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Agenda for Licensing & Enforcement Committee

Wednesday, 22 August 2018; 9.30am

[Members of the Committee](#)



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

Contact: [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 14 August 2018

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- 1 Minutes for 23 May 2018 (pages 2-5)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#) – none identified
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

Part A - Matters for Decision

- 6 Committee Update -
Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing
(Pages 6-12)
- 7 Taxi Policy Change (Pages 13-16)

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Committee
held at Knowle, Sidmouth on Wednesday, 23 May 2018

Attendance list at the end of the document

The meeting started at 9.30am and ended at 10.10 am

*1 Minutes

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

*2 Declarations of interest

Councillor Steve Hall

Minute *3

Disclosable Pecuniary Interest – Private Hire Licence Holder

Councillor John O’Leary

Minute *3

Disclosable Pecuniary Interest – Designated Premises Supervisor

Councillor Geoff Jung

Minute *3

Disclosable Pecuniary Interest – Designated Personal Licence Holder

Councillor Steve Gazzard

Minute *3

Disclosable Personal Interest – Organised Street Trading Event

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

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

1. Licensing Act 2003

Following a request for licensing statistics from the Home Office (DCMS) an annual mandatory return was provided giving data for all alcohol and late night licences up to 31 March 2018. The data showed the following licences were administered by the licensing team over the previous financial year.

- J 642 Premises Licences (compared with 621 in 2016/17).
- J 49 Club Premises (compared with 51 2016/17).
- J 2310 Personal Alcohol Licences (compared with 2197 in 2016/17).
- J 858 Temporary Event Notices (compared with 837 in 2016/17).

Part of the work undertaken by the licensing team involved compliance inspections through visiting licensed premises within East Devon to ensure that licensing laws were adhered to by licence holders and their staff. In order to achieve this work, the Scrutiny Committee had previously set performance indicators for the number of compliance visits to be achieved by the team each financial year. For the year 2017/18 the team completed 182 compliance visits achieving the required number set at 150. The team also identified and visited those licenced premises assessed as ‘high risk’ and have also achieved the majority of these inspections with any that are still to be visited being included in the year ahead.

2. Gambling Act 2005

Figures provided on 1 May 2018 showed that the licensing authority currently administered 2 Bingo Premises Licences, 4 Adult Gaming Centre Premises Licences, 2 bingo premises licences, 4 Adult Gaming Centre Premises Licences, 9 Family Entertainment Centre Gaming Centre Machine Permits, 10 Betting Premises Licences, 16 Club Machine Permits, 1 Prize Gaming Permit, 11 Alcohol Licensed Premises Gaming Machine Permits and 154 Small Society Lotteries.

The past year of saw a number of gaming permits for premises that were licensed 10 years ago coming to the end of their maximum term and licensing officers supported renewal applications from the licensees concerned. The licensing team would continue to work in conjunction with the Gambling Commission to ensure that legally required standards are maintained for all permit renewals.

3. Taxis

Figures taken on 1 May 2018 showed that the licensing authority currently administered 195 hackney carriage driver licences (compared to 206 in 2016/17), 165 hackney carriage vehicle licences (compared to 170 in 2016/17), 13 private hire operator licences (compared to 15 in 2016/17), 20 private hire vehicle licences (compared to 18 in 2016/17) and 26 private hire driver licences, being the same as the previous year.

The Licensing team had continued to carry out checks of hackney carriage vehicles parked on the taxi ranks within the East Devon area to ensure that all vehicles complied with the legislation and met the required standards for both licensed drivers and vehicles. During the previous year compliance inspections for vehicles had been undertaken at ranks in Exmouth, Sidmouth, Axminster and Honiton. The licensing team was able to complete 103 vehicle checks in 2017/18. This work would continue as the programme of vehicle inspections assists in ensuring the safety of the public being carried.

The previous trend reported twelve months go involving some East Devon licensed vehicles working routinely in Exeter whilst not displaying the East Devon roof sign has ceased after officers compliance visit work in Exeter.

There had been a request made by some sections of the taxi trade in past meeting between them and members of the Licensing and Enforcement Committee over an increase in the current East Devon fare tariff. This would be via the issuing of a ballot to the holders of a hackney carriage licence seeking their response as to whether a rise in taxi fares is required.

Over the previous year there had been five taxi licensing matters referred to the Licensing Sub Committee. Two matters related to private hire vehicles being submitted for licensing over four years from date of registration with one application granted and the other refused. There have been three matters relating to new hackney carriage driver applications, two of which were granted and one refused.

