

Date: 12 November 2013
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To:
Members of the Licensing & Enforcement Committee
(Councillors David Atkins, Roger Boote, Peter Burrows, Bob Buxton, Madeleine Chapman, Christine Drew, Steve Gazzard, Pat Graham, Steve Hall, John Jeffery, Jim Knight, Frances Newth, Ken Potter, Pauline Stott, Tom Wright.)

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Meeting of the Licensing & Enforcement Committee
Tuesday 19 November 2013 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.

Councillors and members of the public are reminded to switch their mobile phones to silent during the meeting. If this is not practical due to particular circumstances, please advise the Chairman in advance of the meeting.

A G E N D A

	Page/s
1 To confirm the minutes of the meeting held on 3 September 2013.	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 - 21
7 Implementation of the Scrap Dealers Act 2013	22 - 28

Decision making and equality duties

The Council will give due regard under the Equality Act 2010 to the equality impact of its decisions.

An appropriate level of analysis of equality issues, assessment of equalities impact and any mitigation and/or monitoring of impact will be addressed in committee reports.

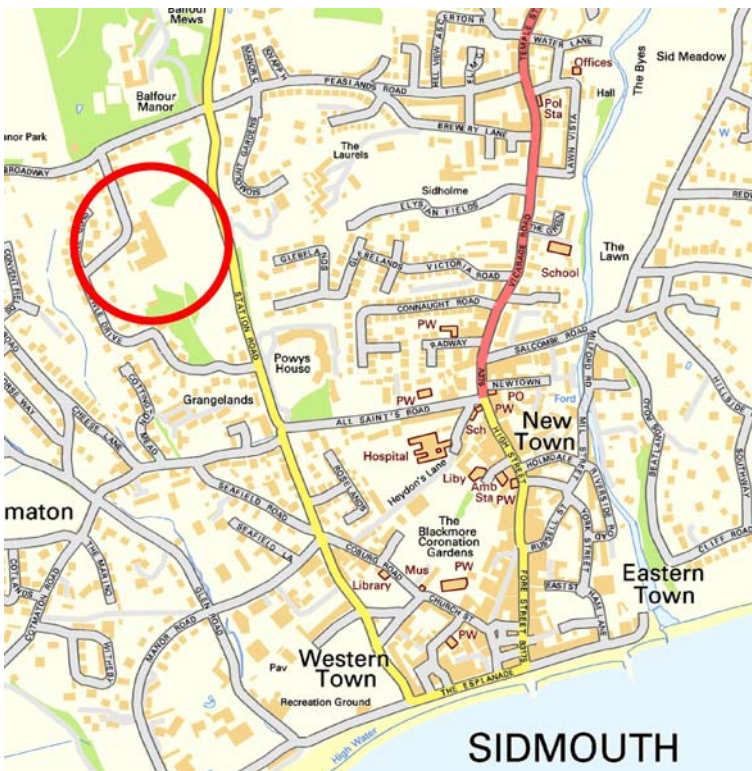
Consultation on major policy changes will take place in line with any legal requirements and with what is appropriate and fair for the decisions being taken.

Members will be expected to give reasons for decisions which demonstrate they have addressed equality issues

Members and co-opted members remember!

- ❑ You must declare the nature of any disclosable pecuniary interests. [Under the Localism Act 2011, this means the interests of your spouse, or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living as if you are civil partners]. You must also disclose any personal interest.
- ❑ You must disclose your interest in an item whenever it becomes apparent that you have an interest in the business being considered. Make sure you say what your interest is as this has to be included in the minutes. [For example, 'I have a disclosable pecuniary interest because this planning application is made by my husband's employer'.]
- ❑ If your interest is a disclosable pecuniary interest you cannot participate in the discussion, cannot vote and must leave the room unless you have obtained a dispensation from the Council's Monitoring Officer or Standards Committee.

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From Exeter – 52A, 52B
From Honiton – 52B
From Seaton – 52A
From Ottery St Mary – 379, 387
Please check your local timetable for times.

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Information for Visitors:

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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, 3
 September 2013

Present: Councillors:
 Steve Hall (Chairman) Pat Graham
 Jim Knight (Vice Chairman) John Jeffery
 Frances Newth
 David Atkins Ken Potter
 Peter Burrows Pauline Stott
 Madeleine Chapman Tom Wright
 Steve Gazzard

Officers: John Tippin, Licensing Manager
 Giles Salter – Solicitor
 Steve Saunders, Licensing Officer
 Chris Lane, Democratic Services Officer

Apologies: Councillors:
 Roger Boote
 Bob Buxton
 Christine Drew

The meeting started at 9.30 am and ended at 10.30 am.

*5 Minutes

The minutes of the meeting of the Licensing & Enforcement Committee held on 25 June 2013, were confirmed and signed as a true record.

*6 Declarations of interest

Councillor/ Officer	Minute number	Type of interest	Nature of interest
Councillor Steve Hall	*7	Disclosable Pecuniary	Private Hire Licence Holder.

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

The Licensing Manager presented his report and highlighted activities undertaken by the Licensing Service. Details of the work undertaken were included as appendices to the report.

Members raised and discussed a number of issues from the report:

*7 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing (cont) – issues raised

1. Licensing Act 2003

On 16 and 17 May 2013, officers attended the Devon County Agricultural Show at Westpoint Showground where checks were made on the 23 venues at the showground who had served Temporary Event Notices (TENs) on the Licensing Authority. These venues were checked and found to be in order but following routine checks around the show a stall was identified running an off sales bar that had not applied for a licence or a TENs. The owner was dealt with by way of a written warning for selling alcohol without a licence.

