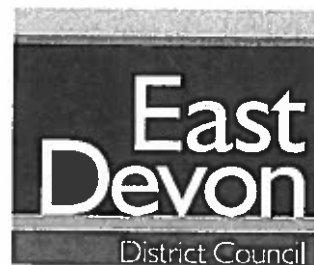


Date 12 November 2010  
Contact number: 01395 517544  
E-mail: [clane@eastdevon.gov.uk](mailto:clane@eastdevon.gov.uk)  
Our Ref: Chris Lane



East Devon District Council  
Knowle  
Sidmouth  
Devon  
EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

Fax: 01395 517507

[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

To:

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

Head of Legal, Licensing & Democratic Services  
Assistant Solicitor  
Licensing Manager  
Licensing Officer

### **Meeting of the Licensing & Enforcement Committee**

**Tuesday 23 November 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.

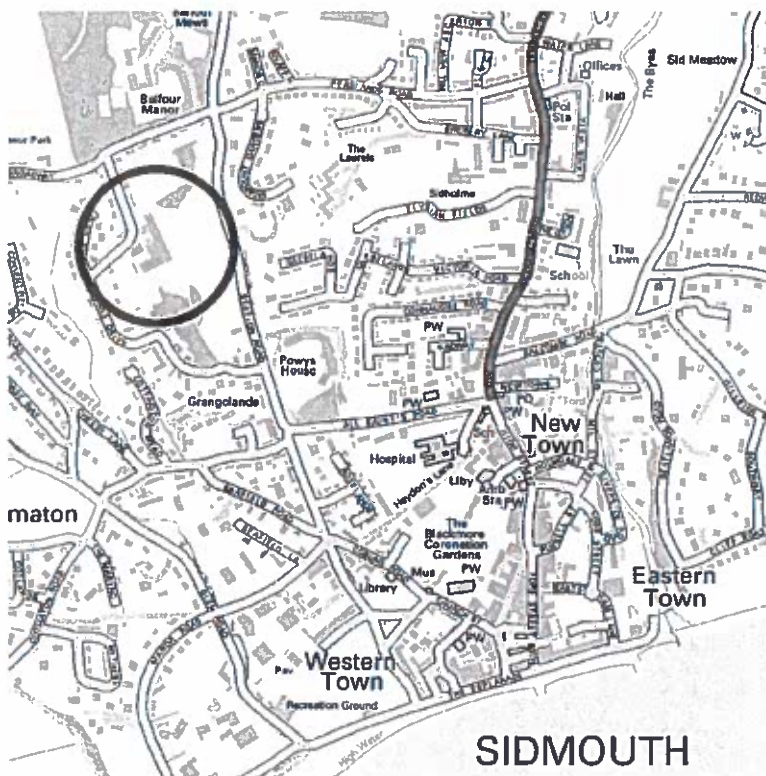
## **A G E N D A**

	Page/s
1 To confirm the minutes of the meeting held on 7 September 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 Licensing.	7 - 17
7. Licensing Act 2003 –Licensing Policy Adoption.	18 - 63
8. Hackney Carriage Fares – Committee to consider objections to the Approved Fare Table.	64 – 72
9. Policing & Crime Act 2009 – Sexual Entertainment Venue Licensing.	73 - 79

### Members remember!

- You must declare the nature of any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
  - Where you have a personal interest because the business relates to or is likely to affect a body of which you are a member or manager as an EDDC nominee or appointee, then you need only disclose that interest when (and if) you speak on the item. The same rule applies if you have a personal interest in relation to a body exercising functions of a public nature.
  - 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
    - a) you have obtained a dispensation from the Council's Standards Committee or
    - b) where Para 12(2) of the member Code of Conduct applies. [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 for these purposes, 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.]
  - The Code states that any member of the Executive Board or other decision-making committee or joint committee or sub-committee attending Overview and Scrutiny committees has a prejudicial interest in any business where that member was a member of the committee at the relevant time and present when the decision was made or other action was taken (whether or not implemented). Members with prejudicial interests should declare them and are allowed to remain in the meeting for the limited purposes set out in the Code para 12(2) – see previous paragraph.
- You also need to declare when you are subject to the party whip before the matter is discussed.

### Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

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.

© Crown Copyright. All Rights Reserved. 100023746.2010

### 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, 7 September 2010

**Present:**

Councillors:

Chris Gibbings (Chairman)  
Steve Hall (Vice Chairman)

David Atkins  
Roger Boote  
Pat Graham  
May Hardy  
John Humphreys  
Jim Knight

Ann Liverton  
Barry Nicholson  
Ken Potter  
Pauline Stott  
Mark Williamson

**Officers:**

John Tippin, Licensing Manager  
Giles Salter, Assistant Solicitor  
Chris Lane, Democratic Services  
Officer  
Neil McDonald – Licensing Officer  
Karen Mobbs-Police Licensing  
Officer  
Barry Sleight-Police Licensing  
Officer  
Nick Farrell-Police Crime Prevention  
& CCTV Officer  
Sgt Richard Crosby-Police  
Community Safety Team

**Apologies:**

Councillors:  
Ray Bloxham  
Francis Newth

The meeting started at 9.30 am and ended at 11.55 am.

\*5 **Minutes**

The minutes of the meeting of the Licensing & Enforcement Committee held on 8 June 2010, were confirmed and signed as a true record, subject to the additional information "that the Committee had been given a demonstration of a new device to detect alcohol on breath or in bottles of apparently innocuous liquids. It had been advised that the device would help the Police and would support the Licensing Objectives and the requirements of the Child Protection Act" being added to minute \*4.

\*6 **Declarations of interest**

Councillor/ Officer	Agenda Item	Type of interest	Nature of interest
Councillor Roger Boote	7 – Committee update – Licensing Act 2003, Gambling Act 2005 and General	Personal	Premises Licence holder

	Licensing.		
Councillor Jim Knight	7 – Committee update – Licensing Act 2003, Gambling Act 2005 and	Personal	Chairman of a charity that holds Street Fairs in Seaton.
Councillor David Atkins	7 – Committee update – Licensing Act 2003, Gambling Act 2005 and	Personal	Employee of World of Country Life, Exmouth

**\*7 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. The list of premises for the 2010/11 year under the premises risk rating system had been completed and the licensing team had started working towards completing the visits by 31 March 2011.

The amended points system outlined in the report to the meeting on 8 June 2010 (minute no \*2 refers had now removed most of the hotels previously listed under the 'higher risk' bracket but the number of high risk premises that would need to be visited during the 2010/11 year still stood at 89 premises. Members noted that the Caribbean Night and Beautiful Days, both held in August, had passed off with no major incident reported. A debrief would be held for both events shortly.

It was noted that the Exmouth Taxi trade had reported problems with parking in the new temporary rank outside the Tesco Express store. However, it was anticipated that the new rank on the other side of the Strand would be available in November and solve these problems. Devon County Council had completed the temporary marking of the new Honiton ranks and it was hoped that the permanent markings would be undertaken shortly.

The Licensing Manager reported that the statistics on Animal & Skin Piercing were a new addition to the report following the transfer of the function from the Environmental Health service. This included two premises in East Devon that were counted as zoos according to the legislation. Members noted that the street trading during Sidmouth Folk Festival had been successful and it was anticipated that fees may need to be increased for 2011.

**RESOLVED** that the report be noted.

**\*8 Licensing Act 2003 – Minimum Standards for CCTV on Premises Licences and Club Premises Certificates**

Members considered the report of the Licensing Officer which set out an update of the police request for a minimum standard for CCTV and their request for the re-instatement of the 'Chief Officer of Police' as an authority that must be satisfied when a licensing condition in a Premises Licence or Club Certificate required the installation and use of CCTV. The Chairman welcomed representatives of Devon & Cornwall Constabulary to the meeting who were able to answer Members' questions regarding the adoption of minimum standards for CCTV on premises Licences and Club Premises Certificates.

**\*8 Licensing Act 2003 – Minimum Standards for CCTV on Premises Licences and Club Premises Certificates (Cont)**

Members expressed concern that applicants for Premises Licences were not aware of the standard of CCTV system required for their premises. The police reported that they would produce a leaflet showing required standards for CCTV for premises and the CCTV Officer was also available to make visits to individual premises on request. The new standards were also an attempt to future proof systems so premises licence holders did not have to renew their CCTV equipment too often. The District Council were also introducing a link on their web site for the minimum standards of CCTV equipment acceptable to the police. In addition, all premises would be notified by letter of the change to CCTV standards, only those new applicants or those varying their licences would be affected.

- RESOLVED**
- (1) that the report be noted;
  - (2) that the draft CCTV standards policy as appended to the report as Appendix C be agreed.

**\*9 Licensing Act 2003 – To seek approval to consult on the draft Licensing Policy**

Consideration was given to the report of the Licensing Manager which report updated the Licensing & Enforcement Committee on the tri-annual review of the Council's Licensing Act 2003 Policy and sought approval to commence the consultation process on the draft policy which had been updated in the light of recent changes in legislation and experience over the past three years.

- RESOLVED** that approval be given to the Licensing Service starting the formal public consultation process required by legislation for the draft Statement of Licensing Policy (attached as Appendix B to the report).

**\*10 Government Consultation on possible changes to Licensing Act 2003**

Consideration was given to the report of the Head of Legal, Licensing & Democratic Services informing Members of the Committee on the Home Office proposed changes to the Licensing Act 2003. Members expressed a wish to make detailed responses to the consultation document and considered in detail the responses made by the Devon Licensing Group and the District Council's Licensing Manager and made changes to the responses were considered appropriate.

- RESOLVED**
- (1) that the possible changes to the licensing regime that may arise from the proposed legislative changes be noted;
  - (2) that the responses to the Government consultation be as agreed by the Committee at the meeting and attached to the minutes as Appendix A.

**\*11 Proposed Hackney Carriage Fare Tariff Changes**

Consideration was given to the report of the Licensing Manager on the various proposed options to increase the Hackney Carriage Tariff including the Waiting Time and the extras charges and approve a tariff to be adopted as the maximum fare tariff and used by

11 **Proposed Hackney Carriage Fare Tariff Changes (Cont)**

Hackney Carriage vehicles licensed in the East Devon District from a date to be fixed in December 2010.

Members noted that the Hackney Carriage trade had requested an increase to the Fare Tariff as none had been made since 12 November 2007. However, some concern was expressed that the large increase to tariffs proposed in the report was excessive and may cause hardship to the travelling public in East Devon. It was considered that small annual increases that were similar to inflation should be introduced for future years and would be better for the Hackney Carriage trade and travelling public. There was however the problem that tariff tables were very complicated especially as they needed to be set to enable them to work correctly and evenly in meters fitted to hackney carriages.

**RECOMMENDED**

1. that the Hackney Carriage Tariff be increased as proposed in Option 3 in Appendix E to the report including the Waiting Time and the extras charges and this be the approved tariff to be adopted as the maximum fare tariff and used by Hackney Carriage vehicles licensed in the East Devon District from a date to be fixed in December 2010;
2. that consideration be given to introducing an annual increase to the Hackney Carriage Tariff.

Chairman ..... Date .....

## **Agenda Item 6**

**Licensing & Enforcement Committee**

**23 November 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 Since the 1 October 2010 two additional mandatory conditions are being applied to premises licences. (1) A requirement for an age verification policy (2) A requirement to

give customers the opportunity to have smaller measures of alcoholic drinks – beer and cider ½ pints, still wine 125 ml and spirits 25ml or 35ml. Both conditions apply to premises that have on sales of alcohol but only the age verification condition applies to premises with off sales of alcohol only.

1.1.3 At the same time as the extra mandatory conditions were added the order also amended the notification and objection periods as shown below –

- (i) Extends the period for issuing an interim authority notice or applying for reinstatement on transfer of a licence from 7 days to 28 days (refers to death, incapacity or insolvency of the licence holder).
- (ii) Extends the period during which an interim authority notice has effect from two months to three months.
- (iii) Extends the period that the police have to object to a temporary event notice from 48 hours to two working days.

1.1.4 The agreed new minimum CCTV recording standards has now been implemented and being used by applicants at the request of the Police Licensing Section. Our own licensing advice form GN6 available on the Council website has been updated with re-worded CCTV conditions.

## **1.2 Premises Risk Ratings**

1.2.1 The list of premises for the 2010/2011 year under the premises risk rating system has been completed and the licensing team are now working towards completing the visits by 31 March 2011.

## **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 It has been noted that since the last report East Devon has lost eleven (11) premises licences and one (1) club certificate. Most of these licences have been surrendered voluntarily but some have been lost due to the bankruptcy of the licence holders.

1.5.3 A de-brief meeting has been arranged by the Licensing Section for the Sound City Festival which was held over the weekend of 16 & 17 July at Escot Park, Ottery St Mary featuring James Morrison and JLS. The de-brief meeting will be attended by all the authorities involved and will be held at the Knowle on 11 November 2010.





- 1.5.4 A similar de-brief meeting for the Folk Festival which was held at Sidmouth between 30 July and 3 August will be held at the Knowle on 26 November 2010.
- 1.5.5 Licensing Officers have attended two events that took place during August this year. These were the Caribbean Night held at Knowle Arena, Sidmouth on Saturday 14 and the Beautiful Days Music Festival held at Escot Park, Ottery between 20 and 22. Both events were well run and passed off without incident. A de-brief meeting has already been held for the Beautiful Days Festival at the Offices of Crosse & Crosse Solicitors, Exeter and a de-brief meeting for the Caribbean Night will be held at the Knowle on 26 November 2010.

## **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**.
- 2.1.2 All of the permits issued under section 34 of the Gaming Act 1968 by this licensing authority for gaming machines in public houses or other relevant premises have now expired. The last one expired on 28 August. All premises operators involved have now either submitted (i) notifications or (ii) applications for gaming machine permits under the Gambling Act 2005 or (iii) removed all gaming machines.
- 2.1.3 The process for issuing club machine permits to replace expired Part III registration certificates issued by the magistrates' courts continues with club machine permits being issued under the Gambling Act 2005. The process should be completed by April 2011 when the last certificate issued by the magistrates expires.

