



**Agenda for Licensing and Enforcement
Committee
Thursday, 3rd September, 2020, 10.00 am**

Members of Licensing and Enforcement Committee

Councillors: J Whibley (Chairman), K Bloxham (Vice-Chairman),
F Caygill, M Chapman, A Dent, S Gazzard, N Hookway,
S Jackson, P Jarvis, C Pepper, G Pratt, B Taylor, T Wright,
L Jeffery and T Woodward

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Venue: On line via the Zoom app. All Councillors and registered speakers will have been sent an appointment with the meeting link

Contact: Christopher Lane;

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Monday, 24 August 2020

1 Public Speaking

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

2 Minutes of the previous meeting (Pages 3 - 6)

3 Apologies

4 Declarations of interest

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

5 Matters of urgency

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

6 Confidential/exempt item(s)

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

7 Quarterly Update report -September 2020 (Pages 7 - 13)

8 Licensing Act Policy consultation (Pages 14 - 112)

9 Taxi Fare Tariff (Pages 113 - 117)

10 Taxi Policy (Pages 118 - 126)

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

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

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Licensing and Enforcement Committee held at on 27 July 2020 via Zoom app****Attendance list at end of document**

The meeting started at 9.30 am and ended at 10.45 am

34 Public Speaking

There were no members of the public who wished to speak.

35 Minutes of the previous meeting

The minutes of the meeting held on 12 February 2020, were agreed as a true record.

36 Declarations of interest

There were no declarations of interest.

37 Matters of urgency

There were no matters of urgency.

38 Confidential/exempt item(s)

There were no confidential/exempt items.

39 Pavement Licences- Business and Planning Act 2020

Members received the report of Henry Gordon Lennox, Strategic Lead – Governance & Licensing which informed the Licensing and Enforcement Committee of the changes to the issuing of pavement licences that have been brought in as part of Business and Planning Act 2020 as part of the Government's economic recovery and growth agenda in response to the COVID-19 Pandemic. The Act passes the responsibility of consulting and issuing pavement licences on the public highway to District Councils in England requiring a decision within a very tight timeframe (14 days from application to decision). The Council needed to put in place authority for dealing with these applications.

During discussions the following points were noted:

- What happens when an objection is received within the 14 day period for objections to an application? The Council had 7 days to consult and 7 days to consider these licence.
- What can we control outside of the designated area? Can we condition that any alcohol supplied can only be consumed in the designated area? It was noted that we do have the ability to review a licence and revoke it if required.
- Does the outside furniture from a premises have to be removed from the pavement every evening? This requirement was contained within the licence conditions.
- Are ward member consulted on applications and informed of grants? Yes they would be.

- How far away from the establishment could a licence be granted for? Tables and chairs used must be in connection with the premises
- Will the joint ownership of land between EDDC and DCC at The Strand be clarified? There was clarity over what land EDDC owned.
- Monitoring of Pavement Licences would be carried out by the Licensing and Street Scene services teams. The enforcement side would be dealt with by the Licensing service.
- Is there a requirement for the applicant to prepare a plan? Yes they were required to prepare a plan of the area they required to be licensed.
- The use of reusable and shatterproof plastics should be encouraged and promoted. Licensees should be asked to make a commitment to use reusable containers.
- The licence would require the provision of a litter bin and collection of litter but there should be a requirement added to include reference to cleaning and if necessary degreasing the pavement.
- Do we have any idea of how many licences will be issued? Going on recent DCC's experience there could be a large number.
- How would interaction between long standing events on The Strand, Exmouth and the grant of Pavement Licences in this area work? Consultation would be needed with Street Scene to assist with this.

RESOLVED

1. that the content of the report, in particular the process that District Councils will have to adopt in issuing pavement licences to businesses within the District, which is 14 days (10 working days) to include the statutory consultation period and the granting or rejection of the licence application, be noted.
2. that the application process that East Devon will follow to determine these applications including the consultations that will take place and the local conditions (Appendix 1) that will be imposed on any grant, be agreed.
3. that delegated authority be given to the Strategic Lead (Governance and Licensing) to determine pavement licence applications under the Business and Planning Act 2020 together with imposing such additional conditions as may be deemed necessary as well as to take enforcement action including revocation of licences where considered appropriate to do so.
4. that the Council will charge the maximum fee of £100 for the consideration of each application for a licence, be agreed.
5. that the recruitment of a Grade 5 post on a fixed term (6 month) basis to support the administration of this new service, be agreed.
6. that authority be given to the Strategic Lead (Governance and Licensing) in consultation with the Chair of the Licensing and Enforcement Committee and Portfolio Holder for Coast, County and Environment to make any necessary amendments to the process and local conditions which arise out of administration of the regime, including the points made above particularly those on reusable containers and pavement cleaning.

40 **Verbal update on relaxation of licensing regime under Business & Planning Act 2020**

Members received the verbal report of Henry Gordon Lennox – Strategic Lead – Governance & Licensing updating members on the relaxation of the licensing regime under the Business & Planning Act 2020. The relaxation was so licensees with on-sales licences could also have off-sales.

The legislation permitted the responsible authorities to request an interim review of the licensing authority of those premises within 48 hours and to hold a full review in 28 days. This had the potential to cause considerable further work for the Licensing & Enforcement Sub Committee. However, it was pointed out that most off sales were made through supermarkets or off licences.

Attendance List

Councillors present:

J Whibley (Chairman)
K Bloxham (Vice-Chairman)
F Caygill
M Chapman
A Dent
N Hookway
S Jackson
P Jarvis
G Pratt
B Taylor
T Wright
L Jeffery
T Woodward

Councillors also present (for some or all the meeting)

P Arnott
P Faithfull
G Jung
T McCollum
P Millar

Officers in attendance:

Christopher Lane, Democratic Services Officer
Henry Gordon Lennox, Strategic Lead Governance and Licensing
Susan Howl, Democratic Services Manager
Sarah Jenkins, Democratic Services Officer
Giles Salter, Solicitor
Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)

Councillor apologies:

S Gazzard

Chairman

Date:



Report to: **Licensing and Enforcement Committee**

Date of Meeting: 3rd September 2020

Public Document: Yes

Exemption: None

Review date for release None

Subject: **Committee Update on Licensing Matters regarding- Licensing Act 2003, Gambling Act 2005, Taxis & General (Street Trading) Pavement Licensing (Business & Planning Act 2020)**

Purpose of report: The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005, Taxi legislation and General Licensing and the new Business & Planning Act

Recommendation: **That the report be noted**

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

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio Holder: Portfolio Holder Coast, Country and Environment

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Climate change: Low Impact

Risk: Low Risk
 Comments
 Click here to enter text on risk considerations relating to your report.

Links to background information: Previous Report to Licensing Committee February 2020

Link to [Council Plan](#): Choose Priorities and delete what not appropriate.
 Outstanding Place and Environment
 Outstanding Economic Growth, Productivity, and Prosperity

Report in full

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

- 1.1.1 This report informs the Committee of work undertaken by the licensing team and also with regard to any strategic or national updates for each category of work that the team oversees.
- 1.1.2 The previous update provided to this committee was in February 2020 before the impact of Coronavirus that has since adapted working procedures for licensing staff. New and emergency legislation was introduced by the government over the previous months and the Coronavirus Act 2020 introduced the need for licensed premises to close and gave enforcement powers to Environmental Health Teams and Trading Standards. That meant licensing staff were required to refer reports to those agencies rather than leading the response to any complaints or problems arising for licensed premises in East Devon. The usual visits and inspection regime undertaken by licensing staff has paused in line with risk assessments until such time that routine inspections can be conducted safely.

1.2 The Impact of Coronavirus

- 1.2.1 The first weeks of the emergency saw the cancellation of many events across the district that would usually be licensed and then inspected at a later date (Devon County Show, Sidmouth Folk Festival to name just a few). Events that were booked on EDDC land were cancelled up to the end of July in line with government guidance. The early weeks of lockdown saw some licensing staff diverted to work with other council teams supporting high volume customer contact and back filling call handler posts with other services.
- 1.2.2 One of our customer commitments is “assisting clients to run their businesses effectively” and the licensing team has had far higher levels of contact with licence holders experiencing challenges to their businesses and livelihoods. The hospitality industry has been hit hard and so higher levels of contact and advice has been necessary, for example providing guidance to premises that have licences for off-sales to supply food deliveries in the communities.
- 1.2.3 People are still applying for their Personal Alcohol Licences too, being the accreditation to run and supervise licensed premises and the goal for many businesses was to hit the ground running when businesses could fully reopen again. Staff assisted colleagues in other teams to identify licence holders suitable for business rate relief that enabled emergency grants going out to the right businesses.
- 1.2.4 The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 required closure of any premises selling food or drink for consumption on the premises to close from 21st March. Many licensed businesses including public houses, hold licences for off-sales that still enabled food and alcohol to still be sold provided it wasn’t consumed on (in) or adjacent to the business. This created anomalies and grey areas regarding definitions for adjacent land and for sale of alcohol into public areas and similar.
- 1.2.5 The licensing, hospitality trade has moved forward since being able to open for on-sales from Saturday, 4th July albeit with far more restrictions in line with Covid-19 risk assessments. Adherence to government guidance that changes regularly was a factor. Not all businesses have reopened for many reasons and licensing staff have had need to deal with insolvency matters, transferred licences, businesses that had furloughed staff and applications to vary the lay-out of external areas to allow businesses to continue operating during these times.

1.2 Hearings

- 1.2.1 The licensing team continues to offer mediation meetings when representations have been made against new licensing applications to establish whether objectors and applicants can reach an agreed position. Mediation is often successful reducing the number of contested hearings that need to go before a Licensing Sub-committee.
- 1.2.2 The first virtual Licensing sub-committee was held on 29th July regarding a new premises licence for a business seeking to supply online alcohol sales. The Sub Committee fully considered the operating schedule put forward by the applicant and the likely impact of the application and after all due consideration the premises licence was granted.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The Gambling Commission is the regulatory authority nationally and it provides guidance to local authorities that have responsibility to oversee gaming and betting premises in each district. The Commission oversees national operators, all online betting and other functions.

2.2 Enforcement

- 2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted has paused generally following the closure of licensed gambling premises during the period of lockdown. In the same manner as licensed sellers of alcohol, the gambling industry also experienced challenges to businesses.
- 2.2.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The last summer bulletin can be viewed online at <https://www.gamblingcommission.gov.uk/PDF/LA-BULLETIN-Summer-2020.pdf>
- 2.2.3 In April the requirement for licensing authorities to submit annual returns to the Gambling Commission in relation to the number of gambling licences together with the number of proactive inspections was postponed. The return has since been requested and to be submitted by 30th October and further details will be provided when this committee meets in November.

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 The Taxi and Private Hire Driver trade was also significantly challenged as a result of the Coronavirus lockdown. The licensing team continued managing renewals for existing taxi and private hire licence holders and although it was positive to see licence holders renewing for the year ahead, the full number that will cease working in the industry will not be clear until the forthcoming taxi renewal period ends on 31st October.
- 3.1.2 A previous requirement for all taxi licence holders to renew their licences annually by 31st October was removed in 2017, although a large proportion still expire annually on that date. This presents significant work for officers receiving, quality assuring and issuing over 200 licences in a short period and this autumn, the renewal process will be completed remotely as the council offices remain closed and without officers being able meet applicants. Officers have started engaging with licence holders by email to provide clear communication throughout this month that will allow applicants to renew their licences in good time.

3.1 The Impact of Coronavirus on the Taxi and Private Hire trade

- 3.1.1 A number of drivers and businesses continued to provide essential transport for vulnerable members of the community whilst the trade that was usually available from shoppers at taxi ranks to holiday makers being taken to airport ceased from March to July.
- 3.1.2 Difficulties for the taxi trade maintaining work along with keeping licences up to date by obtaining MOT tests, etc had to be addressed quickly. The government issued advice in certain aspects and officers had cause to amend the existing taxi policy to ease issues regarding MOT deadlines, driver medicals and getting DBS checks done. The support of members taking that forward was very much appreciated with a separate report regarding the Covid-19 policy
- 3.1.3 Recent developments involved officers engaging with the taxi trade to support properly manufactured Perspex shields in cars. These offer better protection for drivers and passengers against Covid-19 and whilst not mandating use or installation, there is a growing need nationally and in the district to consider appropriate screen guard equipment.
- 3.1.4 Officers are aware of the severe financial difficulties experienced by the taxi and private hire trade as a result of the pandemic and from April to July, all proprietors had little or no business as a result of the downturn in use by the public. That situation has been widely reported nationally and the licensing team, with support of the Chair of this committee explored options of possible funding that could be available to the local taxi trade. Contact with other council services with regard to the availability of grants, loans or other support that local authorities could provide confirmed there was no revenue allocated centrally by government for local authorities to distribute to the taxi and private hire industry.
- 3.1.5 The taxi industry was not an eligible business that qualified for all phases of the Local Authority Discretionary Grant funding, for which the criteria was set by central government regarding businesses that did qualify. Whilst more than 3,600 local businesses in East Devon applied for Schemes 1 and 2 receiving more than £42m in grants, along with a further 230 East Devon businesses that received over £2m in grants through scheme 3, the discretionary grant fund did provide the basis of any financial assistance to the taxi industry.
- 3.1.6 Officers also circulated details to all taxi and private hire licence holders regarding the Self-Employed Income Support Scheme to highlight government payments to self-employed workers adversely affected by Coronavirus for the taxable grant that worth 80 per cent of their average monthly profits over the last three years.
- 3.1.7 In daily contact with members of the trade, officers learnt that many employers took the opportunity provided by the furlough scheme to alleviate financial hardship or to SORN licensed vehicles whilst not in use.
- 3.1.8 The October renewal period usually sees a small number of licence holders retiring and deciding not to renew their licences each year. Full details and figures will be available from the November to confirm the number of licences the licensing authority administers.

3.2 Enforcement

- 3.2.1 There have been no complaints received over the previous periods which is attributed to the low level of work being undertaken by the trade.

3.3 Hearings

- 3.3.1 It has not been necessary to hold a Licensing Sub-committee meeting over the previous period regarding taxis although a request to licence a vehicle that was slightly older than the four year old limit was approved using the Senior Officer Urgent Decision process during the

period when all Council meetings were postponed under the Coronavirus Act 2020. That course of action was approved by the Licensing Chair and the Leader of the Council.

3.4 Fares Review for Hackney Carriages (Taxis)

3.4.1 Members had approved an increase to the Hackney Carriage Fare Tariff and resolved that Tariff 1 be increased on the first half mile by £0.50 to £3.50 along with the vehicle soiling/cleaning charge being increased from £50 to £80. This followed a lengthy period of deliberation and consultation with the taxi trade with the proposal being widely supported by the Exmouth Taxi Association but with less support for a low increase elsewhere.

3.4.2 The resolution to proceed has now been completed and is subject of a separate report to members today to conclude the increase in the fares that taxis can charge.

3.5 Wellbeing Initiative for Taxi and Private Hire Drivers

3.5.1 The approval of this committee in February to move forward with promoting healthier life style options for the wellbeing of licensed taxi and private hire drivers progressed with a publicity campaign in February that was very well received. A number of radio and media interviews were completed by Councillor Jarvis and the interest and publicity that generated was very positive. BBC radio and television presenters actively reported on the initiative and there were also interviews with drivers at the side of the taxi rank in Exmouth.

3.5.2 Engagement with Leisure East Devon (LED) provided an opportunity for licence holders to arrange corporate membership at gyms across the district with a number of licensed drivers expressing their support going forward. It was unfortunate that the impact of Coronavirus in March subsequently saw the closure of gyms and sporting venues that have only recently been able to reopen in a limited capacity.

3.5.3 As an initiative that commenced through this committee to promote healthy, wellbeing options, it was regarded positively and it may be beneficial to consider options and links between the councils Taxi Policy and the EDDC Public Health Strategic Plan in the future.

3.6 Taxi Ranks

3.6.1 Further to a report to this committee in February regarding relocating a taxi rank in Seaton, officers have completed the final stage of circulating public notices without any representations being received. Due to the level of reports today, officers will provide a further report to this committee when in next meets in November to conclude this matter.

3.6.2 The Licensing Manager has recently engaged with senior staff from Devon County Council Highways on the subject of taxi ranks across the district and further work will be jointly undertaken before providing updates for this committee on the subject of taxi ranks.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

4.1.1. This council adopted the Local Government (Miscellaneous Provisions) Act 1982 provisions with effect from 1982 that provided legislation for local authorities to control street trading and in October 2017, the council introduced the current street trading regime by designating most of the district where street trading can be conducted with prior consent.

4.1.2 The level of street trading reduced over the previous periods although the availability of suitably licensed and regulated food sellers during Coronavirus restrictions is known to have been beneficial to the public.

4.1.3 The uptake in new mobile businesses that are planning to offer food and drink on the roads and highways is expected to be one of the few growth areas following the pandemic and it is anticipated that people changing employment or jobs in the future may actively make arrangements to move in to this form of business.

4.2 Street Trading Policy and Review of Application Fees

4.2.1. At the last meeting of this committee members confirmed a need for officers to progress the review to re-introduce application charges for commercial street trading consents. Officers present a detailed structure to allow full consideration for charging fees going forward and a consultation had been prepared to the point that Coronavirus restrictions commencing. Officers will report further on this matter at a later meeting to this committee.

5.1 Pavement Licences

5.1.1 It was reported at an extraordinary meeting of this committee in July that the responsibility for issuing short term Pavement Licences would pass to district councils in August. Officers have been extensively involved in preparing an IT solution allowing applicants to apply online and that work with colleagues from Strata delivered an application process last month.

5.1.2 The procedures are now in place to allow business to apply for a short term Pavement Licence to the district council whilst those businesses with an existing licence still have the option to renew with Devon County Council or to apply anew to the licensing team.

5.1.3 Despite the high profile and level of awareness of the new licences, there have been two applications from businesses seeking a Pavement Licence from this council. Whilst the numbers are initially lower than expected, Devon County Council had already commenced its streamlined application process from June. It is known that a number of existing licences are expected to be applied for or renewed this autumn through the district council.

6. Consultation and Partnership Working

6.1. Safety Advisory Group (SAG) Meetings

6.1.2 Quarterly meetings of this council's Safety Advisory Group (SAG) occur to consider advanced planning for outdoor events although the number of events has reduced significantly. The SAG operates as a multi-agency, non-statutory group that meets providing guidance to event organisers and the officers attend to support safely organised events that are licensed in the district. Recent meetings occurred remotely and are chaired by senior managers from Environmental Health.

6.2 Meeting between Members, Taxi Proprietors and Officers

6.2.1 The council previously held two meetings annually with taxi proprietors, licensing officers and members and it was agreed last year that one meeting should be arranged in the future as officers also attend meetings of the Exmouth Taxi Trade Association.

6.2.2 Councillor Jarvis and the Licensing Manager attended the last meeting of the Exmouth Taxi Association on 3rd February. It was a positive meeting with attendance of drivers from beyond Exmouth, although further meetings have not occurred due to the Coronavirus situation.

6.2.3 The minutes of the previous taxi proprietors meeting held in November 2019 are available via this link <https://eastdevon.gov.uk/media/3720780/minutes-6112019.pdf>

6.2.4 The present Coronavirus restrictions by holding remote meetings and only those that are essential, requires postponement of the next taxi proprietors meeting that would usually occur

this autumn. Potential changes to the taxi policy arising from the Statutory Standards for taxi and private hire licences (also subject of a separate report today) would be appropriate for this committee to consider first at its next meeting in November. A new date can then be considered for the taxi proprietors meeting that will allow for consultation over any changes.

7. Member Training

- 7.1 Initial training was provided for Licensing and Enforcement Committee members last year when delivered by leading expert, Phillip Kolvin QC who attended locations in the south west.
- 7.2 The training is necessary to provide sufficient understanding for members to attend and to determine contested applications at licensing sub-committee hearings.
- 7.3 Officers have eagerly sought new dates for remote training sessions for members still requiring training to be delivered via Zoom by the Institute of Licensing. Due to the high level of take-up nationally, a date in August was fully booked within 24 hours and so further dates are now being arranged in September and October.
- 7.4 An additional briefing with regard to gambling related matters is also under consideration with potential dates awaited.

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 3rd September 2020

Public Document: Yes

Exemption: None

Review date for release None



Subject: **Licensing Act 2003 – To seek approval to consult on the draft Statement of Licensing Policy**

Purpose of report: This report updates the Licensing & Enforcement Committee on the review of the Council's Statement of Licensing (Act 2003) Policy and seeks approval to commence the consultation process on the draft policy which has been updated in the light of recent changes in legislation and experience over the past five years.

Recommendation: **That the Committee consider this draft Statement of Licensing Policy (attached Appendix B) and give approval for the Licensing Service to start the formal public consultation process that is required by the legislation.**

Reason for recommendation: It is a legal requirement of the Act for the Council to determine a Licensing Policy in order to provide a framework for all licence applications regarding the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment. The Policy was last reviewed in 2015. It must be reviewed at least every five years and therefore an amended Policy must be adopted by the 7 January 2021

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio Holder: Portfolio Holder Coast, Country and Environment

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

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Climate change: Low Impact

Risk: Low Risk
 Comments
 Click here to enter text on risk considerations relating to your report.

Links to background information: Appendix A - List of Organisations/Individuals we intend to consult
 Appendix B - Draft Licensing Policy prepared for consultation

Background Papers:

- Licensing Act 2003
- Guidance issued by the Home Office under Section 182 of the Licensing Act 2003 – March 2015 and 2018 Editions
- East Devon District Council's Previous Policy Statement adopted in 2015

Link to [Council Plan](#): Choose Priorities and delete what not appropriate.

Outstanding Place and Environment

Outstanding Economic Growth, Productivity, and Prosperity

Outstanding Council and Council Services

Report in full

Background and Proposed Draft Amendments to the Existing Policy

- 1.1 Under the Licensing Act 2003, it is the responsibility of the Council to develop and publish a Statement of Licensing Policy. The published Policy then provides the framework for all decisions on applications relating to the Licensing Act 2003 and the way the Authority carries out its functions in relation to the legislation. Council adopted the current Policy on the 16 December 2015 and being effective from 7 January 2016 for a period of five years.
- 1.2 The Act requires that the Licensing Authority review its Licensing Policy every five years and as the present policy will expire on the 6 January 2021, the Authority is under a duty to have reviewed and published a fresh policy by 6 January 2021.
- 1.3 The current policy has been kept under review by the Licensing Service over the past five years and with an amendment occurring in 2018. A number of changes are now proposed to reflect current practices and updated legislation issued over the past five years. Whilst acknowledging temporary legislative changes that have been introduced as a result of the Coronavirus global pandemic, the revised policy deals with indefinite legislation and does not include laws or legislation that will provide temporary responses or powers.
- 1.4 The adopted policy must set out the authority's general approach to licence applications and may only be determined following consultation with the following parties:
 - The Chief Officer of Police, Devon & Cornwall Police;
 - Devon & Somerset Fire & Rescue Service;
 - Members of the licensed trade in the area;
 - The local community.
- 1.5 In addition to these groups, it is proposed to circulate invitations more widely to take part in the draft Policy consultation to include all Responsible Authorities, Council Members, the business community, Town and Parish Councils, the Community Safety Partnership and the Devon Primary Care Trust. A more comprehensive list appears at **Appendix A**. The Policy

will also be published on the Licensing Service's dedicated web pages and web users will be invited to comment online.