On 26 July officers attended the Dubfest event held in the grounds of Bicton College that had been licensed by way of a time limited premises licence. The event was found to be well run with no issues or complaints made to the Licensing Authority.

A Temporary Event Notice was served on the Licensing Authority on 6 May 2013 to licence a music festival to be held between 24 and 26 August 2013 in a field at Harcombe Hill, near Sidmouth. The Environmental Health Section objected to the notice stating that if the event went ahead it would cause a public nuisance to local residents. The objection was heard by the Licensing & Enforcement Sub Committee on 26 May 2013 and as a result the Temporary Event notice was refused. On the 24 June 2013 the same applicant submitted a further Temporary Event Notice for the same event and again the Environmental Health section objected on the same grounds. The objection was heard by the Licensing & Enforcement Sub Committee on 5 July 2013 when the notice was again refused.

Members noted that following the de-regulation of certain types of live music introduced by the Live Music Act 2012, the Government had recently introduced a further raft of de-regulatory measures which came into effect on 27 June 2013. The Government hoped that removing the requirement for a licence/TEN would help to reduce the regulatory burden on community premises, voluntary groups and similar organisations.

2. Gambling Act 2005

Members noted that a programme of visits to licensed premises and other premises where gaming was permitted continued. It was reported that no Gambling Act offences had been detected, a result that confirmed that regular inspections were a valuable tool to ensure compliance.

3. Taxis

On 31 July 2013 the current fleet of hackney carriage vehicles stood at 163, with 206 hackney carriage driver licences issued. The re-licensing period for private hire vehicles was in May 2013 and again to date the current licences issued stood at 10 private hire vehicles, 9 private hire operators and 21 private hire driving licences issued.

*7 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing (continued) – issues raised

On the 6 August 2013 the Department for Transport released the results of its statistics research into the Hackney Carriage and Private Hire Trade. The key findings of the research showed that the number of licensed taxis across the country had fallen slightly compared with 2011 (-0.7%). The growth in vehicles had slowed considerably since the start of the economic downturn.

It had been apparent that since the beginning of the current downturn that the numbers of Hackney Carriage and Private Hire vehicles licensed in the East Devon District had reduced. In that period the number of Hackney Carriages in the District reduced by 1.2% and Private Hire vehicles by 42.8%. The reduction in Private Hire had been compounded by the ceasing of trading of one of the larger operators in the area, following the loss of a long standing contract.

Members noted that the work to lower the kerb stones at the new Strand taxi rank had still not been completed by Devon County Council. John Tippin, Licensing Manager, updated Members on a request consider at the last meeting (Minute *4 25 June 2013 refers) from Beer Parish Council for the taxi rank to be removed and changed to disabled parking. The decision of the Committee had been that the rank should remain in place. Following that meeting, and before writing to the Parish Council, the Licensing Manager met with the County Neighbourhood Highway Engineer on site to explore alternative ideas for providing disabled parking. The Licensing Manager then wrote to the Parish Council explaining the Committee's decision and offered alternatives for the Parish Council to consider.

4. General Licensing including Animal Licensing and skin piercing
The Committee noted that the District Council currently had the responsibility to register all Scrap Metal Dealers and Motor Salvage Operators. Following an increase in metal theft over the last few years, the Government had been under pressure to reform the regulation of scrap metal dealers and with the assistance of a Private Member's Bill taken through Parliament the Scrap Metal Dealers Act 2013 was passed in law earlier this year.

The Act repealed the Scrap Metal Dealers Act 1964 and consolidates scrap metal dealers & motor salvage operators under one licensing regime. Local Authorities would continue to act as the main regulator but the new Act gave them more powers, including the power to refuse a license and powers to revoke licences if the dealer was considered unsuitable. The commencement order for this legislation was published on 5 August and brought the majority of the provisions of the 2013 Act into effect on 1 October 2013. It also brought into force the majority of the criminal offences in the Act from 1 December 2013. This imposed a challenging timetable for councils to implement the legislation.

The Act created a fee raising power to allow local authorities to recover the costs stemming from administering and seeking compliance with the regime. The Licensing Manager was currently working on the figures and would be submitting a report in due course to seek Council's approval of a new fee structure to reflect the work that would be involved to administer the regime.

The Sidmouth Folk Festival 2013 had taken place and all the sea front street trading pitches had been sold. There had been positive feedback from the general public in relation to the street trading. At the meeting on 26 February 2013 (minute *18

- *7 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing (continued) – issues raised

refers) Members agreed that the Council should consult on a proposal to make changes to the way street trading is controlled within the District including modernising the Council’s approach to the whole street trading issue whilst still retaining robust controls. John Tippin, Licensing Manager, reported that it had not been possible to progress the consultation owing to other pressures, however it was anticipated that the consultation would commence shortly.

5. Consultations and Partnership Working

The Licensing Manager advised that the next meeting between Members, Taxi Proprietors and Officers had been arranged for Thursday 31 October 2013 commencing at 2.30pm in the Council Chamber, Knowle, Sidmouth.