### **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 were concerns about the window display at the premises known as the 'Dove', Dove Lane, Sidmouth.
- 2.3.2 The premises are no longer being used as an adult gaming centre. The shop that now occupies the site sells accessories for water sports activities.
- 2.3.3 As anticipated the licence holder did not pay the annual licence fee of £1000 due by 14 October and so the premises licence was automatically revoked (see section 193(1) Gambling Act 2005).
- 2.3.4 A licensing officer attended a travelling fairground at Seaton in September. One of the attractions at the fair was a small amusement arcade which contained approximately 25 gaming machines, six of these machines were category C machines and so not authorised to be made available for use on such premises. At the time of the visit neither the

fairground nor arcade was open. There is an automatic exemption for fairgrounds to operate low pay out machines but not category C machines.

2.3.5 A subsequent visit a few days later revealed that all six machines had been or were in the final stages of being converted to category D machines which are authorised for use on such premises.

2.3.6 The Gambling Commission and the Devon and Cornwall Police were kept informed of the progress of the investigations made.

## **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

3.2.3 At the time of preparing this report a taxi enforcement operation has been organised to take place with the police in the Exmouth area on the night of Saturday 6 November 2010. Further multi agency checks are planned for the autumn/spring.

### **3.3 Hearings**

3.3.1 Since the last update report to Committee there have been no hearings in relation to hackney carriage and 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** –The Exmouth regeneration scheme is nearing completion, and all the ranks that were approved by the Committee have been put into place in the Exmouth area. This is a new venture for all concerned, and will take a while to settle down. Taxi operators and drivers have been asked to give the ranks a chance to see how they operate and it can then be reviewed at a later date if there are any problems that need to be smoothed out. There is already a small problem that has been passed to Devon County Council in relation to the Victoria Road rank and the numbers that can operate from there. It is hoped that there will be an early resolution to this problem.
- 3.5.2 **Honiton** – Devon County Council, are due to finalise the new rank in Honiton, in fact it was due for completion on 27 October 2010. It is hoped that by the time of this Committee hearing, both of the ranks will have been completed, increasing the numbers for rank spaces from two to seven, a great improvement on the current situation.

### **3.6 Hackney Carriage Fares**

- 3.6.1 Members will recall at the last meeting of this Committee on the 7 September a new hackney carriage fare table was agreed. However 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 and the taxi trade then provided with a period of at least 14 days to make comment on the proposals. If adverse comment/objection is received then the matter must be returned to allow the Committee to consider the representation(s). Three objections have been received resulting in a further report for members to consider at today's meeting.

## **4. General Licensing including Animal Licensing and Skin Piercing**

### **Animal and Skin Piercing Licensing Statistics**

- 4.1 The statistics relating to animal and skin piercing since the last update report to Committee are set out in **Appendix D**. These statistics include, where relevant, the numbers of licences issued, the number of hearings held and the number of applications received.

## **5. Street Trading**

- 5.1.1 Six expressions of interest from traders for permits for Folk Festival 2011 have already been received. Consideration is being given to increasing the permit fees.

### **5.2 Street Trading Statistics**

- 5.2.1 The statistics relating to street trading since the last update report to Committee are set out in **Appendix E**. These statistics include, where relevant, the numbers of permits issued, the number of hearings held and the number of applications received.



## **6. Consultations and Partnership Working**

### **Meeting between Members, Taxi Proprietors and Officers**

- 6.1 A very useful liaison meeting with the taxi trade was chaired by Councillor Gibbings on the 27 October 2010. This was one of the twice yearly meetings held between members, taxi proprietors and officers. A copy of the minutes of the meeting will be circulated with the agenda for this meeting.
- 6.1.2 The next liaison meeting will be arranged for a date in April 2011 (during the Easter school holiday) at 1400 hours in the Council Chamber. The Committee's Chairman and Vice Chairman normally attend these meetings.

### **6.2 Officers and Taxi Trade Representatives Tariff Liaison Group**

- 6.2.1 Following a previous meeting between Members, Taxi Proprietors and Officers on the 7 April 2010 a meeting was held between representatives of the trade and Licensing Officers in order to put together a proposal for the Licensing and Enforcement Committee to consider on the 7 September. The meeting was facilitated by the Licensing Manager. The proposed fare increase formed the basis of the report considered by Members at your last meeting.

### **6.3 Licensing Association Meetings (relating to Licensing Act 2003)**

- 6.3.1 Officers from the Licensing Team continue to attend licensing association meetings around the district on a semi regular basis to provide advice and consult.

### **Legal Implications**

There are no legal implications requiring comment.

### **Financial Implications**

The service as a whole to date has achieved an extra £11,000 against budgeted income.

---

John Tippin Ext. 2787  
Licensing Manager

Licensing and Enforcement Committee  
23 November 2010



**Licensing Act 2003**Licences Issued and Notices Given

	<b>Oct-10</b>	<b>Jul-10</b>	<b>Changes</b>
Premises Licences	582	593	-11
Club Premises Certificates	61	62	-1
Personal Licences	1,468	1,435	33
Temporary Event Notices including sale or supply of alcohol	3,159	3,032	127
Temporary Event Notices Entertainment and/or Late Night Refreshment only	285	265	20

Hearings

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
Hearings where no agreed position has been reached	2	0	0
Hearings held to approve an agreed position	0	1	0

Applications Received and Notices Given

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
Grant of a Premises Licence	2	1	1
Variation of a Premises Licence	2	0	0
Transfer of a Premises Licence	1	2	2
Change of Designated Premises Supervisor	4	7	4
Minor Variations	0	0	1
Grant of a Personal Licences	5	11	6
Personal Licence Change of name or address	4	1	6
Temporary Event Notices given	50	52	41

**Gambling Act 2005**Licences Issued and Notices Given

	<b>Oct-10</b>	<b>Apr-10</b>	<b>Changes</b>
Premises Licences	13	14	-1
Small Society Lotteries	188	194	-6

Hearings

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
Hearings held	0	0	0

Applications Received and Notices Given

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
Applications for a Permit	0	0	1
Application for a Licence	0	0	0
Notification of Intent to have Gaming Machines	2	1	1
Occasional Use Notices (Point to Point Betting)	0	0	0

**Taxis**Licences Issued

	<b>Oct-10</b>	<b>Jul-10</b>	<b>Changes</b>
Hackney Carriages	175	175	0
Private Hire Vehicles	27	27	0
Hackney Carriage Drivers	230	230	0
Private Hire Drivers	41	39	2
Private Hire Operators	14	14	0

Hearings

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
Hearings	1	0	0

Applications Received

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
Hackney Carriage Licence (including renewals, transfers & vehicle changes)	0	16	104
Hackney Carriage Drivers Licence (including renewals)	2	26	144
Private Hire Vehicle Licence	1	0	0
Private Hire Vehicle Drivers Licence	1	2	0
Private Hire Operators Licence	0	0	1

**EH Licensing**Licences Issued

	<b>Oct-10</b>	<b>Jul-10</b>	<b>Changes</b>
Animal Home Boarding	3	4	-1
Kennels/Catterys	0	2	-2
Ear-Piercing	3	2	1
Electrolysis	1	2	-1
Riding Establishments	5	1	4
Tattooing	0	1	-1
<b><u>TOTAL</u></b>	<b>12</b>		

Hearings

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
Hearings	0	0	0

Applications Received

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
	5	1	6



**General Licensing****Permits Issued**

	<b>Oct-10</b>	<b>Jul-10</b>	<b>Changes</b>
Street Collections	200	200	0
Street Collection cancellations	0	1	-1
House to House	0	0	0
Street Trading	0	80	-80
Street Trading (Charitable)	0	4	-4

**Hearings**

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
Hearings	0	0	0

**Applications Received**

	<b>Aug-10</b>	<b>Sep-10</b>	<b>Oct-10</b>
	0	0	0

---

## Agenda Item 7

**Licensing & Enforcement Committee**

**23 November 2010**

**JT**



### **Licensing Act 2003 – Licensing Policy Adoption**

#### **Summary**

This report updates the Licensing & Enforcement Committee on the tri-annual review of the Council's Licensing Act 2003 Policy and the results of the consultation process and invites the Committee to recommend that the Council adopt the amended Licensing Policy as required by the Licensing Act 2003 at its next meeting on the 9 December 2010.

#### **Recommendation**

**That the Committee:**

- 1. Note the results of the public consultation undertaken on the Council's draft Licensing Policy relating to the Licensing Act 2003.**
- 2. Recommend to Council at its meeting on the 9 December 2010:**
  - a. To nominate in writing the Area Child Protection Committee and Local Safeguarding Children Board (Devon County Council) as the body competent to advise the authority about the protection of children from harm issues as required by the Licensing Act 2003, Section 13(4)(f);**
  - b. That the East Devon Licensing Act 2003 Policy, as attached at Appendix B, be adopted by the Council for the period 7 January 2010 to 6 January 2013**

#### **a) Reasons for Recommendation**

It is a legal requirement of the Act for Council to determine a Licensing Policy in order to provide a framework for all licence applications regarding the sale of alcohol, the provision of regulated entertainment and facilities and the provision of late night refreshment. The Policy was last reviewed in 2007 and re-adopted in December that year. It must be reviewed at least every three years and therefore an amended Policy must be adopted by the 7 January 2011.

#### **b) Alternative Options**

None

#### **c) Risk Considerations**

If the Policy is not properly adopted by the District Council the Authority will be liable to legal challenge which if successful could entail heavy costs being awarded against the District Council.

#### **d) Policy and Budgetary Considerations**

None

**e) Date for Review of Decision**

December 2013 or earlier. Currently the Licensing Act 2003 requires that the Policy must be reviewed at least every three years although if there is a need identified it can be reviewed earlier. The new government has a proposal to amend this requirement meaning that in the future there may be a less onerous consultation timetable

---

**1 Background and Proposed Draft Amendments to the Existing Policy**

- 1.1 Under the Licensing Act 2003, it is the responsibility of the Council to develop and publish a Statement of Licensing Policy. The published Policy then provides the framework for all decisions on applications relating to the Licensing Act 2003 and the way the Authority carries out its functions in relation to the legislation. Council adopted the current Policy on the 12 December 2007.
- 1.2 In the initial stages of preparing the first Policy document in 2004 there was national criticism of the inconsistency of draft licensing policies. In Devon we avoided this criticism as the Devon Licensing Officers' Group worked together to prepare a template draft Policy suitable as a base draft for all Devon Councils including Plymouth. This Council's current Policy is based on that template.
- 1.3 The Act requires that the Licensing Authority review its Licensing Policy every three years. The Council's present policy will expire on the 6 January 2011 and therefore the Authority is under a duty to have reviewed and published a fresh policy by that date.
- 1.4 The existing Policy (2008-2011) has worked well for the last three years so only minor amendments are being proposed for 2011-2014. There is however little change to the main aim and purpose of the current policy document first adopted in 2004. In summary, apart from moving the dates forward and emphasis specific parts of the existing policy and legislation, the main proposals are:
- Section 3 - The licensing objectives. This area of the draft policy has been updated with various new measures including the prevention of open bottles or other drink containers being carried from premises; ensuring digital CCTV systems comply with Home Office guidance and how to obtain this guidance; zero tolerance drugs policies; monitoring of capacity levels; measures to supervise beer gardens and smoking areas; a stronger stance on the protection of children etc..
  - Section 6 (Subsections 6.1 & 6.2) about licensing hours has been redrafted to more clearly reflect the current legislation and to re-emphasise that there is no presumption for longer opening hours.
  - Section 8 (Subsections 8.8, 8.9 & 8.10) – a re-emphasis on the protection of children in relation to films and theatres and to formally name the Children & Young People's Services of Devon County Council as being competent to advise the Licensing Authority on matters relating to the protection of children from harm.
  - Section 12 (12.7) and 22 (22.3) an explanation of the effects of the EU Services Directive on the exemption for the service of applications and notices on Responsible Authorities where applications and notices are served on line in accordance with the EU Directive.



- Section 12 (12. & 12.10) an improved explanation on the review procedure.
  - Section 15 (15.1, 15.2 & 15.3) a completely new section on anti social behaviour.
  - Section 16 (16.1,16.2 & 16.3) This section sets out the standard of CCTV that the Authority expects when attaching conditions to licences and certificates requiring the provision on CCTV at the premises whilst they are open.
  - Appendix B (Glossary of Terms). The definition of who is an 'Interested Party' has been updated to include 'An elected councillor of the Licensing Authority'. (Section 33 of the Policing and Crime Act 2009 that received Royal Assent in November 2009 amended the Licensing Act allowing District Councillors to independently make comment on licensing applications and apply for reviews.)
- 1.5 The draft Policy takes account of Local Authorities Coordinators of Regulatory Services (Lacors) guidance and revised Government Guidance issued under S182 of the Licensing Act 2003 (March 2010).
- 1.6 The District Council's draft Licensing Policy, with the changes outlined in paragraph 1.4 above included was made available for consultation on the 10 September 2010. The closing date for comments is the 12 November 2010. At the time of finalising this report the consultation still has a few days to go before the closing date. Any comments that come in and not included within this report will be reported to members at during the meeting.
- 1.7 In accordance with the Guidance published under Section 182 of the Act a wide consultation on the draft of the new policy has been undertaken. This has provided opportunity for views and representations to be received from industry, statutory bodies, East Devon residents and other agencies.
- 1.8 This report presents the Licensing Policy and the results of the public consultation.

## **2. Results of consultation**

- 2.1. The Consultation exercise for the licensing policy has been wide. The list of consultees is reproduced below at **Appendix A**. A letter or email was sent to each of the consultees inviting them to make comment on the Policy. They were given the choice of downloading a PDF copy of the draft Policy from the District Council's website or requesting a printed copy to be sent out by post. A copy of the draft policy was placed on the Council's internet site.
- 2.2. Although a number of changes were proposed within the draft policy the main substance of the document remained unaltered. Reflecting this very few responses compared to the consultation on the original policy in 2004 have been received. Those that have been received are listed in the table at **Appendix C** to this report. Column 6 (far right) in this document indicates whether a change is proposed to the draft Policy as a result of the consultee's comment. No changes to the draft policy are proposed so far as a result of the consultation comments received at the time of preparing this report.

## **3. Conclusions**

- 3.1 The lack of responses to the draft Licensing Policy for East Devon seems to demonstrate a general acceptance of the Policy by businesses and public alike. The comments in the



main suggest additional detail be included to ensure a proper understanding of the aims of the Policy and there are several requests from town or parish council's to be designated as "Interested Parties".

