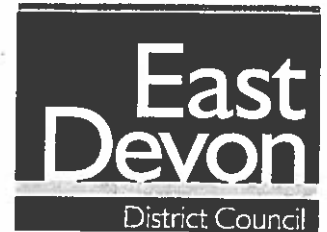


Date 28 May 2010
Contact number: 01395 517544
E-mail: clane@eastdevon.gov.uk
Our Ref: Chris Lane



To:
Members of the Licensing & Enforcement Committee
(Councillors David Atkins, Ray Bloxham, Roger Boote, Chris Gibbings,
Pat Graham, Steve Hall, May Hardy, John Humphreys, John Jeffery,
Jim Knight, Ann Liverton, Barry Nicholson, Ken Potter, Pauline Stott,
Mark Williamson)

East Devon District Council
Knowle
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Head of Legal, Licensing & Democratic Services
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**Meeting of the Licensing & Enforcement Committee
Tuesday 8 June 2010 at 9.30am in the Council Chamber, Knowle, Sidmouth**

Members of the public are welcome to attend this meeting when items listed under Part A of the agenda are being considered. For the benefit of Councillors and members of the public a hearing loop system will be in use in the Council Chamber.

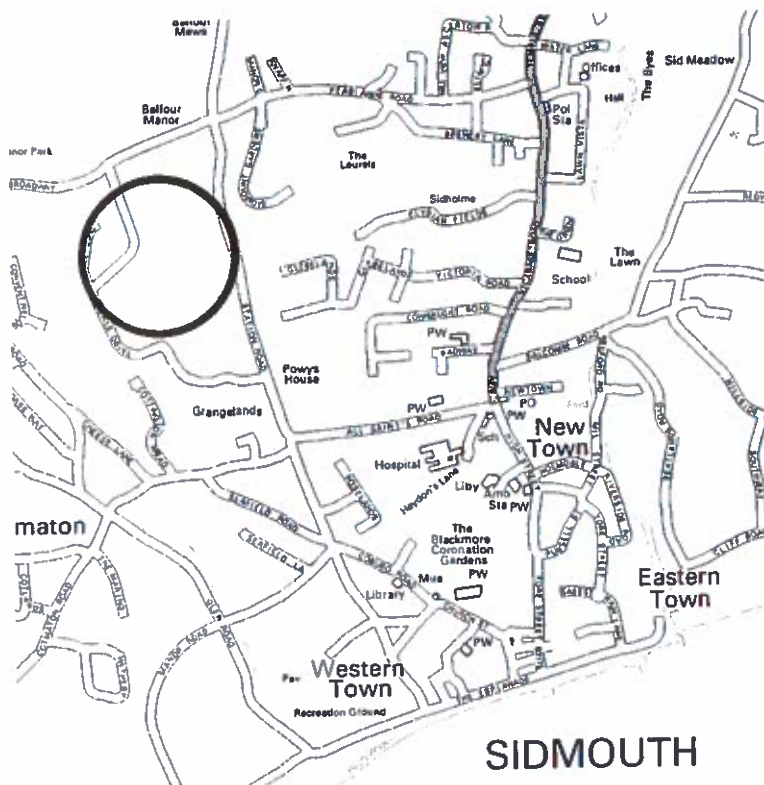
A G E N D A

	Page/s
1 To confirm the minutes of the meeting held on 2 March 2010.	3 - 6
2 To receive any apologies for absence.	
3 To receive any declarations of interests relating to items on the agenda.	
4 To consider any items which, in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).	
5 To agree any items to be dealt with after the public (including the press) have been excluded. (There are no items which the Officers recommend should be dealt with in this way).	
6 Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis & General	7 - 17
7 Licensing Act 2003 - An Explanation of the New Mandatory Conditions for Premises Licences and Club Premises Certificates	18 - 22
8 CCTV Minimum Recording Standards: Briefing by Devon and Cornwall Police Force Solicitor	

Members Remember!

- You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- Make sure you say the reason for your interest as this has to be included in the minutes.
- If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- You also need to declare when you are subject to the party whip before the matter is discussed.

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The following bus service stops outside the Council Offices on Station Road:
From Exmouth, Budleigh, Otterton and Newton Poppleford – 157

The following buses all terminate at the Triangle in Sidmouth, From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).
From Exeter – 52A, 52B
From Honiton – 52B
From Seaton – 52A
From Ottery St Mary – 379, 387
Please check your local timetable for times.