RESOLVED that the report be noted;

Chairman Date

Agenda Item 6

Licensing & Enforcement Committee

19 November 2013

JT/NM/DJ/ES/SS



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 the Committee are set out in **Appendix A.**



1.2 Premises Risk Ratings

- 1.2.1 The visits to licensed premises assessed as high risk in East Devon are ongoing and due to be completed by the end of March next year. No issues have been found on the premises that have been checked to date.

1.3 Enforcement

- 1.3.1 Sidmouth Folk Week was again held this year between the 1 and 9 August 2013. Officers were involved in checking both licensed premises and the trade stalls along the Esplanade on Sidmouth Sea Front. The festival was well run and did not cause any licensing issues. The event organisers hold a debrief meeting on each morning of the Folk Week to identify any issues during the previous 24 hours. One of the Licensing Team generally attends these meetings.
- 1.3.2 On 1 August officers attended the Honiton Agricultural Show held outside Honiton where checks were made on the 9 venues at the showground who had served Temporary Event Notices on the Licensing Authority. These venues were found to be in order but during routine checks at the show an unauthorised stall was identified providing off sales of alcohol. The trader had not applied for a licence or a Temporary Events Notice. The trader was subsequently granted permission by an established brewery business to operate on their venue/stall under the Temporary Event Notice issued to the brewery. The seller has been provided guidance regarding his legal obligations when selling alcohol at events.
- 1.3.3 On the evening of 9 August officers attended the Blackdown Hills Beer Festival held at Cherry Hayes Farm at Smeathorpe. The event that has been held for a number of years was found to be well run and no licensing issues were found. The layout/set up of the site had been checked on an earlier site visit.
- 1.3.4 On 15 August an officer chaired a pre-review meeting at Exmouth Police Station where the Police and the Council's Environmental Health Service had called for a meeting following concerns of noise nuisance and breach of licensing conditions at an Exmouth town centre pub. Following discussion a plan of action was agreed. Part of the agreement being that the recently installed Designated Premises Supervisor be replaced by 1 October 2013. The DPS has since been replaced as agreed.
- 1.3.5 On the weekend commencing 16 August officers attended the Beautiful Days event held in the grounds of Escot House which had been licensed by way of a time limited premises licence. This annual event was found to be well run with no issues or complaints made to the Licensing Authority.
- 1.3.6 On 12 September and 7 October an officer chaired pre-review meetings at a licensed premise in the Seaton area. Concerns had been raised by both the police and the Council's Environmental Health Service about the operation of a 'nightclub type venue' in the basement of the premises. At the second meeting that was also attended by the area manager of the brewery which owns the premises and the DPS, agreement was reached about the future operation of the premises. It was also reported that the 'nightclub type events' had now been cancelled. There have been no further reported complaints since the last meeting.

- 1.3.7 On 3 October officers chaired a pre-review meeting at Exmouth Town Hall. The meeting was called following concerns about the operation of a licensed premise on the outskirts of Exmouth. The Police, Environmental Health and five residents attended the meeting. The concerns were discussed and an agreement was reached with the licence holder who agreed to put measures in place to address the issues. There have been no further reported complaints since the meeting.
- 1.3.8 On 9 October officers visited a members club on the outskirts of Sidmouth following concerns that the club was not operating by the rules of a members club. Advice has been given to the Chairman and Secretary and the club is now considering whether to apply for a premises licence.
- 1.3.9 On 23 October officers visited a licensed premise in Exmouth following a complaint of loud amplified music and singing that had occurred outside the public house. On investigation the event was found to be unauthorised and the licensee was issued with a warning and given suitable advice.
- 1.3.10 On 24 October officers took part in a pre-event meeting for the Christmas Cracker Event that is now being held annually in the Strand Gardens at Exmouth. Officers' attendance was requested by the organisers of the Christmas Cracker to give advice on licensing issues raised by the size and variety of the event.

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**.

2 Gambling Act 2005

2.1 Licences Issued and Notices Given

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

2.2 Enforcement

- 2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues. It is still the case that no Gambling Act offences have been detected, a result which is pleasing and confirms that regular inspections are a valuable tool to ensure compliance.

2.3 Hearings

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

2.4 Applications & Notifications received

2.4.1 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**.

3.1.2 On the 5 November 2013 our current fleet of hackney carriage vehicles stood at 163 hackney vehicles, with 186 hackney carriage driver licences issued.

3.1.3 The re-licensing period for hackney vehicles has just passed, 1 November 2013 and during the period running up to that date the Licensing Team has been very busy with the renewals of all the drivers and vehicles. The number of vehicles and drivers re-licensed will rise further in the coming weeks as there are always those who leave it to the last minute to re licence and the figures will not show in this report. Officers are in the process of following these up.

3.1.4 The private hire fleet currently licensed as at 5 November 2013 stands at 21 private hire drivers, 14 private hire vehicles and 11 private hire operators.

3.1.5 It has been apparent since the beginning of the current downturn that the numbers of Hackney Carriage and Private Hire vehicles licensed in the East Devon District have reduced, but as mentioned above the figures for those licensed are constantly changing over the year. To emphasis this point it is expected that by the date of this meeting the number of licensed taxis will have changed – members will be updated.

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 There have been no combined operations involving licensing officers, and other agencies since the last operation on October 2012. We hope to arrange further checks together with the Devon and Cornwall Constabulary however this has proved difficult in recent months. Licensing Officers however make regular visits to taxi ranks in the District for the purpose of inspecting those vehicles waiting on the rank.