- 3.2 The Licensing Authority must adopt a policy prior to the 6 January 2010 in order to exercise its powers under the Act. Once the Council has approved its Licensing Policy it will be published and sent to all respondents. It will also be available through the Council's website. Existing licence holders and holders of club registration certificates will be up dated and advised that a copy is available on the Authority's website or alternatively they can request a copy to be sent to them.

---

### **Legal Implications**

The legal framework and implications are clearly set out within the report.

### **Financial Implications**

No financial implications.

### **Appendices**

- |                          |  |            |
|--------------------------|--|------------|
| <input type="checkbox"/> | List of those invited to respond to the consultation | Appendix A |
| <input type="checkbox"/> | Draft Licensing Policy for adoption                  | Appendix B |
| <input type="checkbox"/> | Consultation Representations and Responses           | Appendix C |

### **Background Papers**

- Licensing Act 2003
- Guidance issued by the Secretary of State for the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003
- East Devon District Council's Draft Policy Statement issued for consultation September 2010

---

John Tippin Ext 2787  
Licensing Manager

Licensing & Enforcement Committee  
23 November 2010



### East Devon District Council

### Licensing Policy Document – Licensing Act 2003

Key Organisations consulted by the Licensing Authority – September 2010 to November 2010

- All premises licensed under the 2003 Act in East Devon district
- British Beer & Pub Association
- Licensees Associations
- Chambers of Commerce within East Devon area
- Devon & Cornwall Constabulary (Chief Officer of Police)
- Devon & Cornwall Police Authority
- Devon Child Protection Committee
- Devon Primary Care Trust
- Devon & Somerset Fire & Rescue Service
- East Devon District Council - Clerks to Town and Parish Councils
- East Devon District Council – Property & Economic Development
- East Devon District Council – Environmental Health Service
- East Devon District Council Councillors
- Equity
- Health & Safety Executive, Plymouth
- Live Music Forum
- National Licensing Specialist Solicitors
- Solicitors within East Devon area
- The Exmouth Society
- Weights and Measures (Trading Standards)
- Maritime and Coast Guard Agency
- Environment Agency

Copies of the Policy will also be made available for comment to the following locations:

- Information Points and CABs within East Devon area
- Libraries within East Devon area

**EAST DEVON DISTRICT COUNCIL**



**DRAFT  
LICENSING  
POLICY**

**LIQUOR, PUBLIC ENTERTAINMENT  
& LATE NIGHT REFRESHMENTS**

**UNDER THE  
LICENSING ACT 2003**

**For the period  
7 January 2011 to 6 January 2014**



# Table of Contents

<b>FOREWORD</b>	25
<b>The Geographical Area</b>	27
<b>Statement of Licensing Policy</b>	28
<b>1. Introduction and Scope</b>	28
<b>2. Consultation</b>	29
<b>3. Licensing Objectives and Related Legislation</b>	30
<b>4. Conditions</b>	34
<b>5. Cumulative Impact</b>	35
<b>6. Licensing Hours</b>	37
<b>7. Authorisation to Sell Alcohol</b>	39
<b>8. Children and Licensed Premises</b>	39
<b>9. Enforcement</b>	40
<b>10. Integrating Strategies and the Avoidance of Duplication</b>	41
<b>11. Other Legislation</b>	41
<b>12. The Licensing Process and Delegation of Functions</b>	42
<b>13. Cultural Strategy</b>	43
<b>14. Drugs</b>	43
<b>15. Anti Social Behaviour</b>	43
<b>16. CCTV Standards Policy</b>	44
<b>17. Door Supervisors</b>	46
<b>18. Control of Consumers</b>	46
<b>19. Nuisance</b>	47
<b>20. Capacity</b>	47
<b>21. Vessels</b>	47
<b>22. Temporary Event Notices (TENs)</b>	48
<b>Definitions</b>	49
<b>Responsible Authority Contacts</b>	52
<b>Useful Contacts</b>	52



## FOREWORD

**This foreword does not form part of the policy and is for information purposes only.**

Welcome to East Devon District Council's Licensing Policy statement for 2011 - 2014. Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act. The Licensing Authority will keep the policy statement under constant review and make such revisions to it, as it considers appropriate. Where revisions are made, the licensing authority shall publish a statement of revisions or a revised licensing policy statement.

The revised Policy is published following a public consultation during the latter half of 2010 and adoption by Full Council on the 9 December 2010. It is effective from the 7 January 2011 for the following three years. Whilst much of the document has remained unchanged, amendments to the current law and new laws, have all had an impact on the policy.

The key reasons for the 2010 review were:

- To update the document in accordance with amended Government Guidance and changes in legislation
- A re-arrangement of sections to avoid duplication
- The removal of redundant sections
- The rewording of text to provide better clarification

The entertainment industry within the District is a major contributor to the economy of East Devon. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer.

Some local residents may be affected by an increase in the concentration of entertainment uses and experience longer hours of operation. It is the duty of the licence operator to ensure that their licensable activity does not unduly affect these residents and the licensing objectives are met.

However, equally, commercial operators of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.

The Act is intended to match greater freedom and flexibility within sensible boundaries, with tough and uncompromising powers for the police, courts and licensing authorities to deal with any individuals or businesses failing to be socially responsible and abusing these freedoms.

The aim of the policy is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. East Devon District Council, in adopting this Licensing Policy, recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of well run entertainment premises to the local economy and vibrancy of the District. To achieve this aim the Council is committed to partnership working with police, fire service, and local businesses, licensing trade, residents and others, towards the promotion of the objectives as set out in this policy.



This policy provides information and guidance to licence applicants, interested parties and responsible authorities on the general approach that the Licensing Authority will take in terms of licensing. Although each application will be considered individually on its own merits, the Council in adopting this licensing policy is indicating that wider considerations other than the fitness of the applicant and suitability of premises will be taken into account in making an appropriate decision.

In accordance with the statutory procedures, a review of this policy will take place periodically to take into account information collated over a period of time, coupled with the outcomes of initiatives relating to alcohol and entertainment at central and local government level.

In the preparation and publication of this policy East Devon District Council as the Licensing Authority has had regard to the guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Licensing Act 2003, including the amended guidance published 30 March 2010.

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

A copy of the policy together with other licensing related information may be viewed at the licensing page of the Council website. Alternatively advice and copies of the policy is available by contacting the Licensing Team via email to [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or by telephone to 01395 517410/517411.

Should you have any questions or queries about this document you may write to the Licensing Service at:

East Devon Licensing Authority  
Council Offices  
Knowle  
SIDMOUTH  
EX10 8HL

Or contact us by:

Phone: 01395 517410/517411

Email: [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)



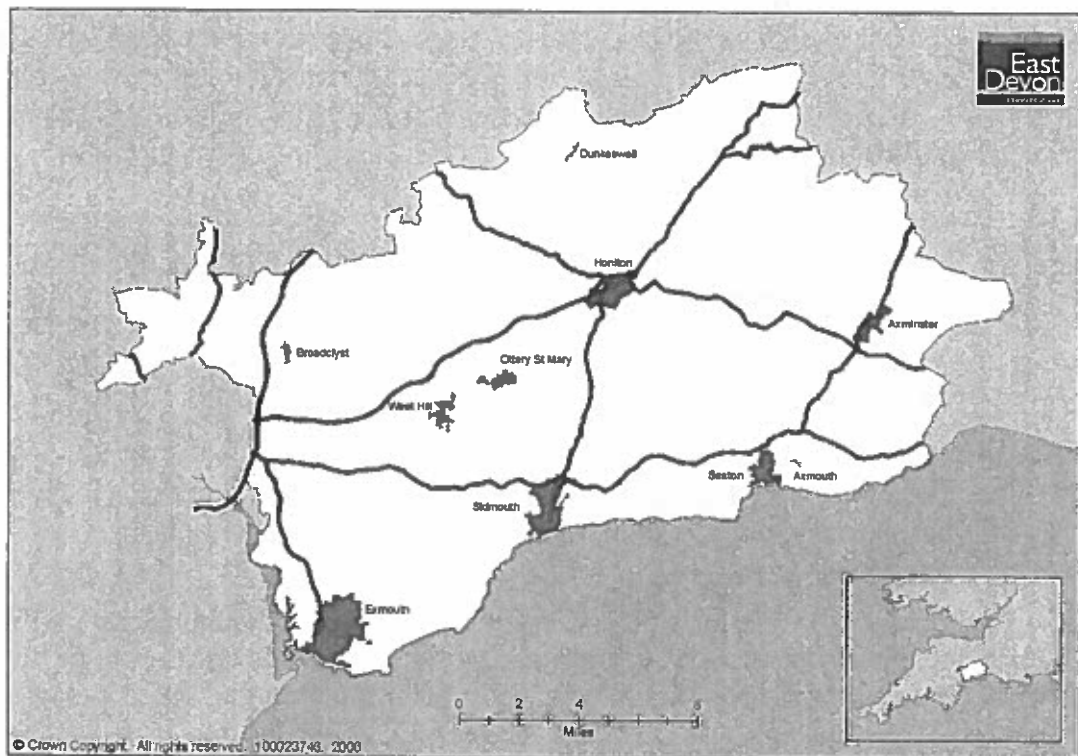
## The Geographical Area

East Devon is one of eight Devon districts and, in population terms, it is the largest in the County.

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 (the England and Wales average is 3.4). 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.

The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population 35,762), 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.

The District's population currently stands at 135,643: 63,900 males and 68,900 females. 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). East Devon also has a high percent of elderly residents with 34% of the population over 60 years of age.



The 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 age band form the largest age group in the district.

The entertainment industry within the District is a major contributor to the economy of East Devon. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer.



# Statement of Licensing Policy

## 1. Introduction and Scope

1.1 This Statement of Licensing Policy is based upon the Licensing Act 2003 ("the Act") and is in line with the Department of Culture, Media and Sport (DCMS) Guidance to local authorities and takes effect from the 7 January 2011.

1.2 The policy relates to all those licensing activities identified as falling within the provisions of the Act wherever they take place, namely: -

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of 'regulated entertainment' - to the public, to club members or with a view to profit
  - A performance of a play
  - An exhibition of a film
  - An indoor sporting event
  - Boxing or wrestling entertainment
  - A performance of live music
  - Any playing of recorded music
  - A performance of dance
  - Provision of facilities for making music
  - Provision of facilities for dancing
- The supply of hot food and/or hot drink from any premises including food stalls between 11.00 pm and 5.00 am [Late Night Refreshment].
- **Provision of facilities for enabling persons to take part in entertainment consisting of:**
  - **Making music;**
  - **Dancing;**
  - **Entertainment of a similar description to making music or for dancing.**

1.3 The Licensing Act 2003, section 5 requires a licensing authority to prepare and publish a Statement of Licensing Policy every three years.

1.4 Such a policy must be published before the authority carries out any function in respect of individual applications made under the act.

1.5 The purpose of this policy document is to assist the licensing authority in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the District with some measure of certainty.

1.6 **To achieve the licensing objectives the Council will use its full range of powers and engage all relevant responsibilities including its planning and environmental health controls, crime and disorder policies and powers. The authority will enter appropriate partnership arrangements, working closely with the police, the fire authority, trading standards, local businesses, community representatives and local people in meeting these objectives. Neighbouring authorities**



**and town and parish councils will be consulted where appropriate.**

- 1.7 The licensing authority will keep the policy statement under constant review and make such revisions it feels appropriate. Where revisions are made, the licensing authority will publish a statement of revisions or a revised licensing policy statement. **Any major changes, unless they are the result of legislation changes will normally be preceded by public consultation.**
- 1.8 The Act makes provision for the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshments (premises licence), the supply of alcohol or the provision or regulated entertainment in certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notice).

## **2. Consultation**

- 2.1 Before determining this policy statement the licensing authority has consulted with the following: -
- the chief officer of police
  - the fire authority
  - persons/bodies representative of local premises licence holders
  - persons/bodies representative of local club premises certificate holders
  - persons/bodies representative of local personal licences
  - persons/bodies representative of businesses and residents in the area
- 2.2 Proper weight has been given to the views of all consulted prior to this policy statement taking effect.
- 2.3 **Unless changed by future legislation** the policy statement will remain in existence for a maximum period of 3 years and will then be subject to review and further consultation.

The licensing authority may consult beyond the statutory requirements, and seek comments from particular bodies or representatives of groups associated with the entertainment industry, the legal profession, health authority and the welfare of children. Those consulted include a body competent to advise on child protection, Weights and Measures (Trading Standards), Health and Safety Executive, Environmental Health, Planning and Building Control, Maritime and Coast Guard Agency and the Environment Agency.

**Please note:** The text within the shaded boxes is intended to provide information on the legal framework and statutory guidance but does not form part of the policy itself.