4. General Licensing

Following the introduction of a new street trading regime in October 2017 with further revisions to the policy approved by the Committee in March 2018, there has been dramatic uptake and submission of applications from event organisers and

individual traders. The changes that were approved at the last meeting included the withdrawal of charges (unless hiring land owned by East Devon) the shortened consultation period and also streamlining applications under block arrangements.

As with any new or revised policy, the street trading process was still in the early stages and was bedding in after only six months from being fully introduced. Experience was showing that representations were more likely to be received regarding mobile commercial traders rather than markets or festivals that occur over a short period of a few days. Some applications from mobile traders seeking unsuitable locations had been refused upon the basis of representations received and all applications were treated on the basis of their own merits. The cost of applying for a street trading licence had been removed which had resulted in a great deal of new applications. The possibility of reintroducing a charge in forthcoming years would be given due consideration.

5. Safeguarding Awareness Training

Members noted that Licensing staff were researching options to inform the Committee in order to introduce safeguarding awareness briefings for new and existing licence holders, this being a development introduced by some other authorities in Devon. It was recognised that protecting and safeguarding children and vulnerable adults in society was essential and that the taxi trade could provide vital support through the work they achieve at various hours of the day and night. To start this it was necessary to identify a suitable training provider to deliver safeguarding sessions to groups of licensed drivers and new applicants. It was considered an aim for EDDC to develop a strategy over the forthcoming year.

6. Consultations and Partnership Working

Officers attend Licensees meetings within the East Devon area whenever possible as it was felt that these meetings should be supported and were a useful forum for the exchange of ideas, information and keeping up to date with issues within each area. Officers also attend licensing liaison meetings on a regular basis with the police licensing team to exchange information and discuss licensing issues within the East Devon area. This exchange of information is considered useful when specific problems or incidents involving licensed premises require joint investigation or premises visits.

The Licensing Manager made particular mention of the retirement of Mr Barry Sleight from Devon & Cornwall Police who in the previous ten years had worked closely and in support of EDDC to provide a high level of service in the field of licensing.

7. Licensing Team update

The structure of the team was now one manager, three licensing officers and two licensing support officers, with additional administrative support being provided by a temporary staff member. The recruitment of an officer to oversee Street Trading Consents and applications was shortly due to conclude with a recruitment process involving interviews during the week ahead.

RESOLVED:

1. that the report be noted;
2. that the Gambling Commission bulletin be added to future Committee update reports.

- *4 Gambling Act 2005 – To seek approval to consult on the draft Gambling Policy

The report updated the Licensing & Enforcement Committee on the review of the Council's Gambling Act 2005 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 last three years.

RESOLVED: that the Licensing Service be given approval to start the formal public consultation process that was required by the legislation for the draft Statement of Gambling Policy as attached to the report.

Attendance list

Councillors present

Steve Hall (Chairman)
John O'Leary (Vice Chairman)
Megan Armstrong
Brian Bailey
Colin Brown
Maddy Chapman
John Dyson
Steve Gazzard
Geoff Jung
Jim Knight
Cherry Nicholas

Councillors present

Bruce de Saram

Officers present

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

Chairman Date

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 22 August 2018

Public Document: Yes

Exemption: None



Agenda item: 6

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

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

Recommendation: **That the report be noted**

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

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

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:
Appendix A: Comparison table of current taxi fares in Devon

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

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

1.1.1 Over the previous period relating to this report officers have issued 413 licences relating to new and variations of licensed premises, personal alcohol licences and temporary event notices (TEN's) throughout the district. The work has involved granting time limited premises licences for sales of alcohol and entertainment at The Ham, Blackmore Gardens and Betsy's Knap for the organisers of Sidmouth Folk week along with TENs for many summer events including Honiton Agricultural Show and other town events. An update on visits and inspections of those events during August will follow in the next report to this committee.