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Information for Visitors:

Please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time. The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL
Minutes of a Meeting of the
Licensing & Enforcement Committee
Held at Knowle, Sidmouth on Tuesday, 2 March 2010

Present: Councillors:

Graham Godbeer (Chairman)

David Atkins	Ann Liverton
Pat Graham	Ken Potter
John Humphreys	Mark Williamson
Jim Knight	

Officers: John Tippin, Licensing Manager
Ian Carter, Senior Licensing Officer
Giles Salter, Assistant Solicitor
Douglas Jackson, Licensing Officer
Chris Lane, Democratic Services Officer
Paul Wilson, Devon County Council
Neil McDonald – Licensing Officer

Apologies: Councillors:

Steve Hall
May Hardy
John Jeffery
Marion Olive

The meeting started at 9.30 am and ended at 11.00 am.

***17 Minutes**

The minutes of the meeting of the Licensing & Enforcement Committee held on 24 November 2009, were confirmed and signed as a true record.

***18 Cumulative Impact Zone**

The Chairman reported that the Licensing Authority had received advice from Devon & Cornwall Constabulary for the creation of a Cumulative Impact Zone for the centre of Exmouth. Officers were currently investigating this issue and it was intended that a report on this issue would be made to the next meeting of the Committee.

***19 Licensing Act 2003 – Councillors as Interested Parties**

Consideration was given to the report of the Licensing Manager, which set out an explanation of the recent changes to the Licensing Act 2003 relating to the role of elected members as Interested Parties.

Section 33 of the Policing and Crime Act 2009 came into force on 29 January 2010. This section had the effect of changing the definition of "Interested Parties" under the Licensing Act 2003 by adding a new category: "a member of a relevant licensing authority", East Devon District Council is a "relevant licensing authority". The effect of this change was that the definition of "interested parties" had been expanded to include all members of local authorities, so that elected Councillors of the licensing authority could now make representations or seek a review in their own right. This included the ability to make

***19 Licensing Act 2003 – Councillors as Interested Parties (Cont)**

representations on behalf of Town/Parish Council's who were still excluded from making representations on their own behalf as they were not included in the Licensing Act 2003.

Members welcomed this change to the Licensing Act 2003. They recognised that LACoRS had provided guidance only and that the Committee should follow the previous advice given by the Legal Section, namely that Town/Parish Council's were not able to make their own representations under the Licensing Act 2003.

- RESOLVED
1. that the report be noted;
 2. that Town and Parish Council's be notified of the change in the role of elected members.

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

Consideration was given to the report of the Licensing Manager, which provided Members with an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters.

Members noted that since the commencement of the Licensing Act in November 2005, a total of 2,857 Temporary Event Notices had been given. The pro-active educational partnership approach to enforcement with the aim of compliance through consent continued to be successful. Although there had been complaints received against licensed premises all had been resolved without the need for formal enforcement action. To date the Council has received no applications to review existing licences. Inspections under the premises risk rating continued and despite the poor weather in January restricting the amount of visits that could be undertaken, the team was still on target to complete by 31 March 2010.

With regard to taxis, members noted that there was currently a fleet of 215 licensed vehicles in East Devon 179 of which were Hackney Carriages and 36 were Private Hire vehicles. There were 226 licensed Hackney Carriage Drivers and 57 Licensed Private Hire Drivers. There were also 17 licensed Private Hire Operators. Since the last meeting of the Committee there had been two hearings relating to Hackney Carriage driver suitability and also one on the suitability of a vehicle over four years at time of relicensing. The next liaison meeting with the taxi trade would be held on 7 April 2010.

RESOLVED that the report be noted.

***21 Committee Update – Consultations and Responses**

Consideration was given to the report of the Senior Licensing Officer, which summarised the District Council's responses to recent Government consultations affecting the Licensing service.

RESOLVED that the report be noted.

***22 Proposed permanent Taxi Ranks for Exmouth Town**

Consideration was given to the report of the Licensing Officer, which updated Members on the proposed changes to the Hackney Carriage ranks in Exmouth Town Centre. This change was part of the regeneration scheme for the town centre and it would ensure that local transport demands were met, with Hackney Carriage drivers having lawful stands from which to operate their trade. The Chairman welcomed Paul Wilson from Devon County

***22 Proposed permanent Taxi Ranks for Exmouth Town (Cont)**

Council who explained the background to the establishment of the taxi ranks in Exmouth Town Centre.