### **3. Licensing Objectives and Related Legislation**

3.1 The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. These are: -

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

3.2 These objectives are the only matters to be taken into account in determining the application and any conditions attached must be necessary to achieve the licensing objectives. **The legislation requires if there are no relevant representations then an application must be granted and will be subject only to mandatory conditions and conditions consistent with the applicant's operating schedule.**

3.3 A Licence will only be granted where the licensing authority is satisfied that these objectives have been met.

3.4 **The Licensing Authority requires applicants to address the licensing objectives in their operating schedules having regard to the type of premises, the licensable activities to be provided, the operational procedures, and the nature of the location and the needs of the local community.** The kind of standards that the local authority will expect to see are those which take into account measures including:

#### **3.4.1 Prevention of Crime and Disorder –**

- The use of **toughened glass/polycarbonate or other plastic/non glass bottles/receptacles**
- Measures to prevent **open** bottles and **other drinks containers** being carried from premises
- Restrictions on drinks promotions
- Measures to prevent binge drinking
- Marketing promotions that do not encourage excessive consumption and should be socially responsible.**
- Participation in pubwatch schemes or licensee associations **and attendance at meetings**
- Use of the appropriate number of security personnel and stewards ensuring effective control of venue at all times
- Training staff in crime prevention measures
- Search procedures
- Use of CCTV inside and outside the premises **ensuring that digital systems comply with Home Office guidance and the Authority's own CCTV policy**
- Lighting
- For new premises, designing out crime
- Quality of supervision and surveillance in premises
- Regular checks by staff of all public areas including toilets**
- Assessment of customer profiles ensuring effective management of customers both inside and in outside smoking/external seating areas**
- Anti-discrimination policies and unlawful practices including homophobia and racism**
- And any other measures deemed appropriate**



### 3.4.2 Public Safety –

- Promotion of sensible drinking
- Awareness and measures to prevent 'drink spiking'
- Zero tolerance drug policies including the appropriate use of searching/amnesty boxes to combat drug crime
- Monitoring capacities to a safe level with management controls ensuring safe capacities are maintained particularly with premises with more than one floor or zone (including electronic counting where necessary)
- Special arrangements for large events
- Security Personnel/Stewards
- Traffic Management
- Crowd Management
- Noise exposure
- Customer profile
- Physical environment of premises
- Use of special effects
- Ventilation and temperature
- Removal of glass/bottles to prevent use as weapon
- Where take away food is served measures in place to prevent the build up of grease on pavement surfaces in the vicinity of the premises

### 3.4.3 Prevention of Public Nuisance –

- The nature of the activities
- The location of premises and character of the surrounding area in relation to the proximity to residential and other noise sensitive premises
- Latest admission times
- Provision of welfare facilities for example toilets
- Measures for the limitation of noise emissions from the premises. These may include as appropriate noise limitation devices, sound insulation, whether windows are to be opened, the installation of acoustic lobbies and double glazing
- Measures to deal with queuing, where necessary
- Use of outdoor areas
- Odour and light nuisance
- Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, use of dedicated cab firms, notices in the premises requesting customers to respect neighbours
- Winding down periods particularly in public houses and night clubs etc
- Disposal of waste, particularly glass
- Use and maintenance of plant, including air extraction and ventilation systems
- Litter collection in vicinity including discarded flyers and other promotional material
- Noise from deliveries/collections
- Traffic Management
- Measures to supervise and prevent nuisance to local residence from customers' use of beer gardens, smoking and external seating areas
- Where take away food is served sufficient litter bins provided in the vicinity of the premises



#### 3.4.4 Protection of Children from Harm –

- Limitation of access dependent on nature of activities
- Use of British Board of Film Classification for film exhibition
- Robust proof of age provisions to include prevention of under 18's entering the premises where appropriate and the requirement for anyone looking under 18 to provide proof of age in the form of a photo driving licence, passport or accredited photo ID card bearing the PASS hologram
- Adoption of the Challenge 21 philosophy
- Requirements for accompanying adults
- Full range of soft drinks

#### These lists are not exhaustive

3.5 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a panacea for solving all problems within the community. The Licensing Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. The licensing authority will therefore continue to work in partnership with its neighbouring authorities, the police, the fire authority, the Council's Environmental Health Department, local businesses and local people towards the promotion of the objectives as outlined.

3.6 When making licensing decisions, the licensing authority is bound to apply: -

#### 3.7 Legislation

- Section 17 Crime and Disorder Act 1998
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- Equality Act 2010 (When in force)

The Council, when making decisions, has a duty to do all that it reasonably can to prevent crime and disorder, under Section 17 of the Crime and Disorder Act 1998.

The Council is under a duty to protect the rights of residents to privacy and family life under Article 8 of the European Convention on Human Rights. At the same time, the Council must recognise the right of legitimate business to operate their premises without unnecessary restraint.

Public authorities have a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

3.8 The licensing authority will also have regard to other legislation, strategies, policies and guidance in its decision making including: -





### 3.8.1 Legislation

- Crime and Disorder Act 1998
- Health and Safety at Work etc. Act 1974
- Environmental Protection Act 1990
- The Anti-Social Behaviour Act 2003
- Building Regulations
- Regulatory Reform (Fire Safety) Order 2005
- Town and Country Planning Act 1990
- Private Security Industry Act 2001
- Violent Crime Reduction Act 2006

### 3.8.2 Strategies

- **Safe . Sensible. Social. The next steps in the National Alcohol Strategy**
- 'Safer Clubbing'
- LACORS/TSI Code of Best Practice on Test Purchasing
- East & Mid Devon Community Safety Partnership Plan 2008-11

### 3.8.3 Policies

- Regulatory Compliance Code and the Hampton Principles
- Local Plan
- Local Transport Plan
- Enforcement Policies of each Responsible Authority

### 3.8.4 Guidance

- Guidance to Health and Safety at Outdoor Events (Purple Book)
- **Working together on Firework Displays**
- **Managing Crowds Safely**
- **The Guide for Small to Medium Places of Assembly**
- **The Guide for Large Places of Assembly**
- Guide to Fire Precautions in Entertainments and Like Premises
- Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
- The District Council's guidance/policy in relation to noise nuisance etc.
- Lacors's policy on large events
- Security Industry Authority's guidance on security at large outdoor events

3.9 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the licensing authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

3.10 The licensing authority recognises that the provision of entertainment is a major contributor to the economy of the District, attracts tourists and visitors and is a major employer. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.



- 3.11 The licensing authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.
- 3.12 In determining a licence application the overriding principle adopted by the licensing authority is that each application will be determined on its merits in the context of the four licensing objectives, and that unless relevant representations are received from Responsible Authorities or Interested Parties, there is no provision for the Authority to impose conditions on a licence other than mandatory conditions or those proposed within an application. At present there is no provision for the Licensing Authority itself to make representations, and in the absence of relevant representations in respect of an application, the Authority is obliged to issue the licence on the terms sought.

## **4. Conditions**

- 4.1 Licensing relates to the control of licensed premises and other events within the terms of the Act and any conditions, which may be attached to licences, and the various other permissions, which will focus on matters falling within the control of individual licence holders.
- 4.2 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. In this regard the licensing authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 4.3 Generally it is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned. But the Licensing Authority's discretion may be engaged if relevant representations are made and there is an evidential link between the disturbance and the licensed venue.
- 4.4 The licensing authority will avoid imposing disproportionate and over burdensome conditions on premises. The licensing authority does not propose to implement standard conditions on licences across the board but instead, if its discretion is engaged, will attach conditions as appropriate given the circumstances of each individual case.
- 4.5 Conditions will cover the licensing objectives: -
- crime and disorder
  - public safety
  - public nuisance
  - protection of children from harm.
- 4.6 Following relevant representations the licensing authority may impose conditions where existing legislation does not provide adequately for the promotion of the four licensing objectives.



- 4.7 Applicants are encouraged to volunteer their own conditions by way of an operating schedule. The terms of a premises licence and any conditions attached should be clear, not just clear to those having specialised knowledge of licensing, such as the licensing authority or the manager of the premises but also to the independent bystander such as neighbours, who may have no knowledge of licensing at all. The Licensing Authority's experience has shown that many conditions that have been volunteered have been vague, uncertain, imprecise and unenforceable. As an aid to applicants or their representatives to ensure that the operating schedules that are offered are spelt out in clear terms the Licensing Authority has formulated a menu of common conditions which applicants are invited to use when formulating their operating schedules. Further conditions are available in Annex D to the Guidance issued under Section 182 of the Licensing Act 2003 available on the DCMS website at

[http://www.culture.gov.uk/what we do/alcohol and entertainment/default.aspx](http://www.culture.gov.uk/what_we_do/alcohol_and_entertainment/default.aspx)

Licensing conditions may only relate to the promotion of the licensing objectives, and to matters which the licence holder can be reasonably expected to control in relation to the carrying on of licensable activities, and these are likely to relate to the premises themselves and the immediate vicinity of those premises.

Conditions will only be attached that are practical, achievable and necessary for the promotion of the licensing objectives and if already provided for in other legislation, they will not be considered necessary in the context of the licensing law.

The Act enables the authority to impose such conditions as are necessary upon premises which have the potential to cause danger to visitors, disturbance to neighbours, crime or harm to children. However, many premises operate without such risks and the authority will reflect this by adopting a lighter touch to the imposition of conditions.

The Authority's menu of conditions suitable for use in Operating Schedules is available on the Licensing pages of the District Council's website at [www.eastdevon.gov.uk](http://www.eastdevon.gov.uk). Alternatively copies are available from the Council's Licensing Office by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephoning 01395 517410

- 4.8 Where a responsible authority or interested party considers the conditions volunteered by an applicant to be inadequate and makes representation to the Licensing Authority then the authority may, following a hearing, attach further conditions or amend volunteered conditions if it is considered appropriate to promote the licensing objectives.

## 5. Cumulative Impact

- 5.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the licensing authority can take into account. This should not however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.



- 5.2 The licensing authority may receive representations from either a responsible authority or an interested party (see glossary), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type, making it a focal point and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application. The onus is on any person or organisation making such representations to prove any assertion that the addition of the premises concerned would cause the cumulative impact claimed.
- 5.3 The licensing authority will not operate a quota of any kind, which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community. This may result in the amenity of local residents being placed under severe pressure; it will not always be possible to attribute a particular problem to customers of particular premises. This means that whilst enforcement action to ensure conditions are complied with is taken, this may not resolve all problems.
- 5.4 In determining whether to adopt a 'saturation' policy for a particular area the licensing authority may, among other things: -
- gather evidence or identification of serious and chronic concern from a responsible authority or local residents about nuisance and disorder
  - identify the area from which problems are arising and the boundaries of that area
  - make an assessment of the causes
  - adopt a policy about future applications for premises within that area.
- 5.5 If a 'saturation' policy is adopted it will be reviewed regularly to assess if it is needed any longer or should be expanded.
- 5.6 Where there is evidence that a particular area of the District is already suffering adverse effects arising from the concentration of late night premises, or that residential areas are under stress, this will be taken into account in determining any further applications for premises within the area identified.

As such the licensing authority may take into account matters such as: -

- The character of the surrounding area
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences
- The nature and character of the proposed operation.

5.7 The licensing authority recognises that as well as the licensing function there are a number of mechanisms for addressing issues of unruly behaviour that occurs away from licensed premises. These include: -

- planning controls
- ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others



- powers to designate parts of the District as places where alcohol may not be consumed publicly
- confiscation of alcohol in designated areas
- police enforcement of the law with regard to disorder and anti-social behaviour
- police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise
- the power of police, local businesses or residents to demand a review of the licence
- enforcement action against those selling alcohol to people who are already drunk.

5.8 The licensing authority may address a number of these issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the District.

Where the number, type and density of licensed premises are unusually high, serious problems of nuisance and disorder have sometimes arisen or have begun to arise outside or some distance from the licensed premises. This has been described as the cumulative impact of the increasing capacity of all premises taken together.

It is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together is greater in these cases than the usual impact from customers of individual premises.

In these circumstances, a licensing authority may receive representations from a responsible authority or interested party that an area is becoming saturated with certain premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. Such representation would need to be based on evidence.

This might be creating exceptional problems of disorder and nuisance over and above the impact from any individual premises. If this is the case it might lead the licensing authority to consider, through consultation, if adopting a special policy not to grant further licences would be one solution in helping to control the problem.

Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the control of the licence holder but is still a key aspect of such control and will be part of a holistic approach to the management of the evening economy in towns and city centres.

## 6. Licensing Hours

6.1 The licensing authority will deal with the issue of licensing hours on the individual merits of each application. When the Authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Interested Parties on the basis of the



licensing objectives. However, when issuing a licence with hours beyond midnight higher standards of control will generally need to be included in operating schedules to promote the licensing objectives especially for premises which are situated near residential areas.

- 6.2 There is no presumption within the Act for longer opening hours over objections from local residents and businesses located in the vicinity of licensed premises but the licensing authority will consider licensing hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide and promote a range of entertainment during their operating hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operational schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 6.3 In considering relevant representations, the licensing authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case.
- 6.4 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required.
- 6.5 The Licensing Authority does not seek to adopt fixed terminal hours in designated areas (known as "Zoning"), as this can lead to the significant movement of people across boundaries in search of premises opening later.
- 6.6 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

Fixed and artificially early closing times promote, in the case of sales of alcohol, rapid binge drinking close to closing times and are considered a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously.

This creates excessive pressures at places where fast food is sold or public or private transport is provided.

This in turn can produce friction, particularly between young people, and gives rise to disorder and peaks of noise and other nuisance.

## 7. Authorisation to Sell Alcohol

- 7.1 Where premises are licensed to sell or supply alcohol the licensing authority will expect a Personal Licence Holder to normally be present on the premises at all times when there are sales or the supply of alcohol taking place. However if arrangements are made in advance a Personal Licence holder may authorise another person to sell alcohol.
- 7.2 The Licensing Authority will expect the Personal Licence holder who authorises another person to sell alcohol to ensure that:
- (a) the person is authorised in writing by the Personal Licence holder on whose behalf the person is selling or supplying alcohol;
  - (b) the authorisation should specify the acts that may be carried out by the authorised person;
  - (c) the person should be clearly identifiable;
  - (d) there is in place sensible arrangements on a reasonably regular basis for the Personal Licence holder to monitor the activities that they have authorised.
- 7.3 The Designated Premises Supervisor remains responsible for the day to day running of any premises licensed to sell alcohol.

## 8. Children and Licensed Premises

- 8.1 The licensing authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from **physical, moral or psychological harm**.
- 8.2 When deciding whether or not to limit access to children the licensing authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children include premises: -
- where entertainment of an adult or sexual nature is provided
  - where there is a strong element of gambling taking place
  - with a known association with drug taking or dealing
  - where there have been convictions of the current management for serving alcohol to minors or with a reputation for allowing underage drinking
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises**
- 8.3 In such circumstances as listed in paragraph 8.2 above the licensing authority would expect for the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the operating schedule, then if relevant representation are made the licensing authority will consider making such restrictions as are deemed necessary to meet the licensing objectives.
- 8.4 Conditions may be imposed, if not covered in other legislation, on licences for premises where children will be present at places of regulated entertainment to the effect that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where



children may be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances

- 8.5 The options available for limiting access by children would include: -
- a limit on the hours when children may be present
  - a limitation or exclusion when certain activities are taking place
  - the requirement to be accompanied by an adult
  - access may be limited to parts of the premises but not the whole
  - an age limitation (for under 18s).
- 8.6 The licensing authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.
- 8.7 The licensing authority will take strong measures to protect children where any licence holder is convicted of serving alcohol to minors, premises have a known association with drug taking or dealing, gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. In such circumstances it may sometimes be necessary to impose a complete ban, or require limitations on the hours when children may be present, age limitations or conditions requiring an accompanying adult, exclusions during certain activities of persons under 18.
- 8.8 In relation to exhibition of films, a mandatory condition will apply, requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification.**
- 8.9 In relation to theatrical entertainment, it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be necessary where entertainment is provided specifically for children, to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.**
- 8.10 The Licensing Authority recognises Children & Young People's Services of Devon County Council as being competent to advise on matters relating to the protection of children from harm.**

## **9. Enforcement**

- 9.1 The licensing authority has established protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.
- 9.2 In general, action will only be taken in accordance with agreed enforcement principles and in line with the licensing authority's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.