1.6 The consultation and publication timetable for the Policy is:

- 3 September 2020 - Revised policy circulated for consultation
- 2 November 2020 - Consultation period ends
- 18 November 2020 - Result of consultation reported to L & E Committee
- 25 November 2020 - Cabinet
- 9 December 2020 - Licensing Policy considered by full Council for adoption

1.7 The main changes to the policy are:

- The Forward section to include section on Cultural Activities and the Council's Health and Wellbeing Strategy
- Section 3 – Licensing Objectives & Related Legislation. The inclusion of additional legislation over the last five years and removing lists for reasons of duplication.
- Section 5 – The Licensing Process: 5.1.1 The removal of a 'free' thirty minute consultation previously provided by officers for applicants. Sec 5.5 addition of an in depth description of the Safety Advisory Group. Sec 5.6 inclusion of a new section on Environmental Factors. Sec 5.8.3 clearer expectation regarding internet sales and deliveries.
- Section 11 – Clearer procedures for Film Classification by the Licensing Authority with a new Procedure added at Appendix C of the policy and an addition to Child Safeguarding reporting.
- Section 12 – Clearer expectations for managing illegal high and drugs by
- Section 13 – The removal of details relating to the CCTV standards being available detailed in the pool of conditions.
- Definitions section to provide clearer information on the Responsible Authorities and to remove lists for reasons of duplication
- Definitions section to remove list 'Useful Contacts' being out of date, now available through internet searching and to remove lists for reasons of duplication
- New Appendix A in the document added to provide details of the Devon wide 'pool of conditions' available to applicants
- New Appendix C in the document added to provide procedures for Film Classifications

1.8 The draft Policy takes account of the revised Government Guidance issued under S182 of the Licensing Act 2003 (April 2018).

1.9 A copy of the draft Licensing Act policy appears at **Appendix B**. All the additions/amendments are entered in the document in red.

1.10 The legislation requires that publication of the new policy takes place by 7 January 2021.

East Devon District Council

Licensing Policy Document – Licensing Act 2003

Key Organisations and individuals that we intend to consult

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

Appendix B



~~LICENSING POLICY~~

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

~~UNDER THE
LICENSING ACT 2003~~

LICENSING ACT 2003

STATEMENT OF LICENSING POLICY

For the period
7 January 2021 to 6 January 2026

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FOREWORD

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

Welcome to East Devon District Council's Licensing ~~Policy statement~~ Act 2003 ~~Statement of Licensing Policy~~ for 2021 - 2026.

Section 5 of the Licensing Act 2003 (thereafter referred to as "the Act") requires a licensing authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act. The Licensing authority will keep the policy statement under constant review and make such revisions to it, as it considers appropriate. Where revisions are made, the licensing authority shall publish a statement of revisions or a revised licensing policy statement.

This revised Policy is published following a public consultation during the latter half of 2020 and adoption by Full Council on the 9 December 2020. It is effective from the 7 January 2021 for the next five years.

Since the introduction of the Act, licensing authorities have gained extensive experience in the administration and enforcement of the legislation. We understand that the term 'licensed premises' can be applied to numerous types of operation from a nightclub to a traditional pub or a community run village shop and that our policy should provide valuable guidance and information to address the differing character and needs of each premises. This policy is also intended to provide advice and guidance to anyone that may be involved in the licensing application process from applicants to responsible authorities and members of the public who wish to make a representation about an application.

The entertainment industry within the District is a major contributor to the economy of East Devon. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer. We understand however our duty to ensure that the needs of residents are considered and anticipate that this policy will help to balance the sometimes conflicting needs of licensees and residents.

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

This policy provides information and guidance to licence applicants, interested parties and responsible authorities on the general approach that the licensing authority will take in terms of licensing. Each application will be considered individually and the licensing authority will use the policy to ensure that considerations other than fitness of the applicant and suitability of premises are considered when reaching a decision. We will apply this policy consistently and fairly so that the licensing objectives as set out in the legislation are promoted.



In the preparation and publication of this policy East Devon District Council as the licensing authority has had regard to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003, ~~last revised in April 2018. The revised guidance sets out the Government's view on the licensing objectives and the aims of the legislation which this policy recognises and with regard to wherever it is deemed necessary to promoting the licensing objectives.~~

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

A copy of the policy together with other licensing related information may be viewed on the licensing pages of the Council website at eastdevon.gov.uk/licensing. Alternatively ~~advice and~~ copies of the policy ~~are~~ is available by contacting the Licensing Team via email to licensing@eastdevon.gov.uk ~~on by telephone to 01395 517411.~~

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

East Devon Licensing Authority
Licensing Team
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

~~Contact us by:~~

~~Phone: 01395 517411~~

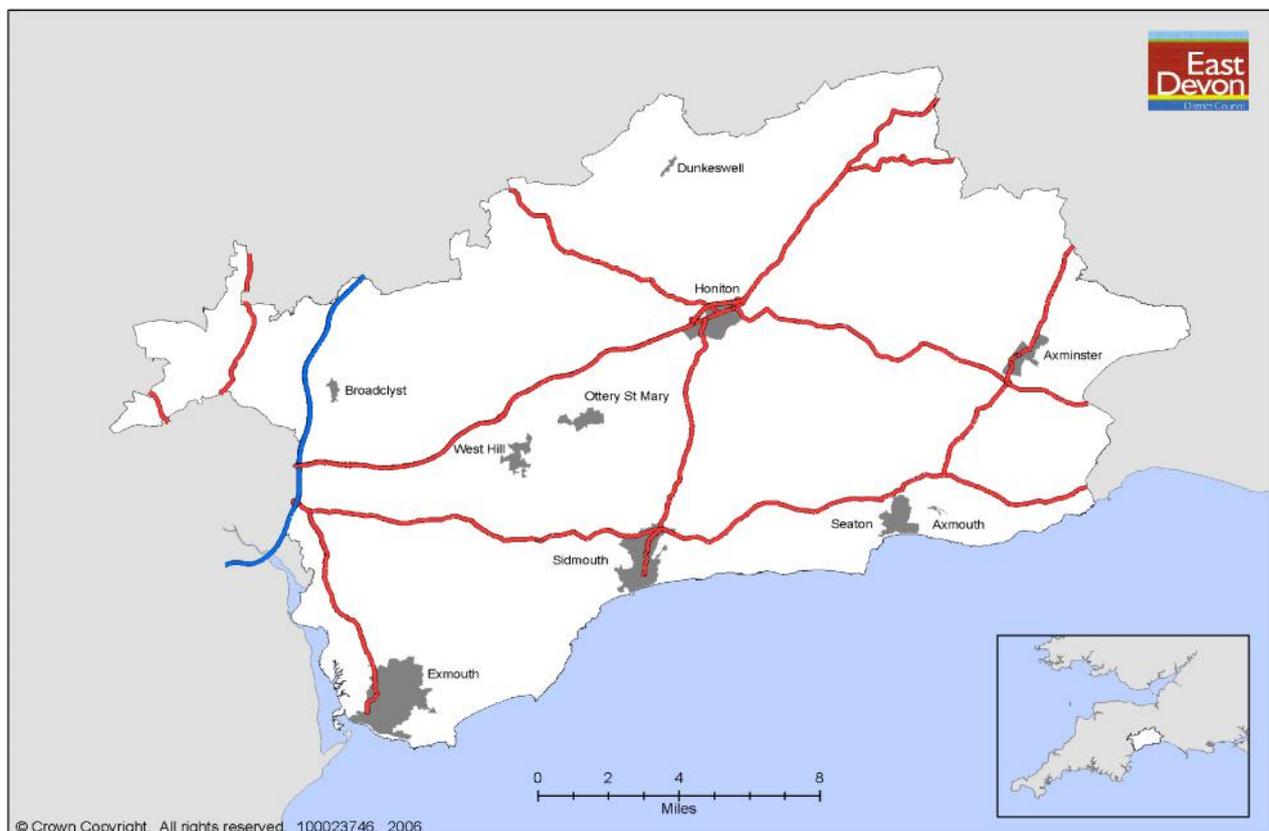
Email: licensing@eastdevon.gov.uk

East Devon District Council Geographical Area

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

The District has a dispersed and mainly rural population. The rural nature of the area is emphasised by the low population density of ~~1.67 per hectare~~ 175 per square km (the England and Wales average is ~~3.4~~ 427). Of our 30 wards 21 of the have a population density below the England average. ~~The District is fully parished with 68 Town and Parish Councils.~~ Areas of Outstanding Natural Beauty and the World Heritage Coast cover a high proportion of the District.

The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population ~~35,762~~ 48,613), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets. ~~There are numerous villages and hamlets and 2011 saw the emergence of the new town of Cranbrook to the north of the district plus other urban extensions including the Exeter Science Park and Skypark.~~



The population of East Devon has an older age profile with the average age of its residents being 50.7 years (national average is 40.1 years). East Devon has a highest age profile of all of the districts in Devon with the largest percentage of those aged 65+ at 30.06%, this equates to 42,758 people. The overall population is expected to increase by 14,300 people between 2017 and 2027, a rise of 10%. ~~The population of East Devon has an older age profile with the 65+ age range looking set to grow more than any other over the next 10 years. Predominantly, residents are from a white British background, with just 1.59 per cent of the district's population coming from an ethnic background.~~



Cultural Activities in East Devon

East Devon has strong artistic, festival traditions with a number of highly regarded outdoor summer events occurring in many locations and towns. There is a vibrant voluntary sector including many groups and societies. East Devon District Council is developing and promoting use of its facilities and land for public recreation and the council has a tradition of promoting a wide range of cultural activity for the benefit of residents and visitors alike.

Commercially promoted events take place in a variety of locations throughout the District and within the area there are many local community groups, associations, church and village halls and community centres for social and fund raising activities. There are a large number of halls and community buildings licensed for regulated entertainment and/or the sale or supply of alcohol along with year on year increases for temporary event notices.

East Devon District Council's Health and Wellbeing Strategy

East Devon's [Public Health Strategic Plan 2019-23](#) identifies three overarching aims which highlight differences in life expectancy and healthy life expectancy between communities:

1. To help more people to be healthy and stay healthy
2. To enhance self-care and support community resilience
3. To integrate and improve support for people in their homes.

Whilst public Health is not one of the licensing objectives within the Licensing Act 2003, (unlike in Scotland), the council considers it important that alcohol dependency and alcohol abuse are considered within the context of the existing regulatory regime as alcohol dependency and abuse can lead to crime and disorder and anti-social behaviour and can impact on community wellbeing.

~~This Policy is intended to provide general guidance only. It does not constitute a definitive statement of law. Applicants who require legal advice on a specific licensing topic are advised to consult a licensing solicitor.~~

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

Statement of Licensing Policy

1. Introduction and Scope

- 1.1 This Statement of Licensing Policy is based upon the Licensing Act 2003 ("the Act") and is in line with the Home Office Guidance to local authorities and takes effect from **7 January 2021**.

- 1.2 This policy relates to all those licensing activities identified as falling within the provisions of the Act wherever they take place, namely: -
- Retail sale of alcohol
 - Supply of alcohol to club members
 - Provision of 'regulated entertainment' - to the public, to club members or with a view to profit
 - A performance of a play
 - An exhibition of a film
 - An indoor sporting event
 - Boxing or wrestling entertainment
 - A performance of live music
 - Any playing of recorded music
 - A performance of dance
 - ~~□ Entertainment of a similar description to making music or dancing.~~
 - Entertainment of a similar description to live music, recorded music or performance of dance
 - The supply of hot food and/or hot drink from any premises including food stalls between 11.00 pm and 5.00 am (Late Night Refreshment).
- 1.3 The Licensing Act 2003, section 5 requires a licensing authority to prepare and publish a Statement of Licensing Policy every five years.
- 1.4 Such a policy must be published before the authority carries out any function in respect of individual applications made under the act.
- 1.5 The purpose of this policy document is to assist the licensing authority in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the District with some measure of certainty.
- 1.6 To achieve the licensing objectives the Council will use its full range of powers and engage all relevant responsibilities including its planning and environmental health controls, crime and disorder policies and powers. The authority will enter appropriate partnership arrangements, working closely with the police, the fire authority, trading standards, local businesses, community representatives and local people in meeting these objectives. Neighbouring authorities and town and parish councils will be consulted where appropriate.
- 1.7 The licensing authority will keep the policy statement under constant review and make such revisions it feels appropriate. Where revisions are made, the licensing authority will publish a statement of revisions or a revised licensing policy statement. Any major changes, unless they are the result of legislation changes will normally be preceded by public consultation.
- 1.8 The Act makes provision for the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshments (premises licence), the supply of alcohol or the provision or regulated entertainment in certain clubs (club premises certificates) and the permitting of certain

licensable activities on a temporary basis (temporary event notice).

2. Policy Consultation

- 2.1 Before determining this policy statement the licensing authority has consulted with the following: -
- the chief officer of police
 - the fire authority
 - persons/bodies representative of local premises licence holders
 - persons/bodies representative of local club premises certificate holders
 - persons/bodies representative of local personal licences
 - persons/bodies representative of businesses and residents in the area
- 2.2 Proper weight has been given to the views of all consulted prior to this policy statement taking effect.
- 2.3 Unless changed by future legislation the policy statement will remain in existence for a maximum period of 5 years and will then be subject to review and further consultation.

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

3. Licensing Objectives and Related Legislation

3.1 Licensing Objectives

- 3.1.1 The licensing authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. These are: -
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance and
 - the protection of children from harm
- 3.1.2 These objectives are the only matters to be taken into account in determining the application and any conditions attached must be appropriate in achieving the licensing objectives. The legislation requires if there are no relevant representations then an application must be granted and will be subject only to mandatory conditions and conditions consistent with the applicant's operating schedule.
- 3.1.3 A Licence will only be granted where the licensing authority is satisfied that these objectives have been met.
- 3.1.4 The licensing authority requires applicants to address the licensing objectives in their operating schedules having

regard to the type of premises, the licensable activities to be provided, the operational procedures, and the nature of the location and the needs of the local community.

- 3.1.5 Operating schedules should not consist of lists of statements but specify specific measures that will be put in place to promote the four licensing objectives. Suggested model conditions have been produced and agreed across all of the Devon Licensing Authorities to assist applicants, responsible authorities and other persons when proposing and determining conditions for a premises licence, but all should ensure that the conditions apply specifically to the premises and meet the criteria of clarity, appropriateness and enforceability shown at **Appendix C**.
- 3.1.6 Suggested model conditions are neither exclusive nor exhaustive. They do not restrict applicants, responsible authorities or other persons in proposing additional or alternative conditions. Nor do they restrict the Licensing Authority, when determining contested applications, from imposing any reasonable condition on a licence that it considers appropriate for the promotion of the licensing objectives under the Licensing Act 2003. The list of model conditions provide examples of what ~~the licensing authority would expect to see in~~ should be considered when formulating operating schedules when preparing an application.
- 3.1.7 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a “cure all” for solving all problems within the community. The Licensing Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. The licensing authority will therefore continue to work in partnership with its neighbouring authorities, the police, the fire authority, the Council’s Environmental Health teams Department, local businesses and local people towards the promotion of the objectives as outlined.

3.2 Related Legislation

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

3.2.2 Legislation

- Section 17 Crime and Disorder Act 1998
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- Policing and Crime Act 2009, further powers for local authorities regarding the regulation of lap-dancing and other sexual entertainment venues that is covered in legislation with separate policy in place to address the provisions.
- Equality Act 2010
- Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012, which both brought in legislative changes to the Licensing Act 2003
- Deregulation Act 2015 removed the requirement to renew a 10 year Personal Alcohol Licence providing indefinite licence periods and increased number of Temporary Events from 12 to 15 per calendar year
- Immigration Act 2016 added licensing authority ‘Right to Work’ checks and the Home Office Immigration Service as a further Responsible Authority

- ❑ Police and Crime Act 2017 proved powers to suspend Personal Licences upon being convicted of a relevant offence
- ❑ Section 182 Guidance of the Licensing Act 2003 (revised April 2018).

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

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

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

3.2.3 The licensing authority will also have regard to all **relevant, up to date** legislation, strategies, policies and guidance in its decision making. **This may include legislation that is time limited or that is specific to national issues at that relevant time. In preparing this licensing policy the council has had regard to, and sought to integrate the licensing policy with the Council's Plan and the Local Plan and Development Framework.**

3.2.3.1 Legislation

- ❑ ~~Crime and Disorder Act 1998~~
- ❑ ~~Health and Safety at Work etc. Act 1974~~
- ❑ ~~Environmental Protection Act 1990~~
- ❑ ~~Anti-Social Behaviour, Crime and Policing Act 2014~~
- ❑ ~~Building Regulations~~
- ❑ ~~Regulatory Reform (Fire Safety) Order 2005~~
- ❑ ~~Town and Country Planning Act 1990~~
- ❑ ~~Private Security Industry Act 2001~~
- ❑ ~~Violent Crime Reduction Act 2006~~
- ❑ ~~Police Reform and Social Responsibility Act 2011~~

3.2.3.2 Strategies

- ❑ ~~Safe, Sensible, Social. The next steps in the National Alcohol Strategy~~
- ❑ ~~'Safer Clubbing'~~
- ❑ ~~East & Mid Devon Community Safety Partnership Plan 2008-11~~
- ❑ ~~The Government's Alcohol Strategy 2012~~
- ❑ ~~Age Related Products & Services Framework 2014~~
- ❑ ~~Code of Practice for Regulatory Delivery 2014~~

3.2.3.3 Policies

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

3.2.3.Guidance

- ~~☐ Guidance to Health and Safety at Outdoor Events (Purple Book)~~
- ~~☐ Working together on Firework Displays~~
- ~~☐ Managing Crowds Safely~~
- ~~☐ The Guide for Small to Medium Places of Assembly~~
- ~~☐ The Guide for Large Places of Assembly~~
- ~~☐ Guide to Fire Precautions in Entertainments and Like Premises~~

- ~~☐ Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)~~
- ~~☐ Code of Practice on Environmental Noise Control at Concerts (Noise Council)~~
- ~~☐ The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks~~
- ~~☐ The District Council's guidance/policy in relation to noise nuisance etc.~~
- ~~☐ Security Industry Authority's guidance on security at large outdoor events~~

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

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

3.2.6 The licensing authority's Licensing Committee will keep itself informed and consider wider issues which may need to be given due consideration when making licensing decisions. These issues may include:-

- ☐ needs of the local tourist economy
- ☐ cultural strategy for the area
- ☐ employment situation in the area and the need for new investment and employment where appropriate

3.2.7 The licensing authority will also have regard to wider considerations affecting the residential population and the amenity of any area.

3.2.8 The licensing authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there is no legal basis to refuse a licence application because it does not have planning permission. Applicants are recommended, however, to ensure that appropriate planning permissions are obtained before an application for a premises licence or club premises certificate is made.

3.2.9 For businesses applying for a licence under the 2003 Act, having also applied for planning permission, officers will have regard to Section 182 guidance (as revised 2018) and will consider engaging with their planning counterparts with the aim of agreeing mutually acceptable operating hours and scheme designs.

~~The Home Office makes it clear that licensing committees are not bound by decisions made by planning committees and vice-versa. The Guidance also states that, where, as a condition of a planning permission, a terminal hour has been set for use of the premises for commercial purposes and this is different to the licensing hours, the applicant must observe the earlier closing times.~~

3.2.10 In determining a licence application the overriding principle adopted by the licensing authority is that each application will be determined on its merits in the context of the four licensing objectives, and that unless relevant representations are received from Responsible Authorities or Interested Parties, there is no provision for the authority to impose conditions on a licence other than mandatory conditions or those proposed within an application.

3.3 Gambling Act 2005

The provision of gaming machines and certain forms of low-stakes gambling (for example poker, bingo) are permitted in alcohol-licensed premises and qualifying clubs under the Gambling Act 2005. The type of gambling allowed and stakes and prizes are specified in regulations and are set at levels which are designed to keep this form of gaming a low-risk, sociable activity. Generally, such gaming should be ancillary to the primary use of the premises. The authority may take action against premises where it believes that gaming is becoming the dominant activity or is having a detrimental effect on the licensing objectives.

3.4 Health Act 2006

The introduction of the Health Act 2006 which prohibited smoking in enclosed or substantially enclosed spaces in England has had a significant impact on alcohol-licensed premises and qualifying clubs. In many premises, customers wishing to smoke must do so in beer gardens, outdoor patio areas or in the street. This can result in noise, nuisance and anti-social behaviour for nearby residents, businesses and passers-by, especially late at night when background noise levels are low. The authority will expect applicants and licence holders to have particular regard to the management of customers in the immediate vicinity of their premises to ensure that their behaviour does not cause offence or undermine the licensing objectives.

3.5 Sexual Entertainment Venues

Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not affected by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.

In almost all cases where a performance of dance is potentially licensable as both the provision of *relevant* entertainment (under the 1982 Act) and *regulated* entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments.

However, the Licensing Act 2003 will permit the holder of a premises licence to carry out relevant entertainment where the premises are not licensed as a sex entertainment venue under the 1982 Act if:

- The relevant entertainment has only been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.

The Council has adopted a Sex Establishment Licensing Policy which stands separate from this Licensing Policy. ~~The Policy may be viewed on the District Council's licensing web pages.~~

4. The Licensing Function

- 4.1 The central purpose of the licensing function is to promote the licensing objectives through the effective regulation of licensed premises, qualifying clubs and temporary events. The authority is keen to foster a safe and vibrant leisure economy and will work with applicants and licence holders to encourage and sustain well managed premises which make a positive contribution to the community. The authority expects applicants and licence holders to demonstrate that they have given thought to and have in place adequate measures to ensure that the operation of their premises will not have an adverse effect on the quality of life of persons living and/or working in the vicinity of the premises.

4.2 Delegation of Functions

- 4.2.1 The powers of the licensing authority under the Act may be carried out by the authority's Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority. The Licensing and Enforcement Committee will consist of between 10 and 15 elected members of the Council and will establish sub committees consisting of 3 members of the committee. The Council's delegation of functions follow the Home Office Guidance issued under Section 182 of the Licensing Act.
- 4.2.2 Many of the licensing procedures will be largely administrative and un-contentious. In the interests of efficiency and effectiveness officers will generally carry these out.
- 4.2.3 A list of delegations is available below:

<u>Matter to be dealt with</u>	<u>Dealt with by Full Committee</u>	<u>Dealt with by Sub-Committee</u>	<u>Dealt with by Officers</u>
Application for personal licence		If a police objection made	If no police objection made
Suspend/revoke personal licence		If on relevant conviction	
Application for premises licence / club premises certificate		If a relevant representation made	If no relevant representation made
Application for premises licence / club premises certificate			If a relevant representation is made and subsequently withdrawn in writing
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence / club premises certificate		If a relevant representation made	If no relevant representation is made
Application for minor variation of premises licence / club premises certificate			All cases
Application to vary designated premises supervisor		If a police objection made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection made	All other cases
Applications for interim authorities		If a police objection made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of an objection to a temporary event notice		All cases	

Determination of application to vary premises licence for community premises to include alternative licence condition		If a police objection made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Suspension of premises licence/club premises certificate for non-payment of annual fee			All cases
Review of Statement of Licensing Policy	All cases (Full Council)		
Implementation of a Late Night Levy	All cases (Full Council)		
Creation of an Early Morning Restriction Order	All cases (Full Council)		

4.2.4 If representations have been received against an application for the grant or variation of a premises licence or club premises certificate and this is followed by successful mediation an ‘agreed position’ will have been reached between the objectors and the applicant. Any amendments or extra conditions that are agreed at through mediation **in writing will not** need to be presented to the licensing sub-committee for approval **and only those that remain as contested will do so.**

4.3 The Licensing Authority as Responsible Authority

4.3.1 Section 103 of the Police Reform and Social Responsibility Act 2011 amended the Act by making the licensing authority a ‘Responsible Authority’. This enables the authority to make representations about an application for a premises licence or club premises certificate or to apply for a review of a premises licence or a club premises certificate.

4.3.2 In cases where the authority is acting in its capacity as a responsible authority, it has established a clear separation of responsibilities within the authority’s licensing team in order to ensure procedural fairness and to avoid potential conflict of interest.

4.4 Review of a Premises Licence or Club Premises Certificate

4.4.1 A Responsible Authority and any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the licensing authority to review the licence/certificate because of concerns arising at the premises which may have an adverse impact on any of the licensing objectives. The authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Sub Committee at a hearing.