3.3 Hearings

3.3.1 There has been one Sub Committee hearing during the last quarter which dealt with three separate applications. (a) The Sub Committee agreed to licence a vehicle that was over 4 years old. The vehicle had been previously licensed but the licence had lapsed. (b) The Sub Committee heard 2

applications for hackney carriage drivers licences (i) one applicant had a medical condition which did not meet the Group 2 Medical Standards of fitness to drive, the Sub Committee agreed to make an exception and licence this driver. (ii) The other application was for an applicant who had recently been imprisoned on a domestic/civil matter and this application was refused.

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 – As the Committee has been aware the Exmouth Taxi Association and some taxi drivers from the Exmouth area have been unhappy with the new Strand rank provided as a result of the regeneration scheme in the town. The main issue being the lowering of the pavement at one end of the rank. On the 31 October 2013 following a request for an update on progress Devon County Council replied:

“Regrettably the work to the taxi ranks was to be undertaken at the same time as the new shelter at Rolle Street. Unfortunately Exmouth Town Council have objected to the proposed shelter design. I understand DCC and EDDC have written to ETC asking them to provide their proposal and full costings by end Dec 2013 for consideration by EDDC and DCC. This has inadvertently delayed the work to the taxi ranks. Until an agreement is reached on the way forward with ETC I am not able to advise when the works to the taxi rank will be undertaken.”

3.5.2 All other authorised taxi ranks in the District are in normal use with no ongoing issues.

4. General Licensing including Animal Licensing and Skin Piercing

4.1 Animal, Skin Piercing and Scrap Metal Dealers Licensing Statistics

4.1.1 The statistics relating to animal, skin piercing and scrap metal dealer licensing and registrations 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.

4.2 Scrap Metal Dealers and Motor Salvage Operators – New Legislation and Powers

4.2.1 Since the last update report to this Committee in September the Scrap Metal Dealers Act 2013 has come into force. The Licensing Manager has prepared a separate report for this Committee to explain the changes and provide an update on the introduction to date.

4.3 Street Trading

4.3.1. 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.

4.3.2 Applications numbers for street trading permits at this time of year is traditionally low after the busy summer demand during the Sidmouth Folk Week.

5. Consultations and Partnership Working

5.1 Meeting between Members, Taxi Proprietors and Officers

5.1.1 A very useful liaison meeting with the taxi trade was chaired by Councillor Hall on the 31 October 2013. This was one of the twice yearly meetings held between members, taxi proprietors and officers. Regrettably the attendance level by the taxi trade was low however those who did attend took full opportunity to discuss issues and expressed their satisfaction with the meeting. There was also the opportunity for officers to provide guidance on several issues raised. A copy of the minutes of the meeting appears as **Appendix F** to this report.

5.1.2 The next liaison meeting has been arranged for Thursday 3 April 2014 (during the Easter Holidays) commencing at 1430 hour in the Council Chamber, Knowle, Sidmouth. The Committee's Chairman and Vice Chairman normally attend these meetings.

5.1.3 A Licensing Officer always tries to attend any meeting of the local taxi trade associations. There are at least two of these meetings annually.

Legal Implications

There are no legal implications requiring comment.

Financial Implications

There are no financial implications contained in this report.

Appendices

Appendix A - Licensing Act 2003 Licensing Statistics

Appendix B - Gambling Act 2005 Licensing Statistics

Appendix C - Taxis Licensing Statistics

Appendix D - Animal, Skin Piercing and Scrap Metal Dealers Licensing Statistics

Appendix E - Charitable Collections and Street Trading Licensing Statistics

Appendix F - Minutes of meeting between Members, Taxi Proprietors and Officers dated 31 October 2013

John Tippin Ext. 2787
Licensing Manager

Licensing & Enforcement Committee
19 November 2013



Licensing Act 2003

Number of Issued Licences and Notices Given

	Oct-13	Jul-13	Changes
Premises Licences	596	601	-5
Club Premises Certificates	57	57	0
Personal Licences	1,799	1,775	24
Temporary Event Notices including sale or supply of alcohol - includes late TENs	5,396	5,260	136
Temporary Event Notices Entertainment and/or Late Night Refreshment only - includes late TENs	530	510	20

Hearings

	Aug-13	Sep-13	Oct-13
Hearings where no agreed position has been reached	2	0	1
Hearings held to approve an agreed position	1	1	0

Applications Received and Notices Given

	Aug-13	Sep-13	Oct-13
Grant of a Premises Licence	1	0	6
Variation of a Premises Licence	0	0	2
Transfer of a Premises Licence	4	3	3
Change of Designated Premises Supervisor	6	11	10
Minor Variations	0	1	3
Grant of a Personal Licences	8	11	8
Personal Licence Change of name or address	2	2	5
Temporary Event Notices given	42	49	66

Gambling Act 2005Number of Issued Licences and Notices Given

	Oct-13	Jul-13	Changes
Premises Licences	14	14	0
Small Society Lotteries	164	179	-15

Hearings

	Aug-13	Sep-13	Oct-13
Hearings held	0	0	0

Applications Received and Notices Given

	Aug-13	Sep-13	Oct-13
Applications relating to a Permit	1	1	1
Application relating to a Licence	1	0	1
Notification of Intent to have Gaming Machines	5	0	1
Occasional Use Notices (Point to Point Betting)	0	0	0
Small Society Lotteries	2	1	2