## **10. Integrating Strategies and the Avoidance of Duplication**

- 10.1 By consulting widely prior to this policy statement being published, the licensing authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.
- 10.2 The licensing authority will integrate its various strategies to achieve the licensing objectives in the interests of clarity for applicants and effective determination.
- 10.3 Where any protocols to be agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which lead to disorder and disturbance the licensing authority will aim to inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.
- 10.4 The licensing authority's Licensing Committee will keep itself informed and consider wider issues which may need to be given due consideration when making licensing decisions. These issues may include:-
- needs of the local tourist economy
  - cultural strategy for the area
  - employment situation in the area and the need for new investment and employment where appropriate
- 10.5 The licensing authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there should be clear separation of the planning and licensing regimes to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned.
- 10.6 This policy is not intended to duplicate existing legislation and other regulatory regimes that place duties on employers and operators. For example Health & Safety at Work etc Act 1974, Environmental Protection Act 1990, Disability Discrimination Act 1995, Building Regulations and the Regulatory Reform (Fire Safety) Order 2005.**

## **11. Other Legislation**

- 11.1 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder.
- 11.2 In reaching a decision on whether or not to grant a licence, the licensing authority, if relevant representations are made, may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.
- 11.3 The grant of a licence does not imply the approval of other legislative requirements.



## **12. The Licensing Process and Delegation of Functions**

- 12.1 The powers of the Licensing Authority under the Act may be carried out by the Authority's Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority. The Licensing and Enforcement Committee will consist of between 10 and 15 elected members of the Council and will establish sub committees consisting of 3 members of the committee. The Council's delegation of functions follow the DCMS Guidance issued under Section 182 of the Licensing Act. A list of delegations is available from the Licensing Authority.
- 12.2 Many of the licensing procedures will be largely administrative and un-contentious. In the interests of efficiency and effectiveness officers will generally carry these out.
- 12.3 Where there are no representations on an application to the grant of a premises licence or club premises certificate these matters will be dealt with by officers in order to speed matters through the system and in the interests of efficiency and cost.
- 12.4 Delegated officers can decide whether representations should be rejected in that they are frivolous or vexatious. Such decisions cannot be appealed in the magistrates' courts but can be challenged by way of a judicial review.
- 12.5 Applications where there are relevant representations will be dealt with by a committee or a subcommittee of the licensing authority, as will any relevant application for the review of a licence.
- 12.6 The licensing authority will expect individual applicants to address the licensing objectives in their operational schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 12.7 Except where complete applications are made online in accordance with the EU Services Directive all applicants will be required to copy their applications to the responsible authorities. Full details of which are available in the licensing pages of the Authority's website or from its Licensing Service.
- 12.8 When determining applications, the licensing authority will have regard to any guidance issued by the DCMS. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's consideration will be balanced against the wider benefits to the community.
- 12.9 Responsible Authorities or Interested Parties may lodge an application for review of a licence/certificate with the Licensing Authority at any time. Where a Review application is made, the Licensing Authority encourages all parties to work in partnership to achieve the promotion of the licensing objectives. The Licensing Authority expects that Responsible Authorities will give licence holders early warning, where possible, of any concerns identified at a premises.
- 12.10 Decisions made by the licensing committee can be appealed to the magistrates' court within 21 days. Applicants, responsible authorities and interested parties all have the



right of appeal. Delegation of functions follow the DCMS Guidance issued under Section 182 of the Licensing Act.

### **13. Cultural Strategy**

- 13.1 The licensing authority recognises that, as part of implementing its cultural strategy, proper account will be taken of the need to encourage and promote entertainment including live music, dancing and theatre for the wider cultural benefit of the community. Conditions to be imposed on relevant licences will not discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.
- 13.2 The licensing authority acknowledges the advice received from DCMS that the views of vocal minorities should not be allowed to predominate over the general interest of the community.
- 13.3 In the exercise of its licensing functions the Licensing Authority will ensure that it does not apply direct or indirect measures that deter live music (in particular those promoting performances that can be classified as “non rock”, pop, modern music or similar music forms), dancing and theatre by imposing disproportionate licensing conditions.**
- 13.4 The impact of this policy on regulated entertainment, particularly live music and dancing, will be monitored. Where there is an indication that such events are being deterred by licensing requirements the policy will be revisited with a view to investigating how the situation might be improved.
- 13.5 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the Licensing Authority’s wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.**

### **14. Drugs**

- 14.1 The licensing authority recognises that drug use is not something that is relevant to all licensed premises. However, if relevant representations are made special conditions may need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. The conditions to be imposed in such cases may be taken from the DCMS pool of conditions that takes into account the report “Safer Clubbing” issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs Action Team and the Police.

### **15. Anti Social Behaviour**

- 15.1 A minority of consumers will behave badly and unlawfully once away from premises, and licence holders’ co-operation is sought in minimising this behaviour in the vicinity of premises. The Licensing Authority recognises that the Act is not a cure-all for anti-social behaviour. There is a range of other strategies for addressing these problems, for example:**



- Planning controls
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- Powers of Police and Local Authorities under the Anti-Social Behaviour Act
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff selling alcohol to people who are drunk
- Confiscation of alcohol from adults and children in designated areas
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the Police, other responsible authorities or a local resident or business to seek a review of the licence or certificate
- Promotion of positive activities.

This list may be supplemented by other local initiatives that similarly address these problems.

15.2 The Licensing Authority is aware of and will support the use of sections 40 and 41 of the Anti-Social Behaviour Act 2003. These powers allow the closure, by authorised Environmental Health Officers, of premises causing public noise nuisance.

15.3 The Authority is also aware and will support the use by police of the issue of written directions under Section 27 of the Violent Crime Reduction Act 2006, whereby a person may receive, a '48 hour' ban from a specific area. [A breach of two or more of the 'Section 27 directions can result in the anti-social behaviour order process being invoked.]

## **16 CCTV Standards Policy**

16.1 Where the provision of CCTV system is a requirement of the conditions of either a Premises licence or a Club Premises certificate, whether these are placed on the licence/certificate as offered by the applicant's Operating Schedule or imposed following a Sub Committee hearing, the system must comply with at least the Licensing Authority'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.

### **16.2 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 Licensing Authority and Police. All cameras must provide evidence of identification and be correctly maintained.
- (3) Where, to satisfy the Licensing Authority 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) The Designated Premises Supervisor or 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 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.

16.3 This policy applies to all Premises licences and Club Premises certificates issued or varied (not minor variation) following the Licensing Authority's adoption of the policy on the 7 September 2010. Holders of existing licences and certificates that require the maintenance and use of CCTV are encouraged to comply with the policy as soon as possible.

## **17. Door Supervisors**

17.1 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must comply with the Private Security Industry Act 2001 and the Violent Crime Reduction Act 2006 and any successive legislation.

17.2 The Licensing Authority having regard to advice from relevant responsible authorities may consider that certain premises require strict supervision for exceptional reasons relating to the licensing objectives to prevent crime and disorder and public nuisance. In such cases, if relevant representations are made the Licensing Authority may impose a condition that licensed supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

Overcrowding is a matter for public safety but it can lead to disorder and violence. Where this is an issue consideration will be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

## **18. Control of Consumers**

18.1 The District Council has adopted the relevant powers to designate parts of the District as places where alcohol may not be consumed publicly. The licensing authority will keep this under review.

18.2 'Pub Watch' schemes or Licensee Associations will be promoted by the licensing authority. This is intended to promote and encourage public safety and the reduction of crime.



- 18.3 The licensing authority will continue to liaise with the police licensing section and the Fire & Rescue Service to inspect licensed premises. This joint partnership approach is intended to maximise the potential for controlling crime, disorder and hazards at premises and to ensure compliance with relevant conditions as appropriate.

## **19. Nuisance**

- 19.1 To promote the licensing objectives, applicants for licences for licensable activities will be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. The prevention of public nuisance can include low-level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of interested parties.

The Licensing Act does not exempt licence holders from their statutory obligations under the Environmental Protection Act 1990. But in certain circumstances where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to imposing conditions. (See DGMS pool of conditions in the Guidance Issued under Section 182 of the Licensing act 2003.)

The Licensing Authority can only attach conditions if there have been relevant representations and only then if such conditions are deemed necessary, proportionate and reasonable and are not already contained within the applicant's operating schedule.

## **20. Capacity**

- 20.1 Where it is considered necessary to control the maximum numbers of persons attending premises for the purpose of preventing crime and disorder or for public safety the licensing authority will expect this to be addressed in the operating schedule. The licensing authority, if relevant representations are made and only then if such conditions are deemed necessary proportionate and reasonable, may impose a condition stipulating a maximum number of persons permitted to attend premises where it considers it necessary to prevent crime and disorder or for public safety purposes.

## **21. Vessels**

- 21.1 The licensing authority will give particular weight to the views of the Maritime and Coastguard Agency when considering applications for premises licences in respect of vessels. Where, in the opinion of the licensing authority, any of the four objectives are undermined and this cannot be resolved through the imposition of conditions, the application will be refused.



## 22. Temporary Event Notices (TENs)

- 22.1 Some small-scale events, depending on the circumstances, may be held under the authority of a TEN. There are various restrictions in relation to the number of TENs for individuals and premises and event organisers are strongly advised to obtain advice well in advance of the event.
- 22.2 The Police can object to a TEN only where they consider the event is likely to undermine the Crime Prevention objective. No other person or body may object.
- 22.3 The Act requires a TEN to be served upon the Licensing Authority and the police not less than 10 working days prior to the event. (Not including the day of service or the first day of the event.) **Where a TEN is served online it is the Licensing Authority's responsibility to serve a copy on the Police.** In practice **10 working days** is unlikely to be sufficient to allow any concerns to be resolved and organisers are advised to serve notice giving as much notice as possible. In the event that a hearing is held and a Counter Notice prohibiting it is issued by the Licensing Authority it is unlikely that there will be sufficient time for any appeal to be heard by the Magistrates Court unless substantially more than the ten working days is allowed.
- 22.4 Organisers are strongly advised to ensure that adequate safety measures (including the recorded findings of a Fire Risk Assessment) are in place in relation to any Temporary Event. Any event held under a TEN may be subject to inspection by officers from the Responsible Authorities.
- 22.5 The Licensing Authority will advise other Responsible Authorities of TENs served. Those authorities may address issues of concern under their own regulatory powers.

While the concept of the temporary event notice is to give a light touch to charity organisations it can be used by licence holders of premises to extend their hours of business over holiday periods.

It should be noted that some private events can involve licensable activities, but only in prescribed circumstances. Entertainment at a private event to which the public are not admitted only becomes licensable if it is provided for a consideration and with a view to profit.



## Definitions

**Club Premises Certificate** – authorises the use of premises by a qualifying club for one or more licensable activity

**DCMS** - Department of Culture, Media, and Sport

**Designated Premises Supervisor** means the person (who must be a Personal Licence holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder).

**Entertainment Facilities** – Facilities for enabling persons to take part in entertainment.

**Regulatory Compliance Code** – Is a code to promote efficient and effective approaches to regulatory inspections and enforcement.

**The Hampton Principles** – These are the principles that outline the way that regulation and enforcement should be planned and implemented by the regulatory authorities.

**An Interested Party** –

- a person living in the vicinity of the premises
- a body representing persons who live in that vicinity
- a person involved in a business in that vicinity
- a body representing persons involved in such businesses
- an elected Councillor of the District Council (this does not include County, Town or Parish Councillors)

**Late Night Refreshment** - the provision, between 11.00 pm and 5.00 am, of hot food or hot drink, or a section of the public on or from any premises, whether for consumption on or off the premises between 11.00 pm and 5.00 am  
or

at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

**Licensable Activities and Qualifying Club Activities** –

- the sale by retail of alcohol
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- the provision of regulated entertainment
- the provision of late night refreshment
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for - consumption on the premises where the supply takes place
- the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place
- the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests

**Operating Schedule** means a document containing a statement including the following matters: -

- the relevant Licensable Activities



- the times at which the Licensable Activities are to take place and any other times when premises are open to the public
- information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- the steps being taken to promote the Licensing Objectives

**Personal Licence** – authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence

**Premises Licence** – authorises the premises to be used for one or more licensable activity

**Regulated Entertainment -**

- (a) A performance of a play
- (b) An exhibition of film
- (c) An indoor sporting event
- (d) A boxing or wrestling entertainment
- (e) A performance of live music
- (f) Any playing of recorded music
- (g) A performance of dance
- (h) Entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

**Relevant Representation** - is only relevant if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. A representation that fails to do so is 'irrelevant' for the purposes of the Act.

It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious. The interested party may not consider the representation to be frivolous or vexatious, but the test is whether the licensing authority is of the opinion they are frivolous or vexatious. The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. A trivial complaint would not always be frivolous but would have to be pertinent in order to be relevant. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. In borderline cases the benefit will be given to the interested party making the representation. An interested party aggrieved by a rejection of his representations may challenge the authority's decision by way of judicial review.

If the licensing authority decides a representation is relevant then a hearing will be required in relation to that representation unless the authority, the applicant and each person who has made representations agree that a hearing is unnecessary and that the authority take such steps, having regard to the representations and promotion of the licensing objectives.

**Residential Area** - An area whose character is residential at the material time of day. Where there is doubt, the licensing authority



will consider the number of residential units in the area and the proportion of such units to units used for other purposes.

**Responsible Authority (who are they?) -**

- (i) the Chief Officer of Police for any police area in which the premises are situated
- (ii) the Fire Authority for any area in which the premises are situated
- (iii) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any area in which the premises are situated
- (iv) the local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are situated
- (v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vi) a body which:
  - (a) represents those who, in relation to any such area, are responsible for, or interested in matters relating to the protection of children from harm, and
  - (b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters
- (vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated
- (viii) in relation to a vessel:
  - (a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be, navigated at a time when it is used for licensable activities
  - (b) the Environment Agency
  - (c) the British Waterways Board, or
  - (d) the Secretary of State
  - (e) a person prescribed for the purpose of this subsection

**Temporary Event** - the use of premises for one or more of the licensable activities during a period not exceeding 96 hours, usually where a premises licence covering the licensable activity is not in place.