RESOLVED

1. to exercise the Council's powers under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to appoint the following rank in Exmouth:
The Strand to Chapel Hill – 24 Hour Rank
On the north-east side of road
From a point 11 metres south-east of The Strand's junction with Victoria Road for a distance of 50 metres in a south-easterly direction
Restriction: No Waiting At Any Time except taxis
Rank creates 10 new spaces;
2. that the requisite public notice be given of the proposed appointment as required by Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976;
3. that if no written objection or representation is received relating to the notice given under Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976 within the 28 day period following the publication of that notice the ranks referred to in paragraph 1 of this recommendation will be deemed appointed;
4. that following the appointment of the taxi ranks Devon County Council as the Highways Authority be requested to put in place the appropriate legal provisions and to mark out the ranks as appropriate.

***23 Proposed permanent and part time Taxi ranks for Seaton town**

Consideration was given to the report of the Licensing Officer, which updated Members on the proposed changes to the Hackney Carriage ranks in Seaton Town Centre. These ranks were needed to make available an acceptable level of taxi spaces for residents of Seaton Town. The Chairman welcomed Paul Wilson from Devon County Council who explained the background to the establishment of the taxi ranks in Seaton Town Centre.

***23 Proposed permanent and part time Taxi ranks for Seaton town (cont'd)**

RESOLVED

1

To exercise the Council's powers under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to appoint the following ranks in Seaton:

- (a) Queen Street
West side of road from a point 61 metres north from its junction with Beer Road for a distance of 6 metres in a northerly direction
Restriction: No Waiting At Any Time except taxis
Rank creates 1 space
- (b) Fore Street
West side of road from a point 162 metres from its junction with Manor Road for a distance of 6 metres in a southerly direction
Restriction: No Waiting At Any Time except taxis
Rank creates 1 space
- (c) Fore Street
East side of road from a point 61 metres north of its junction with Marine Place to a point 73 metres north of that junction
Restriction: No Waiting At Any Time except for taxis between the hours of 21.00 and 03.00 hours only
Rank creates 2 spaces
- (d) Marine Place
North side from a point 3 metres east of its junction with Seahill for a distance of 15 metres in an easterly direction
Restriction: No Waiting At Any Time except taxis
Rank creates 2 spaces

- 2. that the requisite public notice be given of the proposed appointment as required by Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976;
- 3. that if no written objection or representation is received relating to the notice given under Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976 within the 28 day period following the publication of that notice the ranks referred to in paragraph 1 of this recommendation will be deemed appointed;
- 4. that following the appointment of the taxi ranks Devon County Council as the Highways Authority be requested to put in place the appropriate legal provisions and to mark out the ranks as appropriate.

Chairman Date

Agenda Item 6

Licensing & Enforcement Committee

8 June 2010

JT/NM/DJ/JL

Committee Update -

Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing

Summary

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

Recommendation

That the report be noted

a) Reasons for Recommendation

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

b) Alternative Options

Not Applicable

c) Risk Considerations

Failure to provide an efficient licensing service may result in complaints or legal challenges being made against the Licensing Authority.

d) Policy and Budgetary Considerations

None

e) Date for Review of Decision

Not Applicable

1 Licensing Act 2003

1.1 Licences Issued and Notices Given

1.1.1 The numbers of licences issued and notices given since the last update report to Committee are set out in **Appendix A**.

1.1.2 All new or varied licenses when issued now have added some extra mandatory conditions that came into force for all 'On' licensed premises and members clubs on 6 April this year. There are also two additional mandatory conditions due to come into force on 1 October so we are using the same opportunity, where appropriate, to add these with a suitable heading on the licence advising the start date. A separate report explaining these additional conditions will be presented to members at their meeting on the 8 June 2010

1.1.3. The Licensing Manager is currently preparing a letter to be sent to all licensed premises. An update explaining the new mandatory conditions and how they will affect the running of licensed premises will be included.