TaxisNumber of Current Licences

	Oct-13	Jul-13	Changes
Hackney Carriages	149	163	-14
Private Hire Vehicles	14	12	2
Hackney Carriage Drivers	186	206	-20
Private Hire Drivers	21	21	0
Private Hire Operators	11	10	1

Hearings

	Aug-13	Sep-13	Oct-13
Hearings	0	3	0

Applications Received

	Aug-13	Sep-13	Oct-13
Hackney Carriage Licence (including renewals, transfers & vehicle changes)	4	28	122
Hackney Carriage Drivers Licence (including renewals)	1	22	160
Private Hire Vehicle Licence	0	1	8
Private Hire Vehicle Drivers Licence	0	0	0
Private Hire Operators Licence	1	0	0

EH LicensingNumber of Issued Licences

	Oct-13	Jul-13	Changes
Animal Home Boarding	21	21	0
Kennels/Catteries	20	20	0
Pet Shops	12	12	0
Dangerous Wild Animals	2	2	0
Zoo	4	4	0
Ear-Piercing	18	17	1
Electrolysis	15	15	0
Riding Establishments	10	10	0
Tattooing	13	13	0
Motor Salvage Operators	8	8	0
Scrap Metal Dealers	10	9	1
<u>TOTAL</u>	133	131	2

Hearings

	Aug-13	Sep-13	Oct-13
Hearings	0	0	0

Applications Received

	Aug-13	Sep-13	Oct-13
	3	2	8

General LicensingPermits Issued

Between	Oct-13	Jul-13	Changes
Street Collections	41	33	8
Street Collection cancellations	5	1	4
House to House	2	2	0
Street Trading	49	49	0
Street Trading (Charitable)	27	6	21

Hearings

	Aug-13	Sep-13	Oct-13
Hearings	0	0	0

East Devon District Council

**Report of a meeting between Members, Taxi Proprietors and
Officers held at Knowle, Sidmouth on Thursday 31 October 2013**

Present:

Councillors

Steve Hall

Taxi Proprietors

Nina Peters

George Shorters

Brian Bailey

Andy Johnson

Adrian Phillips (Millstream Taxis)

EDDC Officers

John Tippin - Licensing Manager

Douglas Jackson Licensing Officer

The meeting started at 1435 and ended at 1616 hours

1. Apologies

Apologies from J Huffer Mr and Mrs Payne, S Dean R Crofts B Higginson
M Sampson AJ Hill

2. To receive the report of the meeting held 3 April 2013

3. Matters Arising

Councillor Hall offered his apologies for not attending the last meeting.

It was pointed out that the Beer rank was still in being and needed to be used, it was stated by the trade that it was a useful rank and was there for any East Devon taxi to use, not just local taxis.

The meter rate was discussed and how it was passed on to the fare paying passenger. It was pointed out that the meter should not be started until the customer was collected and finished at the end of the journey when dropping off the customer. There was no provision in law to enable Hackney Carriage operators and drivers to charge for the outward or return journey when not carrying the customer. However there was a facility to charge up to £12.00 as a booking fee but that had to be agreed before the journey commenced.

Other extras that could be charged were parking charges, bridge and road tolls. The practice of quoting a fare, for example a fixed rate from one place to another which exceeded the meter price for that journey was unlawful.

4. Exmouth Rank

Mr Jackson gave an update to the group that no progress had been made by Devon County Council as to the works to be completed on the Strand taxi rank, and read an e mail he had received that morning from Paul Downes at Devon County Council which is re produced below:

“Regrettably the work to the taxi ranks was to be undertaken at the same time as the new shelter at Rolle Street. Unfortunately Exmouth Town Council have objected to the proposed shelter design. I understand DCC and EDDC have written to ETC asking them to provide their proposal and full costings by end Dec 2013 for consideration by EDDC and DCC. This has inadvertently delayed the work to the taxi ranks. Until an agreement is reached on the way forward with ETC I am not able to advise when the works to the taxi rank will be undertaken.”

Exmouth operators were advised to contact Exmouth town Council for any further updates.

5. Parking on ranks in East Devon by taxi drivers and the public

A general reminder from Mr Jackson that taxi ranks were for taxi vehicles only and ordinary cars should not park on them. Also that taxis should not be parked on the rank and left unattended by the drivers. Parking enforcement officers do issue tickets for both of these offences.

Mr Johnson stated there was a problem in Honiton with over zealous enforcement officers, where he used to offer a prescription collection service for people. He had now been told by the enforcement officers not to park on the lines but to use the car park for 10 minutes. Mr Johnson said this was not enough time and had stopped the service. Mr Phillips also agreed there was a problem with over zealous enforcement officers. On one occasion Mr Phillips had left his taxi to use the toilets in the car park and on his return the enforcement officer was about to issue a ticket. At the same time there were cars owned by the general public parked on the rank but there was no attempt to give them tickets.

Action

Mr Jackson to contact the car parking services manager to see if there could be any resolution.

6. Updates/DBS checks

The new forms were now in use and all DBS forms should be checked with a licensing officer to ensure proper completion. The DBS system had changed recently and the District Council no longer automatically receives a copy of

the DBS result. This means that the applicant must produce his copy of the DBS result to the Council when he/she receives it. The new system of checking online was explained to meeting.