4.4.2 Any application for a review should be treated seriously. Responsible authorities will aim to give licensees early warning of any concerns identified at a premises, and talk to



the licence or certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. Similarly those seeking a review and are not a responsible authority are encouraged to take initial steps. For example:

- asking the licensing authority to talk to the licence holder on their behalf
- asking their local MP or Councillor to speak to the licence holder on their behalf
- talking to the relevant responsible authority (for example Environmental Health in relation to noise nuisance or the police in relation to crime and disorder) to establish whether there is other action that can be taken to resolve the problem.

4.4.3 The review process is not intended as a means of challenging the grant of a licence following the failure of representations to persuade the licensing authority on an earlier occasion. No more than one review from a person other than a Responsible Authority will be entertained in relation to a particular premises within a period of twelve months on similar grounds, save in compelling circumstances (for example where new problems have arisen) or where it arises following a closure order made under s.160 or s.161 of the Act.

4.4.4 When considering a review of a premises licence or club premises certificate, the authority will expect the applicants for the review to provide evidence of infringements of licensing regulations, failure to comply with licence conditions and/or of failure to promote the licensing objectives. Further guidance on the review procedure is available from the Home Office (www.gov.uk) and our website eastdevon.gov.uk/licensing.

4.4.5 Following a review, the authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable and proportionate to the nature of the problems giving rise to the review. Options available to the authority are:

- to modify the conditions of licence
- to exclude a licensable activity from the scope of the licence
- to remove the designated premises supervisor
- to suspend the licence for a period of not more than three months
- to revoke the licence

4.4.6 In cases where the crime and disorder objective has been undermined or where it can be demonstrated that a premises has a history of persistent offending, suspension or revocation of a licence, even in the first instance, may be seriously considered as a form of deterrence.

4.4.7 Any person aggrieved by the decision of the authority has the right of appeal to the Magistrates' Court. An appeal must be made within 21 days of the licensing authority's decision.

4.5 Enforcement

4.5.1 The licensing authority has established protocols with Devon & Cornwall Police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.

4.5.2 In general, action will only be taken in accordance with agreed enforcement principles and in line with ~~this council's the licensing authority's own~~ enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

5. The Licensing Process

5.1 Applications

5.1.1 Application forms ~~may be downloaded from the licensing authority's licensing web pages. Many of the applications also~~ are available to complete online. Applicants ~~are strongly recommended to~~ can contact ~~discuss their application with a member of the licensing team prior to formal submission. (the licensing team offers 30 minute appointments with licensing officers).~~ The authority may reject applications ~~which have not been completed correctly or contain insufficient information.~~ Officers cannot provide guidance and may refer applicants to the Pool of Conditions and applicants should seek independent advice from a licensing consultant or solicitor at their own cost where necessary.

5.1.2 The Act requires that applications for the grant or variation of a premise licence or club premises certificate are advertised in accordance with regulations. The authority will need to be satisfied that the applicant has complied fully with these regulations and will check the premises for the site notices and request copies of notices and advertisements to verify that the application has been properly made. If an application has not been correctly advertised, the authority will reject the application. Further guidance on advertising applications and a template notice is available on our Licensing webpages ~~eastdevon.gov.uk/licensing/alcohol-and-entertainment/premises-licences-and-club-premises-certificates/guidance-documents~~.

5.2. Representations

5.2.1 When an application is made for the grant or the variation of a premises licence or club premises certificate a responsible authority under the Act or any other person may make a representation about the application.

5.2.2 Representations must be made to the authority in writing within the 28 day consultation period. For this purpose, a representation can be made using the form available on our website, by letter or e-mail ~~and use of the available web form is recommended for reasons of timeliness during the consultation period.~~

5.2.3 Section 18(6) of the Licensing Act 2003 defines what constitutes a 'relevant' representation. To be relevant, a representation must relate to the likely effect of the grant of a licence on the promotion of one or more of the licensing objectives. There is nothing in the Act to say that a representation must be of a negative nature. The Act specifically refers to 'representations' rather than 'objections' recognising that representations may express positive support for an application. The authority will consider both positive and negative representations provided they are relevant.

5.2.4 Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application will be

considered by a Licensing Sub Committee at a hearing as will any application for review of a licence. The authority has established its own hearing procedure as provided for by regulations made under the Act **and in accordance with measures to permit remote hearings**. This is included at Appendix B.

- 5.2.5 Any party to a hearing may expand on their representation but may not introduce new or different representations.
- 5.2.6 Representations which are deemed by the authority to be repetitious, frivolous, vexatious may be disregarded.
- 5.2.7 Where a notice of a hearing is given to an applicant, the licensing authority is required by regulations to provide the applicant with copies of the relevant representations that have been made which will include names and address of any person who has made a representation. In exceptional circumstances, a person wishing to make a representation may be reluctant to do so because of fears of intimidation or harassment if their personal details are disclosed to the applicant. Where the authority considers that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation, the authority may consider alternative approaches. For example, the authority may advise the individual to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified. Alternatively, the authority may advise the individual to request their local councillor to make a representation on their behalf. Where appropriate, the authority may decide to withhold some or all of the person's details from the applicant. The authority will only withhold such details where the circumstances justify such action. Persons making representations should be aware that their personal details will normally be disclosed during the hearing process.
- 5.2.8 Where relevant representations have been made against an application the licensing authority **may consider use of mediation will normally offer to chair a mediation meeting, after the expiry of the 28 day notice period, between the applicant and any objectors. Due to reasons of timeliness, mediation may occur through the most appropriate form of contact and may include emailing, telephoning and remote contact with relevant parties. The purpose of Mediation is to** allows each party to express their concerns or views in an attempt to come to an agreed position **which is cost effective. Agreed positions positive mediation result saves time and money as the licensing authority and parties involved will negate need for have to attend a** contested hearings before a licensing subcommittee.

5.3 Determining Applications

- 5.3.1 When determining a licence application, the overriding principle adopted by this authority will be that each application will be determined on its merits. The authority will have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems necessary to promote the licensing objectives. The authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The authority will give reasons for any such departure from policy.
- 5.3.2 The authority will expect applicants to demonstrate in their applications active steps for the promotion the licensing objectives. When determining an application, a key

consideration for the authority will be the adequacy of measures proposed in the Operating Schedule to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the nature of the location and the needs of the local community. It might be that the applicant has considered all of this and decides that no measures will be appropriate to cover promotion of one or more of the licensing objectives but that consideration will need to be made by the applicant.

- 5.3.3 The authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, antisocial behaviour, littering and noise, particularly late at night and in the early morning.
- 5.3.4 Since the introduction of the Act, the authority's experience is that the vast majority of complaints about licensed premises are caused by public nuisance, in particular excessive noise from live and recorded music and disturbance caused by customers congregating outside licensed premises. The authority will expect applicants to have particular regard to these issues and, if considered appropriate, to include in their Operating Schedules adequate and effective steps to control noise and disturbance from their premises.
- 5.3.5 When determining an application, the authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant will be disregarded. The authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the authority will consider their application or representation but may attach less weight to it.
- 5.3.6 It should be noted that, when determining an application, the authority is making a judgment about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened but to make an informed assessment of the risk of such things occurring if a licence is granted and to take such steps as it considers appropriate to prevent or minimise such risks.
- 5.3.7 The authority will generally give its decision on an application at the end of a hearing and will give clear reasons for its decision. In all other cases, the authority will make its determination within five working days.
- 5.3.8 Any party to a hearing who is dissatisfied with the authority's decision may appeal to the Magistrates' Court. An appeal must be made within 21 days of formal notification of the decision.
- 5.3.9 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder.
- 5.3.10 In reaching a decision on whether or not to grant a licence, the licensing authority, if relevant representations are made, may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.

5.3.11 The grant of a licence does not imply the approval of other legislative requirements.

5.4. Vessels

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

5.5 Large Scale Public Events – Safety Advisory Groups

5.5.1 The promotion and the organisation of live musical and similar entertainment in the open air or in temporary structures can provide opportunities for community involvement, civic pride and can attract visitors to East Devon. However, the success of such events depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event

5.5.2 In recognition of the relevant and special factors, particularly with respect to major open air events such as a concerts or festivals, the council has established a multi-agency Safety Advisory Group (SAG) to assist organisers co-ordinating such events. This includes council departments who have an interest in, or legislative role relevant to, such events, together with representatives of the emergency services.

5.5.3 Members of the SAG are notified about all proposals to hold such events and where necessary a special meeting will be organised in order to consider any issues that will require to be addressed and to open up lines of communication with organisers. The Health and Safety Executive provide specialist guidance on event safety through their website at www.hse.gov.uk. and it is important that substantial notice is given so that proper preparations and planning can be put in place for the event.

5.5.4 The Council recommends that organisers of large scale public events (~~for example outdoor music concerts, beer festivals etc~~) should contact the Safety Advisory Group co-ordinator licensing authority, Police Licensing Officer and the Council's Environmental Health Team ~~at the earliest opportunity and at least six month before any event being considered under a 'time limited' premises licence. to discuss arrangements for the licensing of those activities falling under the Act.~~

5.5.5 This is important as it will assist with measures that organisers need to put in place to plan the event, which licences to apply for, and will give an idea of how long the application may take, depending on the size and type of event. ~~East Devon District Council hosts a Safety Advisory Group (SAG) for the district and organisers of large or high risk events (i.e. over 500 or more attendees, or including high risk activities such as fireworks, moving vehicles, water based activities, etc) are advised to contact the Group co-ordinator well in advance of each event to benefit from the advice and guidance of all the regulatory authorities represented. A Safety Advisory Group (SAG) should be consulted in order to consider any safety issues related to an event being proposed.~~

5.5.6 The application may involve the preparation of a substantial operating schedule which may take some time to complete

so applicants should ensure that they approach the licensing authority well in advance of any such event. The event organiser must produce an event plan and incorporate an operating schedule, risk assessments and address any safety issues before the council will allow use of its land for large scale events.

- 5.5.7 For large scale events that are occasional in nature and where the maximum number of attendees exceeds 499 people, the licensing authority will require an application for a full time-limited premises licence. A separate application will be required for each individual event regardless of whether the event occurs annually or on more than one occasion in any year. This will allow the Responsible Authorities and members of the public the opportunity to consider each application in light of previous events held. Responsible Authorities and Interested Parties should be have the opportunity to make representations relevant to the nature of the event which is planned. Large scale events have significant potential to undermine the promotion of the licensing objectives, due to their size, complexity and the potential implications for planning such events. Risks can be adequately mitigated by the submission of an up to date, relevant, detailed and complete operating schedule specific to the proposed event on each separate occasion.
- 5.5.8 Applicants may contact the council's Safety Advisory Group co-ordinator by emailing SafetyAdvisor.group@eastdevon.gov.uk

5.6 Environmental Factors

- 5.6.1 The Council Plan for 2020 to 2024 highlights key priorities, principles and values including working towards reducing our carbon footprint and enhancing our environment, along with supporting initiatives that promote the health and well-being of our residents. The Licensing Authority works in support of the Council Plan noting the potential impact to the environment from time limited, outdoor licensed events. The Licensing Authority will expect applicants to be familiar with initiatives that reduce and mitigate the impact upon the environment, for example the relevance of avoiding of single use plastic drink containers, avoidance of materials that have a detrimental effect to the environment and similar initiatives.
- 5.6.2 Any operating schedule submitted in respect of time limited premises licences should include proposed times of operating and details of how the applicant intends to comply with the licensing objectives and in particular, how outside areas will be managed to prevent noise, smell, or obstruction nuisance to residents and the public.
- 5.6.3 East Devon's exceptional coastline forms part of a World Heritage Site (WHS) and circular 07/2009 on the protection of WHS advises that appropriate policies for the protection and sustainable use of WHSs including enhancement where appropriate. The East Devon part of the site (for nearly all of its length) also lies in the East Devon Area of Outstanding Natural Beauty. AONB's enjoy, with National Parks, the highest level of landscape protection in Britain being therefore, a national asset. It should be noted that a very small part of the Dorset AONB also falls in East Devon.
- 5.6.4 Experience over many years denotes that trading and licensable events have been eagerly sought along beaches and seafronts and would be significantly over prescribed if permitted to take place with consent of the land owner. Therefore continued preservation and protection of coastal,

seafront areas locations will be an ongoing consideration under this policy.

5.7 Exemptions and de-regulation relating to regulated entertainment

- 5.7.1 Since the introduction of the Act, the Government has de-regulated various types of regulated entertainment. There are also some exemptions under the Act and applicants are advised to consult our licensing web pages at eastdevon.gov.uk/licensing where full details of the exemptions/de-regulations are explained.
- 5.7.2 When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance constitutes regulated entertainment or not. If in doubt, organisers of events should check with the licensing authority.

5.8 Mobile, Remote, Internet and Other Delivery Sales

- 5.8.1 The licensing authority shall have due regard to sales of alcohol which are made remotely, by mobile methods, internet or by other delivery sales.
- 5.8.2 The expectation of the licensing authority is that conditions suggested by way of operating schedules for these types of activities should be extremely robust **with our Pool of Conditions (Appendix C)**. If new applications are made or existing premises are looking to extend into this area they should seek advice from the police as it might be appropriate for provisions in the operating schedule for age verification and restriction of delivery times/quantities.
- 5.8.3 An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that the person they are selling and delivering alcohol to is over the age of 18. A clear document trail of the order process from order, despatch from the licensed premises and delivery to a specified address should be maintained (with times and signatures) and available for inspection by an authorised officer. In addition, the time that alcohol is sold on the website/over the phone and the time the alcohol is delivered at the receiving property should be within hours stated on the licence for the sale of alcohol.

6. Conditions

- 6.1 Licensing relates to the control of licensed premises and other events within the terms of the Act and any conditions, which may be attached to licences, and the various other permissions, which will focus on matters falling within the control of individual licence holders.
- 6.2 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. In this regard the licensing authority will primarily focus on the direct impact of any activities taking

place on those living, working or otherwise engaged in the area concerned.

- 6.3 Generally it is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned. But the licensing authority's discretion may be engaged if relevant representations are made and there is an evidential link between the disturbance and the licensed venue.
- 6.4 The licensing authority will avoid imposing disproportionate and over burdensome conditions on premises. The licensing authority does not propose to implement standard conditions on licences across the board but instead, if its discretion is engaged, will attach conditions as appropriate given the circumstances of each individual case.
- 6.5 Conditions will cover the licensing objectives: -
- crime and disorder
 - public safety
 - public nuisance
 - protection of children from harm.
- 6.6 Following relevant representations the licensing authority may impose conditions where existing legislation does not provide adequately for the promotion of the four licensing objectives.
- 6.7 Applicants are encouraged to volunteer their own conditions by way of an operating schedule. The terms of a premises licence and any conditions attached should be clear, not just clear to those having specialised knowledge of licensing, such as the licensing authority or the manager of the premises but also to the independent bystander such as neighbours, who may have no knowledge of licensing at all. The licensing authority's experience has shown that many conditions that have been volunteered have been vague, uncertain, imprecise and unenforceable. As an aid to applicants or their representatives to ensure that the operating schedules that are offered are spelt out in clear terms the licensing authority has formulated a ~~menu of common~~ **pool of conditions** which applicants are invited to use when formulating their operating schedules. ~~This menu of conditions is available in our GN6 guidance document which can be viewed on our website (at eastdevon.gov.uk/licensing) or requested in paper form from our office.~~

Further conditions are available in Annexe D to the Guidance issued under Section 182 of the Licensing Act 2003 available on the GOV.UK website.

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

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

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

- 6.8 Where a responsible authority or interested party considers the conditions volunteered by an applicant to be inadequate and makes representation to the licensing authority then the authority may, following a hearing, attach further conditions or amend volunteered conditions if it is considered appropriate to promote the licensing objectives **which may be through means of an 'agreed position' in writing (see 5.2.8)**

7. Authorisation to Sell Alcohol

- 7.1 A Designated Premises Supervisor (DPS) who will be named on the Licence will be responsible for the day to day running of any premises licensed to sell alcohol and the main purpose of the DPS is to ensure that there is always one specified individual who can be readily identified for the premises where a premises licence is in force. The licensing authority will normally expect the DPS to have an active role in the day to day operation of the licensed premises, in particular the sale and supply of alcohol. A DPS does not have to be on site all the time, but should authorise individuals to supervise the day to day management of the premises in his absence.
- 7.2 A DPS should have sufficient experience and knowledge appropriate for the operation under their control. A DPS should be able to control the activities on site and respond quickly and efficiently to any problems.

The licensing authority will expect the DPS when authorising another person to sell alcohol to ensure that:

- (a) the person is authorised in writing by the DPS on whose behalf the person is selling or supplying alcohol;
- (b) the authorisation should specify the acts that may be carried out by the authorised person;
- (c) the person should be clearly identifiable;
- (d) there is in place sensible arrangements on a reasonably regular basis for the DPS to monitor the activities that they have authorised.

8. Temporary Event Notices (TENs)

- 8.1 The Licensing Act 2003 makes provision for regulating temporary events involving the supply of alcohol, the provision of regulated entertainment or the provision of late night refreshment at a premises which are not authorised by a premises licence or club premises certificate. This provision can also be used by holders of premises licences and club premises certificates to authorise extensions to their permitted hours.
- 8.2 The system of temporary activities is intended as a light touch process and, as such, the carrying on of licensable activities does not have to be authorised by way of an application. Instead, a person wishing to hold an event at which it is proposed to carry out such activities is required to notify the licensing authority by way of a Temporary Event Notice (TEN). The person giving the Notice must also serve a copy on the Police and Environmental Health Service unless they make an online application in which case the authority will serve a copy on the relevant authorities.

- 8.3 A number of limitations are imposed on the use of TENs by the Act. The limitations apply to:
- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and five times in a calendar year for other people)
 - the number of times a premises user may give a late TEN (10 times in a calendar year for a personal licence holder and two times in a calendar year for others)
 - the number of times a TEN may be given for any particular premises (42 15 times in a calendar year)
 - the maximum duration of an event authorised by a TEN is 168 hours (7 consecutive days)
 - an individual premises can have a maximum total of 21 days covered by TENs in any calendar year
 - no more than 499 people (including all staff and performers) at any one time for each event
 - there must be a minimum of 24 hours between each temporary event notice given by an event organiser at any premises
- 8.4 A TEN can be used for any 'premises'. This could be a building, a room in a building, a vehicle, a marquee, an open field etc. A TEN may only be given by an individual (aged over 18) and not by an organisation or club or business.
- 8.5 There are two types of TEN; a standard TEN and a late TEN. A standard TEN must be given no later than ten working days before the event to which it relates. A late TEN must be given not before nine and no later than five working days before the event. (NB. Notice periods do not include the day the Notice is given to the licensing authority or the day of the event). In practice 10 working days is unlikely to be sufficient to allow any concerns to be resolved and organisers are advised to serve notice giving as much notice as possible.
- 8.6 If the minimum period of notice is not given, the licensing authority must reject the Notice and the licensable activities can not legally take place.
- 8.7 If a TEN is correctly completed and submitted within the required time limits the licensing authority must accept the Notice.
- 8.8 However, the Police and East Devon District Council's Environmental Health Service may object to a TEN. No other person or body may object.
- 8.9 If the authority receives an objection notice from a relevant person that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The authority must consider any objection on the basis of the licensing objectives and decide whether the event should go ahead, or whether the Notice should be refused. If the Notice is refused a Counter Notice will be served on the notice giver in effect refusing to accept the notice. The authority may also allow the event to go ahead but with conditions imposed on the notice. Conditions can only be imposed on a Notice where the venue at which the event is to be held holds an existing premises licence or club premises certificate with those same conditions attached.
- 8.10 The Police or the Council's Environmental Health Service may also intervene by agreeing a modification of the

proposed arrangements directly with the person giving the TEN (in the case of a standard TEN only).

- 8.11 If a Counter Notice is given the notice giver may make an appeal against the decision to the magistrates' court within 21 days. However it is unlikely that there will be sufficient time for any appeal to be heard by the Magistrates Court unless substantially more than the ten working days notice of the event has been given.
- 8.12 In the case of objections received against a late TEN there is no provision for a hearing and the event cannot legally go ahead. The law does not permit an appeal against refusal of a late TEN.
- 8.13 When giving a TEN, the premises user should consider the promotion of the four licensing objectives. Organisers are strongly advised to contact the Police and Environmental Health Service for advice at the earliest opportunity when planning events. Planning at an early stage may well minimise or avoid potential objections. The council's web pages concerning temporary event notices have other information on TENs including the option to make an online application and further guidance.
- 8.14 Where the TEN includes the supply of alcohol, the responsibility for the supply rests with the person giving the Notice (the 'premises user'). The premises user does not have to be on the premises for the entire duration of the event but will be liable for any offences committed.
- 8.15 Organisers are strongly advised to ensure that adequate safety measures (including the recorded findings of a Fire Risk Assessment) are in place in relation to any Temporary Event. Any event held under a TEN may be subject to inspection by officers from the Responsible Authorities.

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

9. Cumulative Impact

- 9.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the licensing authority can take into account. This should not however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 9.2 The licensing authority may receive representations from either a responsible authority or an interested party (see glossary), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type, making it a focal point and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application. The onus is on any person or organisation making such representations to prove any assertion that the

addition of the premises concerned would cause the cumulative impact claimed.

- 9.3 The licensing authority will not operate a quota of any kind, which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community. This may result in the amenity of local residents being placed under severe pressure; it will not always be possible to attribute a particular problem to customers of particular premises. This means that whilst enforcement action to ensure conditions are complied with is taken, this may not resolve all problems.
- 9.4 In determining whether to adopt a 'saturation' policy for a particular area the licensing authority may, among other things: -
- gather evidence or identification of serious and chronic concern from a responsible authority or local residents about nuisance and disorder
 - identify the area from which problems are arising and the boundaries of that area
 - make an assessment of the causes
 - adopt a policy about future applications for premises within that area.
- 9.5 If a 'saturation' policy is adopted it will be reviewed regularly to assess if it is needed any longer or should be expanded.
- 9.6 Where there is evidence that a particular area of the District is already suffering adverse effects arising from the concentration of late night premises, or that residential areas are under stress, this will be taken into account in determining any further applications for premises within the area identified.

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

- The character of the surrounding area
 - The impact of the licence on the surrounding area, both individually and cumulatively with existing licences
 - The nature and character of the proposed operation.
- 9.7 The licensing authority recognises that as well as the licensing function there are a number of mechanisms for addressing issues of unruly behaviour that occurs away from licensed premises. These include: -
- planning controls
 - ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others
 - powers to designate parts of the District as places where alcohol may not be consumed publicly
 - confiscation of alcohol in designated areas
 - police enforcement of the law with regard to disorder and anti-social behaviour
 - police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise
 - the power of police, local businesses or residents to demand a review of the licence

- enforcement action against those selling alcohol to people who are already drunk.

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

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

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

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

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

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

10. Licensing Hours

10.1 The licensing authority will deal with the issue of licensing hours on the individual merits of each application. When the authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Interested Parties on the basis of the licensing objectives. However, when issuing a licence with hours beyond midnight higher standards of control will generally need to be included in operating schedules to promote the licensing objectives especially for premises which are situated near residential areas.

10.2 There is no presumption within the Act for longer opening hours over objections from local residents and businesses located in the vicinity of licensed premises but the licensing authority will consider licensing hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. Shops and public

houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide and promote a range of entertainment during their operating hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operational schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.

- 10.3 In considering relevant representations, the licensing authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case.
- 10.4 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required.
- 10.5 The licensing authority does not seek to adopt fixed terminal hours in designated areas (known as “Zoning”), as this can lead to the significant movement of people across boundaries in search of premises opening later.
- 10.6 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

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

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

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

11. Children and Licensed Premises

- 11.1 The licensing authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from physical, moral or psychological harm.
- 11.2 When deciding whether or not to limit access to children the licensing authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children include premises: -

- ❑ where entertainment of an adult or sexual nature is provided
- ❑ where there is a strong element of gambling taking place
- ❑ with a known association with drug taking or dealing
- ❑ where there have been convictions of the current management for serving alcohol to minors or with a reputation for allowing underage drinking
- ❑ where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

11.3 In such circumstances as listed above the licensing authority would expect for the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the operating schedule, then if relevant representation are made the licensing authority will consider making such restrictions as are deemed necessary to meet the licensing objectives.