**Temporary Event Notice** means a Permitted Temporary Activity involving one or more licensable activities subject to the following various conditions and limitations: -

- duration – they are limited to events lasting for up to 96 hours;
- scale – they cannot involve the presence of more than 499 people at any one time;
- use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used, and
- the number of notices given by an individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year, and any other person to five notices in a similar period.

(in any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event involved)

**Terminal Hour** refers to the time at which authorised licensable activities should cease and the 'opening hours' when premises are open to the public is not necessarily the same. The authorisation of a licence relates to the sale or supply of alcohol and not to the consumption. 'Drinking up time' no longer applies but applicants would be expected to address this issue when preparing their operating schedules.



## Responsible Authority Contacts

The list of Responsible Authorities and their contact details may change where additional responsible authorities are designated by regulations from the Secretary of State or existing Responsible Authorities change their address.

An up to date list of Responsible Authorities relating to East Devon with their contact details can be obtained by accessing the East Devon District Council's Licensing pages on the Council's website or by request to the Council's Licensing Office by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephoning 01395 517410.

Further information can be obtained from the East Devon District Council's Licensing Act 2003 page on the web at  
[http://www.eastdevon.gov.uk/index/council\\_services/licensing/licensing\\_alcohol\\_and\\_entertainment.htm](http://www.eastdevon.gov.uk/index/council_services/licensing/licensing_alcohol_and_entertainment.htm)

## Useful Contacts

DCMS - Department for Culture Media and Sport

[http://www.culture.gov.uk/what we do/alcohol and entertainment/default.aspx](http://www.culture.gov.uk/what_we_do/alcohol_and_entertainment/default.aspx)

Licensing Documents...

- Licensing Act 2003
- Guidance under Section 182 of the Act

**The responsibility for the Licensing Act transferred to the Home Office in July 2010 therefore it is expected that during the life of this policy advice and information will become available through the Home Office Website.**

### Association of Convenience Stores (ACS)

<http://www.thelocalshop.com/tls/index.asp>

Federation House

17 Farnborough Street

FARNBOROUGH

GU14 8AG

Email: [acs@acs.org.uk](mailto:acs@acs.org.uk)



**Association of Licensed Multiple Retailers (ALMR)**

<http://www.almr.org.uk/>

9B Walpole Court

Ealing Studios

LONDON

W5 5ED

Telephone: 020 8579 2080

Email: [info@almr.org.uk](mailto:info@almr.org.uk)

**Association of Town Centre Managers (ACTM and Purple Flag)**

<http://www.atcm.org/>

ATCM

1 Queen Anne's Gate

Westminster

LONDON

SW1H 9BT

Email: [office@atcm.org](mailto:office@atcm.org)

**British Beer and Pub Association (BBPA)**

<http://www.beerandpub.com/>

British Beer & Pub Association

Market Towers

1 Nine Elms Lane

LONDON

SW8 5NQ

Telephone: 020 7627 9191

Email: [web@beerandpub.com](mailto:web@beerandpub.com)

**British Board of Film Classification (BBFC)**

[www.bbfc.co.uk](http://www.bbfc.co.uk)

3 Soho Square,

LONDON

W1D 3HD

Email: [contact the bbfc@bbfc.co.uk](mailto:contact_the_bbfc@bbfc.co.uk)

**British Institute of Inn Keeping (BII)**

<http://www.bii.org/>

Wessex House

80 Park Street

CAMBERLEY

GU15 3PT

Telephone: 01276 684449

**British Retail Consortium (BRC)**

<http://www.brc.org.uk/default.asp>

21 Dartmouth Street,

LONDON

SW1H 9BP

Telephone: 0207 85 8900

**Circus Arts Forum**

[www.circusarts.org.uk](http://www.circusarts.org.uk)

Email: [info@circusarts.org.uk](mailto:info@circusarts.org.uk)



**Cinema Exhibitors' Association (CEA)**

<http://www.cinemauk.org.uk/>

22 Golden Square

LONDON

W1F 9JW

Telephone: 0207 734 9551

**Department for Culture, Media and Sport** (see links to the Licensing Act 2003, Explanatory Notes, Guidance and Regulations)

[www.culture.gov.uk](http://www.culture.gov.uk)

2-4 Cockspur Street

LONDON

SW1Y 5DH

Email: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)

**Equity**

<http://www.equity.org.uk/>

Head Office

Guild House

Upper St Martins Lane

LONDON

WC2H 9EG

Telephone: 020 7379 6000

Email: [info@equity.org.uk](mailto:info@equity.org.uk)

**Home Office**

<http://www.homeoffice.gov.uk/drugs/alcohol/>

Direct Communications Unit

2 Marsham Street

LONDON

SW1P 4DF

**Independent Street Arts Network**

[www.streetartsnetwork.org.uk](http://www.streetartsnetwork.org.uk)

54 Chalton Street,

LONDON

NW1 1HS

**Institute of Licensing (IOL)**

<http://www.instituteoflicensing.org/>

Institute of Licensing

45 Larcombe Road

ST AUSTELL

PL25 3EY

**Justices Clerks' Society**

[www.jc-society.co.uk](http://www.jc-society.co.uk)

Telephone: 0151 255 0790

E-mail: [secretariat@jc-society.co.uk](mailto:secretariat@jc-society.co.uk)

**LACORS**

<http://www.lacors.gov.uk/>

Email: [info@lacors.gov.uk](mailto:info@lacors.gov.uk)



**Licensed Victuallers Associations (LVAs)**

<http://www.fiva.co.uk/>

Federation of Licensed Victuallers Associations,  
126 Bradford Road  
BRIGHHOUSE  
HD6 4AU

**National Association of Local Government Arts Officers**

<http://www.nalgao.org/>

NALGAO  
Oakvillia  
Off Amman Road  
Brynamman  
Ammanford  
NEATH  
SA18 1SN  
Telephone & Fax: 01269 824728

**National Pub Watch**

<http://www.nationalpubwatch.org.uk/index.php>

National Pubwatch  
PO Box 3523  
BARNET  
EN5 9LQ

**NOCTIS (Formerly Bar, Entertainment and Dance Association (BEDA))**

<http://www.noctisuk.org/>

5 Waterloo Road  
STOCKPORT  
SK1 3BD

**The Portman Group**

[www.portman.org.uk](http://www.portman.org.uk)

The Portman Group  
4th Floor  
20 Conduit Street  
LONDON  
W1S 2XW  
Telephone: 0207 290 1460  
Email: [info@portmangroup.org.uk](mailto:info@portmangroup.org.uk)



**EAST DEVON DISTRICT COUNCIL**



# **LICENSING POLICY CONSULTATION**

**LIQUOR, PUBLIC ENTERTAINMENTS  
& LATE NIGHT REFRESHMENTS**

**REPRESENTATIONS AND RESPONSES**

**under the**

**LICENSING ACT 2003**

**Consultation Period: September 2010 to November 2010**

**November 2010**



## Table Headings

- |   |                         |   |
|---|-------------------------|---|
| 1 | Reference number        | A unique number given to the particular representation  |
| 2 | Policy paragraph number | This identifies the section of the Policy to which the representation relates                   |
| 3 | Respondent              | The identification of the individual, company or organisation responding                        |
| 4 | Details of comments     | A copy of the representation made   |
| 5 | Appraisal of comments   | Sets out the appraisal of the representation  |
| 6 | Council's Response      | Details the Council's response to the representation – i.e. whether or not a change is proposed |

### Consultation Responses received – August/November 2010

1	2	3	4	5	6
D&CP1 57	General comment	Devon & Cornwall Police	<p>I have received East Devon District Councils Licensing policy on behalf of the Chief Constable as the Inspector heading on Licensing for the Force.</p> <p>As you know your document aligns with national Strategies, guidance and legislation. It is helpful from a policing context as it provides further guidance to licence holders which is in-sync with that provided by the Constabulary.</p> <p>I have no amendments or additions to ask you to consider.</p> <p>Thank you for the opportunity to influence this important document.</p>	Comments Noted	No
EVH1	General	St Andrews Hall,	As Honorary Secretary of the St Andrews Hall, Exton Committee I consider that the changes proposed are reasonable <sup>3</sup> and therefore support the proposals.	Comments Noted	No

1	WPC1	2	General Foreword	3	Woodbury Parish Council	4	Despite these two statements the policy still does not recognise Parish Councils as 'Interested Party' to be advised or consulted, either by EDDC or the individual applicant, on individual applications.	5	The legislation is very prescriptive on those who are permitted to give a view on an application made to a Licensing Authority. The Licensing Authority has received legal opinion that the legislation does not permit Town and Parish Councils on their own right to be consulted in the case of applications made to it. Town and Parish Councils however are permitted to represent people living in the 'vicinity' of the premise for which the application is made.	6	No
	ETC1	1.6			Exmouth Town Council		Substitute 'Neighbouring authorities and town and parish councils will be consulted where appropriate' with 'The seven East Devon towns should be consulted at all times and neighbouring authorities and parish councils will be consulted where appropriate'.		The Licensing Authority is very conscious of the need to involve town and parish councils in the licensing process and would normally consult town and parish councils whenever possible however it is not always appropriate to consult on all issues. The policy states that the Licensing Authority will consult town and parish councils where appropriate. It is anticipated that generally consultation would take place on most occasions.		No
	WPC2	1.6			Woodbury Parish Council		Neighbouring authorities and town and parish councils will be consulted where appropriate. How will Parish Councils be consulted if they are not given the status of 'Interested Party'?		This section of the policy relates to the Licensing Authority's general proposals to achieve the licensing objectives and for that purpose a town or parish council does not need to be an 'Interested Party' to be consulted and have an input.		No
	WPC3	2.3 & Definition Pages			Woodbury Parish Council		In Appendix B 'Interested Parties' specifically excludes Parish Councils. In the guidance note following clause 2.3 it states:- The licensing authority may consult beyond the statutory requirements, . . . Will EDDC consider including Parish Councils under this heading?		This section of the policy relates to who the Licensing Authority will consult when reviewing their Licensing Policy including general proposals to achieve the licensing objectives and for that purpose a town or parish council does not need to be a 'Interested Party' to be consulted and have an input.		No

1	2	3	4	5	6
ETC2	3.4.1	Exmouth Town Council	<p>(1) Extend 'The use of toughened glass/polycarbonate or other plastic/non glass bottles/receptacles' with should be encouraged.</p> <p>(2) Add mid sentence 'Use of the appropriate number of trained security personnel, who have undergone CRB clearance and wear identifiable uniform'.</p>	<p>(1) Comment Note</p> <p>(2) All "security personnel" must by law be SIA qualified and have under gone a CRB check. When working they must clearly wear their SIA badge. The suggested changes to the policy would seem to duplicate what is already required by legislation.</p>	No No
WPC4 5 6	3.4.1	Woodbury Parish Council	Under clause 3.4.1 Prevention of Crime and Disorder there are additional powers to help address issues with binge drinking and excessive consumption of alcohol. It is hoped that EDDC will use these powers wisely to address these serious issues.	Comments noted This section refers to crime and disorder issues that should be dealt with within operating schedules by applicants. It is not powers that EDDC has - as suggested by this comment. However the Licensing Authority does actively encourage applicants to address these issues within their operating schedules.	No
EDDC CLLR1	3.4.2	EDDC Councillor Miss Elson (Halsdon Ward)	Late Night Take-a-Ways need to have conditions that include cleaning outside, their premises for a specified area, to prevent grease on the pavements or in the vicinity that may cause accidents to people when walking on them.	With the exception of the mandatory conditions set by central government the Licensing Authority (LA) can only require specific conditions being placed on a licence following representations made by a "Responsible Authority" or an "Interested Party". Even then the conditions must relate to the four Licensing Objectives. The Policy at section 3.4 sets out the kind of standards the LA will expect to see addressed in Operating Schedules attached to Premises Licences. As Public Safety is an objective it would seem quite proper to expect operators of premises to ensure the safety of pedestrians by preventing the pavements in the vicinity of their premises becoming slippery due to spread of grease from fast foods dropping on the pavement surface.	Yes

1	EDDC CLLR3	2 3.4.3	3 EDDC Councillor Miss Elson (Halsdon Ward)	4 Entertainment licences for outdoor events must be controlled by noise and control of audience with limits on time according to the nearness of residents in an area e.g. The Strand, Exmouth and Manor Grounds residents live very nearby and therefore a limit of 10.30pm.	5 The Police and the Council's Environmental Health Noise Team together with persons residing in the vicinity are able to make representations on all applications for Premises licences and the issues raised in this comment would be addressed at that point. However in the case of Temporary Event Notices the opportunity to restrict these are currently very restricted as only the police can object and only then on crime and disorder issues. There are some proposals being considered by government to amend the current legislation which may improve this situation.	6 No
EDDC CLLR2	3.4.3	EDDC Councillor Miss Elson (Halsdon Ward)	Sufficient litter bins are provided for rubbish. They should contribute to the cost of litter bins and emptying within a certain radius of premises.	With the exception of the mandatory conditions set by central government the Licensing Authority (LA) can only insist on specific conditions being placed on a licence following representations made by a "Responsible Authority" or an "Interested Party". Even then the conditions must relate to the four Licensing Objectives. The Policy at section 3.4 sets out the kind of standards the LA will expect to see addressed in Operating Schedules attached to Premises Licences. As Prevention of Public Nuisance is an objective it would seem quite proper to expect operators of fast food premises to provide sufficient litter bins in the vicinity of the premises to collect the rubbish associated with this type of late evening operation. However currently there is no provision in the licensing legislation to require operators of licensed premises to make a contribution for cleaning up or collecting rubbish; trade refuse is dealt with under separate legislation.	Yes	