7. Wheelchair Accessible Vehicles (WAVs)

Mr Jackson informed the meeting that there had been a good increase in number of WAVs being licensed with vehicles now in Exmouth, Sidmouth and Axminster. One operator was also planning to licence a further two WAVs in the near future. The Licensing and Enforcement Committee was still sympathetic to applications for good older WAVs (over 4 years old) to be licensed. The meeting was also informed that WAVs could be licensed as Private Hire but they can not have the appearance of a Hackney Carriage. There followed a good discussion on the merits of private hire licensing.

8. Video Surveillance in Licensed Vehicles and Safety in General.

Mr Jackson asked if there was any interest in the installation of videos in vehicles which had been mentioned at the last meeting, the cost would be approx. £500.00 a vehicle. A check with those present revealed that all thought that video recording was not required at this time. The general feeling was that East Devon was a safe place to live and this had been reflected in the taxi trade.

Action

No change from the views of the last meeting, no action to be taken

9. Taxi Roof Signs and how they are placed on vehicles.

This was an issue raised by Mr AJ Hill that he had seen up to 6 cars with roof signs on the angle to the car instead of being shown straight ahead, was this lawful or regulated. There was also a report that roof signs had different coloured bulbs in them making them different to the corporate sign.

Action

Mr Tippin to consider taking a report to committee to regularise the roof sign design.

10. Safety of drivers and vehicles in general.

Mr Jackson asked if there were any safety issues at the moment. The answer was no but Mr Bailey did bring up the issue of MOT advisories, and his concern that some vehicles were being issued licences when they had advisories on the MOT. He felt as professional drivers these should be addressed, and wondered if the conditions should be changed to include the fact that vehicles to be licensed should produce a current MOT test certificate that had no advisories on it.

Mr Jackson replied that he was aware of this issue and vehicles presented for licensing with advisories were questioned. Where appropriate licences were

not issued until the advisories were remedied. He further pointed out that Licensing Officers were not mechanics so their actions were limited to where the advisories looked serious.

Action

Mr Tippin to present this to the next meeting of the DLOG to see what the Devon wide view was and to see if there was any action that could be taken.

11. Law Commission Interim Statement on Taxi Reform.

Mr Tippin gave the meeting an up to date on the Law Commissions interim statement on their consultation on taxi reform which had been published. The statement seemed to give the impression that much of the same structure would be retained. For example it appears that the Law Commission will recommend that the two styles a taxi be retained – Hackney and Private Hire although the names may change. The Law Commission plan to publish a taxi reform bill early next year for Parliament to debate. We may therefore have new legislation in place by late 2014.

12 Any Other Business

Mr Johnson reminded the meeting of the problem with parking enforcement officers in Honiton.

Mr Bailey asked if it was worth exploring the use of smaller vehicles. For example vehicles with an engine capacity of less than the 1300cc. Mr Bailey will do some homework on this and let us know his findings.

There was a discussion on seatbelts and the law was explained by Mr Tippin that generally a hackney carriage driver was exempt from using a seat belt whilst working as a Hackney Carriage driver. However the Licensing Authority would normally only expect a seat belt not to be used in very exceptional circumstances.

There was a further discussion on baby seats, and it was pointed out by Mr Jackson that baby seats did not have to be carried by taxis. The law was quite specific as to height/weight of children and drivers were advised to check legislation to ensure they were complying with current legislation.

13. Date of Next Meeting

The date of the next meeting will be on Thursday 3 April 2014 in the Council Chamber, Sidmouth to commence at 2.30 pm.

Agenda Item 7

Licensing & Enforcement Committee

19 November 2013

JT



Implementation of the Scrap Metal Dealers Act 2013

Summary

To advise members of the introduction of Scrap Metal Dealers Act 2013, including the District Council's role in enforcing the legislation.

Recommendation

That Members note the contents of the report.

a) Reasons for Recommendation

To brief Members about the new licensing powers introduced by the Scrap Metal Dealers Act 2013.

b) Alternative Options

Not Applicable

c) Risk Considerations

None known

d) Policy and Budgetary Considerations

Set out in the report

e) Date for Review of Decision

N/A

1 Background

- 1.1 The Scrap Metal Dealers Act 2013 (the Act) received Royal Assent on the 28 February 2013, delivering much needed reform of the scrap metal sector. The Act will provide effective and proportionate regulation of the sector, creating a more robust, local authority run, licensing regime that will support legitimate dealers yet provide the powers to effectively tackle unscrupulous operators. It should raise trading standards across the whole sector.
- 1.2 The Commencement and Transitional Provisions Order was made by Parliament on 6 August 2013 (Statutory Instrument 2013 No. 1966) bringing into force the Act in stages with the majority of the criminal offences in the legislation coming in from 1 December 2013. All existing operators who were already registered with the Council were written to and invited to apply for a licence under the new legislation to ensure they could continue to trade.