11.4 Conditions may be imposed, if not covered in other legislation, on licences for premises where children will be present at places of regulated entertainment to the effect that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances

11.5 The options available for limiting access by children would include: -

- ❑ a limit on the hours when children may be present
- ❑ a limitation or exclusion when certain activities are taking place
- ❑ the requirement to be accompanied by an adult
- ❑ access may be limited to parts of the premises but not the whole
- ❑ an age limitation (for under 18s).

11.6 The licensing authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.

11.7 The licensing authority will take strong measures to protect children where any licence holder is convicted of serving alcohol to minors, premises have a known association with drug taking or dealing, gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. In such circumstances it may sometimes be necessary to impose a complete ban, or require limitations on the hours when children may be present, age limitations or conditions requiring an accompanying adult, exclusions during certain activities of persons under 18.

11.8 In relation to exhibition of films, a mandatory condition will apply, requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification.

11.9 In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC, the Licensing Authority will classify the films concerned. Adequate notice will need to be given by the Festival organiser if Licensing Authority classification is required. To achieve consistency and the protection of children, the Licensing Authority will use the guidelines published by the BBFC in policy at **Appendix B**. In addition,



the Licensing Authority will use its other statutory functions to ensure the protection of children from harm with particular emphasis on the sale of alcohol to underage persons.

- 11.10 In relation to theatrical entertainment, it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be necessary where entertainment is provided specifically for children, to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.
- 11.11 The Council, in accordance with its obligations in regard to safeguarding and its Safeguarding Policy, would expect licence holders, not only to ensure that their premises are suitable for children (where licence holders propose to admit children), but to ensure the children are adequately protected and any concerns regarding the safety of children are properly reported to the appropriate authorities.

12. Drugs

- 12.1 The licensing authority recognises that drug use is not something that is relevant to all licensed premises. However, if relevant representations are made special conditions may need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. Where these conditions are to be imposed, if appropriate, advice will be taken from the local ~~Drugs Action Team and the~~ Police.
- 12.2 Recent surveys indicate a general increase in the use of illegal and “legal high” drugs, involving a wider range of substances and is particularly true of what are often referred to as ‘recreational drugs’. Misuse of such drugs holds grave dangers and has led to fatalities. Other factors may have contributed to these deaths, such as a lack of drinking water, excessive drinking of water, an overly hot environment with inadequate ventilation, or a lack of adequate information about drugs.
- 12.3 The Licensing Authority expects designated premises supervisors to take all reasonable steps to prevent the entry of drugs into premises under their control, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent drug misuse by way of management and design of the premises.
- 12.4 The Licensing Authority will expect designated premises supervisors to be familiar with the contents of Chapter 4 (drug awareness) of the BIIAB Level 2 National Certificate and to be following the recommendations of that handbook.

13. CCTV Standards Policy

- 13.1 When considering a premises licence or club certificate application the licensing sub-committee will have regard to the Surveillance Camera Code of Guidance – June 2013.
- 13.2 The sub-committee will in particular have regard to guiding principle one of this code which states:



“Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need”

- 13.3 Therefore we will not impose a blanket requirement to attach CCTV conditions as part of the conditions attached to a licence or certificate.
- 13.4 Applications in relation to licensed premises will be considered on the individual circumstances surrounding the application and whether a requirement to have a CCTV system is appropriate in that particular case. ~~For example, it is unlikely that a trouble-free community pub would present a pressing need such that a CCTV condition would be justified.~~ In such circumstances where a licence or certificate is granted subject to CCTV conditions, the consideration of all other guiding principles in this code is a matter for the licensee **Premises Licence Holder** as the system operator.
- 13.5 Where the provision of CCTV system is a requirement of the conditions of either a Premises licence or a Club Premises Certificate, whether these are placed on the licence/certificate as offered by the applicant's Operating Schedule, **as part of an agreed position reached following a representation** or imposed following a Sub Committee hearing, the system must comply with at least the licensing authority's CCTV minimum standard. This has been set in consultation with the police to ensure that the systems provide a tool to prevent criminal and anti-social behaviour and to ensure that the images provided by the systems meet the recognition and identification standards necessary for the detection and prevention of crime and disorder.

~~13.6 The Minimum Standard~~

- ~~(1) All CCTV systems must be installed, operated and maintained to the satisfaction of the Licensing Authority and the Police. It is recommended that a SSAIB or NSI accredited installer is used. There should be a minimum of one camera covering each of the entrances / exits.~~

~~These cameras must provide clear colour images of an 'identification' evidential standard as defined by the Home Office CCTV Operational Requirements Manual 2009 or any guidance replacing it.~~

~~Adequate internal cameras must be installed to cover the bulk of the areas open to public access and all areas identified as possible 'flash points' for example stairwells, bars, dance areas etc. These cameras must provide clear images of 'recognition' / 'observation' evidential standard as defined by the Home Office CCTV Operational Requirements Manual 2009 or any guidance replacing it.~~

- ~~(2) The numbers of cameras located within the premises and where appropriate for external coverage must be appropriate for the type of licensing activity carried out at the premises. The numbers of cameras, locations and views provided by these cameras must be to the satisfaction of the licensing authority and Police.~~

- ~~(3) Where, to satisfy the Licensing Authority and Police, there is a requirement to provide coverage of external areas such as entrances, exits, queuing areas, smoking areas, car parks etc. cameras must provide clear~~

~~images of a 'recognition / 'observation' evidential standard as defined by the Home Office CCTV Operational Requirements Manual 2009 or any guidance replacing it.~~

- ~~(4) All images must be recorded at a frame rate appropriate to the purpose of the camera and the likely nature of the activity / target being recorded, so that evidence is not lost. See the Home Office CCTV Operational Requirements Manual 2009 for guidance.~~
- ~~(5) In all areas where cameras are operating including externally the lighting must be of sufficient brightness to complement the quality of the camera images. Where necessary, the system must be able to cope with changing light conditions without the degradation of the recorded image for example dance areas, hours of darkness /daylight outside etc.~~
- ~~(6) The CCTV recordings must be stored on a digital multiplex recorder with either an on board CD/DVD re-writer and/or a USB port for evidence recovery.~~
- ~~(7) The system must be capable of producing single images and forward, reverse, pause and slow motion at full screen resolution.~~
- ~~(8) CCTV images must be retained for a minimum of 14 days and be produced on the request of the Police or a Licensing Officer of East Devon District Council. Recording media must be set to 25 frames per second.~~
- ~~(9) Recordings of incidents occurring at the premises must be made secure and held for possible inspection.~~
- ~~(10) Systems must record the accurate date and time at all times. The date and time information should be visible but must not interfere with the view of the target area.~~
- ~~(11) Unless otherwise agreed in writing by the licensing authority there must be sufficient members of trained staff available during the hours of operation to be able to download evidence at the request of the police including the creation of evidential discs. Where an exemption to this requirement is agreed in writing then the evidence requested must be provided no later than 48 hours after the request.~~
- ~~(12) The Designated Premises Supervisor or Premises licence holder must be able to demonstrate that they have devised a recording management system that prevents recordings being tampered with, stolen, misplaced or failure to record. Recording equipment must be housed in a secure room/cabinet where access is restricted and the operation is strictly limited to authorised persons.~~
- ~~(13) The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book.~~
- ~~(14) A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that~~

~~CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002.~~

~~13.7 This policy applies to all Premises licences and Club Premises certificates issued or varied (not minor variation) following the licensing authority's adoption of the policy on the 7 September 2010. Holders of existing licences and certificates that require the maintenance and use of CCTV are encouraged to comply with the policy as soon as possible.~~

14. Door Supervisors

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

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

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

15. Control of Consumers

15.1 The District Council has adopted the relevant powers to designate parts of the District as places where alcohol may not be consumed publicly. The locations of these areas can be found on our website or by contacting the licensing authority.

15.2 'Pub Watch' schemes or Licensee Associations will be promoted by the licensing authority. This is intended to promote and encourage public safety and the reduction of crime. Licensing Officers will attend meetings whenever possible. The licensing authority will encourage licence holders to attend their nearest Licensee Associations meetings as the licensing authority feel this is an excellent forum for exchange of ideas and local information.

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

16. Nuisance

16.1 To promote the licensing objectives, applicants for licences for licensable activities will be required to demonstrate the

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

The Licensing Act does not exempt licence holders from their statutory obligations under the Environmental Protection Act 1990. But in certain circumstances where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to imposing conditions.

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

17. Capacity

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

18. Late Night Levy

- 18.1 The Late Night Levy is a power conferred on Licensing Authorities by Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This provision came into force on 31 October 2012 and enables a licensing authority to charge a levy on premises in the authority's area which are licensed to sell alcohol late at night as a means of raising a financial contribution towards the costs of policing the late-night economy. The levy if adopted by the council would apply to the whole of the licensing authority's area.
- 18.2 The levy would be payable by the holder of any premises licence or club premises certificate in the authority's area which authorises the sale or supply of alcohol on any days during the 'late night supply period'. This is a period beginning at or after midnight and ending on or before 6am.
- 18.3 The decision to introduce the levy is for the licensing authority to make. Before making any such decision, the licensing authority must consult the Chief Officer of Police, the Police and Crime Commissioner and the holders of relevant late night licences or certificates. Local residents can use existing channels and forums to put forward views and call for the implementation of the levy in their area if they wish to do so.

18.4 The licensing authority must pay at least 70% of the net levy revenue to the police. A licensing authority can deduct the costs it incurs in connection with the introduction, administration, collection, variation and enforcement of the levy prior to the levy revenue being apportioned between the police and licensing authority. The licensing authority has discretion to exempt certain premises - prescribed by regulations - from the levy and to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes.

18.5 ~~At the time of preparing this Policy~~, This authority has taken no decision and has no plans to implement the Late Night Levy but is aware that it is a power which it may use if it considers it appropriate for the promotion of the licensing objectives.

18.6 The authority ~~may will, however~~, consider the introduction of a Late Night Levy at any time if circumstances change and evidence supports this course of action.

19. Early Morning Restriction Orders (EMROs)

19.1 Early Morning Restriction Orders (EMROs) are a new licensing power conferred on Licensing Authorities by s.119 of the Police Reform and Social Responsibility Act and came into force on 31 October 2012. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of midnight and 6 a.m. in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

19.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol-related anti-social behaviour which are not directly attributable to specific premises. Unlike the Late Night Levy there are no powers to charge a fee in connection with making an EMRO.

19.3 The decision to implement an EMRO must be evidence based. Evidence will be considered from partners including Responsible Authorities and the East and Mid Devon Community Safety Partnership alongside the authority's own evidence to determine whether an EMRO is appropriate for the promotion of the licensing objectives.

19.4 Measures that may be considered in advance of making an EMRO include:

- introducing a Cumulative Impact Policy
- reviewing licences of specific problem premises
- encouraging the creation of business-led practice schemes in the area and
- the other mechanisms designed for controlling cumulative impact
- encouraging licence or certificate holders to make variations with respect of hours for licensable activities.

19.5 The only exemptions relating to EMROs are premises which are authorised to sell alcohol between midnight and 6.00 am on New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.

19.6 ~~At the time of preparing this Policy~~, This authority has taken no decision to introduce an EMRO but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives.

19.7 The authority **may** ~~will~~ consider the introduction of an EMRO at any time if circumstances change and evidence supports this course of action.

Definitions

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

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

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

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

An Interested Party – a responsible authority or any other person making a representation about an application

Late Night Refreshment - the provision of hot food or hot drink between the hours of 11pm and 5am for consumption on or off the premises either to members of the public or from premises to which the public have access

Licensable Activities and Qualifying Club Activities –

- the sale by retail of alcohol
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- the provision of regulated entertainment
- the provision of late night refreshment

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

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

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

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

Regulated Entertainment -

- (a) A performance of a play

- (b) An exhibition of film
- (c) An indoor sporting event
- (d) A boxing or wrestling entertainment
- (e) A performance of live music
- (f) Any playing of recorded music
- (g) A performance of dance
- (h) Entertainment of a similar description to live music, recorded music or performance of dance

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

Residential Area - An area whose character is residential at the material time of day. Where there is doubt, the licensing authority will consider the number of residential units in the area and the proportion of such units to units used for other purposes.

Responsible Authorities (who are they-for East Devon)

1. The Licensing Authority itself
2. Devon and Cornwall Police
3. Devon Fire and Rescue Service
4. Planning and countryside service
5. Environmental Health and equalities teams (or HSE)
6. Devon Trading Standards
7. Public Health Devon
8. Devon Area Child Protection
9. Home Office (Immigration Enforcement)

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

An up to date list ~~of Responsible Authorities relating to East Devon with their contact details~~ is available on the council's website as a [Guide to Responsible Authorities](#) can be obtained by accessing the East Devon District Council's Licensing pages on the Council's website or by request to the Council's Licensing Service by emailing licensing@eastdevon.gov.uk or telephoning 01395 517410.

- ~~(i) the Chief Officer of Police for any police area in which the premises are situated~~
- ~~(ii) the Fire Authority for any area in which the premises are situated~~



- ~~(iii) — the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated~~
- ~~(iv) — the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health~~
- ~~(v) — a body which:

 - ~~(a) — represents those who, in relation to any such area, are responsible for, or interested in matters relating to the protection of children from harm, and~~
 - ~~(b) — is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters~~~~
- ~~(vi) — Trading Standards~~
- ~~(vii) — the Director of Public Health~~
- ~~(viii) — the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any area in which the premises are situated~~
- ~~(ix) — any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated~~
- ~~(x) — in relation to a vessel:

 - ~~(a) — a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be, navigated at a time when it is used for licensable activities~~
 - ~~(b) — the Environment Agency~~
 - ~~(c) — the British Waterways Board, or~~
 - ~~(d) — the Secretary of State~~
 - ~~(e) — a person prescribed for the purpose of this subsection~~~~

Temporary Event - the use of premises for one or more of the licensable activities during a period not exceeding 168 hours, usually where a premises licence covering the licensable activity is not in place.

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

- duration – they are limited to events lasting for up to 168 hours;
- scale – they cannot involve the presence of more than 499 people at any one time;
- use of the same premises – the same premises cannot be used on more than ~~42~~ 15 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used, and
- the number of notices given by an individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year (a maximum of 10 LATE notices are permitted), and any other person to five notices (a maximum of 2 LATE notices) in a similar period.

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

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



Responsible Authority Contacts

Current addresses, telephone numbers and email addresses for all relevant responsible authorities can be found on our [responsible authorities contact details](#) web page.

Useful Contacts

Home Office

www.gov.uk
2 Marsham Street
London
SW1P 4DF
Telephone: 020 7035 4848
Email: public.enquiries@homeoffice.gsi.gov.uk

Licensing Documents that can be viewed on that website include:

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

Association of Convenience Stores (ACS)

<http://www.acs.org.uk/>
Federation House
17 Farnborough Street
FARNBOROUGH
GU14 8AG
Email: acs@acs.org.uk

Association of Licensed Multiple Retailers (ALMR)

<http://www.almr.org.uk/>
9 Central Chambers
Ealing
LONDON
W5 2NR
Telephone: 020 8579 2080
Email: info@almr.org.uk

Association of Town and City Management (ACTM)

<http://www.atcm.org/>
ATCM
32-36 Loman Street
London
SE1 0EH
Telephone: 0300 330 0980
Email: info@atcm.org

British Beer and Pub Association (BBPA)

<http://www.beerandpub.com/>
British Beer & Pub Association
Ground Floor



Brewers' Hall
Aldermanbury Square
LONDON
EC2V 7HR
Telephone: 020 7627 9191
Email: contact@beerandpub.com

British Board of Film Classification (BBFC)

www.bbfc.co.uk
3 Soho Square
LONDON
W1D 3HD
Telephone: 020 7440 1570
Email: feedback@bbfc.co.uk

British Institute of Inn Keeping (BII)

<http://www.bii.org/>
Infer House
1 Lakeside Road
Farnborough
GU14 6XP
Telephone: 01276 684449

British Retail Consortium (BRC)

<http://www.brc.org.uk>
21 Dartmouth Street
Westminster
LONDON
SW1H 9BP
Telephone: 020 7854 8900
Email: info@brc.org.uk

Cinema Exhibitors' Association (CEA)

<http://www.cinemauk.org.uk/>
3 Soho Square
LONDON
W1D 3HD
Telephone: 0207 734 9551

Institute of Licensing (IOL)

<http://www.instituteoflicensing.org/>
Institute of Licensing
Ridgeway
Upper Milton
Wells
Somerset
BA5 3AH
Telephone: 0845 287 1347
Email: info@instituteoflicensing.org

Central Devon Magistrates' Court
Southernhay Gardens

Exeter
EX1 1UH
Telephone: 01392 415300

National Pub Watch

<http://www.nationalpubwatch.org.uk/index.php>
National Pubwatch
PO Box 3523
BARNET
EN5 9LQ
Telephone: 020 8755 3222
Email: admin@nationalpubwatch.org.uk

The Portman Group

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

To make sure operating schedules offered are clear and understandable the following list of measures should be considered when formulating operating schedules:

3.4.1 ~~Prevention of Crime and Disorder~~

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

3.4.2 ~~Public Safety~~

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

~~3.4.3 Prevention of Public Nuisance –~~

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

~~3.4.4 Protection of Children from Harm –~~

- ~~☐ Limitation of access dependent on nature of activities~~
- ~~☐ Use of British Board of Film Classification for film exhibition~~
- ~~☐ Robust proof of age provisions to include prevention of under 18's entering the premises where appropriate and the requirement for anyone looking under 18 to provide proof of age in the form of a photo driving licence, passport or accredited photo ID card bearing the PASS hologram~~
- ~~☐ Adoption of the Challenge 21 or Challenge 25 policy~~
- ~~☐ Requirements for accompanying adults~~
- ~~☐ Full range of soft drinks~~

~~This list is not exhaustive~~

Strategic Lead – Governance & Licensing
Governance & Licensing
East Devon District Council
Blackdown House
Border Road, Heathpark Industrial Estate
Honiton
EX14 1EJ



LICENSING ACT 2003

INFORMATION FOR PARTIES

PROCEDURE FOR DEALING WITH HEARINGS UNDER THE LICENSING ACT 2003 AND THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

1. RIGHT TO DISPENSE WITH HEARING UNDER THE ACT

- 1.1 The Act specifies various situations when a licensing authority must hold a hearing to consider either relevant representations or police objections to an application. This procedure applies to all such applications. The Regulations authorise the licensing authority to dispense with holding a hearing if all persons required by the Act ('relevant persons') agree a hearing is unnecessary and have notified the authority that they consider a hearing unnecessary. If the licensing authority agrees that no hearing is necessary it must forthwith give notice to all parties that the hearing has been dispensed with.

2. TIMING OF HEARING UNDER THE ACT

- 2.1 In relation to applications received under the Act, the authority shall arrange for hearings to be held within the periods of time specified by the Regulations.

3. NOTICE OF HEARING

- 3.1 The authority shall give due notice of any hearing held under the Act to those persons specified under the Regulations together with any documents required.
- 3.2 In the case of all other licensing hearings, the parties will be sent a notice of hearing at least 10 days before the day of the hearing.
- 3.3 In all cases the notice of hearing sent to the parties will include the following information:
- the date, time and place of the hearing;
 - the right of the party to be represented at the hearing by another person, whether that person is legally qualified or not; subject to the power of the licensing authority to exclude him or her from any part of the hearing in the public interest (Regulation 14) or for disruptive behaviour (Regulation 25);



- the right of the party at the hearing to give further information where the authority has given notice to a party that it will want clarification of any point under Regulation 7 (1) (d), representations or notice (as applicable);
- if given permission by the authority, to question any other party;
- to address the authority, subject to any maximum time limit imposed by the sub-committee
- the consequences if the party fails to attend or is not represented at the hearing;
- the procedure to be followed at the hearing
- any particular points on which the authority considers that it will want clarification from a party at the hearing;
- any information the licensing authority has received in support or opposition of the application (or a summary thereof, if appropriate).

3.4 In the notice of hearing the applicant will be asked if they have any special needs or requirements at the hearing and requested to notify the licensing authority of any difficulty in attending.

4. PARTY'S RESPONSE TO NOTICE OF HEARING

4.1 Following receipt of the notice of hearing a party must give to the authority within the period of time required by it a notice:

- Stating whether he intends to attend or be represented at the hearing;
- Stating whether he considers a hearing to be unnecessary;
- Stating whether he wishes to make a request for any other person to appear at the hearing (e.g. a witness on an issue relevant to the licensing objectives which is in dispute.)
- Enclosing any documents on which he seeks to rely to support the representations already made the application or the notice as the case may be. A summary of key points on which the party seeks to rely should be included

4.2 Where the time for a party to give his or her response to the Notice of Hearing is not stated in the Regulations it must be given no later than 5 working days before the first day of the hearing

4.3 A party must include with their notice requesting permission for another person to appear at the hearing details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

4.4 Parties who do not comply with the requirements of this paragraph 4 have no right to be heard at the hearing.

5. RIGHT TO DISPENSE WITH HEARING IF ALL PARTIES AGREE

5.1 The authority may dispense with a hearing if all persons required by the Act agree that a hearing is unnecessary,



other than the authority itself, have given notice to the authority that they consider a hearing to be unnecessary.

- 5.2 If all the persons required to agree that a hearing is unnecessary have done so in accordance with paragraph 5.1, then if the authority agrees a hearing is unnecessary it will give notice forthwith to the parties that the hearing has been dispensed with.

6. WITHDRAWAL OF REPRESENTATIONS

- 6.1 Representations may be withdrawn either by giving written notice to the authority no later than 24 hours before the day of the hearing, or orally at the hearing.

7. POWER TO EXTEND TIME OR ADJOURN HEARING

- 7.1 The licensing authority may extend time limits specified in the Regulations for a specified period where it considers this necessary in the public interest. Notice of the period of any extension must be given to the parties forthwith stating the reasons.

- 7.2 The licensing authority may adjourn a hearing to a specified date, or arrange for it to be held on specified additional dates, where it considers this necessary for its consideration of any representations or notice made by a party. Notice of the date, time and place to which the hearing has been adjourned, or specified an additional date, time and place at which the hearing is to be held, must be given to the parties forthwith.

- 7.3 Matters may be adjourned to enable the sub-committee's time to be used efficiently. This means that the parties to all hearings should not expect that their case will necessarily be heard in full on the first date it is listed, particularly if it appears complex or likely to take up more time than is available on that day. Adjournments may also be useful in cases where the parties need time to discuss their respective positions with a view to resolving objections.

8. PUBLIC ACCESS TO HEARINGS

- 8.1 Subject to 8.2, the licensing authority shall hear all matters in public except: -

- 8.1.1 where it considers the public interest in excluding the public outweighs the public interest in the hearing (or part of it) taking place in public

- 8.1.2 that it may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit that person to return;
- permit them to return only on such conditions as the authority may specify;
- but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

- 8.2 The sub-committee will normally exclude the public from the part of the hearing when they make their determination (decision) in the case.