1.2 Premises Risk Ratings

- 1.2.1 Part of the work undertaken by the licensing team involves visiting licensed premises to ensure that licensing laws are adhered to by licence holders and their staff. For the previous period from May to August 2018 the team completed 27 visits to premises. Although the number is slightly lower than the same period last year, the visits will continue by officers over the forthcoming weeks and months as the licensing team embarks on the busy summer period for festivals and outdoor events.
- 1.2.2 On 18 July an officer attended a one day market trading event in Honiton inspecting temporary licensed stalls and also licensed premises in the town. The town and district councils had worked together to organise and deliver a trading event known as Honiton Gate to Plate which was visited by HRH the Prince of Wales and the Duchess of Cornwall in the morning. The event was very popular and well attended by the public who were able to sample food, drink and crafts produced locally by 60 traders. Feedback received from licensed premises was positive as the event brought in extra customers for local businesses.
- 1.2.3 On 14 May and 19 July licensing officers attended meetings of the Safety Advisory Group (SAG) established and chaired by this council. The SAG operates as a multi-agency partnership providing advice and guidance to event organisers planning events. Meetings are arranged quarterly for the remainder of the year with core members from all responsible authorities and with the licensing authority being a standing member.

1.3 Hearings

- 1.3.1 The licensing authority continues to offer mediation when representations have been made against a licensing application to see if an agreed position can be reached between objectors and the applicant. These mediation meetings are often successful and reduce the number of contested hearings.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The licensing team has continued its work to ensure gaming machine permits are submitted on the occasions when licensees leave and take over a premises licence.
- 2.1.2 The licensing team works in conjunction with the Gambling Commission and on 24 May a joint visit was conducted to a holiday park regarding a new gambling application. An officer visited the licensed gaming premises with staff from the Gambling Commission to assess the layout and the progress of the application. The premises was found to be operating correctly and within the requirements of the Gambling and Licensing Acts.
- 2.1.3 The consultation for the councils gambling policy began during the week commencing 6th August after approval was provided by this committee at the last meeting and will run for a twelve week period.

2.2 Enforcement

- 2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected.
- 2.2.2 During the forthcoming quarter, the licensing team will be undertaking visits to public houses in conjunction with a nationwide initiative arranged by the Gambling Commission to assess compliance and suitability of gaming machines sited in public houses. The initiative is to consider how, where and the suitability of gaming machines in public houses and further details will be reported to this committee in November.

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 Members will be aware that the updated Taxi policy was adopted by the Council in 2017 which has modernised many aspects of the previous policy. It was acknowledged that the policy may be subject of regular review and revision where appropriate. Further proposed revisions are subject of a separate report which relates to removing the requirement for private hire vehicles to operate predominantly within the district, revising access to wheelchair access vehicles along with amending a website address for within the policy.
- 3.1.2 The majority of private hire driver, vehicle and operator licences still fall due for renewal at the end of May annually. Officers have completed the main renewal period and currently there are 14 private hire operators, 21 private hire vehicles and 21 private hire drivers licensed in the district.
- 3.1.3 The current taxi policy introduced the review of licensed vehicles being 14 years or older from date of manufacture for which there are currently three hackney vehicles. Officers remind proprietors of vehicles currently 13 years old being due to reach 14 years of age to arrange the inspection of each vehicle prior to considering whether suitable for renewal. The change in policy has allowed officers to review the suitability of vehicles reaching 14 years from date of manufacture with the process ensuring standards and safety.
- 3.1.4 An application for a private hire operator licence has been submitted by Apple Taxis Ltd concerning a taxi office based in the arrival area at Flybe Exeter airport which is situated in this district closer to the border with Exeter City Council. In the past an arrangement consisted that allowed returning holidaymakers to use a telephone on the wall to contact local taxis for transport home. However the introduction and siting of a new booking desk with staff in the airport will allow advanced bookings to be taken by the company. The office has been visited and viewed by officers and the application for an operator licence is considered as valid.

3.2 Enforcement

- 3.2.1 The licensing team has continued to carry out checks and inspections of hackney carriage vehicles whilst parked on the taxi ranks within the East Devon area ensuring that licensed vehicles comply with legislation and meet the required safety standards. Licensing officers also inspect each new vehicle when submitted by applicants to be licensed as a taxi or private hire vehicle. Compliance inspections for vehicles have been undertaken at ranks in Exmouth, Sidmouth, Axminster and Honiton although the implementation of street trading work had an impact on officer time and capacity earlier this year.
- 3.2.2 The request by some sections of the taxi trade in past meetings seeking a review of the fares that can be charged by hackney carriage proprietors is being progressed. Officers have prepared a comparison table of current fares set by this and other authorities in Devon (**Appendix A**) The comparison takes into account the position of highest to lowest fares set by licensing authorities in England and Wales based upon the first two miles charged. The comparison should assist the trade and over the forthcoming period officers will circulate the fares comparison along with a letter to ballot holders of a hackney carriage licence. The letter will seek views of licence holders as to whether a rise in taxi fares is required and an update will be provided to the members at the next committee meeting in November.