1	2	3	4	5	6
EDDC CLLR4	5	EDDC Councillor Miss Elson (Halsdon Ward)	Towns should be able to have a saturation policy to limit the number of take-a-ways in a given area - Exmouth it is The Strand.	The policy at section 5 does provide for saturation policies and provides an explanation. However they are normally introduced to restrict the number of premises that sell alcohol where exceptional problems of disorder and nuisance are occurring in an area. There should be an evidence basis for the decision by the LA to bring in a cumulative impact policy. This evidence would normally be provided by one of the "Responsible Authorities" or "Interested Parties" who would request the LA to consider the imposition of a cumulative impact policy.	No
ETC3	5.7	Exmouth Town Council	The last item 'enforcement action against those selling alcohol to people who are already drunk' to be placed at the top of section 5.7 as opposed to the end.	The items in the list are not listed in order of preference or importance. The list is intended as a guide.	No
ETC4 <b>6 1</b>	12.1	Exmouth Town Council	A request that the Licensing and Enforcement Committee should have a member from the locality when considering applications and no person alone should make a decision.	The delegations under the Licensing Act 2003 follow the DCMS's Guidance issued under Section 182 of the Licensing Act 2003. This means that with the exception of those that have no representations made against them all premises applications are heard by a Sub Committee of the Licensing and Enforcement Committee. The Sub Committees, as required by the legislation, is made up of three Councillors drawn from the 15 person Licensing and Enforcement Committee. Sometimes local knowledge may assist a Sub Committee, on other occasions local connections could give rise to a conflict of interest. The composition of sub committees takes these issues into account on a meeting by meeting/premise by premise basis. The availability of 15 members means that over the year members are drawn from across the district.	No

1	2	3	4	5	6
ETC5	12.9	Exmouth Town Council	Interested Parties should include a Town Councillor.	The legislation is very prescriptive on those who are permitted to give a view on an application made to a Licensing Authority. The last government made some alteration to the definition of "Interested Parties" by designating all members of the relevant licensing authority as "Interested Parties". This means that all District Councillors are "Interested Parties" however this change in definition did not extend to either County or Parish and Town Councillors. It is beyond the District Council's authority to designate town councillors as "Interested Parties".	No
ETC6	15.1	Exmouth Town Council	No reference is made as to how Anti Social Behaviour would be policed?	This list provides as a guide a range of strategies for dealing with anti social behaviour and not how it is to be policed.	No
STC1 6 N	General & Definition Pages	Seaton Town Council	As per previous requests from not only ourselves and other Councils we wish to be considered on all licensing applications.	See WPC1	No
ETC7	Definition Pages	Exmouth Town Council	Under section 'An Interested Party' A request to amend an elected Councillor of the District Council or Town Council (this does not include County or Parish Councillors)	See ETC5	No
STC1	Definition Pages	Sidmouth Town Council	The Town Council considers that the District Council's interpretation of the Act is inaccurate and that Town Councils should be considered 'Responsible Authorities'. The Council's research shows whilst some Town Councils felt as frustrated as Sidmouth at not been invited to comment, a large majority were consulted and treated as 'interested parties'. Sidmouth Town Council would ask that East Devon District Council look again at the terms of the Act and interpret in a similar manner to other areas.	The legislation [LA 2003 Section 13(4)] provides a very strict definition of "Responsible Authorities" and the District Council cannot depart from that definition which does not include town or parish councils. In relation to the request for town and parish councils to be treated as "Interested Parties" please see WPC1. However the Licensing Authority will be keep this issue under review.	No

1	2	3	4	5	6
BPC1	General	Branscombe Parish Council	Branscombe Parish Council would like you to consider adding "all relevant planning permissions should be submitted with each license application to show that the premises in which the event is to be held has the appropriate planning permission in place".	The Licensing Authority has in the past considered this issue however the guidance issued with the legislation and our own legal advice is that planning is a separate issue and a matter for the Planning Authority.	No
EDDC CLLR5	General	EDDC Councillor Miss Elson (Halsdon Ward)	No drinks licences should be issued in the NO DRINK ZONES.	Generally only Temporary Event Notices are used to permit the sale of alcohol in No Drink Zones and Police are the only authority who can object. A point worth noting if a TEN is in force for a No Drinking Zone then the powers relating to the No Drinking Zone cease to exist for the duration of the TEN.	No
EDDC CLLR6 03	General	EDDC Councillor Miss Elson (Halsdon Ward)	Licensed premises should contribute to the cost of Street CCTV that prevent disorder.	Currently there is no provision in the legislation to require operators of licensed premises to make a contribution towards policing or the cost of street based CCTV. However there are proposals being considered by government which may change the legislation to permit some recharging of costs to operators of licensed premises. Although not helping with the cost of official street based CCTV the police sometimes request that the premises CCTV cameras cover outside areas if they feel it is proportionate to the risk of crime and disorder outside the premises.	No

## Agenda Item 8

Licensing and Enforcement Committee

23 November 2010

JT



### Hackney Carriage Fares – Committee to Consider Objections to the Approved Fare Table

#### Summary

The Licensing and Enforcement Committee is asked to consider the objections made against the Hackney Carriage Fare Table approved by this Committee on the 7 September 2010 and to decide whether to modify the tariff or retain it in the existing form.

#### Recommendation

1. That the Committee:
  - (a) Consider the three objections to the Hackney Carriage Fare Tariff agreed by this Committee on the 7 September 2010 and set out in Appendix D and decide whether to retain it in the form previously approved or to modify it after considering the objections and
  - (b) Set a date on which the table of fares with or without modification will come into force. That date to be 8 December 2010.

#### a) Reasons 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.

#### b) Alternative Options

There is no alternative option as the legislation requires that following an objection to the setting of a new fare tariff the District Council must consider the objection and then set a date on which the table of fares shall come into force with or without modification.

#### c) Risk Considerations

If the Council fails to carry out its role under the legislation it could face legal challenge.

#### d) Policy and Budgetary Considerations

No direct financial implications

#### e) Date for Review of Decision

N/A





## 1 Background Information

- 1.1 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 permits District Councils to set the fares tariff for Hackney Carriages licensed in the District. This Council, in common with most other Councils, have used this power for many years. On 7 September this Committee approved a new fare tariff that appears at **Appendix D** to this report. The intention was for this new fare table to come into use on the 8 December 2010.
- 1.2 However 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 and the taxi trade then 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).
- 1.3 A public notice was placed in newspapers circulating in the area setting out the approved new table of charges and explaining the procedure should anyone wish to make representations relating to the increases. As a result the District Council has received three objections to the new table. All three objections are from the taxi trade.
- 1.4 Two of the objections, both from different owner drivers who operate in the Exmouth area, object to the fare table agreed by the Committee on the 7 September 2010 and do not want to see any increase. This is on the grounds of the current poor economic climate. The text of these objections are available in **Appendix A** and **B** to this report.
- 1.5 The third of the objections is made by the Exmouth Taxi Operators and Drivers Association. A copy of this objection appears at **Appendix C**. The Association indicates that it generally supports the increase however it objects to the nil % increase on the first mile on Tariff One. The Association have suggested two alternative amendments to the fare table to correct this:
- Alternative One:  
The flag fee to be £2.60 for the first 1/3<sup>rd</sup> of a mile rising to £3.80 at 1 mile and
- Alternative Two  
The flag fee to be £2.80 for the first ½ of a mile rising to £3.80 at 1 mile
- The Association also states that the flag on Tariff 3 could be lowered to £4.20 from £4.60.

## 2 Evaluation of the Objections

- 2.1 The Taxi trade have not received a fare increase for three years and on this stage it was the trade who approached the Council to seek an increase. Whilst two objections (**Appendix A & B**) have been received to this relatively modest rise there is a large majority of the taxi trade who have not objected and it would be reasonable to assume want the fare rise given that costs have risen over the past three years. The fare rise agreed by the



Council is the maximum that can be charged and operators and drivers are free to charge less enabling the two objectors not to charge the maximum fare if they wish.

- 2.2 The Exmouth Taxi Operators and Drivers Association objection (**Appendix C**) is in two parts. The first relates to Tariff 1 where they object to the nil % increase on the first mile on Tariff 1. Of the two alternative amendments to the fare table suggested by the Association to amend the second alternative could not be easily incorporated within the fare structure already approved by this Committee on the 7 September.
- 2.3 The first alternative on the other hand can easily be incorporated into the latest fare table and would provide a 5.56% increase to the fare for the first mile on Tariff One. The result of this change is set out in **Appendix E**. The original percentage increase and agreed on the 7 September are retained in the brackets next to the proposed figures. It would also mean a knock on effect with an additional percentage rise on subsequent miles as shown in the appendix. The table the Committee originally agreed on the 7 September appears as **Appendix D**.
- 2.4 The Association also suggest that the first mile flag on Tariff 3 could be lowered to £4.20 from £4.60. 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. The trade originally requested that the first mile flag be £5.00. Whilst the Exmouth Association has indicated that a lower charge is acceptable there is at least half the taxi trade who cover the rest of the District which is far more rural with greater distances to cover. It is in these areas that the lack of taxi would be felt most during a holiday period especially on days when there is no other public transport. The higher fares that are enabled during those periods will persuade more drivers to make themselves available and thus ensuring a better coverage. The effect of this change is also shown in **Appendix E**.

### **3 Recommendation**

- 3.1 The trade have not received a fare increase for three years and the current increase agreed on the 7 September 2010 is relatively modest. With this background and taking into account the current financial climate the recommendation to members is not to make any reductions to the fare table agreed at your last meeting. Members however are invited to consider the Exmouth Taxi Operators and Drivers Association's request for an increase to the flag fee for Tariff One. Whilst the approved table of fares provides for a general increase across most of the table there is just this one anomaly where the new table provides no increase for the first mile on Tariff One. The Association proposal for the first mile flag to be increased to £2.60 for the first 1/3<sup>rd</sup> of a mile rising to £3.80 at 1 mile would mean a 5.56 % increase for the first mile (below the RPI for the period since the last increase). This is important to the Exmouth trade as the majority of their journeys are relatively short.
- 3.2 Should the Members wish to make changes to the fare table agreed on the 7 September 2010 there will be no need to re advertise the amended fare table.

---

### **Legal Implications**

The legal implications are set out at paragraphs 1.1 and 1.2 of the report.



## **Financial Implications**

No financial implications

## **Appendices**

- Appendix A      Objection From an Exmouth Taxi Operator and Driver
- Appendix B      Objection From an Exmouth Taxi Operator and Driver
- Appendix C      Objection From the Exmouth Taxi Owners and Drivers Association
- Appendix D      Fare Comparison table showing Option 3 approved by Committee on the 7 September 2010
- Appendix E      Fare Comparison table including changes requested by the Exmouth Taxi Operators and Drivers Association

## **Background Papers**

- Licensing and Enforcement Committee papers dated 7 September 2010
- The Private Hire and Taxi Monthly magazine's national fare tariff league tables

---

John Tippin Ext. 2787  
Licensing Manager

Licensing and Enforcement Committee  
23 November 2010



## **Objection from an Exmouth Taxi Operator and Driver**

Via letter

Re: Proposed Taxi Fare Increase for East Devon

20/10/10

Dear Mr Williams

This is a letter of objection for the proposed fare increase due for implementation 8-12-10.

I feel that at this time it would be detrimental to the trade at this time, certainly in Exmouth, and with present downturn in business in general.

Even if implemented but not used by the trade, it would not look well with the general public, and as the larger firms in Exmouth run on set prices for up to 16 hours a day and, it would appear, will not be charging that then it would be a wasted exercise and waste of money changing the meter to comply with the new rates.

Also as Exmouth has been turned on its head by the 'enhancement' of the Strand Gardens, the metered prices now cost the customers up to 80 pence extra depending on time of day! So we are already getting more money on that account, so any further increase would be most unwelcome to the general public and as one would imagine.

There no increase is needed. Thank you.

Yours sincerely



**Objection from an Exmouth Taxi Operator and Driver**

Via email

As a taxi proprietor and businessman, I must object to any rise in fares at this present time, as in the economic climate of cut backs and job losses this would only further alienate the diminishing customer base in Exmouth, especially, and East Devon generally.

However I do think that the fares should be kept under review regularly.

Could you please forward this to the relevant body.



**Objection from the Exmouth Taxi Owners and Drivers Association**

Although, as an association, the majority are in favour of a rise, we do not accept the 0% rise on the first mile on tariff 1. We would like to suggest this be amended to either:

1. Flag £2.60 for 1/3 mile rising to £3.80 at 1 mile.
- OR
2. Flag £2.80 for 1/2 mile rising to £3.80 at 1 mile.

We also think that the flag on tariff 3 could be lowered to £4.20

Could you please forward this to the relevant body.

Regards Dave Lean (Chairman E.T.O.D.A.)