1.2 Premises Risk Ratings

1.2.1 The inspections under the premises risk rating system have now been completed for the year ending 31 March 2010.

1.2.2 Following the completion of the inspections a re-assessment of the risk rating factors was carried out and as a result the system was amended. The amended points system should now remove most of the hotels currently listed under the 'higher risk' bracket and reduce the number of high risk premises that will need to be visited during the 2010/2011 year.

1.3 Enforcement

1.3.1 A co-ordinated multi agency approach to complaints received has secured swift resolutions without the need for formal enforcement action.

1.4 Hearings

1.4.1 The numbers of hearings held since the last update report to Committee are set out in **Appendix A**.

1.5 Applications Received and Notices Given

1.5.1 The numbers of applications received and notices given are set out in **Appendix A**.

1.5.2 Three Minor Variations have been rejected by the Licensing Authority following consultation with the Police, Environmental Health and on one application members of the public who live near the licensed premises. These applications have related to the inclusion of live and recorded music onto to the premises licences. One application has been re-submitted with additional conditions offered and a second with live music being removed from the application.

1.5.3 Licensing Officers have been involved in mediation following representations from Environmental Health with two concert promoters who intend to hold music events. The first at Escot Country Park, Ottery St Mary on 16 and 17 July known as the Sound City Festival and the second, a Caribbean Night at the Knowle Arena on 14 August this year. Both mediation meetings were successful and the licenses will be issued shortly.

1.5.4 The Devon County Show held between 20 to 22 May this year resulted in the receipt of twenty three (23) Temporary Event Notices being served on the Licensing Authority. Twenty one notices were for the sale of alcohol and two were for regulated entertainment. Officers as usual attended the show to ensure compliance with the Licensing Act.

1.5.5 As part of the Council's compliance with the EU Services Directive since the 24 December 2009 the public (all EU citizens) have had the ability to serve Temporary Event Notices (TENs) online through the Council's website. We have had a very good uptake for this facility and have received over 100 notices since we launched the service in December 2009 – in fact we received our first notice within a few hours of the service commencing. Reports from other Devon Councils indicate that take up in the rest of the county has been poor.

2 Gambling Act 2005

2.1 Licences Issued and Notices Given

- 2.1.1 The numbers of licences issued and notices given since the last update report to Committee are set out in **Appendix B**.

2.2 Premises Inspections and Risk Ratings

- 2.2.1 A scheme of inspection, report and risk assessment is still under development in consultation with the Gambling Commission and Partner Agencies.

2.3 Enforcement

- 2.3.1 Members will recall that there have been concerns in respect of the window display at the premises known as the 'Dove', Dove Lane, Sidmouth.
- 2.3.2 The Licensing Service retains its view that the current window display breaches the Premises licence condition prohibiting advertising and invitations to gamble. We are currently seeking legal clarification of our view.
- 2.3.3 There has been a small change in the window display apparently as a result of the guidance given in the meeting the premises licence holder had with licensing officers in January.
- 2.3.4 The premises are still for sale but trading continues as an adult gaming centre.
- 2.3.5 A planning application was received by East Devon District Council on 16 April 2010 for a change of use from amusement centre to retail (Ref. 10/0803/COU).
- 2.3.6 Of interest elsewhere is that the licensing team received a number of enquiries about small society lotteries specifically for the Devon County Show. This is unusual and is perhaps a sign of the economic situation. Appropriate advice was given.

2.4 Hearings

- 2.4.1 The numbers of hearings held since the last update report to Committee are set out in **Appendix B**.

2.5 Applications & Notifications received

- 2.5.1 The numbers of applications and notifications received since the last update report to Committee are set out in **Appendix B**.

3 Taxis

3.1 Licences Issued

- 3.1.1 The numbers of Licences issued since the last update report to Committee are set out in **Appendix C**.

3.2 Enforcement

- 3.2.1 The Licensing Team has continued the education based enforcement and monitoring approach to the Hackney Carriage

and Private Hire drivers and vehicles as we have used with the Licensing Act. Close liaison is maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality are maintained.

- 3.2.2 Officers continue to plan and carry out enforcement operations within the district with the police and other partner agencies. One such operation is currently in the planning stage and a report will be provided on this to your next meeting.

3.3 Hearings

- 3.3.1 Since the last update report to Committee there have been no hearings in relation to taxi or Private Hire issues.

3.4 Applications received

- 3.4.1 The number of applications received since the last update report to Committee is set out in Appendix C.

