 2 January
TO HIRE THIS TAXI FOR THE FIRST HALF OF A MILE	£3.20 from £3.00	£4.00	£5.20
FOR THE FIRST WHOLE MILE	£4.40 from £4.20	£5.25	£6.80
FOR EACH MILE THEREAFTER	£2.20 from £2.10	£2.50	£2.80
WAITING TIME	£0.30 for 37.50 seconds	£0.25 for 31.25 seconds	£0.40 for 50 seconds
PRICE GUIDE			
1 mile	£4.40 from £4.20	£5.25	£6.80
2 miles	£6.60 from £6.30	£7.75	£9.60
3 miles	£8.80 from £8.40	£10.25	£12.40
5 miles	£13.20 from £12.60	£15.25	£18.00
10 miles	£24.20 from £23.10	£27.75	£32.00
EXTRAS			
Soiling Charge	£80.00 from £50.00	£80.00	£80.00
* Must inform customer at time of booking	Maximum Booking Fee *		£12.00
	Baggage Fee per Bag		20 pence
	Each Additional Passenger after the first		20 pence
	Carriage of Dogs		20 pence
	Assistance Dogs and Wheelchairs		Free of charge
	Toll, ferry & car park fees incurred with journey		Actual Fee

**Comparison of Proposed Hackney Carriage Fares
Devon, Dorset and Somerset Taxi Tariffs 2019**

POSITION (All England Councils)	COUNCIL	2 MILE FARE COST	DATE OF LAST FARE INCREASE
51	TORRIDGE	£6.62	2017
52-67	EAST DEVON	£6.60	2019
57	EAST DORSET	£6.60	2017
58	EXETER	£6.60	2013
68	NORTH DEVON	£6.55	2016
73	SOUTH SOMERSET	£6.50	2016
92	TORBAY	£6.39	2016
125	TEIGNBRIDGE	£6.20	2013
158	PLYMOUTH	£6.00	2017
161	SOUTH HAMS	£6.00	2017
221	MID DEVON	£5.70	2010

362 total

Figures obtained from Private Hire & Taxi Monthly (PHTM) June 2019