9. PROCEDURE AT HEARING

- 9.1 This procedure will apply to the Licensing Act 2003 hearings by the Licensing and Enforcement Committee and its sub-committees. The Chairman shall have the power to determine procedural matters to the extent they are not already governed by the Regulations. The sub-committee will appoint its Chairman at the beginning of the meeting.
- 9.2 The Chairman will open the sub-committee and will remind members of their obligation to declare any personal and prejudicial interests. Ward members are not prevented by the legislation from hearing matters in their ward but will need to consider carefully whether they have any connection with a particular matter which would lead an objective bystander to believe that the sub-committee might be biased as a result.
- 9.3 The Chairman will identify the Legal Advisor and the Democratic Services Officer for the benefit of those attending the hearing. The Chairman will explain that the ~~Member~~ Democratic Services Officer's role is to record the key points of the hearing and the Legal Advisor's role is to provide legal advice to Members of the sub-committee.
- 9.4 The Chairman will then explain to the parties present that the hearing is the subject of this procedure, copies of which will have been distributed to the parties with the notice of hearing. He will enquire of the parties whether there are any questions of clarification concerning its contents.
- 9.5 Each matter to be dealt with by the sub-committee will be called in turn, usually in the order listed on the sub-committee agenda. However, the Chairman may change the order at his/her discretion.
- 9.6 As each matter is called, the Chairman will ask the applicants and any other parties in the case to identify themselves and then consider any requests made by Parties for another person to appear at the hearing (e.g. a witness) provided he has already made such a request in writing in accordance with paragraph 4.3. Such permission shall not be unreasonably withheld.
- 9.7 If a party has informed the authority that he will not be attending or be represented at the hearing, it may proceed in his absence. If a party has informed the authority that he will attend or be represented and does not do so, Members will decide if it is in the public interest that the hearing of the matter should be adjourned, in which case the authority must notify the parties of the date, time and place to which the hearing has been adjourned.
- 9.8 Where the authority holds the hearing in the absence of a party who had indicated he would attend, the authority shall consider the application together with any representations made or notice given by that party. The sub-committee must give full reasons for proceeding in his/her absence. The Democratic Services Officer will record these reasons and the applicant will be informed of the decision.

- 9.9 Any documentary evidence or written representations lodged with the authority in response to the authority's notice of hearing (see paragraph 4.1) within the time periods specified in Annex 1 to this procedure will be made available to the sub-committee.
- 9.10 Where a party seeks to raise a new issue not raised in his response to the notice of hearing, it will be in the discretion of the Chairman whether to allow that matter to be introduced, and/or adjourn the hearing to another date.
- 9.11 The Chairman will ask the Licensing Officer who is presenting the case summary to identify him/herself. If the case is being held in private, or partly in public and partly in private, the Chairman will explain the hearing process to be adopted to all parties, which will be a modified form of this procedure but will give each party the opportunity to be heard.
- 9.12 The hearing shall take the form of a discussion led by the Chairman and assisted by the Legal Advisor as appropriate and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
- 9.13 The Chairman may indicate at the outset any particular issues relating to the licensing objectives he will be seeking to explore in the course of the hearing. He may also seek to clarify the main outstanding areas of objection to the application before each party addresses the Committee. He may also seek to establish whether the applicant proposes further conditions in the light of relevant representations received.
- 9.14 The Licensing Officer will open the hearing with a summary of the relevant facts and issues.
- 9.15 The Chairman will ask each party to make their representations, including any documentary evidence they wish to rely on which was submitted in advance in accordance with paragraph 4.1, and call any witnesses in support of their application the Chairman has agreed may appear under paragraph 9.6.
- 9.16 The order of representations will normally be the applicant, the responsible authorities, and then the interested parties at the discretion of the Chairman.
- 9.17 The normal maximum time limit for each party to make their case and call any witnesses will be ten minutes, since all parties will have had the opportunity to make written representations and those received within the statutory time-limits will be circulated to the committee (summarised if lengthy). This time limit may be varied at the discretion of the Chairman, but the time limit will always be equal for all parties.
- 9.18 The Members of the Committee may ask questions of any party or other person at the hearing at any point in the hearing that the Chairman considers appropriate, through the Chairman if he so decides. Questions will normally be after the party has made their representations.
- 9.19 The Chairman will ask the Licensing Officer and any party whether they have any questions following each party's representations, after the sub-committee members have asked theirs. The Chairman will use his discretion to decide whether to permit direct questioning by each party of other

parties, or whether the questions will be put by the Chairman himself. The Chairman has the right to curtail questioning at any time.

- 9.20 The content of any representations and/or documentary or other information on which a party seeks to rely should have been disclosed by that party to all parties prior to the hearing within the period of time specified in the Notice of Hearing. Additional representations and/or evidence, which have not been submitted to the authority before the hearing, may only be made or submitted at the hearing with the consent of all the other parties.
- 9.21 The sub-committee shall disregard any information given or evidence produced by a party which is not relevant to:-
- (a) their application, representations or notice (as applicable), and
 - (b) the promotion of the Licensing Objectives (prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm), or in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.
- 9.22 The Chairman may remind parties where necessary that their representations should be relevant to the licensing objectives. If in his opinion irrelevant representations are being made he may advise a party of the need for relevance, and if necessary curtail his representations on an irrelevant point.

10. EVIDENCE

- 10.1 The strict legal rules of evidence will not apply and evidence shall not be given on oath.

11. LEGAL ADVICE

- 11.1 The role of the sub-committee's Legal Advisor is to provide the Members with advice on: -
- questions of law;
 - matters of practice and procedure;
 - the options available to the sub-committee in making their decision;
 - whether information or evidence is relevant to the licensing objectives;
 - any relevant decisions of "superior courts" or other guidelines (e.g. – Government Guidance on the 2003 Act and the Council's Statement of Licensing Policy);
 - other issues relevant to the matter before them (e.g. any consultation currently in progress through Council etc);
 - where appropriate to assist the sub-committee in formulating the reasons for its decision.
- 11.2 The Legal Advisor may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.

11.3 The Legal Advisor has a duty to ensure that every case is conducted fairly.

12. DETERMINATION OF APPLICATIONS

- 12.1 When all the representations have been heard, the Members may choose to withdraw while they make their deliberations in private. The Legal Advisor will only remain with the sub-committee if requested to give legal or procedural advice but not otherwise and will then return to the committee room while the Members make their decision. The Legal Advisor will explain to applicants/parties the reason for his being called to where the Members were deliberating (e.g. to advise on a point of law etc).
- 12.2 In the event that the sub-committee is unable to agree on its decision, the Chairman shall have a casting vote.
- 12.3 If the sub-committee needs to ask any further questions of either the applicant or any other party, all parties will be asked to return before the sub-committee.
- 12.4 In the case of hearings held under the following sections of the Act, the sub-committee must make its determination at the conclusion of the hearing:
- hearing to consider counter notice following police or environmental health objection to temporary event notice [s.105(2)(a)];
 - hearing to consider review of premises licence following closure order [s.167(5)(a)];
- 12.5 In any other case the authority must make its determination within the period of 5 working days beginning with the day (or the last day) on which the hearing was held.
- 12.6 Once the sub-committee has reached its decision the Democratic Services Officer and the Legal Advisor/MSO may withdraw to assist the Members in writing up their decision. Again the Legal Advisor will explain to applicants/parties the reason for his being called to where the Committee were.
- 12.7 Where a hearing has been dispensed with under paragraph 5 above, the authority must make its decision within the period of 10 working days beginning with the day on which it gives notice to the parties.

13. NOTIFICATION OF DETERMINATION

- 13.1 The authority will send a notification of determination to a party forthwith upon making it, or where there is a particular period for notification specified in the Licensing Act, within that period.
- 13.2 Notification of determination will give reasons for the decision. If the licensing authority has departed from the statutory Guidance or from the Council's Licensing Policy, reasons should also be given for that departure.
- 13.2 Where the Act requires the Chief Officer of Police to receive notification of determination, and that Chief Officer has not been a party to the hearing, the authority shall send him that determination forthwith.
- 13.3 Notification of determination shall be accompanied by information concerning the right of a party to appeal.
- 13.4 Decisions shall be that of the licensing authority (i.e. not individual members).

14. QUORUM

- 14.1 The quorum for any hearing of a licensing sub-committee shall be two Members.

15. RECORD OF PROCEEDINGS

15.1 The authority shall provide for a record to be taken of the hearing in a permanent and intelligible form and kept for six years from the date of the decision or, where an appeal is brought against the decision of the authority, the disposal of that appeal. This shall be the responsibility of the Strategic Lead – Legal, Licensing and Democratic Services.

16. IRREGULARITIES

- 16.1 Any irregularity resulting from any failure to comply with any provision of the Regulations before the authority has made a decision shall not of itself render the proceedings void.
- 16.2 In the case of any such irregularity, where it considers that any person may have been prejudiced as a result, the authority shall take such steps, as it thinks fit to remedy the irregularity before reaching its decision.
- 16.3 The authority may correct clerical mistakes in any document recording a decision of the authority or errors arising in such a document from an accidental slip or omission.

17. FORM OF NOTICES

- 17.1 Any notices required to be given under this procedure must be given in writing.
- 17.2 The requirement that any notice must be given in writing is satisfied where: -
- (a) the text of the notice
 - (i) is transmitted by electronic means;

- (ii) is capable of being accessed by the recipient;
 - (iii) is received in legible form, and;
 - (iv) is capable of being reproduced in written form and used for subsequent reference.
- (b) the person to whom the notice is to be given has agreed that such a notice may be given to them by those electronic means, and
- (c) forthwith on sending the text of the notice by electronic means the notice is given to the recipient in writing.

17.3 Where the text of the notice is transmitted by electronic means, the giving of the notice shall be effected at the time the text of the notice is received by the recipient in accordance with paragraph 17.2(a).

18. Costs

Neither the Licensing and Enforcement Committee nor its sub-committees have the legal power to make any order as to the costs incurred by a party in connection with a hearing under the Licensing Act. If a party has a lawyer or any other person to represent them it will be at their own expense.

19. Licensing Act 2003 (Hearings) Regulations 2005 (as amended)

The interpretation provisions of the Regulations will apply to any term used in this procedure defined in the Regulations. In the event of any conflict between this Procedure and the regulations, the requirements of the Regulations will prevail. The legal advisor will advise the committee should such an issue arise and the chairman's ruling on procedure will be final.

Appendix B

Film Classification Procedures

POLICY FOR DETERMINING FILM CLASSIFICATIONS



1. Introduction

- 1.1 The public exhibition of all films on licensed premises must either be classified by the British Broad Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.2 Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board of Film Classification (the BBFC) or by the Licensing Authority itself
- 1.3 The purpose of this Policy is to set out the formal procedure for the Licensing Authority to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions or requests to reclassify films.
- 1.4 Where a premises seeks or intends to exhibit film(s), that venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003.

2. Definitions

- 2.1 Children - any person under the age of 18 years.
- 2.2 Exhibition of a film - the exhibition of moving pictures.

3. Circumstances the Licensing authority may classify a film

- 3.1 The Licensing Authority may be required to classify a film that has not been classified by the BBFC. A typical example of this would be a locally made film to be shown at a film festival within the district. Therefore, the Licensing Authority must have a formal procedure in place to determine this classification.
- 3.2 A distributor of a film or other party may appeal to the Licensing Authority against a decision of the BBFC requesting that the Licensing Authority reclassifies the film for local screening.
- 3.3 In addition to classifying films the Licensing Authority can issue a classification waiver which permits the exhibition of the film or films within the local area without a classification but subject to certain conditions and restrictions.

4. Submission of film

- 4.1 Applications for authorisation of films shall be referred to and determined by the Licensing department on behalf of the Licensing Authority.



- 4.2 Applications should be submitted to the Licensing Authority with a minimum of 28 days before the proposed screening.
- 4.3 An application for authorisation should include the following information:
- a) The name of the film maker;
 - b) A brief synopsis of the film
 - c) Any recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
 - d) Any existing classification issued by an existing classification body, whether within or outside the UK;
 - e) Information identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film.
 - f) The language spoken in the film and whether there are subtitles in English.
 - g) Details of how any age restrictions will be enforced.
- 4.5 All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made for a suitable venue to view the film.
- 4.6 If the film contains dialogue in a language other than English an interpreter will be required for the classification. East Devon District Council will arrange for a suitable interpreter and the applicant will be responsible for the cost of this.
- 4.7 All requests must be accompanied by detailed reasons for the request.
- 4.8 Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

5. Process

- 5.1 Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.
- 5.2 Two officers from the licensing department will view the entire film and assess it against the BBFC guidelines and National Guidance.
- 5.3 If the decision is unanimous in relation to the classification that classification will be applied. Should the officers be unable to reach consensus then the classification for that film will be referred to the Licensing Sub Committee
- 5.4 When required the Sub Committee will view the entire film and assess it against the BBFC guidelines. The Chairman of the sub committee will have the final decision on the classification to be applied to the film.
- 5.5 The Licensing Department/Sub Committee (as appropriate) shall issue a Notice of Determination of the authorisation within 5 working days from the date of viewing.

- 5.6 The Licensing Authority will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 5.7 Where the Licensing Authority has determined to refuse authorisation of a film clear and concise reasons shall be given

6. Classification

- 6.1 The BBFC classifies films in accordance with published Guidelines, which are based on extensive research into public opinion and professional advice.
- 6.2 The National Guidance under Section 182 of the LA03 recommends that: Licensing Authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film
- 6.3 The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). It should be noted however that the Licensing Authority is not obliged to follow these guidelines.
- 6.4 Where a licensed premises seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film although this may be referred to the BBFC to consider.
- 6.5 The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. However material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or has been created through the commission of a criminal offence.
- 6.6 In accordance with paragraph 10.31 of the National Guidance, the Licensing Authority shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the licensing objectives.

7. Protecting children from harm

- 7.1 In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.
- 7.2 Paragraph 2.41 of the National Guidance states:
The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives, for

example, in the context of film exhibitions or where adult entertainment is provided.

- 7.3 In line with the National Guidance, where a film is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.
- 7.4 Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.
- 7.5 In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall have regard to National Guidance, e.g.:
- Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme
 - Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.

8. Classification Waiver

- 8.1 Any authorisations for the exhibition of film without classification issued by the Licensing Authority shall only apply when the film is exhibited within East Devon and does not affect the authorisation or recommendations in any other district or council area.
- 8.2 Once the classification has been waived by the Licensing Authority a film will be authorised for a particular showing or festival only. This will be subject to the recommendations imposed by the Licensing Authority (unless further application for re-classification is made). Details of the waiver including any recommendations shall be available from the Council's Licensing Services.
- 8.3 The issue of any waiver by East Devon District Council is strictly limited to the authorisation within the district and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.
- 8.4 Where the Licensing Authority authorises unclassified material to be shown the Licensing Authority will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
- 8.5 The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law

9. Exemptions

- 9.1 The provision of the exhibition of a film is exempt from regulation by the Licensing Act 2003 (LA03) if:



It consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery (the LA03 does not define a museum or art gallery so the ordinary meaning of the term is taken)

Or its sole or main purpose is to:

- demonstrate any product,
- advertise any goods or services (excluding the advertising of films), or
- provide information, education or instruction

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APPENDIX C POOL OF LICENSING CONDITIONS Licensing Act 2003

When preparing a new or variation application for a premises licence or club premises certificate applicants are required to describe the steps they intend to take to promote the following four licensing objectives:

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

East North Devon District Council has produced this pool of licensing conditions to assist applicants in completing this section of their application and to promote a consistent approach in the wording of conditions. It is intended to provide a broad range of conditions that should cover most eventualities, however those persons wishing to host large one off events e.g. festivals are alternatively recommended to contact ~~examine~~ the Council's Safety Advisory Group website: www.northdevon.gov.uk/sagsafetyadvisor.group@eastdevon.gov.uk

All premises licences and club premises certificates will be subject of mandatory conditions prescribed by the Licensing Act 2003. It is suggested that applicants examine the list of these which can be found on [www.northdevon.gov.uk/licensing\[web link here\]](http://www.northdevon.gov.uk/licensing[web link here]). All further conditions imposed should be tailored to the particular circumstances of an individual premises and determined on a case-by-case basis. They should reflect how applicants will promote these licensing objectives having regard to the nature and type of venue, proposed licensable activities, location, operating times, anticipated clientele etc. For example, if an application relates to a restaurant, the measures or controls expected to implemented will be less than a nightclub or music festival.

Conditions which are appropriate to promote the licensing objectives should initially emerge from a prospective licence holder's risk assessment and then be translated to form part of the operating schedule for the premises. Any conditions, controls or restrictions that are offered by applicants in their operating schedule will be added to a licence or certificate and as such will govern the way in which licensed premises are managed. In the circumstances where words or phrases used in an operating schedule are confusing, unenforceable etc., rather than reproducing those terms, minor amendments may be made by the Licensing Authority. Furthermore the Licensing Authority will not impose conditions which it believes are duplicated in other legislation.

This pool of conditions is not intended to form an exclusive or exhaustive list of conditions which should be included on a licence or certificate. Applicants should consider offering conditions that are appropriate, necessary and proportionate in the circumstances of their particular application. Moreover, the pool does not restrict any applicant, responsible authority, or other person from proposing any alternative conditions, nor does it restrict the Council's Licensing Sub-Committee from imposing any reasonable condition on a licence it considers appropriate for the promotion of the licensing objectives (after representations have been received to an application and by way of a hearing).

Guidance states that conditions are important in setting the parameters under which premises can lawfully operate. As such applicants should consider whether conditions can be met and be mindful as to whether what they have offered is practical, realistic and enforceable. A breach of condition constitutes an offence for which those found guilty may face an unlimited fine and/or six months imprisonment.

Before an application is submitted we recommend that applicants contact any relevant responsible authorities (eastdevon.gov.uk/guide-to-responsible-authorities, www.northdevon.gov.uk/licensing for contact details) to discuss their application. They may suggest conditions that should be considered prior to submission, which may reduce the likelihood of a responsible authority or member of the public submitting a representation (objection). Responsible authorities may contact you after the submission of your application to suggest amendments to your operating schedule, particularly if you have not contacted them previously.

Additional information on conditions can be found in the Section 182 guidance to the Licensing Act 2003 available on the GOV.UK website. Comments on the content and use of the pool of conditions are welcomed. ~~If please contact~~ the Licensing Team can be contacted by emailing on 01271 388 870 or via licensing@eastdevonnorthdevon.gov.uk

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APPENDIX C

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CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER		
1. Training	D1	<p>All staff engaged in licensable activity at the premises will receive training and information in relation to the following (select from the following):</p> <ul style="list-style-type: none"> i. The Challenge 21/25* (delete as appropriate) scheme in operation at the premises, including the forms of identification that are acceptable. ii. The hours and activities permitted by the premises licence / club premises certificate* (delete as appropriate) issued under the Licensing Act 2003 and conditions attached to the licence/certificate*(delete as appropriate). iii. How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol). iv. Recognising the signs of drunkenness. v. The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase. vi. Action to be taken in the event of an emergency, including reporting an incident to the emergency services. <p>Training shall be recorded in documentary form and shall be regularly refreshed at no greater than (insert) intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.</p> <p>Training records will be retained for at least 12 months.</p>
2. Incident log	D2	<p>An incident log shall be kept and maintained at the premises which will include a log of the following, including pertinent details (select from the following):</p> <ul style="list-style-type: none"> i. Any incidents of disorder or of a violent or anti social nature ii. All crimes reported to the venue, or by the venue to the police iii. All ejections of patrons iv. Any complaints received v. Seizures of drugs or offensive weapons vi. Any faults in the CCTV system vii. Any visits by a responsible authority (under the Licensing Act 2003) or emergency service. <p>Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident.</p> <p>The logs shall be kept for at least 12 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.</p>
3. Alcohol Consumption	D3	With the exception of residents and their bona fide guests, no alcohol shall be consumed more than (insert) minutes after the permitted terminal hour for the supply of alcohol.
	D4	The consumption of alcohol on the premises shall cease at (insert hour).
	D5	Open containers of alcohol shall not be removed from the premises, except for consumption in any delineated external area as shown on the plan attached to the licence.
	D6	The sale and supply of alcohol for consumption in any outdoor area of the premises/off the premises* (delete as appropriate) shall be restricted to alcohol consumed at the outside tables and chairs shown on the licence plan, shall be by waiter or waitress service, served only to a person taking a substantial table meal there and be for consumption by such a person as ancillary to their meal.

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	D7	There shall be no consumption of beverages purchased from the premises in the designated smoking area.
	D8	There shall be no consumption of beverages purchased from the premises outside the premises.
	D9	There shall be no consumption of beverages outside the premises after <i>(insert)</i> hours.
	D10	After <i>(insert)</i> hours no drinks are to be taken to the outside area and no consumption of drinks will occur after <i>(insert)</i> hours.
	D11	Clear and legible signage must be prominently displayed in the outside area specifying that no drinks are to be taken into this area after <i>(insert)</i> hours.
	D12	Customers will not be permitted to remove from the premises any drinks supplied by the premises (alcoholic or otherwise) in open containers.
4. Management Controls	D13	There shall be no admissions or re-admission to the premises after <i>(insert)</i> hours.
	D14	There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
	D15	Outside of the hours authorised for the retail sale of alcohol and whilst the premises are open to the public, all alcohol within the premises (including alcohol behind the counter) must be secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
	D16	All alcohol on display will be in such a position so as not to be obscured from the constant view of the cashier / staff.
	D17	An attendant shall be on duty in the cloakroom the whole time that it is in use.
5. Nature of Alcohol Sales	D18	No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
	D19	There shall be no self service of alcohol on the premises.
	D20	There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV (alcohol by volume).
	D21	No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
	D22	No miniature bottles of spirits of 20cl or less shall be sold from the premises.
	D23	Retail sale of alcohol shall only take place from a fixed bar, no mobile dispense sales will take place.
6. Door Supervisors	D24	The number of SIA licensed door supervisors employed shall be in accordance with the following ratio: A minimum of <i>(insert-number2)</i> door supervisors will be employed for the first <i>(insert-number150)</i> customers and one door supervisor for every <i>(insert-number75)</i> thereafter.
	D25	A minimum of <i>(insert-number2)</i> SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business.
	D26	A minimum of <i>(insert number)</i> SIA licensed door supervisors shall be positioned at the exit(s) from the premises at closing time.
	D27	A minimum of <i>(insert number)</i> SIA licensed door supervisors shall be on duty at the entrance of the premises at all times until the premises have closed and all customers have left.
	D28	All SIA licensed door supervisors shall wear distinctive clothing or insignia to clearly identify them as door supervisors. Door supervisors on duty at the entrance(s) shall wear 'high visibility' clothing (such as a jacket or waistcoat).
	D29	All persons entering or re-entering the premises shall be searched by a SIA licensed door supervisor.
	D30	SIA licensed door supervisors engaged in searching persons shall be fully trained in the use of their powers to do so.
	D31	Where searches of persons are undertaken SIA licensed door supervisors of both sexes will be on duty.
	D32	The following details for each door supervisor will be contemporaneously entered into a register kept for that purpose: (i) Full name

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	<p>(ii) SIA licence/badge number, and registration number of any accreditation scheme recognised by the Licensing Authority (including expiry date of that registration or accreditation)</p> <p>(iii) The date and time they began their duty</p> <p>(iv) The date and time they completed their duty</p> <p>(v) The full details of any agency through which they have been allocated to work at the premises if appropriate</p> <p>The register shall be available for inspection and copying at all reasonable times by an authorised officer of a responsible authority.</p> <p>The register shall be kept at the premises at all times and be so maintained as to enable an authorised officer to establish the particulars of all door supervisors engaged at the premises during the period of not less than 12 months prior to the request.</p>
	<p>D33 All SIA licensed door supervisors will be provided with working radios to enable them to contact each other and the duty manager at the premises at all times whilst on duty.</p>
	<p>D34 SIA licensed door supervisors will be responsible for ensuring the safe, quiet and orderly dispersal of customers from the premises and the immediate vicinity of the premises.</p>
	<p>D35 Any queue to enter the premises which forms outside the premises must be supervised by SIA licensed door supervisors so as to ensure that it is orderly, there is no associated public nuisance, or obstruction to the public highway/footpath.</p>
7. Substance Misuse	<p>D36 A written drugs policy shall be in place and operated at the premises. It must detail the actions taken to minimise the opportunity to use or supply illegal substances within the premises. The policy must be made available for inspection and copying upon request by an authorised officer of a responsible authority.</p>
	<p>D37 Where door supervisors are used to search patrons as a condition of entry, a written drugs policy formulated in consultation with the Police will be in place. The policy will include an agreed procedure for the handling and retention of any article seized.</p>
	<p>D38 A structured training programme surrounding substance misuse will be in place. Training will be undertaken at (<i>regular intervals/annually/ _ monthly intervals*</i>) delete as appropriate for all staff that deal with persons who are in the possession of/or incapacitated through the use of drugs or the combined effect of drugs and alcohol.</p> <p>Records will be maintained detailing the time and date of substance misuse training, the people who received the training, and the name of the person delivering the training.</p> <p>Records will be available for inspection by an authorised officer of a responsible authority at all reasonable times. The records will be retained for at least 12 months.</p>
	<p>D39 A senior member of the management team at the premises must hold a National Certificate of Drugs Awareness qualification, run by the British Institute of Innkeeping or similar accredited body.</p>
	<p>D40 There must be at the premises a lockable drugs safe to which no member of staff, save the DPS or (<i>insert</i>) shall have access. All controlled drugs (or items suspected to be or to contain controlled drugs) found at the premises must be placed in this safe as soon as practicable. Whenever this box is emptied, all of its contents must be given to the police for appropriate disposal.</p>
	<p>D41 Where a drug safe is available on the premises to deposit finds there will be in place a clear policy for the handling and packaging of seized items. <i>Note: For premises with a suitable 'Drug Safe' the items secured within that safe are not considered as being in their possession</i></p>
	<p>D42 A clear and legible notice must be prominently displayed at all entrances to the premises advising those attending, that the Police will be informed if anyone is found in possession of controlled substances or weapons.</p>
	<p>D43 Appropriate security arrangements will be in place including toilet areas and other similar areas being regularly checked for evidence of drugs. The date and times of all checks will be recorded in a register kept for that purpose and be available for inspection and</p>