3.5 Taxi Rank Update

- 3.5.1 **Exmouth** – Members will recall that at their meeting on the 24 November 2009 a number of new ranks for Exmouth including one temporary rank were approved by the Committee and at the meeting on the 2 March 2010 a further large rank was agreed to replace the main rank in the Strand. Following the 2 March meeting a public notice, as required by the legislation, was published in an Exmouth newspaper. This gave notice of the proposed new rank to replace the Strand rank and invited consultation within a 28 day notice period. No objections were received to the proposal so the rank as agreed can now be considered fully approved and merely await Devon County Council to carry out the necessary work to put it in place – believed November 2010.
- 3.5.2 On the 19 May 2010 the temporary rank approved by this committee on the 24 November 2009 in Rolle Street, outside of Tesco was put into use, as the old Strand rank ceased to exist due to the Exmouth enhancement scheme. The local taxi drivers were made aware of the change over and the Council's Civil Enforcement Officers have been briefed. They will be pay attention to the area to ensure as smooth a transition period as possible. This is a temporary measure until November 2010 when it is planned the new Strand rank running towards Chapel Hill will be put in place to coincide with the end of the enhancement work.
- 3.5.3 At a recent meeting in Exmouth involving representatives from the Town Council, Devon County Council and others involved with the enhancement scheme the main Devon County representative publically thanked our Licensing Officer, Mr Jackson, for the assistance he had provided to ensuring the rank situation was progressed effectively and satisfactorily.
- 3.5.4 **Honiton** – Devon County Council have nearly completed the marking of the new Honiton ranks, which is to be followed by the line gang who will complete the works. This is hoped to be in the very near future, therefore making the new ranks legal and useable by the local taxi trade. As members will recall this will at last provide a much needed increase in rank space from two to seven. It should stop the taxis double parking whilst they wait for room on the rank. It brings to an end a saga that has been ongoing since circa 1997.
- 3.5.5 **Seaton** – All the ranks, that this committee approved have been put in place and are now in use by the local taxi trade.

4. Street Trading

- 4.1 Applications for street trading during this year's Sidmouth Folk Festival have now closed and we expect to commence sending out the necessary permits to stall holders in the next two weeks.

Included with the permit will be strong advice on the parking of vehicles along the Esplanade.

4.2 No unauthorised trading has been found and no complaints have been received.

5. Consultations and Partnership Working

5.1 Meeting between Members, Taxi Proprietors and Officers

5.1.1 A very useful liaison meeting with the taxi trade was chaired by Councillor Godbeer on Wednesday 7 April 2010. This was one of the twice yearly meetings held between members, taxi proprietors and officers. A copy of the minutes of the meeting is attached at Appendix D.

5.1.2 The next liaison meeting has been arranged for Wednesday 27 October 2010 at 1400 hours in the Council Chamber. The Committee's Chairman and Vice Chairman normally attend these meetings.

5.2 Licensing Association Meetings (relating to Licensing Act 2003)

5.2.1 Officers from the Licensing Team continue to attend licensing association meetings around the district on a semi regular basis to provide advice and consult. In most cases these meetings include representatives of both the 'On' sales premises as well as the 'Off' sales premises. However recently a new association has been launched to specifically cater for the issues that relate to the 'Off' trade within the Exmouth area. Exmouth already has a successful general association which included 'Off' sales representatives but the 'Off' trade felt that they needed a forum where they could specifically discuss their own issues.

Legal Implications

There are no legal implications set out within the report requiring comment.

Financial Implications

There are no financial implications

John Tippin Ext. 2787
Licensing Manager

Licensing and Enforcement Committee
8 June 2010

Licensing Act 2003Licences Issued and Notices Given

	Apr-10	Feb-10	Changes
Premises Licences	596	594	2
Club Premises Certificates	62	61	1
Personal Licences	1,414	1,391	23
Temporary Event Notices including sale or supply of alcohol	2,852	2,622	230
Temporary Event Notices Entertainment and/or Late Night Refreshment only	252	235	17

Hearings

	Feb-10	Mar-10	Apr-10
Hearings where no agreed position has been reached	1	0	0
Hearings held to approve an agreed position	1	0	1