- 1.3 The key features of the new regime include:
- ❑ Requiring all individuals and businesses to complete an enhanced application process to obtain a scrap metal dealer licence. The local authority has the power to refuse unsuitable applicants
 - ❑ Giving the local authority power to revoke licences
 - ❑ Requiring all sellers of metal to provide personal identification at the point of sale, which must be recorded by the scrap metal dealer
 - ❑ Powers for the police and local authority to enter and inspect sites
 - ❑ Creating a central public register hosted by the Environment Agency of all individuals and businesses licensed as scrap metal dealers
 - ❑ Widening the definition of a scrap metal dealer to include motor salvage operators
 - ❑ Giving the local authority power to set fees to recover costs stemming from administering and seeking compliance with the regime. That power, however, does not extend to recovering costs of enforcement action against unlicensed activities.
- 1.4 The District Council previously had the responsibility to register all Scrap Metal Dealers and Motor Salvage Operators. However the legislation was weak and gave Councils no powers other than to require dealers and operators to register.
- 1.5 Metal theft has, over the last few years, had a significant impact on communities, businesses and councils themselves. A survey conducted by the Local Government Association in early 2012 showed that seven out of ten councils had been the victims of metal theft, and that this cost councils over £5.25 million in 2010/11.
- 1.6 The Government had been under pressure to reform the regulation of scrap metal dealers and with the assistance of a private member's bill taken through Parliament the Scrap Metal Dealers Act 2013 was passed into law.
- 1.7 The Act repeals the Scrap Metal Dealers Act 1964 and incorporates the separate regulatory scheme for motor salvage operators under the Vehicles (Crime) Act 2001 into this new regime. This is to replace the overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory scheme. The new Act also revises the definition of 'scrap metal dealer' and 'scrap metal' to ensure they reflect the twenty-first century scrap metal industry. Local Authorities will continue to act as the main regulator but the new Act gives them more powers.
- 1.8 The new legislation includes the requirement for modernising record keeping, the creation of a national register of scrap metal dealers and widens the definition of metal that can be considered scrap. It also includes a very new power to prohibit dealers from paying cash for scrap metal. This applies even when the dealer collects items from the customer's home or yard. In effect the 'rag and bone man' can no longer pay cash for any metal they collect.
- 1.9 The 2013 Act provides for an important transition process for all those scrap metal dealers and motor salvage operators who were already registered with Councils under the old regime. Provided an application was made to the Council between the 1 and the 15 October any dealer registered under the Scrap Metal Dealers Act 1964, or a motor salvage operator already registered under the Vehicles (Crime) Act 2001 would be considered to have a "temporary" licence under the 2013 Act until the council granted a licence or sent the dealer notice of its decision to refuse the licence.

- 1.10 There was the potential for thirteen applications from existing scrap metal dealers and motor salvage operators registered with this Council. I can report that only one of these failed to apply to 'convert' their licence. The one that failed to do so was registered as a motor salvage operator. He has since informed the Licensing Manager that he has changed his type of operation and does not believe he needs to hold a licence. The position will be monitored.
- 1.11 Under the new legislation there are two types of licence:
- (a) A **site licence** (which also permits the dealer to collect and take the scrap to the licensed site).
 - (b) A **mobile collectors licence** [this is new] (it does not permit the collector to have a site – the scrap collected must be delivered to premises that hold a site licence). A mobile collector must hold a separate collector's licence issued by each District Council in which they operate. For example a collector operating in East Devon and West Dorset would need to have two licences and display them in the cab of the vehicle used for collections.
- 1.12 At the time of preparing this report the Council has received 19 applications for Scrap Metal Dealer Licences including 14 applications for Collector's licences and 5 for Site licences. This increase can probably be accounted for by those collectors who previously did not need to register and the smaller dealers who may have remained un-noticed in the past.
- 1.13 There may also be small dealers and operators, particularly in rural communities who may never come 'above the radar' and who are likely to remain unaware of their responsibilities to be licensed. For this reason the Licensing Manager will be writing to all the Parish and Town Councils in the District to seek their help to identify these persons. A copy will also be circulated to all District Councillors for information.
2. Fees
- 2.1 The Act provides that an application for a licence must be accompanied by a fee. The fee is set locally by each council on a cost recovery basis, but local authorities have a duty to have regard to guidance issued by the Secretary of State. The guidance outlines the issues that should be considered by councils when setting the fee and what activities the fee can cover. This fee will be an essential component of the new regime as it will provide local authorities with the funding needed to administer the regime and to ensure compliance.
- 2.2 The Licensing Manager has looked carefully at what these new duties will entail in the light of the Home Office guidance and has investigated the costs of dealing with applications, assessing suitability, and ensuring compliance. He has since taken a report to Cabinet and Council to seeking approval of a licence fee table. This was agreed by Council on 23 October 2013 and appears at **Appendix A** to this report.
- 2.3 Licences under the Scrap Metal Dealers Act 2013 are issued for three years meaning the fee needs to cover not only the assessment of the application and grant of licence but also the cost of enforcement/inspections of licensed sites and collectors over a three year period.

3. Suitability Assessment

- 3.1 The local authority may not issue or renew a licence unless it is satisfied that the applicant is a suitable person to carry on a business as a scrap metal dealer. A 'person' for the purposes of the Act may include companies and partnerships so the local authority must consider whether directors and partners as well as named site managers are suitable people. When determining suitability the council may consult with the police, other local authorities and the Environment Agency. Applicants are also required to submit a Disclosure Scotland basic check which will show if they have any relevant convictions that need to be considered when granting or renewing a licence.
- 3.2 If there are concerns about the suitability of an applicant which could mean a refusal or a revocation or the imposition of conditions the applicant has an opportunity to make representations before a decision is made. In these circumstances the application will be considered by a Sub Committee of three members of the Licensing and Enforcement Committee. If the Sub Committee decides to refuse, revoke or impose conditions then the applicant does have the right of appeal to the Magistrates' Court.
- 3.3 A brief summary of the various sections of the Scrap Metal Dealers Act appears at **Appendix B**.