3.3 Hearings

- 3.3.1 On 23 May a meeting of the Licensing and Enforcement Sub-committee was held leading to a decision to revoke the licence of a hackney carriage driver.

3.4 Safeguarding Awareness Training

- 3.4.1 Officers have researched options to introduce safeguarding awareness briefings for hackney and private hire drivers (new and existing licence holders), being a development that has

been introduced by other authorities in Devon. Protecting and safeguarding children and vulnerable adults in society is essential and it is recognised that the taxi trade can provide vital support through their work at various hours of the day and night.

- 3.4.2 Contact has been made with a number of training providers identifying varying costs to deliver sessions. It is proposed to undertake a trial arrangement using the services of an accredited trainer in this field who has delivered safeguarding awareness sessions to groups of licensed drivers in Exeter. The sessions received positive feedback from officers and the trade. It is proposed to provide four awareness sessions later this year at the The Knowle which East Devon drivers can attend without charge. It will be in the interest of licenced drivers to attend one of the sessions whilst a fee is not charged and if the sessions are beneficial, officers will seek a revision to the current taxi policy seeking attendance as mandatory condition in 2019.

4. General Licensing – Street Trading Consents

4.1 Street Trading Consents Policy

- 4.1.1. This council adopted the Local Government (Miscellaneous Provisions) Act 1982 provisions with effect from 1982 providing the legislation for local authorities to control street trading subsequently introducing the current street trading policy in October 2017. Further changes approved in March 2018 included withdrawal of fees (unless hiring land owned by East Devon) which generated an increase in applications being received.
- 4.1.2 To date 148 street trading consents have been granted, the majority being since April and with most being for short term events and festivals where organisers have applied using block booking arrangements. Less than 10% of all applications granted have been for commercial food vendors (pizza, fish and chips vans and similar) with 11 consents granted to business traders operating weekly and throughout the year. Block booking arrangements allow traders to submit their own details with the maximum number of traders attending one event being 90 traders. Experience is showing that short term events generally have between 20 to 55 traders attending and although specific data is not available, it is estimated that over 1000 trader forms have been dealt with by officers this year under block booking procedures.
- 4.1.3 On 11 July officers from the licensing and street scene services met to consider further changes in the application process that will assist applicants in the future. Plans include revising application forms to allow one form for traders to submit together with an application portal for events on the council's website.
- 4.1.4 On 25 July officers from the licensing and environmental health services met to consider joint working arrangements and improving consultation processes for new applications. The officers are planning a briefing pack for new applicants, support to organisers of community/charitable events and revised guidance to food sellers undertaking one off events that do not require food hygiene ratings. Seeking feedback from organisers of block bookings will be undertaken over the forthcoming period and feedback to date indicates the need to consider a shorter trader form and ending a requirement for photographs of pitches or stalls.
- 4.1.5 On 31 July officers together with police licensing met with the event organiser of Ottery St Mary Tar Barrels taking place on 5th November. The organisers raised a proposal to limit the availability of glass bottles and plastic drinking glasses during the event and have engaged with local publicans in the town to consider a deposit arrangement for customers buying and/or returning plastic drinking glasses. The initiative is supported by licensing and it is proposed to meet organisers again in September to take the initiative forward.
- 4.1.6 A similar deposit arrangement for returning plastic drinking glasses occurred at a short term trading event licensed in The Ham, Sidmouth on 24 July where the organiser managed arrangements for sale of alcohol with plastic glasses being returned by customers. Similar initiatives will be supported that promote reduction of plastic discarded at trading events. Current conditions for traders issued a street trading consent always require the responsibility

for disposing of their own trade waste. The challenge of reducing customer waste is a key consideration with the licensing and street scene services working closely on this initiative.