Applications Received and Notices Given

	Feb-10	Mar-10	Apr-10
Grant of a Premises Licence	1	2	3
Variation of a Premises Licence	0	1	0
Transfer of a Premises Licence	7	3	6
Change of Designated Premises Supervisor	4	11	3
Minor Variations	2	0	2
Grant of a Personal Licences	7	8	7
Personal Licence Change of name or address	7	6	7
Temporary Event Notices given	57	71	76

Gambling Act 2005Licences Issued and Notices Given

	Apr-10	Feb-10	Changes
Premises Licences	14	14	0
Small Society Lotteries	191	175	16

Hearings

	Feb-10	Mar-10	Apr-10
Hearings held	0	0	0

Applications Received and Notices Given

	Feb-10	Mar-10	Apr-10
Applications for a Permit	1	1	3
Application for a Licence	1	0	0
Notification of Intent to have Gaming Machines	5	3	4
Occasional Use Notices (Point to Point Betting)	0	0	2

TaxisLicences Issued

	Apr-10	Feb-10	Changes
Hackney Carriages	175	179	-4
Private Hire Vehicles	36	36	0
Hackney Carriage Drivers	226	226	0
Private Hire Drivers	50	57	-7
Private Hire Operators	17	17	0

Hearings

	Feb-10	Mar-10	Apr-10
Hearings	0	2	0

Applications Received

	Feb-10	Mar-10	Apr-10
Hackney Carriage Licence (including renewals, transfers & vehicle changes)	5	4	4
Hackney Carriage Drivers Licence (including renewals)	1	1	10
Private Hire Vehicle Licence	1	1	1
Private Hire Vehicle Drivers Licence	1	0	3
Private Hire Operators Licence	0	0	0

EAST DEVON DISTRICT COUNCIL

**Report of a Meeting between Members, Taxi Proprietors and
Officers held at Knowle, Sidmouth
on Wednesday, 7 April 2010**

Present:

Councillors:

Graham Godbeer (Chairman)
Chris Gibbings (Vice Chairman)

Taxi Proprietors:

Brian Bailey - AJ Taxis
Steve Dean – Dean's Taxis
S Edwards – Paynes Premier Taxis
Alan J Hill - AJ Taxis
Richard Payne – Paynes Premier Taxis
Nina Peters – Sid Valley Cars
Michael Sampson – Seaton Taxis
John Tucker – Sid Valley Cars

EDDC Officers:

John Tippin – Licensing Manager
Douglas Jackson – Licensing Officer (and minutes)
John Loveridge – Licensing Officer

The meeting started at 2.05pm and finished at 3.20pm.

***46 Apologies**

Apologies were received from Phil Williams, Dave Lean (Exmouth Taxi Association) and John Huffer (East Devon Taxi Association).

***47 Report of last meeting**

The report of the meeting held on 26 October 2009 was received as signed as a true record subject to clarification on the details of two attendees.

***48 Matters Arising**

There were no matters arising from the previous meeting.

***48 Fares and Fees**

The Licensing Manager outlined the proposed fee increase for 2010, stating there was a small increase proposed that was in line with the Retail Price Index (RPI) and was 2.5 percent. This would put £2.00 on a driving licence and £5.00 on a vehicle licence application fee.

The question of a fare increase was discussed, and the views of the 2 non present Exmouth Taxi Association, Mr Williams and Mr Lean were given via Mr Jackson (who had received a telephone call earlier on in the day), stating the association did not support a fare increase.

Mr Huffer from the East Devon Taxi association had also expressed his view, in a telephone conversation with Mr Jackson that it was getting to the point when a fare increase might be needed.

Going around the table, AJ Hill wanted a small increase in the fares rather than a big increase in one go, Brian Bailey agreed, Steve Dean agreed with small and gradual rises, Richard Payne agreed, S Edwards agreed, Nina Peters agreed as did John Tucker.

Mike Sampson reminded the meeting that a fare could be up to the meter reading so a smaller fee could be charged as long as it did not exceed the EDDC fare tariff.

It was agreed that a fare increase application would be discussed by a small Committee of taxi drivers and the Council with a fare increase application to go forward to the Licensing and Enforcement Committee on 31 August 2010

The Licensing Manager will organise a room and a committee to review the fares.

*49 **Smoking in vehicles**

Douglas Jackson, Licensing Officer, outlined the No Smoking regulations and gave the meeting a run down on where no smoking signs had to be displayed, and the penalties for not displaying them.