Legal Implications

The legal implications are contained within the report and require no further comment.

Financial Implications

The financial implications are included in the report.

Appendices

- Approved Scrap Metal Dealer Licence Fees **Appendix A**
- Summary of the various sections of the Scrap Metal Dealers Act **Appendix B**

Background Papers

- [The Scrap Metal Dealers Act 2013](#)
- [Home Office guidance on fee setting](#)
- [LGA Metal Theft Toolkit](#)
- [The Scrap Metal Dealers Act 2013 \(Commencement and Transitional Provisions\) Order 2013](#)

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Licensing Manager

Licensing & Enforcement Committee
19 November 2013



Appendix A

Scrap Metal Dealers Act 2013 Licensing Fees Table



Application for the grant of a Site Licence	£280.00
Application for the grant of a Collectors Licence	£200.00
Application to transfer to a Mobile Collector	£45.00
Application for the transfer to a Site Licence	£75.00
Variation (Change of Site Manager)	£40.00
Variation (Change of Collector's Vehicle)	£40.00
Variation (Other)	£35.00

Summary of the various sections of the Scrap Metal Dealers Act

- a) **Section 1** of the Act requires that a scrap metal dealer obtains a licence in order to carry on business as a scrap metal dealer. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction with a fine not exceeding level 5 on the standard scale (this part of the Act comes into force on 1 October 2013).
- b) **Section 2** provides further detail in respect of the licence, including that there will be two types of licence, one for a site and the other for a mobile collector (for those carrying on business otherwise than at a site).
- c) A site licence will be issued by the local authority in whose area a scrap metal site is situated and will require all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. In doing so, they will be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.
- d) A mobile collector's licence will authorise the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal. The licence does not permit the collector to collect from any other local authority area; a separate licence would need to be obtained from each local authority in whose area the individual wished to collect. A licence does not authorise the licensee to carry on a business at a site within any area - should a collector wish to use a fixed site, they would need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their metals.
- e) A licence will be issued for a period of three years from the date of issue. The Secretary of State will have the power under paragraph 1(4) of the Act to alter the duration of the licence.
- f) **Section 3** requires that the licensing authority has to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In considering suitability, the local authority may have regard to any relevant information, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. The Secretary of State has a power to prescribe in regulations the meaning of relevant offence and relevant enforcement action. It is intended that this will be in line with the criteria used by the Environment Agency when issuing environmental permits under the Environmental Protection Act 1990. The authority must also have regard to any guidance on determining suitability which will be issued from time to time by the Secretary of State, and the authority may consult with other organisations to assist in determining suitability.
- g) **Section 3** also allows local authorities, when issuing a licence, to include conditions on it if the licensee or site manager has been convicted of a relevant offence. Subsection (8) specifies the two conditions that can be imposed by local authorities on a licence, namely:
 - (a) That the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day;
 - (b) That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

- h) **Section 4** provides the licensing authority with the discretion to revoke a licence on particular grounds, including where the local authority is no longer satisfied that the licensee is a suitable person to carry on the business as a scrap metal dealer. The revocation of a licence can only be carried out by a local authority as the licensing authority.
- i) **Section 4** also allows the licensing authority to vary a licence, imposing the conditions stipulated above, if the licensee or a site manager is convicted of a relevant offence.
- j) If the licensing authority proposes to refuse an application for the grant or variation of a licence, or intends to revoke a licence, it must give the applicant or licensee a notice which sets out what the authority proposes to do and the reasons for it. The notice must state that the applicant may make representations against any of these decisions within 14 days.
- k) **Section 6** places a duty on the local authority to supply any such information as requested relating to a scrap metal licence to any other local authority in England and Wales, the Environment Agency, the Natural Resources Body for Wales and to police forces.
- l) **Section 7** requires that a register of licences issued under the Act should be maintained by the Environment Agency in England and the Natural Resources Body for Wales in Wales. Local authorities will provide the appropriate information on all licences issued in their geographic areas in order that this register can be updated regularly. The register will be made openly accessible to the public and will include: the name of the authority which issued the licence; the name of the licensee; any trading name; the type of licence; the site(s) covered by the licence and the expiry date of the licence.
- m) **Section 10** requires that the licensee display a copy of their licence. For site operators this must be in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil these requirements. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.
- n) **Section 11** places a requirement on scrap metal dealers, site managers and employees who have been delegated the responsibility to do so, to verify the identity of the person they are receiving metal from and the person's address. This verification must be done by reference to data, documents or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Agency, a bank or utility company etc. The Secretary of State will prescribe in regulations the data or documents which are sufficient, or not sufficient as the case may be, for verifying identity.
- o) It will be an offence not to obtain and verify the seller's identity, punishable by a fine not exceeding level 3 on the standard scale. The offence will apply to the scrap metal dealer, the site manager and any person, who under arrangements made by either the scrap metal dealer or the site manager, has responsibility for fulfilling this requirement on behalf of the business.
- p) **Section 13** sets out the record-keeping requirements in respect of any scrap metal received by a scrap metal dealer in the course of their business. Information that is required to be recorded includes the type of metal being purchased; the time/date of the transaction; personal information on the seller; who is acting on behalf of the dealer and proof of the non-cash transaction. Failure to comply with the requirements of this section is an offence attracting a penalty up to level 5 on the standard scale.