PROPOSED – ALTERNATIVE - OPTION 3

OPTION 3

TARIFF 1		TARIFF 2		TARIFF 3	
Name:		Name:		Name:	
Wait:	30 (secs)	Wait:	30 (secs)	Wait:	30 (secs)
Flag fall:	£2.60 A	Flag fall:	£3.60 A	Flag fall:	£4.60 A
Initial yardage:	880 B	Initial yardage:	880 B	Initial yardage:	880 B
Unit thereafter	176 C	Unit thereafter	146.6666 C	Unit thereafter	125.7143 C
Price Unit:	0.2 D	Price Unit:	0.2 D	Price Unit:	0.2 D
Initial Waiting Time (secs)	150	Initial Waiting Time (secs)	180	Initial Waiting Time (secs)	210

Distance miles	TARIFF 1			TARIFF 2			TARIFF 3		
	Current	Proposed	% Change	Current	Proposed	% Change	Current	Proposed	% Change
Flag	£2.40	£2.60	8.33%	£3.00	£3.60	20.00%	£3.60	£4.60	27.78%
1	£3.60	£3.60	0.00%	£4.60	£4.80	4.35%	£5.40	£6.00	11.11%
2	£5.40	<u>£5.60</u>	3.70%	£6.80	£7.20	5.88%	£8.00	£8.80	10.00%
3	£7.20	£7.60	5.56%	£9.00	£9.60	6.67%	£10.60	£11.60	9.43%
4	£9.00	£9.60	6.67%	£11.20	£12.00	7.14%	£13.20	£14.40	9.09%
5	£10.80	£11.60	7.41%	£13.40	£14.40	7.46%	£15.80	£17.20	8.86%
6	£12.60	£13.60	7.94%	£15.60	£16.80	7.69%	£18.40	£22.00	8.70%
7	£14.40	£15.60	8.33%	£17.80	£19.20	7.87%	£21.00	£22.90	8.57%
8	£16.20	£17.60	8.64%	£20.00	£21.60	8.00%	£23.60	£25.60	8.47%
9	£18.00	£19.60	8.80%	£22.20	£24.00	8.11%	£26.20	£28.40	8.40%
10	£19.80	£21.60	9.09%	£24.40	£26.40	8.20%	£28.80	£31.20	8.33%
Running mile	£1.80	£2.00	11.11%	£2.20	£2.40	9.09%	£2.60	£2.80	7.69%

PROPOSED – Including changes requested by the Exmouth Taxi Operators and Drivers Association

TARIFF 1		TARIFF 2		TARIFF 3	
Name:	TARIFF 1	Name:	TARIFF 2	Name:	TARIFF 3
Wait:	30 (secs)	Wait:	30 (secs)	Wait:	30 (secs)
Flag fall:	£2.60 A	Flag fall:	£3.60 A	Flag fall:	£4.60 A
Initial yardage:	880 B	Initial yardage:	880 B	Initial yardage:	880 B
Unit thereafter:	176 C	Unit thereafter:	146.6666 C	Unit thereafter:	125.7143 C
Price Unit:	0.2 D	Price Unit:	0.2 D	Price Unit:	0.2 D
Initial Waiting Time (secs)	150	Initial Waiting Time (secs)	180	Initial Waiting Time (secs)	210

Distance miles	TARIFF 1			TARIFF 2			TARIFF 3		
	Current	Proposed	% Change	Current	Proposed	% Change	Current	Proposed	% Change
Flag	£2.40	£2.80	16.67%-(8.33%)	£3.00	£3.60	20.00%	£3.60	£4.20	16.67%-(27.78%)
1	£3.60	£3.80	5.56%-(0.00%)	£4.60	£4.80	4.35%	£5.40	£5.60	3.70%-(11.11%)
2	£5.40	<u>£5.80</u>	7.41%-(3.70%)	£6.80	£7.20	5.88%	£8.00	£8.40	5.00%-(10.00%)
3	£7.20	£7.80	8.33%-(5.56%)	£9.00	£9.60	6.67%	£10.60	£11.20	5.68%-(9.43%)
4	£9.00	£9.80	8.89%-(6.67%)	£11.20	£12.00	7.14%	£13.20	£14.00	6.06%-(9.09%)
5	£10.80	£11.80	9.26%-(7.41%)	£13.40	£14.40	7.46%	£15.80	£16.80	6.33%-(8.86%)
6	£12.60	£13.80	9.52%-(7.94%)	£15.60	£16.80	7.69%	£18.40	£19.60	6.52%-(8.70%)
7	£14.40	£15.80	9.72%-(8.33%)	£17.80	£19.20	7.87%	£21.00	£22.40	6.67%-(8.57%)
8	£16.20	£17.80	9.88%-(8.64%)	£20.00	£21.60	8.00%	£23.60	£25.20	6.78%-(8.47%)
9	£18.00	£19.80	10.00%-(8.80%)	£22.20	£24.00	8.11%	£26.20	£28.00	6.87%-(8.40%)
10	£19.80	£21.80	10.10%-(9.09%)	£24.40	£26.40	8.20%	£28.80	£30.80	6.94%-(8.33%)
Running mile	£1.80	£2.00	11.11%	£2.20	£2.40	9.09%	£2.60	£2.80	7.69%

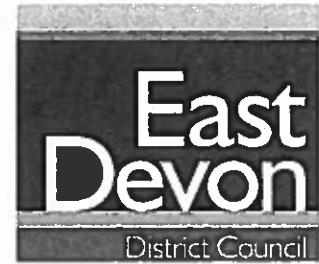


## Agenda Item 9

Licensing & Enforcement Committee

23 November 2010

JT



### **Policing and Crime Act 2009 – Sexual Entertainment Venue Licensing**

#### **Summary**

The Policing and Crime Act 2009 has classified lap and pole dancing clubs and similar venues as Sexual Encounter Venues and gives local authorities in England and Wales the option to adopt the legislation to regulate them as Sex Establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. The report sets out an explanation of the legislation and invites the Committee to recommend that Council resolve to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, to allow the licensing of Sexual Entertainment Venues.

#### **Recommendation**

That the Committee recommends to Full Council that at its meeting on the 9 December 2010 it:

- (1) Adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, to allow the licensing of Sexual Entertainment Venues with the adoption coming into effect on the 1 February 2011.
- (2) Delegates to the Licensing and Enforcement Committee and any Sub Committee set up by that committee the Schedule 3 functions in order to regulate sex establishments in the District.
- (3) Agree the proposed licensing fees set out in Appendix A to this report.

#### **a) Reasons for Recommendation**

- 1.1 To advise Members of the legislative changes affecting the licensing of lap and pole dancing clubs and similar venues which are categorised under Section 27 of the Policing and Crime Act 2009 as "Sexual Entertainment Venues".
- 1.2 To advise Members that failure to adopt the provisions within one year of the new legislation coming into force (i.e. from 6 April 2010) will require the Authority to carry out a public consultation exercise to determine whether it should make such a resolution.
- 1.3 To advise Members that in adopting the provisions, it is possible to establish a policy indicating the Authority's approach to licensing premises within its area providing sexual entertainment.

**b) Alternative Options**

Not to adopt the legislation however if this course is taken the Authority is required no later than the 5 April 2011 to carry out a public consultation exercise to determine whether it should make such a resolution.

**c) Risk Considerations**

N/A

**d) Policy and Budgetary Considerations**

Schedule 3 to the 1982 Act states that an application for the grant, renewal or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authorities, but does not expand on what would be considered to be reasonable. If this legislation is adopted the fee structure recommended for approval within this report is intended to ensure full cost recovery.

**e) Date for Review of Decision**

N/A

---

**1 Background**

1.1 This Council has previously adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA), which allows local authorities to regulate premises to be used as "Sex Establishments". For example shops or cinemas that predominately sell sexual items or show films of a sexual nature. The Policing and Crime Act 2009, which came into force on 6 April 2010, amended Schedule 3 of LGMPA to include "Sexual Entertainment Venues" in the meaning of sex establishments.

1.2 The new category covers venues that provide "Relevant Entertainment", which is defined as: "any live performance or 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 an audience (whether by verbal or other means)." Examples of this type of venue include premises offering entertainment commonly described as:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep show
- Live sex show

1.3 The definition of sexual encounter venues excludes:

- Sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act).
- Premises, which provide 'Relevant Entertainment' on an infrequent basis.

1.4 Premises which provide relevant entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003, insofar as they are providing regulated



entertainment by virtue of a premises licence, club premises certificate or a temporary event notice issued under that Act. Any premises that provide relevant entertainment on more occasions than the exemption allows. For example:

- on no more than 11 occasions within a 12 month period);
- more frequently or for a longer period of time than is permitted (over 24 hours)

will be operating as a sexual entertainment venue and will require a sexual entertainment venue licence.

- 1.5 The new legislative controls available to the Licensing Authority will strengthen the role that local communities can play in deciding whether a sex establishment venue is appropriate for a particular locality. The provisions bring the licensing of lap dancing premises and similar venues in line with other "sex establishments" and allow the Licensing Authority to prescribe standard conditions on grounds not covered by the Licensing Act 2003. For example, location, hours, display of adverts and the visibility of the interior of the premises.
- 1.6 Should the Authority adopt the provisions, there will be a further 12 month transitional period where existing operators (of which there is one in the District) can apply for licences under the new laws. There are no automatic "grandfather rights" as there were under the Licensing Act 2003 and the Gambling Act 2005. New applicants can also within the first 12 months period apply to the Licensing Authority for a Sexual Entertainment Venue Licence; however, applications may not be determined before a period of six months after the date the provisions are adopted.
- 1.7 While local authorities are not required to publish a licensing policy relating to sex establishments, they can do so if they wish as long as it does not prevent any individual application from being considered in its merits at the time the application is made. If Council are minded to adopt this legislation it is intended that a policy will be brought forward for approval following public consultation.
- 1.8 Schedule 3 to the 1982 Act states that an application for the grant, renewal or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authorities, but does not expand on what would be considered to be reasonable. If this legislation is adopted the fee structure set out in **Appendix A** to this report is recommended for approval to ensure full cost recovery. Research has been carried out into the fees set or proposed by other Council's in the surrounding area and these are contained in **Appendix B**. It will be seen that these fees vary considerably.
- 1.9 In determining the proposed fee levels in **Appendix A**, I have had regard to the European Services Directive - Guidance for Local Authorities and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees. In effect fees set must be proportionate to the effective cost of the procedure dealt with and must not be used as an economic deterrent or to raise additional funds for the Council. It is anticipated that any initial application for the grant of a licence under this legislation would face considerable opposition which would be costly to the Council in respect to hearings and possible appeals. It is at this initial application stage where objections are most likely. The recommend fee for the initial application of £6,000 is based on the estimated costs of an apposed application for a licence under the



Licensing Act 2003 which went to Magistrates Court appeal recently in South Devon.

- 1.10 The recommended new application fee of £6,000 is made up of two parts and includes £4,000 which would be refunded if there was no contested hearing.
- 1.11 Once a licence is granted experience elsewhere has shown that sex establishments generally cause few problems although there is always the possibility of objections being made to the renewal of a licence and perhaps a greater possibility of objections relating to a variation application although that would depend on the type of variation. The suggested variation, renewal and transfer fees mirror those fees currently charged by this Council for the same applications in respect to Adult Gaming Centre licences issued under the Gambling Act 2005. In recognition that a variation application has a greater possibility of attracting objections it is additionally recommended that the initial fee includes a refundable element should there be no contested hearing.

## **2. Interaction with Licensing Act 2003**

- 2.1 Schedule 7 to the 2009 Act amends the 2003 Act to ensure that premises for which a sexual entertainment venue licence is held do not also require a premises licence, club premises certificate or temporary events notice in order to provide 'relevant entertainment'.
- 2.2 However, if the premises also carry on other licensable activities they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the 2003 Act for those other activities.
- 2.3 In practice, this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of 'relevant entertainment', and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment.
- 2.4 If Members choose not to adopt the new powers the Council will rely solely on the Licensing Act 2003 to control such premises and the consideration of applications would be restricted to the four Licensing Objectives – Public Safety, Prevention of Public Nuisance, Prevention of Children from Harm and Prevention of Crime and Disorder.
- 2.5 Whilst the controls available under the Licensing Act may appear wide ranging, in practice powers to refuse such applications are quite restrictive.

## **3. Increased Controls**

- 3.1 The adoption of the new laws would make available wider discretion to Members. Refusal options would include:
  - (a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
  - (b) the number of sex establishments exceeds the number which the authority consider is appropriate for that locality;
  - (c) that the grant or renewal of the licence would be inappropriate, having regard to:
    - (i) the character of the relevant locality; or
    - (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.

#### **4. Implementation**

- 4.1 If Council is minded to adopt Schedule 3 the legislation requires that an advertisement process (public notice) be undertaken before it can come into effect. A notice must be placed in a local paper circulating in the area for two consecutive weeks with the first publication being not later than 28 days before the date specified on which the provisions come into force. If Council resolve to adopt the legislation with it coming into effect on the 1 February 2011 the notices would be placed as required during December 2010 and January 2011. These notices are not a consultation but intended as notification that the Council has adopted this power.
- 4.2 Whilst applications could be made for a Sexual Entertainment Venue licence from the 1 February 2011, the date proposed for the adopted legislation to come into effect, the legislation prevents the Council considering any application for the first six months. This means that the earliest opportunity for an applicant to have their application considered would not be until July 2011.

#### **Legal Implications**

The full legal implications are set out very clearly within the report and require no further comment.

#### **Financial Implications**

Failure to adopt the recommendation in this report will result in the Council incurring costs for a public consultation.

#### **Appendices**

Appendix A – Recommended Fee Structure

Appendix B – Table of Sex Establishment licensing fees for neighbouring authorities

#### **Background Papers**

- Policing and Crime Act 2009
- Local Government (Miscellaneous Provisions) Act 1982
- Sexual Entertainment Venues – Home Office Guidance for England and Wales (March 2010)

John Tippin Ext 2787  
Licensing Manager

Licensing & Enforcement Committee  
23 November 2010



**Recommended Fee Structure**

<b>Grant</b>	<b>Renewal</b>	<b>Transfer</b>	<b>Variation</b>
£2,000 (+ refundable uncontested hearing fee of £4,000) Total £6,000	£1,000	£1,200	£1,000 (+ refundable uncontested hearing fee of £4,000) Total £5,000



## APPENDIX B

Table of Sex Establishment licensing fees for neighbouring authorities

Authority	Grant	Renewal	Transfer	Variation
East Devon DC	£2,000 (+ refundable uncontested hearing fee of £4,000) Total £6,000	£1,000	£1,200	£1,000 (+ refundable uncontested hearing fee of £4,000) Total £5,000
Torrige D C	£1,000 (+ refundable hearing fee of £3,300) Total - £4,330	£650 (+ refundable hearing fee of £2290) Total - £2,940	£650 (+ refundable hearing fee of £2290) Total - £2,940	
North Devon D C	£2,300.07 (+ refundable hearing fee of £2,032.45) Total - £4,332.52	£650.72 (+refundable hearing fee of £1,591.50) Total - £2242.22	£180.61 (+ refundable hearing fee of £381.27) Total - £531.85	
Teignbridge D C	<b>£2,450</b>	?	?	
Mid Devon D C	<b>£2,000</b>	<b>£2,000</b>	<b>£2,000</b>	
West Devon B C	£5,600	£450	£1,300	
South Hams D C	£5,600	£450	£1,300	
East Devon D C	<b>No fees set</b>	<b>No fees set</b>	<b>No fees set</b>	
Exeter C C	<b>£3,265</b>	?	?	
Plymouth C C	<b>£2,700</b>	?	?	
Torbay C C	£5,697	£5697	£5,697	
Sedgemoor D C	<b>£3,000</b>	<b>£3,000</b>		
South Somerset D C	<b>£10,712</b>	<b>£5,616</b>		
West Somerset D C	<b>£3270</b>	<b>£2,946</b>		
Taunton Deane	<b>£12,000</b>	<b>£6,500</b>		
East Dorset D C	<b>£500</b>	<b>£500</b>		
West Somerset D C	<b>£3,270</b>	<b>£2,946</b>		

Figures in heavy black type are current fees

Figures in ordinary type are approved/proposed fees for 2011/12