The meeting was also informed of the no smoking rule for taxi and private hire vehicles and the fixed penalty fines that could be incurred for non compliance.

AJ Hill asked that EDDC provide a guidance letter outlining what was required in relation to the legislation, and it was agreed that email was probably the best form of communication, to communicate the information to taxi drivers.

*50 **Vehicle condition and maintenance**

The Licensing Officer, Douglas Jackson, asked that taxi vehicles be kept in a clean and roadworthy condition, and again reminded the proprietors that MOT test certificated for vehicles over 8 years old were required twice a year. Taxis were high mileage vehicles and it was probably a good idea to have a rolling programme of maintenance for vehicles rather than a last minute effort to conform to the MOT and compliance test conditions.

The question as to the impending disability law in relation to the required taxi and private hire specification was discussed generally. Mr Bailey asked if the law was to be retrospective, in relation to vehicles and he was advised that at this stage it was not possible to say as this was an issue that would be decided by central government. It was agreed that the trade would be kept up to date with any changes to the law and vehicle specification in relation to disability.

*51 **Any other business**

Nina Peters asked if there was a dress code, for drivers and was informed that there was not one in place but drivers were sensible people and would be expected to maintain an adequate standard of dress.

Mr Bailey stated there may be a problem with overcharging in the Exmouth area and would provide details to the Licensing Officer at the end of the meeting.

Mr Sampson asked if there could be a sign or sticker for private hire vehicles in East Devon stating "advanced bookings only" as in other areas of the country as there had been a few incidents of confusion in the Seaton area. He was informed there was not that facility but if there was a problem when the new ranks were put in place in the near future to let the Council Licensing team know.

Next meeting

The next meeting was scheduled for Wednesday 27 October 2010 at 2.00pm in the Council Chamber, Knowle.

Agenda Item 7

Licensing & Enforcement Committee

8 June 2010

JT



Licensing Act 2003 – An Explanation of the New Mandatory Conditions for Premises Licences and Club Premises Certificates

Summary

The report sets out an explanation of the recent changes to the Licensing Act 2003 legislation which introduces additional mandatory conditions for Premises licences and Club Premises certificates

Recommendation

That the Committee note the report

a) **Reasons for Recommendation**

To explain to Members the recent changes of the legislation.

b) **Alternative Options**

None

c) **Risk Considerations**

N/A

d) **Policy and Budgetary Considerations**

None

e) **Date for Review of Decision**

N/A

1 Explanation

- 1.1 As part of its drive to promote socially responsible drinking and to reduce the harm associated with excessive alcohol consumption, the last Government introduced a number of new mandatory conditions to be attached to premises licences and club premises certificates. These were introduced through the Policing and Crime Act 2009.
- 1.2 Sections 19A and 73A of the Licensing Act, as amended by section 32 of the Policing and Crime Act 2009, allows the Secretary of State to prescribe up to nine mandatory conditions attaching to relevant premises licences and club premises certificates. To date, five new mandatory conditions have been prescribed and these are set out in Statutory Instrument 2010/860 (attached as Appendix A to this report). The purpose of the new conditions is to establish a set of minimum standards in the way that alcohol is sold.