4.2 Street Trading Consents Fees

- 4.2.1. The committee will be aware that initial fees considered and benchmarked upon the implementation of street trading were removed at its meeting in March 2017. This was largely because of double or triple costs for short term trading events that may have required a payment to hire council land and to pay a fee to obtain a street trading consent. Removal of street trading fees was regarded positively by community and charitable event organisers as other costs, such as gaining public liability insurance are necessary to progress events.
- 4.2.2 With the uptake of street trading applications since the policy and control was introduced ten months ago, it is evident there are two general types of arrangements being applied for and occurring in the district, these being;
 - (a) Multiple-trading short term trading at festivals, community and charitable events, often promoted or applied for by Parish and Town Councils (lasting from one to seven days), and
 - (b) Commercial Trading Businesses for frequent, repeated and long term trading in single or rotational locations operating longer than seven days annually (static/mobile food sellers).
- 4.2.3 Some Commercial Trading Businesses readily paid the initial annual trading fee set in 2017 for street trading consents benchmarked against other authorities including Exeter City Council and fees for traders bordering this council are now of relevance. Over the previous period, it was evident to the licensing authority that Commercial Trading Businesses have applied to sell food in villages and towns in this district where it does not currently incur a fee with recent applications for mobile pizza, fish & chip and similar traders received in the west of the district. Commercial vendors generate work for the council with officers accepting applications, consulting, visiting prospective trading locations and processing to grant or refusal. Refusals to date have been on the grounds of vendors seeking to trade directly outside or very near other food business premises or close to schools.
- 4.2.4 At the last Licensing and Enforcement Committee members remarked on the need to consider an option for re-introducing fees for commercial business applications. Whilst there remains no consideration to charge fees for short term charitable and community events occurring for less than seven days, there may be grounds to review and introduce fees for new commercial trading applications in 2019 and upon renewal of those currently granted. Fees will be subject of a further full report at the next meeting of this committee in November.

5. Consultations and Partnership Working

5.1 Officers attend Licensees meeting

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

5.2 Meetings between officers and the police licensing team

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

6. Licensing Team update
- 6.1 Following recruitment of an officer for street trading work the structure of the team now consists of the manager, three licensing officers and three licensing support officers since 2nd July (one of the support post holders also provides acts with responsibility for burials and cemetery applications received by the council).

Comparison of Hackney Carriage Taxi Fares - Devon

POSITION	COUNCIL	2 MILE FARE	LAST FARE INCREASE
46	TORRIDGE	£6.62	2017
52	EXETER	£6.60	2013
61	NORTH DEVON	£6.55	2016
84	TORBAY	£6.39	2016
89	EAST DEVON	£6.30	2012
117	TEIGNBRIDGE	£6.20	2013
148	PLYMOUTH	£6.00	2017
152	SOUTH HAMS	£6.00	2017
203	MID DEVON	£5.70	2010

Figures obtained from Private Hire & Taxi Monthly (PHTM) July 2018

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 22 August 2018

Public Document: Yes

Exemption: None



Agenda item: 7

Subject: **Taxi Licensing Policy – To seek approval to revise the policy on points of relevance, namely**

- I. To remove the current requirement for Private Hire Vehicles licensed by East Devon District Council to work predominantly within the district and**
- II. To revise an internet website link to the Equality Act 2010**
- III. To revise the access options for Wheelchair Access Vehicles (WAVs).**

Purpose of report: To revise the current taxi policy in line with recent legal updates to remove the requirement for Private Hire Vehicles to work predominantly in the district where licensed and to update a website link.

Recommendation: **From 22 August 2018 that the Committee adopts changes to the current taxi policy ;**

- a. To remove the requirement for Private Hire Vehicles licensed in East Devon to operate predominantly within the district.**
- b. To amend the internet website link to relevant legislation regarding the Equality Act 2010.**
- c. To amend the points of access for those vehicles licensed as Wheelchair Access Vehicles**

Reason for recommendation: To revise existing taxi policy inline with a recent legislative, administrative and trade requirements.

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

Financial implications: None

Legal implications: The legal implications are explained within the body of the report. The proposed change to the Taxi Licensing Policy for PHV operation being predominantly within the District is in line with developing case law

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

None

Background Papers:

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

1 Background

- 1.1 The licensing of hackney carriage drivers is the responsibility of the council and is governed mainly by legislation under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 A Hackney Carriage and Private Hire Licensing Policy is not a statutory policy. This means that there is no requirement for the Council to adopt one, although it is good practice to do so as it sets out the Council's approach to issuing licences and enforcement. Decisions made in accordance with the policy are more likely to be upheld in the event of an appeal. A good policy ensures consistency of approach by the council thus ensuring fairness and transparency for both the trade and public alike.
- 1.3 A comprehensive review was completed by this authority in 2016 to consolidate national and previous policy documents allowing the current Taxi Licensing Policy to be introduced in 2017. It was acknowledged that subsequent changes in legislation and national procedures occurring after the policy was adopted would require inclusion in the document.
- 1.4 The introduction of the current Taxi Licensing Policy required a full consultation over a period of eight weeks before being adopted. However legislative changes can occur on occasions that require policies to be revised accordingly. A previous change concerned nationally revised procedures such as the frequency of medical examinations for drivers under changes recommended by the Drivers Medical Unit at the DVLA in 2017. Changes in legislation or nationally recommended procedures from central government will not always require consultation through reasons of necessity to meet legal requirements.