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		copying on request of an authorised officer of a responsible authority. Signage shall also be prominently displayed in the toilet areas advising patrons that checks are conducted regularly.
8.Restrictions on Use of Premises	D44	The licensable activities authorised by this (<i>licence/certificate*</i>) and provided at the premises shall be ancillary to the main function of the premises as (<i>offices / delicatessen / museum / theatre / hairdressers / etc.*</i>) (<i>Delete as appropriate</i>)
	D45	The premises shall only operate as a restaurant (<i>select from the following</i>): (i) in which customers are shown to their table (ii) where the supply of alcohol is by waiter or waitress service only (iii) which provides food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery (iv) which does not provide any take away service of food or drink for immediate consumption (v) where alcohol is not be sold or supplied, otherwise than for consumption by persons taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals. Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
	D46	Consumption of alcohol in the bar area is restricted to customers waiting to be escorted to a table.
	D47	Numbers of patrons drinking in the bar area (not awaiting tables) shall not exceed (<i>insert</i>) persons.
9.CCTV	NOTE FROM LICENSING AUTHORITY ON IMPOSITION OF CONDITIONS SURROUNDING CCTV: <i>When considering the use of surveillance camera systems as part of the conditions attached to a licence or certificate, applicants and responsible authorities should have particular regard to Guiding Principle One in the Surveillance Camera Code of Practice (June 2013) issued by the Home Office which can be found at:</i> https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf <i>A blanket attachment of surveillance camera conditions conditions are likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and be kept under regular review. Applications in relation to licensed premises must take into account whether a requirement to have a surveillance camera system is appropriate in the particular circumstances of the case. For example, it is unlikely that a trouble-free community pub would present a pressing need such that a surveillance camera condition would be justified.</i> Guiding Principle One is shown below for information: <i>Surveillance camera systems operating in public places must always have a clearly defined purpose or purposes in pursuit of a legitimate aim and be necessary to address a pressing need (or needs). Such a legitimate aim and pressing need might include national security, public safety, the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. That purpose (or purposes) should be capable of translation into clearly articulated objectives against which the on-going requirement for operation or use of the systems and any images or other information obtained can be assessed.</i> <i>In assessing whether a system will meet its objectives, and in designing the appropriate technological solution to do so, a system operator should always consider the requirements of the end user of the images, particularly where the objective can be characterised as the prevention, detection and investigation of crime and the end user is likely to be the police and the criminal justice system.</i>	

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A surveillance camera system should only be used in a public place for the specific purpose or purposes it was established to address. It should not be used for other purposes that would not have justified its establishment in the first place. Any proposed extension to the purposes for which a system was established and images and information are collected should be subject to consultation before any decision is taken.

D48	<p>The premises shall install operate and maintain a comprehensive digital colour CCTV system to the satisfaction of the Police and local authority:</p> <p>All public areas of the licensed premises including entry and exit points will be covered, including any outside areas under the control of the premises licence holder.</p> <p>The system must record clear images permitting the identification of individuals, and in particular enable facial recognition images (a clear head and shoulder image) of every person entering and leaving in any light condition. (The location of cameras could also be specified on the plan attached to the premises licence).</p> <p>The CCTV system will continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises.</p> <p>All equipment must have a constant and accurate time and date generation.</p> <p>All recordings will be stored for a minimum period of 31 14 days with date and time stamping. (Offers on applications in excess of 14 days are acceptable).</p> <p>Recordings will be made available immediately upon the request of an authorised officer of a responsible authority throughout the entire 31 day period. Viewable copies of recordings will be provided on request to the Police and local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 2018 1998 (or any replacement legislation) OR a staff member from the premises who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open. This staff member must be able to provide an authorised officer of a responsible authority, copies of recent CCTV images or data with absolute minimum of delay when requested in accordance with the Data Protection Act 2018 (or any replacement legislation).</p> <p>The applicable condition will be based on the size/location and business operation of the premises, assessed on an individual basis.</p> <p>The CCTV system will be capable of downloading images to a recognisable viewable format.</p> <p>The CCTV system will capture a minimum of 4 frames per second.</p> <p>The CCTV system will be fitted with security functions to prevent recordings being tampered with, i.e. be password protected. There will be security measures in place to ensure the integrity of the system to prevent the tampering with, and deletion of, images.</p>
D49	<p>The CCTV system will be fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document www.ico.org.uk (www.informationcommissioner.gov.uk) (or any renewed equivalent guidance which is subsequently issued) regarding installation of CCTV is provided at the premises.</p>
D50	<p>If the CCTV equipment (including any mobile units in use at the premises) breaks down the Licensing Authority and the Police must be informed as soon as is reasonably practicable. This information shall be contemporaneously recorded in an incident report</p>

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		register and shall include the time, date and means this was done and to whom the information was reported. Immediate steps must be taken to put the equipment back into action. The Licensing Authority and the Police shall be informed when faults are rectified.
	DS1	A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide an authorised officer of a responsible authority copies of recent CCTV images or data with the absolute minimum of delay when requested (in accordance with the Data Protection Act 1998 or any replacement legislation).

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CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE		
10. Restrictions on Live Music	N1	The performance of live entertainment will be limited to a maximum duration of <i>(insert)</i> hours inclusive of any breaks.
	N2	The performance of live entertainment will be limited to <i>(one/two)</i> evenings per week.
11. Dispersal	N3	A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.
	N4	Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and to leave the vicinity as quickly and quietly as possible.
	N5	When issues are identified approaches will be made to patrons, who will be asked not to stand around talking in the street outside the premises or any car park; and asked to leave the vicinity as quickly and quietly as possible.
	N6	Clear and legible notices shall be prominently displayed at the entrances to the premises advising that of patrons cause any disturbance or disorder admission will be refused as a result.
	N7	During the final hour of trading appropriate announcements will be made or images projected to remind patrons of the need to leave the premises quietly without causing annoyance, nuisance or disturbance to local residents and to advise patrons of any taxi free-phone or collection arrangements available upon the premises.
12. Speakers	N8	No speakers for amplification of music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.
	N9	The location and orientation of loudspeakers must be as specified on the attached premises plan.
	N10	Speakers will not be located in the entrance lobby or <i>(specify another location if appropriate)</i> or outside the premises.
	N11	No music or speech shall be relayed via external speakers other than for events where the prior approval of the Licensing Authority has been obtained.
	N12	All internal speakers shall be attached to independent wall linings and not to the ceiling.
	N13	All speakers shall be mounted on speaker brackets that incorporate isolating rubber mounts.
13. Equipment & Deliveries	N14	Pneumatic tyres (or equivalent) will be fitted to any moving work equipment to be used outside (e.g. bins, trolleys, roll cages etc.).
	N15	Any moveable furniture will be fitted with rubber (or equivalent) feet.
	N16	Regular maintenance will be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
	N17	Any generator will be positioned away from residential premises and in the case of a mobile van positioned so that the vehicle acts as a screen.
	N18	Where plant and machinery is likely to cause a noise problem it will be positioned in such a way that the building structure provides as much screening as possible for nearby noise-sensitive properties. <i>Alternatively, or additionally, control measures such as acoustic enclosures, acoustic louvers, silencers, or additional acoustic screening will be considered by applicants.</i>
	N19	The handling of kegs, bottles cleaning equipment, bottle disposal and similar items shall not take place before <i>(insert)</i> hours or after <i>(insert)</i> hours.
	N20	No deliveries (in relation to licensable activities) to the premises shall take place between <i>(insert)</i> hours and <i>(insert)</i> hours.
14. Noise Levels	<p>NOTE FROM LICENSING AUTHORITY ON IMPOSITION OF CONDITIONS SURROUNDING NOISE CONTROLS</p> <p><i>"Inaudibility" conditions have been popular in the past but have faced sufficient criticism in the courts to be quashed as invalid for lack of precision. Noise conditions are notoriously difficult to pre-empt and should be applied only where professional advice has been obtained from North Devon Council's Environmental Protection Team. Such conditions will be strictly tailored to the premises in question and</i></p>	

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the concerns to hand in relation to noise attenuation and resultant nuisance. An example of the type of inclusion that may be appropriate follows:

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N21 Between (specify hours/ days), the noise climate of the surrounding area must be protected such that the A- weighted equivalent continuous noise level (LAeq) emanating from the application site, as measured (specified distance (usually in metres, between the noise source and the receiver location(s)) from any facade of any noise sensitive premises over any [specify no. of minutes] period with entertainment taking place, must not increase by more than [specify dB tolerance (e.g. +3 dB, +5 dB, etc.)] as compared to the same measure, from the same position, and over a comparable period, with no entertainment taking place; and the un-weighted (i.e. linear) equivalent noise level (LZeq) in the 63Hz 1/1-Octave band, measured using the "fast" time constant, inside any noise sensitive premises, with the windows open or closed, over any (specify no. of minutes) period with entertainment taking place, should show no increase as compared to the same measure, from the same location(s), and over a comparable period, with no entertainment taking place.

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15. Point of Contact

N22 A telephone number shall be made available and displayed in a prominent location where it can conveniently be read from the exterior of the premises by the public for local residents to contact in the case of noise- nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection and copying by an authorised officer of a responsible authority throughout the trading hours of the premises.

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N23 The Premises Licence Holder or Designated Premises Supervisor shall be available at all times during regulated entertainment and be responsible for cooperating and liaising with any responsible authority.

16. Noise Limiting Devices

N24 A noise limiting device (the specification and design to be agreed with North Devon Council's Environmental Protection Team) shall be fitted so that all live and recorded music is channelled through the device(s). The maximum noise levels will be set by agreement with North Devon Council's Environmental Protection Team and will be reviewed from time to time as appropriate.

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N25 The noise limiting device must be fully functional and in proper working order at all times during performances of live and recorded music.

N26 If the noise limiting device breaks North Devon Council's Environmental Protection Team will be informed as soon as reasonably practicable. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay.

N27 No performances of live and recorded music will proceed without the noise limiting device in proper working order.

N28 All amplified sound sources (including live performances) from the premises will go through a noise limiting device.

N29 The Premises Licence Holder or nominated person shall control the sound levels of the music/entertainment.

N30 The Premises Licence Holder or nominated person shall ensure that the noise limiting device is sealed after commissioning, so that sound operators cannot override the system during the performance of live and recorded music.

N31 A noise limiting device shall be used in relation to all sound amplification equipment used in line with the following:

(i) The noise limiting device shall be kept at the settings approved by the Council through an authorised officer of the North Devon Council's Environmental Protection Team on (Date)

(ii) The noise limiting device shall be properly secured so that it cannot be tampered with

(iii) The noise limiting device shall only be reset with the authority of North Devon Council through an authorised officer of EDDC North Devon Council's Environmental Health Protection Team

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	(iv) If deemed necessary, the noise limiting device shall be reset to a level approved by the Council through an authorised officer of the EDDC Environmental Health Team North Devon Council's Environmental Protection Team within <i>(insert)</i> days of notification.
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17. Doors, Windows, & Lobbies	N32	All external doors and windows shall be kept shut at all times when the premises are open/during regulated entertainment. Doors may be opened for normal entrance and egress of people but must be shut immediately after.
	N33	All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when doors have been opened.
	N34	Customers shall not enter or leave the premises from/by <i>(insert specific entrances or exits)</i> except in the event of an emergency/
	N35	An <i>(acoustic lobby / acoustic door / acoustic curtains/ acoustic door seals / automatic door closer)</i> must be installed <i>(specify the location / define on plan)</i> .
	N36	All external doors and windows shall be maintained in good order.
	N37	All external doors and windows shall be acoustically glazed or suitably insulated to minimise noise breakout from the premises. <i>(Details of any such works will be specified to EDDC Environmental Health Team North Devon Council's Environmental Protection Team.)</i>
	N38	Staff shall check prior to the commencement of regulated entertainment, and periodically during regulated entertainment that all external windows and doors are shut.
	N39	The entrance/exit door(s) shall be fitted with a suitably constructed lobby and doors with automatic door-closers that are maintained in good working order to minimise noise break out from the premises.
	N40	Staff shall check that self-closing doors are not wedged open during regulated entertainment.
18. Noise Monitoring	N41	While live or recorded music takes place regular monitoring of noise levels at the nearest noise-sensitive locations shall take place. A record shall be kept of any monitoring, including: -the date, time and location of the monitoring -the name of the person monitoring -any action taken Records shall be kept for at least 6 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.
	N42	Observations in the vicinity of the properties at <i>(insert location)</i> , on at least <i>(insert time period e.g. hourly)</i> intervals between <i>(insert)</i> and <i>(insert)</i> whilst live music, karaoke or DJ's playing recorded music is taking place will be undertaken to establish whether there is a noise breakout from the premises. (i) If the observation reveals noise breakout at a level likely to cause disturbance to the occupants of properties in the vicinity then the volume of music shall be reduced to a level that does not cause disturbance. (ii) A record of such observations shall be kept in a log for that purpose, the log shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise break out and any action taken to reduce noise breakout. (iii) Such records must be made available for inspection and copying at all times upon request to an authorised officer of a responsible authority.
	N43	After <i>(insert)</i> hours noise levels in outside areas will be monitored and controlled to minimise any potential impact on local residents. Customers will be advised of the need to respect local residents where appropriate. Any patrons continuing to cause any disturbance or disorder will be asked to leave the premises.
19. Smoking Areas	N44	A designated and de-lineated smoking area will be allocated outside the premises.
	N45	Suitable receptacles will be provided for cigarette litter within the designated smoking area.
	N46	The smoking area shall be regularly cleaned to ensure that all discarded smoking litter is removed and properly disposed.
	N47	The designated smoking area shall be for 'smoking only' and reasonable steps will be taken to prevent the consumption of any drinks in this area.

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	N48	Steps shall be taken ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
	N49	Clear and legible notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
	N50	Customers permitted to temporarily leave and then re-enter the premises to smoke must be restricted to a designated smoking area defined as <i>(specify location / mark on plan)</i> . No more than <i>(insert number)</i> of customers will be permitted to remain in the designated smoking area at any one time.
	N51	The following conditions apply to the management of smoking areas within curtilage of the premises <i>(select from the following)</i> : (i) The area must be adequately monitored by SIA licensed door supervisors and CCTV to ensure that patrons do not cause a nuisance, patrons do not obstruct access to adjoining premises and risk of crime and disorder in this area is controlled. (ii) Patrons must not be allowed to take drinks into the smoking area. (iii) The area must be provided with an adequate number of suitable ashtrays/bins, the use of which must be monitored by door staff. (iv) The area must be regularly swept to remove cigarette ends. (v) Arrangements must be made to prevent overcrowding or disorder on the <i>(insert location)</i> , particularly if patrons exiting towards the smoking area whilst others are queuing for entrance in/on the <i>(insert location)</i> . (vi) A safety netting, mesh or screen (of a gauge that satisfies the enclosed space requirements as specified within the smoking legislation), shall be fitted and maintained in order to prevent objects being passed from the outside into the smoking area. (vii) Any bottle or bin stores located near an external smoking facility shall be enclosed and secured. (viii) There shall be no furniture in the outside areas, with the exception of the appropriate wall mounted receptacles for tobacco waste materials. (ix) The smoking area shall be thoroughly cleaned, provided with adequate lighting and painted so as to clearly designate this area as the smoking area. (x) Staff shall be instructed to clean the smoking area and adjacent pavements of smoking-related litter before and after each period of use.
	N52	The smoking area shall be permanently monitored by SIA licensed door supervisors during opening hours. The amount of patrons in this area will not exceed <i>(insert occupancy number)</i> persons; and shall be monitored with <i>(insert method of monitoring occupancy number)</i> from a position <i>(insert positions from which monitoring is to take place)</i> .
20. Restrictions on Outside Areas	N53	Any outdoor areas to <i>(the front/rear of)</i> the premises must not be used by customers or staff after <i>(insert)</i> hours.
	N54	Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to <i>(insert number)</i> persons at any one time.
	N55	The <i>(insert name of area i.e. beer garden, upper patio, etc.)</i> shall only be open to customers <i>(insert days)</i> from <i>(insert commencement time)</i> until <i>(insert end time)</i> . Clear and legible notices shall be prominently displayed in appropriate locations to ensure that this information is brought to the attention of patrons.
	N56	All outside areas must be closed and cleared of customers by <i>(insert)</i> hours. Adequate notices shall be displayed to inform patrons of this requirement.
	N57	After <i>(insert)</i> hours a SIA licensed door supervisor will be permanently placed in the <i>(insert)</i> area to monitor customers and prevent noise disturbance.
	N58	After <i>(insert)</i> hours the capacity in the outside rear area is limited to <i>(insert)</i> persons.
21. Taxi Provision	N59	Where a specific taxi operator has been nominated for customers use the company's telephone number will be advertised to customers. The operator will be advised that drivers should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily.

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<p>22. Deliveries & Handling of equipment 22. Deliveries & Handling of equipment</p>	<p>N60 N60</p>	<p>The handling of kegs, bottles, cleaning equipment, <i>(specify other)</i> shall not take place before <i>(insert)</i> hours or after <i>(insert)</i> hours. The handling of kegs, bottles, cleaning equipment, <i>(specify other)</i> shall not take place before <i>(insert)</i> hours or after <i>(insert)</i> hours.</p>
	<p>N61 N61</p>	<p>No deliveries <i>(in relation to licensable activities)</i> to the premises shall take place between <i>(insert)</i> hours and <i>(insert)</i> hours. No deliveries <i>(in relation to licensable activities)</i> to the premises shall take place between <i>(insert)</i> hours and <i>(insert)</i> hours.</p>

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23. Reports & Schemes	N60 6262	A detailed scheme of sound insulation works shall be submitted to and approved in writing by EDDC Environmental Health Team North Devon Council's Environmental Protection Team . The approved details shall be implemented in full prior to the commencement of the premises licence/club premises certificate* <i>(delete as appropriate)</i> .
	N61 6363	A report shall be submitted detailing and recommending a scheme of sound insulation works for the separating structure between the licensed premises and the <i>(adjacent)</i> residential use <i>(above)</i> . The report shall consider: the potential for noise breakout from the building and the volume and nature of the music likely to be desired by the premises. The report shall be approved in writing by EDDC Environmental Health Team North Devon Council's Environmental Protection Team . All recommended works shall be completed prior to the commencement of the premises licence/club premises certificate* <i>(delete as appropriate)</i> .
	N62 6464	A report shall be submitted detailing the potential for noise from <i>specify: (amplified music) (refrigeration) (heating) (ventilation) (air conditioning plant) (other)* delete as appropriate</i> at the premises from affecting neighbouring noise sensitive properties at <i>(insert address)</i> . If the assessment indicates that noise from the premises is likely to affect neighbouring noise sensitive properties then the report shall include a detailed scheme of noise mitigation measures. The report shall be approved in writing by EDDC Environmental Health Team North Devon Council's Environmental Protection Team . All recommended works shall be completed prior to the commencement of the premises licence/club premises certificate* <i>(delete as appropriate)</i> .
	N63 6565	All the rubbish produced by the premises shall be stored securely in a designated area or in a bin with a tight fitting and lockable lid.
24. Litter & Waste	N64 6666	No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway or street furniture, or upon any building, structure, works, tree etc. not in the ownership or control of the Premises Licence Holder, or be distributed to the public.
	N65 6767	All waste shall be properly presented and placed out for collection. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between <i>(insert)</i> hours and <i>(insert)</i> hours on the following day.
	N 6866 768	During the hours of operation of the premises, sufficient measures will be taken to remove and prevent litter and waste arising or accumulating from customers in the area immediately outside the premises <i>(from building to edge of kerb *adjust as appropriate)</i> . This area shall be swept and/or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
	N 6967 69	No collections of waste or recycling materials (including bottles) from the premises shall take place between <i>(insert)</i> hours and <i>(insert)</i> hours on the following day.
	N 7068 70	Sufficient measures must be in place to remove litter or waste arising from customers and to prevent such litter/waste accumulating in the immediate vicinity of their premises. Where necessary adequate measures must be in place to provide customers with sufficient receptacles for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter etc.
	N 7169 71	A sufficient number of suitable receptacles must be located in appropriate locations for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter, etc. by customers.
	N 7270 72	All packaging provided with takeaway food must be marked in some way as to show its point of origin.
	N 7371 73	Where a mobile unit is regularly removed from site, steps must be taken to ensure that site is properly cleaned and that any accumulations, surface grease etc. is properly cleansed and removed from the site.
	25. Lighting	N 7472 74

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	N 7573 75	The windows and other glazed areas shall be fitted with heavy duty curtains or similar to prevent light breakout from strobe or other flashing lights equipment.
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26. Fumes, Steam & Odours	N 7674 76	No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
	N 7775 77	Ventilation equipment will be regularly cleaned and maintained to control the levels of odour generated by the premises.