2 The Conditions

- 2.1 **Condition 1** prohibits irresponsible drinks promotions including drinking games, provision of alcohol free of charge or as a prize or in connection with a sporting event and selling or supplying alcohol in a way which encourages or 'glamorises' anti-social behaviour.
- 2.2 **Condition 2** makes it an offence to dispense alcohol directly into the mouth of another person (except for reasons of disability). This is designed to outlaw the 'dentist's chair' and similar activities often associated with drinking parties.
- 2.3 **Condition 3** requires premises to provide free drinking water on request.
- 2.4 **Condition 4** requires all relevant premises to have in place an age verification policy (e.g. Challenge 21).
- 2.5 **Condition 5** requires licence holders to provide alcoholic drinks in small measures and to publicise this on their premises. For example many premises have given up the 125cc wine glass and only provide the 175 and 250 cc glasses – from October they will all have to have available the 125cc glass and actively publicise its availability.
- 2.6 Conditions 1, 2 and 3 came into force on 6 April this year. Conditions 4 and 5 come into force on 1 October 2010. With the exception of Condition 4, the new conditions apply only to premises licensed for the sale of alcohol for consumption on the premises. They do not, therefore, apply to shops and off-licences and other premises licensed for 'off-sales' only.
- 2.7 The new conditions are automatically attached to all relevant premises licences from the dates specified in the Order. This raises significant administrative issues - to physically amend every premises licence to include the new conditions would be a lengthy and time-consuming process. The DCMS has advised that there is no legal requirement for these conditions to be physically on the licence for them to apply. It follows that those responsible for enforcing the conditions need to have been informed of their existence. It will be important to publicise the new conditions widely amongst licensees to ensure they are aware of the new obligations imposed upon them by these amendments to the legislation. The Licensing Service will be writing to all Premises licence holders shortly to explain what the changes mean to them.
- 2.8 All new Premises licences granted since 6 April 2010 have had the new additional conditions placed on the licence where relevant. Similarly all transferred, varied or amended licences have had the relevant new conditions added at that point. This will be an on going exercise until all licences have been suitably up dated. I intended to regularly review the position to gauge the point when the number of licences that remain unchanged has reduced sufficiently to make it possible to mop up the few remaining.
- 2.9 Although two of the five conditions do not take effect until the 1 October this year we are taking the opportunity to place all five conditions on licences when they are granted or for some other reason come through the Licensing Office. A comment will be placed within the conditions identifying the two conditions and explaining that they do not apply until the 1 October 2010. I believe this course of action will keep the administrative burden to a minimum.
- 2.10 The Order makes reference in a number of places to 'the responsible person' who is responsible to ensure compliance with these conditions at the premises. Section 153 of the Licensing Act defines the responsible person as:
- (i) the holder of the premises licence
 - (ii) the designated premises supervisor
 - (iii) any person aged 18 or over who is authorised by the licence holder or DPS
 - (iv) an officer or member of a club (who is present on the premises and can prevent the supply of alcohol).

- 2.11 Following the introduction of these conditions revised Section 182 Guidance under the Licensing Act 2003 has been issued by the Department of Culture, Media and Sport. The Home Office who are widely believed to be the instigators of these new conditions have also issued guidance ('*Selling Alcohol Responsibly*', April 2010).
- 2.12 The new mandatory conditions represent a further toughening of the (last) Government's policy on sale and consumption of alcohol in licensed premises. It is debatable how successful these measures will be in reducing the harmful effects of alcohol abuse and, from the licensing authority's perspective, there may be difficulties in enforcing some of the new conditions. (Discounted offers and promotions are likely to be a contentious area. There is already wide spread criticism of the irresponsible drinks promotion condition from the legal profession and licensing professionals, particularly relating to the guidance issued by the DCMS).

Legal Implications

The new mandatory licensing conditions apply to all existing and future premises licences which authorise the supply of alcohol, and come into force on the 6th April 2010 (with two conditions coming into force on 1st October 2010). These conditions override any conditions already included in a premises licence or club premises certificate, so far as they are identical to the existing conditions, or are consistent with, or more onerous than the existing conditions. Any breaches of the mandatory conditions will be treated in the same way as breaches of existing conditions. Failure to comply is a criminal offence and on conviction would be punishable by a fine of up to £20,000.

Financial Implications

There are no financial implications

Appendices

Appendix A - Statutory Instrument 2010/860 – Sets out the wording of the conditions

Background Papers

- Licensing Act 2003
- Section 32 of the Policing and Crime Act 2009
- Revised Guidance (dated April 2010) issued by the Secretary of State for the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003
- Home Office Mandatory Code for Alcohol Retailers England and Wales – "Selling Alcohol Responsibly"

John Tippin Ext 2787
Licensing Manager

Licensing & Enforcement Committee
8 June 2010

Statutory Instrument 2010/860

1. The responsible person (as defined in s.153(4) of the Licensing Act 2003) shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

An irresponsible promotion means any or more of the following activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children –

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal as defined in s.159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event where that provision is dependent on –
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamourise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on

request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that -
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container), it is available to customers in the following measures:
 - (i) beer or cider - $\frac{1}{2}$ pint
 - (ii) gin, rum, vodka or whisky – 25ml or 35 ml, and
 - (iii) still wine in a glass – 125 ml, and
 - (b) customers are made aware of the availability of these measures.