2 Current Policy

- 2.1 Current taxi policy specifies that all hackney carriages and private hire vehicles licensed by the district council must operate in East Devon and principally work from or within the district area (Sec 11.1.8.1.). Whilst each application will be considered on its own merits, the Council will have regard to the geographic location of an applicant's home and business address.
- 2.2 The current policy (under Appendix O) provides a website link to allow the public and the taxi trade to view legislation concerning the Equality Act 2010 by going online http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_1.
- 2.3 Current taxi policy specifies that all hackney carriages and private hire vehicles licensed by the district council under the requirements for Wheelchair Access Vehicles prevents rear loading wheelchair vehicles which are not permissible (Appendix L.2.2)

3 Proposed Policy change

- 3.1 When introducing the present taxi policy guidance was accepted from the High Court in its judgment, and declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008] that all hackney carriages and private hire vehicles licensed by the district council must operate in and principally work from or within the district. Hackney carriage vehicle licence holders and applicants will need to demonstrate that the majority of journeys will either start or end in East Devon.
- 3.2 A subsequent legal test to the intended use policy introduced by Knowsley Metropolitan Borough Council being specific to licenced private hire vehicles to operate predominantly within that geographic area was subject of judicial review in 2017. The legal review was

relevant only to intended working of private hire vehicles but not hackney carriages. The policy was opposed by Uber Britannia Limited and Delta Cars. They separately applied to judicially review the policy and the case was heard in the High Court in February 2018 where the council's policy and case was quashed.

- 3.3 It is therefore proposed that this council's current taxi policy should be revised following the High Court ruling to remove the requirement that private hire vehicles licensed by East Devon should operate predominantly in the council area where licensed. It is proposed that the policy is to remain unchanged regarding Hackney carriages for which vehicle licence holders and applicants need to demonstrate that the majority of journeys will either start or end in East Devon.
- 3.4 It is also proposed that the current policy (under Appendix O) be revised to update the website link to view legislation concerning the Equality Act 2010 which is no longer relevant or searchable in the current policy to replace the updated website link to <https://www.legislation.gov.uk/ukpga/2010/15/contents>
- 3.5 It is further proposed to change the access requirements for the current taxi policy that currently specifies all hackney carriages and private hire vehicles licensed under requirements as Wheelchair Access Vehicles prevents rear loading of wheelchairs and, subject to the manufacturers design and construction, rear loading wheelchair vehicles are permissible (Appendix L.2 2.3). This request has been raised by licence holders.
- 3.6 The revision if approved would provide the wording "Suitable ramps must be available to assist in loading a wheelchair into the vehicle from the near side or rear of the vehicle. Rear loading wheelchair vehicles are permissible.
- 3.6 The proposed changes are not regarded necessary for wider consultation although this will always be a consideration for the licensing authority when considering changes. The removal of local working for private hire vehicles is a legislative change, the revision of the website address is an administrative change and the revision of access to wheelchair access vehicles supports licence holders and the trade when seeking to provide such vehicles rather than restricting vehicles solely to side access. The wording of proposed changes in policy can be found in **Appendix A**.
- 3.7 Should members consider approving the revisions to the current taxi policy it would be the case that the changes commence from today 22 August 2018.

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENCES POLICY CHANGES

Proposed Amendments

11.1.8.1 Out of area working

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

Appendix O (Page 81)

The Equality Act 2010 can be viewed at

~~http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_1~~

to be replaced by

<https://www.legislation.gov.uk/ukpga/2010/15/contents>

Appendix L.2 2.3) Wheelchair Access Vehicle Conditions

“Suitable ramps must be available to assist in loading a wheelchair into the vehicle from the near side ~~or rear~~ of the vehicle. Rear loading wheelchair vehicles are ~~not~~ permissible.