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CONDITIONS RELATING TO PUBLIC SAFETY

27. Occupancy/ Capacity Limits	S1	No licensable activities shall take at the premises until the capacity of the premises has been determined by the Premises Licence Holder and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined.
	S2	The maximum number of persons (including staff and entertainers) allowed at the premises shall not exceed (<i>number</i>).
	S3	The maximum number of persons (including staff and entertainers) allowed at the premises shall not exceed (<i>number</i>), subject to the following maximum occupancies: <i>For example</i> [First Floor] [<i>number</i>] persons [Ground Floor] [<i>number</i>] persons [Basement] [<i>number</i>] persons
	S4	Seating for no less than (<i>insert number</i>) persons shall be provided in the premises at all times the premises are in operation.
	S5	Seating for no less than (<i>insert</i>) % of the maximum occupancy shall be provided in the premises at all times the premises are in operation.
	S6	The Premises Licence Holder or nominated person shall ensure that the accommodation limit(s) specified on the licence is/are not exceeded and shall be aware of the number of the people on the premises at all reasonable times. This information shall be immediately available on the request of an authorised officer of a responsible authority.
	S7	A suitable system must be in place to accurately indicate the number of customers (including staff, entertainers etc.) on the premises at any time.
	S8	Adequate procedures must be implemented to ensure overcrowding (such as that which may cause injury through crushing) does not occur in any part of the premises.
	S9	Manual and automatic electronic number control systems shall be installed, used and maintained at the premises at all times the premises is open to the public. The number of persons permitted in the premises at any one time (including staff) shall not exceed (X) persons.
28. Sanitary Facilities	S10	In respect of temporary sanitary facilities the servicing of sanitary accommodation must take place on a continuous basis throughout the event to ensure the sanitary accommodation is kept in a usable condition at all times when the public require it to be available.
	S11	In respect of temporary sanitary facilities the removal of sewage must take place hygienically and appropriately at the conclusion of the event or as required.
29. Lighting	S12	In the absence of adequate daylight, artificial lighting in any area accessible to the public shall be fully operational whilst the public are present.
30. Air Conditioning	S13	A suitable and sufficient air circulation and management system must be installed within the premises which will be used during regulated entertainment. (The purpose of this condition is to maintain a reasonable internal air temperature so as to avoid patrons or staff opening windows and doors to ventilate the premises. Additional conditions are in place to prevent the opening of windows and doors to minimise noise breakout).
31. Queuing	S14	Barriers /guards will be available where queues for entry can be envisaged. These must be arranged so as to control patrons, keep the pavements clear, and ensure that queues do not impact on means of escape in case of fire.
	S15	Queuing outside the premises shall be restricted to a designated area located at (<i>specify location</i>).
	S16	Door supervisors will be properly briefed and trained to manage queues in a safe and efficient manner.
32. Glassware & Bottles	S17	All drinks shall be served in plastic/paper/toughened glass or polycarbonate containers.
	S18	All drinks shall be served in plastic/paper/toughened glass or polycarbonate containers from the (<i>specify areas</i>).
	S19	All drinks shall be served in plastic/paper/toughened glass or polycarbonate containers during the following events or occasions (<i>enter specified events</i>).
	S20	Except for the sale of a bottle of wine for consumption with a meal in the (<i>designate area of the premises</i>), no bottles containing beverages of any kind, whether open or sealed, shall be

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	given to customers on the premises whether at the bar or by staff service away from the bar.
S21	No drinking vessel, glass or bottle may be taken from the premises.
S22	No customers carrying open or sealed bottles cans or other receptacles containing alcoholic liquor shall be admitted to the premises at any time that the premises are open to the public.
S23	The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.
S24	Bottle bins shall be provided at the exit doors and staff shall take steps to prevent bottlesprevent bottles and glasses being taken from the premises.
S25	Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

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CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

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<p>33. Proof of Age Scheme</p>	<p>C1</p>	<p>All bar staff, supervisors and managers must be trained in the legality and procedure of alcohol sales, using the SWERCOTS on-line training pack (or equivalent), prior to undertaking the sale of alcohol and then at least every <i>(insert)</i> months. Training shall be signed and documented. Training records must be kept on the premises and be made available for inspection and copying to an authorised officer of a responsible authority on request. The documentation relating to training should extend back to a period of three years and should specify the time, date and details of the persons both providing the training and receiving the training.</p>
	<p>C2</p>	<p>There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a <i>Challenge 21 / 25*</i> (<i>delete as appropriate</i>) proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under <i>(21/25)*</i> years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:</p> <ul style="list-style-type: none"> - A photo driving licence - A passport - An identification card carrying the PASS hologram <p>Unless such identification is produced the sale of alcohol must be refused.</p> <p>This policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18.</p>
	<p>C3</p>	<p>The premises shall display prominent signage indicating (<i>at any point of sale/ at the entrance to the premises/ in all areas where alcohol is located</i>)* (<i>delete as appropriate</i>) that a <i>Challenge (21/25)</i> scheme is in operation.</p>
<p>34. Refusals Register</p>	<p>C4</p>	<p>An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:</p> <ol style="list-style-type: none"> i. the date and time of refusal ii. the reason for refusal iii. details of the person refusing the sale iv. description of the customer v. any other relevant observations. <p>The refusals register will be made available for inspection and copying on request of an authorised officer of a responsible authority.</p> <p>All entries must be made within 24 hours of the refusal.</p>

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35. Unaccompanied Children	C5	Unaccompanied children (under <i>insert age</i>) will not be allowed upon the premises at any time.
	C6	Accompanied children (under <i>insert age</i>) will only be allowed to remain on the premises between (<i>insert</i>) hours and (<i>insert</i>) hours.
	C7	No person under the age of (<i>insert age</i>) years of age is permitted to enter or remain on the licensed premises when alcohol is being sold or supplied
36. Till Prompt System	C8	All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
37. Films	C9	Notwithstanding the mandatory condition imposed by Section 20 of the Licensing Act 2003 (above) the exhibition of films pursuant to this <i>licence/certificate</i> * <i>delete as appropriate</i> will be restricted to films that have been classified as Universal (U) or Parental Guidance (PG) by the designated film classification body.
38. Nudity and Sexual Entertainment	C10	(Other than in hotel bedrooms) there shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
	C11	<p>No person under the age of 18 will be permitted to enter or remain on the premises when any "specified activity" is taking place. Specified activities are:</p> <ul style="list-style-type: none">)] Any live performance; or)] Any live display of nudity;)] Which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose or sexually stimulating any member of the audience (whether by verbal or other means). <p>Display of nudity means:</p> <ul style="list-style-type: none">)] In the case of a women, exposure to her nipples, pubic area, genitals or anus; and)] In the case of a man, exposure to his pubic area, genitals or anus.
	C12	When any specified activity (as defined in condition C11) is taking place, all windows and doors of the premises which would allow those outside to see inside where the activity is to take place, must be blocked out.

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CONDITIONS RELATING TO ONLINE SALES OF ALCOHOL

39. Ordering	O1	Alcohol can only be ordered for delivery to a residential or business address and not to a public place.
	O2	Alcohol can only be ordered for delivery to the person placing the order.
	O3	Full address details, including postcode, must be given when placing an online order for alcohol.
	O4	At the time an online order for alcohol is placed a declaration will be required from the person placing the order that the person is over 18 years of age.
	O5	Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person under 18.
	O6	All licence conditions pertaining to the online sale of alcohol must be part of the 'Terms and Conditions' which must be displayed on the website or any other promotional material and expressly brought to the attention of the buyer at the time of ordering in particular the right and obligation of the driver to refuse delivery in specified circumstances.
40. Delivery	O7	Delivery times for delivery of online orders of alcohol will be restricted between the following hours (<i>insert hours</i>).
	O8	Drivers will not deliver alcohol to any person anywhere other than at the residential address given when the order was placed.

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	O09	Alcohol will only be delivered to the person who placed the order and whose name appears on the credit/debit card (if used).
	O10	Alcohol delivery will be refused if the driver considers the person receiving the delivery to be under the influence of alcohol or drugs.
	O11	If a delivery driver considers the recipient of alcohol to appear under 25, recognised photographic identification (refer to mandatory conditions) will be requested and must be provided evidencing the recipient to be at least 18 years of age before any alcohol is handed over.
	O12	Alcohol delivery will be refused if the delivery driver believes that the alcohol was purchased on behalf of another person who is not 18 years or older.
	O13	When executing a delivery of alcohol only pre-ordered alcohol may be carried by the delivery vehicle.
41. General	O14	All alcohol delivery drivers will be 18 years or over.
	O15	All alcohol deliveries must be recorded contemporaneously by the driver in a legible log (kept at the premises for 12 months and available for inspection and copying on request of an authorised officer of a responsible authority) to contain: <ul style="list-style-type: none"> i. Name and address of person placing an order for alcohol ii. Full delivery address iii. Time and date alcohol delivered iv. Signature of the person taking delivery of alcohol v. Form of proof of age (where applicable) vi. If delivery refused, basis for refusal vii. Delivery person's name and signature
	O16	A refusal/incident/accident book(s) must be kept at the licensed premises and in each delivery vehicle.
	O17	Training surrounding the procedures for online alcohol orders and alcohol deliveries will be undertaken. <p>Training shall be recorded in documentary form and shall be regularly refreshed at no greater than <i>(insert)</i> intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.</p> <p>Training records will be retained for at least 12 months.</p>
	O18	Drivers of alcohol delivery vehicles must be instructed on noise minimisation.
	O19	The number of vehicles utilised for delivery of online orders of alcohol will be restricted to a maximum number of <i>(insert)</i> .
	O20	No cash sales for alcohol purchased by an online method will be made. <p>OR</p> <ul style="list-style-type: none"> i. Cash orders for alcohol ordered by an online method will be limited to a maximum of £50 per order. ii. Alcohol delivery drivers will make only one delivery per trip. Having made a delivery the driver will return to <i>(insert location)</i>. This will ensure that the driver never has more than £50 cash at any time. iii. Cash will be put into the glove/fixated security box of the delivery vehicle which will be locked by a key. iv. A photo will be taken by the driver of the customer's photo ID on all cash transactions. A record of the photos will be kept on a computer database. Terms and conditions will state that a picture will be taken of the ID provided on cash payments only and that there will be full compliance with the Data Protection Act (or subsequent relevant legislation).

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GENERAL CONDITIONS		
42. Duplicate licences	G1	No licensable activities shall take place at the premises until <i>premises licence/club premises certificate*</i> (<i>delete as appropriate and insert number</i>) has been surrendered (and is incapable of resurrection).
43. Seasonal Timings	G2	The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
	G3	On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the

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		premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00hrs.
44. Night time hatches	GI	<ol style="list-style-type: none">1. The sale and supply of alcohol between 2300 hrs and 0600 hrs shall be restricted to service by staff through the night pay window.2. The entrance door to the premises will be closed and customers prevented access to the premises between 2300 hrs and 0600 hrs.3. The main door to the premises will be fitted with an electronic locking device to be operated by staff when required between 2300 hrs and 0600 hrs, when the premises is open for licensable activities.4. In addition, it is to be noted that there will always be a minimum of two members of staff on duty between the hours of 2300 and 0600 hours.5. There will be no display of self-service alcohol within 2 metres of the store entrance.

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Film Classification Policy

POLICY FOR DETERMINING FILM CLASSIFICATIONS

1. Introduction

- 1.1 The public exhibition of all films on licensed premises must either be classified by the British Broad Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.2 Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board of Film Classification (the BBFC) or by the Licensing Authority itself
- 1.3 The purpose of this Policy is to set out the formal procedure for the Licensing Authority to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions or requests to reclassify films.
- 1.4 Where a premises seeks or intends to exhibit film(s), that venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003.

2. Definitions

- 2.1 Children - any person under the age of 18 years.
- 2.2 Exhibition of a film - the exhibition of moving pictures.

3. Circumstances the Licensing authority may classify a film

- 3.1 The Licensing Authority may be required to classify a film that has not been classified by the BBFC. A typical example of this would be a locally made film to be shown at a film festival within the district. Therefore, the Licensing Authority must have a formal procedure in place to determine this classification.
- 3.2 A distributor of a film or other party may appeal to the Licensing Authority against a decision of the BBFC requesting that the Licensing Authority reclassifies the film for local screening.
- 3.3 In addition to classifying films the Licensing Authority can issue a classification waiver which permits the exhibition of the film or films within the local area without a classification but subject to certain conditions and restrictions.

4. Submission of film

- 4.1 Applications for authorisation of films shall be referred to and determined by the Licensing department on behalf of the Licensing Authority.

APPENDIX B of Policy Document

- 4.2 Applications should be submitted to the Licensing Authority with a minimum of 28 days before the proposed screening.
- 4.3 An application for authorisation should include the following information:
- a) The name of the film maker;
 - b) A brief synopsis of the film
 - c) Any recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
 - d) Any existing classification issued by an existing classification body, whether within or outside the UK;
 - e) Information identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film.
 - f) The language spoken in the film and whether there are subtitles in English.
 - g) Details of how any age restrictions will be enforced.
- 4.4 All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made for a suitable venue to view the film.
- 4.5 If the film contains dialogue in a language other than English an interpreter will be required for the classification. East Devon District Council will arrange for a suitable interpreter and the applicant will be responsible for the cost of this.
- 4.6 All requests must be accompanied by detailed reasons for the request.
- 4.7 Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

5. Process

- 5.1 Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.
- 5.2 Two officers from the licensing department will view the entire film and assess it against the BBFC guidelines and National Guidance.
- 5.3 If the decision is unanimous in relation to the classification that classification will be applied. Should the officers be unable to reach consensus then the classification for that film will be referred to the Licensing Sub Committee
- 5.4 When required the Sub Committee will view the entire film and assess it against the BBFC guidelines. The Chairman of the sub committee will have the final decision on the classification to be applied to the film.

APPENDIX B of Policy Document

- 5.5 The Licensing Department/Sub Committee (as appropriate) shall issue a Notice of Determination of the authorisation within 5 working days from the date of viewing.
- 5.6 The Licensing Authority will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 5.7 Where the Licensing Authority has determined to refuse authorisation of a film clear and concise reasons shall be given

6. Classification

- 6.1 The BBFC classifies films in accordance with published Guidelines, which are based on extensive research into public opinion and professional advice.
- 6.2 The National Guidance under Section 182 of the LA03 recommends that:

Licensing Authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film
- 6.3 The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). It should be noted however that the Licensing Authority is not obliged to follow these guidelines.
- 6.4 Where a licensed premises seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film although this may be referred to the BBFC to consider.
- 6.5 The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. However material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or has been created through the commission of a criminal offence.
- 6.6 In accordance with paragraph 10.31 of the National Guidance, the Licensing Authority shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the licensing objectives.

7. Protecting children from harm

- 7.1 In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.

APPENDIX B of Policy Document

7.2 Paragraph 2.41 of the National Guidance states:

The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.

7.3 In line with the National Guidance, where a film is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.

7.4 Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.

7.5 In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall have regard to National Guidance, e.g.:

- Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme
- Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.

8. Classification Waiver

8.1 Any authorisations for the exhibition of film without classification issued by the Licensing Authority shall only apply when the film is exhibited within East Devon and does not affect the authorisation or recommendations in any other district or council area.

8.2 Once the classification has been waived by the Licensing Authority a film will be authorised for a particular showing or festival only. This will be subject to the recommendations imposed by the Licensing Authority (unless further application for re-classification is made). Details of the waiver including any recommendations shall be available from the Council's Licensing Services.

8.3 The issue of any waiver by East Devon District Council is strictly limited to the authorisation within the district and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.

8.4 Where the Licensing Authority authorises unclassified material to be shown the Licensing Authority will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

APPENDIX B of Policy Document

8.5 The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law

9. Exemptions

9.1 The provision of the exhibition of a film is exempt from regulation by the Licensing Act 2003 (LA03) if:

It consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery (the LA03 does not define a museum or art gallery so the ordinary meaning of the term is taken)

Or its sole or main purpose is to:

- demonstrate any product,
- advertise any goods or services (excluding the advertising of films), or
- provide information, education or instruction



Report to: **Licensing and Enforcement Committee**

Date of Meeting: 3rd September 2020

Public Document: Yes

Exemption: None

Review date for release None

Subject: Hackney Carriage Fares – Adoption of New Fare Table

Purpose of report: The Licensing and Enforcement Committee is asked to note the new Hackney Carriage Fare Table following the public consultation and to consider timeliness and procedures of future fare review processes

Recommendation: **That the Committee;**

- 1. Notes the adopted Hackney Carriage Table of Fares with immediate effect from 3 September 2020 (Appendix A) and**
- 2. Agrees that the Table of Fares be reviewed annually and no earlier than 12 months after a previous review through an agreed procedure (Appendix B)**

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

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio Holder: Portfolio Holder Coast, Country and Environment

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Climate change: Low Impact

Risk: Low Risk

Click here to enter text on risk considerations relating to your report.

Links to background information:

- Local Government (Miscellaneous Provisions) Act 1976
- Report to Licensing & Enforcement Committee 3rd July 2019
- Previous Report to Licensing Committee September 2019

Link to [Council Plan](#): Choose Priorities and delete what not appropriate.

Outstanding Place and Environment

Outstanding Economic Growth, Productivity, and Prosperity

Outstanding Council and Council Services

Report in full

1 Background Information

- 1.1 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 permits District Councils to set the fares tariff for Hackney Carriages licensed in the District and this Council, in common with most other Councils, have used this power for many years. The setting of fares for hackney carriages is a function for this Council's Licensing and Enforcement Committee.
- 1.2 On 18 September 2019 this Committee approved advertising the new fare tariff that appears at **Appendix A** to this report.
- 1.3 This followed extensive debate over a lengthy period of time amongst taxi licensees on the contested issue of increasing the fares which had required a ballot to identify the level of support for this course of action. The taxi trade across the district had generally been divided over the subject in view of the economic situation (prior to this year) that some did not wish to see a fare increase as the costs for fares are met by the public using taxis.
- 1.4 Licensing Officers had attended a meeting of the Exmouth Taxi Trade Association where the proposed fare tariff increase was discussed and the members of that association had proposed the increase in Appendix A, by agreeing that just one increase should be made. The proposed increase was for 50 pence on the initial 'flag' charge resulting in an increase from £3 to £3.50. It was accepted that the proposed soiling charge should increase to £80, this being the cost for cleaning soiled taxis.
- 1.5 The process to review and increase the taxi fare tariff has been given all due consideration by this Committee which resolved to approve circulating the necessary public notices to take this matter forward. Legislation requires that before any alteration to the tariff table can take effect, a public notice explaining the changes must be placed in a local newspaper. The public and the taxi trade should be provided with a period of at least 14 days to make comment on the proposals and if no adverse comment/objection is received, the approved changes must take effect. Alternatively if adverse comment/objection is received then the matter must be returned to allow the Committee to consider the representation(s).
- 1.6 The necessary public notice was placed in newspapers circulating in the area setting out the approved new table of charges and explaining the procedure should anyone wish to make representations. The statutory period for objections ended on 27 March 2020 and the council did not receive any objections to the new table.

2 Conclusion

- 2.1 The purpose of this report is to update the Committee that there were no objections received in response to the public notices. As explained earlier in this report, Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 outlines that where no objections to a table

of fares are made within the period specified in the notice that the table of fares at **Appendix A** shall come into operation with no further grounds to revise the fare tariff.

- 2.2 The new fares tariff will now require each taxi meter to be changed at the expense of each owner, with details of the new tariff being changed by the meter suppliers to address the increase. From the point of the coming into operation today for the new table of fares, any hackney carriage byelaws fixing the rates, fares or any table of fares previously made for the district cease to have effect.
- 2.3 Licensing officers will inform the taxi trade of the requirement under 2.2 above and licence holders will be required to arrange the change to vehicle meters by 31st October 2020. That date coincides with the bulk hackney carriage licence renewals and allows a considerable period of almost two months for current licence holders to undertake that task.

3 Future Reviews of the Hackney Carriage Fares Tariff

- 3.1 Until this point, the taxi trade in East Devon had not received a fare increase for eight years with the agreed increase being relatively modest for daytime fares only, under Tariff 1. Taking into account the time that it has taken to the trade to reach acceptance on this occasion, together with the current financial climate, the recommendation to members today is allow for a period of twelve months prior to considering any further requested changes to the fare table.
- 3.2 A draft procedure is provided under **Appendix B** to allow consideration under 3.1 for approving any future requests for increasing the hackney carriage fare tariff in East Devon.

APPENDIX A

FARES FOR HACKNEY CARRIAGES

Effective from 3 September 2020



FARES FOR DISTANCE OR TIME	TARIFF 1	TARIFF 2	TARIFF 3
	Daytime Rate	Evening & Night Rate	Bank Holiday, Christmas and New Year Rate
	Applies on weekdays between 7 am and 7 pm	Applies on weekdays between 7 pm and 7 am and on Sundays	All Bank Holidays (12mn to 12mn) and from 7 pm on 24 December to 7 am on 27 December; and from 7 pm on 31 December to 7 am on 2 January
TO HIRE THIS TAXI FOR THE FIRST HALF OF A MILE	£3.50	£4.00	£5.20
FOR THE FIRST WHOLE MILE	£4.20	£5.25	£6.80
FOR EACH MILE THEREAFTER	£2.10	£2.50	£2.80
WAITING TIME	£0.30 for 37.50 seconds	£0.25 for 31.25 seconds	£0.40 for 50 seconds
PRICE GUIDE			
1 mile	from £4.20	£5.25	£6.80
2 miles	from £6.30	£7.75	£9.60
3 miles	from £8.40	£10.25	£12.40
5 miles	from £12.60	£15.25	£18.00
10 miles	from £23.10	£27.75	£32.00
EXTRAS			
Soiling Charge	£80.00	£80.00	£80.00
* Must inform customer at time of booking	Maximum Booking Fee *		£12.00
	Baggage Fee per Bag		20 pence
	Each Additional Passenger after the first		20 pence
	Carriage of Dogs		20 pence
	Assistance Dogs and Wheelchairs		Free of charge
	Toll, ferry & car park fees incurred with journey		Actual Fee

APPENDIX B

East Devon District Council Hackney Carriage Fares Increase Procedure (draft)

1. Any increase in the maximum tariff of fares should be requested by members of the East Devon hackney carriage trade. Such requests will only be considered in writing by the Licensing Authority from the holder of a current, licensed hackney carriage.
2. Requests should stipulate the degree and nature of the increase that is being requested.
3. The absence of a district wide taxi association will require that any written request should be circulated by the Licensing Authority to all holders of a hackney carriage licence detailing the proposal put forward.
4. Details of the proposal together with any response(s) from licence holders (expressing positive or negative feedback on the proposal) will be placed before the next available meeting of the Licensing Committee for their consideration.
5. No increase in fares can come into operation until the proposals have been advertised as required and objections have been considered.
6. Any fare increase that is approved must be set into each taximeter within one month of the date on which such increase comes into force.
7. No proprietor may charge any fare increase until the due date and the taximeter has been re-calibrated to the new fares.
8. All taximeters must be checked and sealed by an approved meter installer, although authorised officers of the Licensing Authority may check any meter at any reasonable time and upon considering any newly licensed vehicle.
9. One proposal/review of the hackney carriage fare tariff will be considered each calendar year.
10. Any proposal received should be no earlier than 12 months since the last increase or proposal that has been reviewed previously.

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 3rd September 2020

Public Document: Yes

Exemption: None

Review date for release None



Subject: Statutory Taxi and Private Hire Vehicle Standards to licensing authorities

Purpose of report: To inform the Licensing and Enforcement Committee on recent government guidance issued in July 2020 ahead of full implementation.

Recommendation: **That the Committee notes the new statutory guidance which the Licensing Authority will have regard to until it is fully incorporated into the councils Taxi Licensing Policy**

Reason for recommendation: The Department for Transport will monitor licensing authorities' responses to the Statutory Standards and all authorities are expected to provide an update by 31st January 2021 in developing the standards

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio Holder: Portfolio Holder Coast, Country and Environment

Financial implications: Significant Officer time updating policies and records with the administration of DBS checks and Training for Licence Holders.
Potential sanctions from Government if the draft standards have not been implemented.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Climate change: Low Impact

Risk: Low Risk
Comments
Click here to enter text on risk considerations relating to your report.

Links to background information:

- Local Government (Miscellaneous Provisions) Act 1976
- www.gov.uk/statutory-taxi-and-private-hire-vehicle-standards.
- [Eastdevon/Taxi and private hire licensing policy](#)

Link to [Council Plan](#): Choose Priorities and delete what not appropriate.
Outstanding Place and Environment

Report in full

1 Main Body of the Report

- 1.1 The Secretary of State for Transport has issued new Statutory Taxi and Private Hire Vehicle Standards to licensing authorities in July 2020 which are aimed at safeguarding children and vulnerable adults. The Statutory Standards set-out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable. There is now an expectation that government and licensing authorities must work together to ensure that, above all else, the taxi and private hire vehicle services the public use are safe.
- 1.2 The Department for Transport stated that it will monitor licensing authorities' responses to the Statutory Standards. The Department is aware of the challenges caused by the current coronavirus pandemic and is mindful of this although The Secretary of State is asking all licensing authorities to provide an update to the Department of their consideration of the Standards six months after their publication, so by the end of January 2021. Therefore it expects these recommendations to be implemented unless there is a compelling local reason for not doing so.
- 1.3 Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards. It has been declared that in the interests of transparency, all licensing authorities should publish their consideration of the measures contained in the Standards and the policies and to outline delivery plans that stem from these. The update will enable government bodies to engage with those authorities that do not adopt the Standards and to seek from them a rationale for failing to act to protect passengers.
- 1.4 The Statutory Standards are seen nationally an important first step in reforming the way the taxi and private hire vehicle sector is regulated and the should ensure consistent standards between licensing authorities. The Department for Transport fully expects licensing authorities to implement these measures as soon as possible and it is for that reason this initial briefing is provided to this committee to allow a timeline to take this forward.
- 1.5 The Government will later this year consult on revised best practice guidance that will reflect the enormous changes that the industry has undergone in recent years and make clear recommendations on the measures licensing authorities should consider to enable the trade to react to the demands of passengers.

2 Interim Assessment

- 2.1 The Statutory Taxi and Private Hire Vehicle Standards document sets out a framework of policies that, under section 177(4), licensing authorities must have regard to when exercising their functions. Officers have had the opportunity to complete an interim assessment of the Statutory Standards despite the short period of time since being received and a summary of the full document that was circulated is provided in **Appendix A**.

2.2 The assessment outlines measures and steps that have already been taken by this licensing authority that are relevant to the proposed Standards. This council adopted its existing taxi and private hire policy in 2017 and regularly reviews that policy which already addresses many of the requirements outlined as being Statutory Standards. There are no Statutory Standards that have not yet been considered in the current taxi and private hire policy or by this committee previously.

2.3 There are twenty key points as Statutory Standards for all licensing authorities to address with six that require further examination and review by this council in the months ahead. To assist members today, Appendix A lists key headings raised as the Statutory Standards with a commentary added for each. A brief summary has been included with regard to the present situation for this licensing authority that will require review in the months ahead.

2.4 To summarise the points in Appendix A that require further consideration by this authority are:

- a) Signing up to a national licensing database to share information on revoked or refused licence referred to as the 'NR3 Database' (under point 7),
- b) Driver criminality checks will require DBS checking every six months being far more frequent than currently with an impact on officers and licence holders (point 13),
- c) Safeguarding Awareness session for licence holders; already a policy requirement, the Covid-19 situation now requires new procedures for remote, virtual sessions currently being explored by all Devon authorities (under point 14),
- d) DBS checking and increased frequencies for private hire despatch staff (under point 16),
- e) CCTV and audio recording assessment and whether it is necessary in this district; this authority has been awaiting national guidance to this point. Prohibitive costs for licence holders need to be assessed against a specific need for mandating all vehicles (under point 17), and
- f) Joint enforcement powers for officers with/from other districts and cities. This too has been previously assessed by this committee and may be more appropriate on the basis of when a need arises and will be progressed by the Devon Licensing Officer Group (under point 19).

2.5 The committee is therefore asked from this point forward to have regard to the Statutory Taxi and Private Hire Vehicle Standards.

2.6 It is proposed that officers will develop the proposals and actions required under Appendix A, in order to fully brief this committee when it next meets in November. That course of action will meet the requirements under point 1.2 of this report to allow the necessary update to be provided to the Department of Transport on this council's plans by 31st January 2021.

APPENDIX A

East Devon District Council Initial Review of the Statutory Taxi & Private Hire Vehicle Standards

The Statutory Taxi and Private Hire Vehicle Standards document sets out a framework of policies that, under section 177(4), licensing authorities “*must have regard*” to when exercising their functions. The following table set out the present situation for EDDC.

	Heading	Statutory Requirement	Current Position
1	Policies	All licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a ‘fit and proper’ person test, licence conditions and vehicle standards. When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public.	East Devon District Council introduced its taxi and Private Hire Policy in 2017 and has kept it fully under review since its introduction.
2	Duration of licences	Issuing driver licences for more than a year. Risk can be mitigated for drivers by authorities to undertaking regular interim checks. The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators.	This Council grants one, three and five year licences in line with the legislation and the current taxi policy
3	Whistleblowing	It is in the application of licensing authority’s policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly. Local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it	This Council has an up to date policy for staff with regard to Whistleblowing procedures
4	Consultation at the local level	Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest	This Council has introduced its current taxi policy by undertaking a full consultation and it maintains effective and timely contact with taxi proprietors, licence holders and the

		<p>(e.g. the Campaign for Better Transport and other transport providers), women's groups, local traders, and the local multi-agency safeguarding arrangements.</p> <p>Any changes in licensing requirements should be followed by a review of the licences already issued.</p>	<p>association that represents Exmouth</p>
5	Disclosure & Barring Service (DBS)	<p>This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used. Licensee self-reporting Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.</p>	<p>This Council has introduced its current convictions and vetting policy. It fully utilises the DBS process along with Right to Work check for new and renewal applications. An adverse DBS finding will result in a review or referral to a Licensing Sub-committee.</p>
6	Sharing licensing information with other licensing authorities	<p>Obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority</p>	<p>This Council requires applicants for a licence to declare these details during the application process.</p>
7	NR3 Database	<p>This should be used by licensing authorities (nationally) to share information on a more consistent basis to mitigate the risk of nondisclosure of relevant information by applicants</p>	<p>This Council like the majority has not yet signed up to the national database for sharing refusal or revocation information.</p> <p>This now requires further review</p>
8	Complaints against licensees	<p>Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.</p>	<p>This Council has a quarterly review through the Scrutiny Committee for complaints reported and investigated by licensing officers. Officers record the data as a P.I measurement and report</p>

9	Overseas convictions	The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character'	This Council requires applicants for a licence to obtain and submit a certificate from their own country of previous residence as part of the 'fit & proper' test
10	Decision Making Administration of the licensing framework	Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly. Training decision makers. All individuals that determine whether a licence is issued should be required to undertake sufficient training	All Licensing officers have undertaken accredited training provided by the Institute of Licensing. Refresher/advanced courses in the Taxi and PH are attended.
11	Immediate Revocation	Regardless of which approach is adopted, all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.	Powers delegated to the Strategic lead – Governance and Licensing allow for this serious course of action if required and if so urgent that it may not wait for Licensing sub-committee. Further reporting would then be provided to the Chair of the Licensing Committee on those urgent measures.
12	Fit and proper test	Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question: Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.	This Council requires applicants for a licence to satisfy all necessary requirements for reasons of public protection. All 'fit & proper' test requirements are detailed in the Taxi and PH Policy

13	Driver Licensing Criminality checks	<p>Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 survey of taxi and private hire vehicle licensing authorities shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal. All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.</p>	<p>This Council like many has signed up to a conducting DBS checking every 3 years.</p> <p>The increased frequency of every 6 months will require a mandatory change of taxi policy to require all licence holders to sign up the online checking facility at a cost of £13 per year.</p> <p>There is a lot of work to do for the staff to change our expiry check dates for all our drivers to every 6 months rather than 3 years.</p> <p>It will require licensees to be mandated to use email as primary contact with DBS Services & licensing</p>
14	Safeguarding awareness	<p>All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:</p> <ul style="list-style-type: none"> • provide a safe and suitable service to vulnerable passengers of all ages; • recognise what makes a person vulnerable; and • understand how to respond, including how to report safeguarding concerns and where to get advice. 	<p>This Council like many has required all driver applicants to undergo Safeguarding awareness as an existing policy requirement.</p> <p>The impact of Covid-19 means sessions and meeting are not possible for groups or individuals.</p> <p>This needs further review & this council is exploring with the other 7 Devon Authorities alternative virtual and remote Safeguarding packages</p>
15	Language proficiency	<p>A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others. A licensing authority's test of a driver's proficiency should cover both</p>	<p>This Council has introduced this requirement in the current taxi policy.</p>

		oral and written English language skills to achieve the objectives stated above.	
16	Vehicle Licensing	<p>It is important that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime. Criminality checks for vehicle proprietors Enhanced DBS and barred list checks are not available for vehicle licensing. Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.</p> <p>Criminality checks for private hire vehicle operators Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually</p> <p>Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.</p>	<p>This Council like many has signed up to a conducting DBS checking and most driver/licence holders are self-employed. There are very few companies left with offices (one) or with proprietors that are not licensed and vetted.</p> <p>Basic DBS checks are undertaken as specified for a 3 year period.</p> <p>These points require closer review as per Point 13.</p>
17	In-vehicle visual and audio recording – CCTV	<p>The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by: • deterring and preventing the occurrence of crime; • reducing the fear of crime; • assisting the police in investigating incidents of crime; • assisting insurance companies in investigating motor vehicle accidents. All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.</p>	<p>This Council has been awaiting clearer national guidance on CCTV.</p> <p>It has not made installation of audio and CCTV mandatory; there has been no formal reporting or investigation by police for incidents within licensed vehicles.</p> <p>Costs are met by the vehicle owner and costs are prohibitive at a minimum of £500 per CCTV unit.</p> <p>Mandatory requirement places the Data responsibilities on the Council.</p> <p>This requires further review with the licence holders and need to consult.</p>

18	Enforcing the Licensing Regime	Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.	All Licensing officers have undertaken accredited training provided by the Institute of Licensing and staff resourcing is sufficient and kept under annual review by managers.
19	Joint authorisation of enforcement officers	Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence.	This Council has considered this course of action previously and it was not considered appropriate unless a specific enforcement need arises. A further review can be undertaken with the Devon Licensing Officer Group (DLOG)
20	Setting expectations	Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time. Intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.	This Council requires applicants for a licence to satisfy all necessary requirements for reasons of public protection in its policy and officers have high levels, frequent contact with licensees. Repeated reports or complaints against a driver can already be identified to lead to proportionate action. See Point 8 – recording & monitoring complaints.

Full details are available online at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904369/statutory-taxi-and-private-hire-vehicle-standards-english-28-07-2020.pdf

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 3rd September 2020

Public Document: Yes

Exemption: None

Review date for release None



Subject: Covid-19 Temporary Taxi & Private Hire Vehicle Policy

Purpose of report: The Licensing and Enforcement Committee is asked to note the Emergency Covid-19 Taxi Policy and seeking approval of this committee to end adoption of the policy.

Recommendation: **That the Committee;**
1. Notes temporary adoption of the Emergency Covid 19 Policy introduced in April 2020 (Appendix A) and
2. Approves continuing use, in conjunction with the full taxi policy, until further review by this committee at a later date.

Reason for recommendation: Policy was adopted through emergency measures at the outset of the Coronavirus pandemic to support the Hackney Carriage and Private Hire trade in East Devon to continue operating economically and efficiently, with the purpose being to end adopted use of this policy

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio Holder: Portfolio Holder Coast, Country and Environment

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Climate change: Low Impact

Risk: Low Risk
 Comments
[Click here to enter text on risk considerations relating to your report.](#)

Links to background information:

- Local Government (Miscellaneous Provisions) Act 1976
- Urgent Senior Officer Decision Report 7 April 2020

Link to [Council Plan](#): Choose Priorities and delete what not appropriate.
 Outstanding Place and Environment

Report in full

1 Main Body of the Report

1.1 The commencement of the Covid-19 pandemic introduced legislative changes with the Coronavirus Act 2020 and the Health Protection (Business Closure) Regulations 2020 coming into force. Those changes impacted on the hackney carriage (taxi) and private hire trade adversely as a result of the country going into lockdown that saw businesses, garages, medical surgeries and similar being required to close. That not only reduced the amount of custom and use of taxi and private hire vehicles but also prevented access for current licence holders to services and businesses that are necessary to renew driver and vehicle licences.

1.2 The new legislation and government guidance required emergency amendments to the Council's current hackney carriage and private hire licensing policy that allowed the Council to properly respond when considering;

-) Vehicle MOT's,
-) Compliance tests,
-) Use of SORN,
-) Vehicle Insurance cover,
-) Driver/vehicle licence renewals and,
-) Disclosure and Barring Service (DBS) checks.

1.3 Emergency amendments to current taxi policy under **Appendix A** detailed the response in support of the challenges faced by the hackney carriage and private hire trade in East Devon. The amendments did not replace the legislation governing hackney and private hire operations and licence holders still had to comply with the requirements of the Council's existing policy.

1.4 The emergency amendments to policy were approved through an Urgent Senior Officer Decision procedure with the approval of the Chair of Licensing and Enforcement and the Leader of the Council. That course of action promptly reinforced responsibilities for drivers, proprietors, operators and licence holders ensuring that licensed vehicles remained safe and roadworthy and that licenced drivers maintained their 'fit and proper' status for holding a licence.

1.5 Acknowledging that public safety is always paramount, officers sought urgent changes using Senior Officer Urgent Decision during the period when all Council meetings were postponed under the Coronavirus Act 2020. The purpose of this report now is to fully inform and to brief this committee of the details and content of the emergency taxi policy.

2 Conclusion

2.1 The steps introduced under 1.2 above in the emergency taxi policy have generally eased but still being a need for the temporary policy and officers seek approval for it to remain in being, until the earliest time of this committee next meeting on 18th November 2020 when further consideration of the need can be given. It was always intended that officers would revert the procedures when the time is appropriate.

2.2 The Licensing Manager wishes to pass on thanks to members for acting swiftly in implementing the temporary policy and at such a critical time earlier this year.



APPENDIX A

COVID-19 Response Temporary Statement of Licensing Policy

Hackney Carriages, Private Hire
Vehicles, Drivers and Private Hire
Operators

Date: 8 April 2020

1. Introduction

The current Covid-19 pandemic and necessary social restrictions has presented a fast changing legislative landscape. The Coronavirus Act 2020 and the Health Protection (Business Closure) Regulations 2020 are now in force primarily aimed at the country's health response detailing steps with regard to social distancing. The changes have had significant impact on the hackney carriage (taxi) and private hire trade.

The new legislation and government guidance has required emergency amendments to the Council's hackney carriage and private hire licensing policy that will allow the proper response when considering vehicle MOT's, Compliance tests, Insurance cover, SORN, driver/vehicle licence renewals and procedures for Disclosure and Barring Service (DBS) checks.

The Institute of Licensing has provided updates for Licensing Authorities in relation to 'fit and proper' requirements for licensed drivers. Emergency amendments to current taxi policy detail the response to new legislation in support of the challenges faced by the hackney carriage and private hire trade in East Devon whilst still maintaining public safety.

These amendments will be kept under review in the weeks ahead and further amendments will be considered if necessary. This does not replace the legislation governing hackney and private hire operations, nor does it set out what that legislation is. All licence holders and applicants must comply with the requirements of the Council's existing policy and the emergency amendments will cease when this Council ends the Covid-19 emergency policy.

Despite the existence of this amendment to existing policy, each application or enforcement measure shall be considered on its own merits. Where it is necessary for the Licensing Authority to depart substantially from its policy, clear and compelling reasons shall be given for so doing.

The emergency amendments reinforce existing responsibilities for drivers, proprietors, operators and licence holders to ensure that to the best of their ability, that licensed vehicles are safe and roadworthy and that licenced drivers maintain the 'fit and proper' status for holding a licence. We expect that hackney carriage and private hire operations will always be conducted lawfully.

2. Hackney Carriage and Private Hire Vehicle licences

Hackney carriage and private hire licences are granted for a set period and expire if not renewed. The Licensing Authority must satisfy itself that relevant legal standards are achieved prior to renewing. With a maximum period of one year for vehicle licences there is no statutory extension period for an existing licence. Unless a renewal application is submitted, existing licences will expire as there is no mechanism to extend the duration of any licences.

Issuing a new or renewal licence without checks being undertaken would not discharge the authority's statutory duties. The Licensing Authority cannot grant a private hire vehicle licence unless satisfied that the vehicle itself is "in a suitable mechanical condition and safe" (Section 48(1)(a) 1976 Act).

This authority has adopted its existing taxi policy and must satisfy itself as to the criteria being met before issuing a renewed hackney licence. If any of the following options listed at 2.3, 2.4 or 2.5 are taken by licence holders it will prevent existing work for education and NHS authorities being completed during those periods that the licence holder has requested.

2.1 MOT Testing

The Department for Transport (DofT) has released guidance in relation to vehicle MOT's, link: <https://www.gov.uk/guidance/coronavirus-covid-19-mots-for-cars-vans-and-motorcycles-due-from-30-march-2020>

From 30 March 2020, MOT due dates for cars, motorcycles and light vans will be extended by 6 months.

For any currently licensed vehicle where the MOT is due to expire, the existing MOT will remain in force until such time as a vehicle examination can take place and a new MOT certificate can be issued.

However if any registered MOT testing station is still able to conduct tests for taxi and private hire vehicles, then the advice from government is that these should continue to take place if the testing station is able to continue following the health advice regarding Covid-19.

Licensed vehicles must be in a roadworthy condition for the exemption to be valid. Therefore it is just as important now as it has always been, that drivers ensure that the vehicle they are using is FULLY compliant with the law and that any identifiable defects such as blown bulbs, defective tyres or similar are repaired. If it is not possible to have a hackney carriage or private hire vehicle repaired so that it is in a roadworthy condition, it must be withdrawn from service.

2.2 Vehicle Compliance Inspections

For any currently licensed vehicle where the vehicle Compliance Inspection is due to expire, the existing compliance report will remain in force to a maximum of 6 month until such time as a vehicle examination can take place and a new inspection certificate can be issued.

However if any registered testing station is still able to conduct taxi and private hire vehicle compliance tests, then the advice from government is that these should continue to take place if the testing station is able to continue following the health advice regarding Covid-19.

Vehicles must be in a roadworthy condition for the exemption to be valid. Therefore it is just as important now as it has always been, that drivers ensure that the vehicle they are using is FULLY compliant with the law and that any identifiable defects such as blown bulbs, defective tyres or similar are repaired. If it is not possible to have a hackney carriage or Private Hire vehicle repaired so that it is in a roadworthy condition, it must be withdrawn from service.

2.3 Use of SORN

SORN stands for 'Statutory Off Road Notification' and it's used to tell the DVLA that a car isn't parked or being used on public roads so that road tax is not due. The current social restrictions arising from Covid-19 has greatly reduced the work of the hackney carriage and private hire trade and some licence holders have requested to take their licensed vehicles off the road under SORN arrangements.

The Licensing Authority will consider approving a request to use SORN during the Covid-19 period for a currently licensed vehicle where the licence holder requests use of SORN voluntarily under the following circumstances for up to a maximum period of 6 months:

- a) Confirmation is given in writing that the vehicle will not be returned or used on a road until SORN is lifted, by emailing to licensing@eastdevon.gov.uk
- b) The licence period of a currently licensed vehicle being subject of SORN will not be extended beyond the date the licence was originally due to expire,
- c) The Licensing Authority is unable to make any refunds in respect of licence fees,
- d) Licensing to be notified by email in advance of the licence holder ending SORN and before the licensed vehicle is used again on a road,
- e) SORN will not be approved beyond the date of expiry of the existing licence unless it is also subject to deferring the licence (see 2.5 below),
- f) Where SORN is approved, the vehicle should be maintained and only used on a road again if fully roadworthy and without defects, and when SORN has ended,
- g) If the licence holder sells or transfers the vehicle during SORN, notification must be given to licensing within 14 days of sale as per existing policy.

If it is not possible to have a hackney carriage or private hire vehicle repaired during SORN so that it is in a roadworthy condition, it must be withdrawn from service.

2.4 Cancellation of Insurance

Licence holders have requested to postpone use of licensed vehicles and to cancel insurance cover for use of public or private hire and reward. The Licensing Authority will consider approving cancellation of vehicle insurance during the Covid-19 period for a currently licensed vehicle provided that will not be kept or used on a road under the following circumstances:

- a) Cancelling insurance cover will require the licence holder to confirm cancellation of the Insurance cover
- b) To confirm use of SORN for the licensed vehicle by removing any use on a road (see 2.3 a to g),
- c) As a licensed vehicle can only be driven by the holder of a hackney or private hire driver licence issued by the same authority, no other person will be entitled to drive the licensed vehicle at any time whilst insurance cover is removed,
- d) Any other level of insurance cover (e.g. social, domestic or pleasure) should not be used or in being whilst still licensed as a hackney or private hire vehicle,
- e) The licensing holder to notify the licensing team by email in advance of vehicle insurance cover being reinstated, and
- f) A copy of the new Insurance cover being provided to the licensing team,
- g) The Licensing Authority is unable to make any refunds in respect of licence fees

The Licensing Authority will not consider approving cancellation of vehicle insurance in circumstances where a currently licensed vehicle will remain on a road or public place. The licence holder has the option to surrender the licence and return the plate.

Any subsequent use of a licensed vehicle on a road after approval has been given to cancel insurance cover will be regarded as a serious matter that may call in to question whether the licence holder remains fit and proper to hold a licence. The circumstances may also be referred to the police.

2.5 Deferring Vehicle Licence Renewal Dates

With a maximum period of one year for vehicle licences and with no option for an extension period, licence holders have requested to defer the start date for renewing vehicle licences.

The request to defer the date of renewal must be voluntarily requested in writing by the licence holder before the expiry of the current licence. The Licensing Authority will consider each request to postpone the start date for renewal of a currently licensed vehicle up to a maximum period of 3 months from the expiry date of the existing licence.

In circumstances where approval is granted to defer the date of renewal, the vehicle concerned must also be subject of SORN by removing use on a road (see 2.3 a to h) for the same reason that a currently licensed vehicle cannot be used for general purposes. It will be a matter for the licence holder to consider whether they cancel the insurance cover during the period of deferred renewal (see 2.4).

Once a vehicle is licensed as a hackney carriage or private hire vehicle it is only permissible for that use until such time the licence is surrendered or revoked. Therefore any continued use of a licensed vehicle on a road during the period that renewal is deferred will not be possible.

The Licensing Authority is unable to defer a licence until the existing licence that is already in being has expired and a renewal application has been submitted. If a renewal application is not submitted prior to expiry of the previous licence it will expire without being deferred.

Although it is not possible to make any refunds in respect of licence fees paid, a fee for a deferred renewal application will not be required until the new start date of the new licence.

3. Hackney Carriage and Private Hire Driver licences

A Local Authority cannot grant a licence to a driver or private hire operator unless they are satisfied that they are a fit and proper person (sections 51(1)(a)(i), 59(1)(a)(i), 55(1)(a) Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act”).

In addition, in respect of drivers and operators, they must demonstrate that they have the right to remain and work in the UK (sections 51(1)(a)(ii), 59(1)(a)(ii), 55(1)(b) 1976 Act).

The authority must also satisfy itself as to the criteria being met before they can issue a renewed licence. In order to avoid consequences when a licence will expire and the driver, vehicle or operator will be unable to work, measures have been adapted with regard to DBS checks and medical assessments for currently licensed drivers. It is essential however to continue to balance the risk to the public and drivers.

The revised measures during Covid-19 will not apply to new applicants for a hackney carriage or private hire driver licence (see existing policy for procedures that are required to satisfy the fit and proper person requirement). Because of the face to face nature of various elements of the application process for new hackney carriage and private hire driver’s licence, as well as the pressure on medical services that these applications require, meeting with new applicants and the processing of new applications has been postpone until further notice during the Covid-19 outbreak. This will be reviewed on a regular basis.

3.1 Changes to DBS ID Checking Guidelines

Temporary changes to ID checking guidelines have been made by the government as a result of the Covid-19 outbreak, coming into effect from 24 March 2020. To ensure that the necessary DBS checks can still be carried out, the DBS ID checking guidance will be changed for a temporary period that will enable ID documents to be viewed remotely and not in person

and with scanned images to be used in advance of each DBS check being submitted;
<https://www.gov.uk/government/news/covid-19-changes-to-dbs-id-checking-guidelines>

With regard to issuing renewals, the applicant is known through being an existing licence holder and has been previously seen in person by licensing officers.

3.2 Medicals Assessments

The scale of the NHS response to Covid-19 impacts on licence holders being unable to obtain GP appointments to undertake driver medicals. This Council has adopted the Group 2 medical standards for vocational drivers' licences as set out by the Driver and Vehicle Licensing Agency, with all applicants and those currently licensed as a hackney carriage or private hire driver requiring a medical assessment by their registered medical practitioner or a GP within their usual medical practice.

The DVLA has not amended the Group 2 medical standards and the frequency of medicals as a result of the outbreak of Covid-19 at this time. The Council will adapt its required medical standards accordingly by constantly reviewing its policy in line with national changes.

The current approach has been considered in conjunction with the current NHS 'Advice for Everyone' is to stay at home and to adhere to the government guidance.

https://www.nhs.uk/conditions/coronavirus-covid-19/?gclid=EAlalQobChMI3OqevYDK6AIV1ZTVCh0BGghYEAAYASAAEgKYv_D_BwE

The Department of Transport (DofT) expanded further on government guidance issued on 25 March and updated on 29 March 2020 regarding taxis when it stated,

*"Taxis and private hire vehicles can continue to work. But the advice is absolutely clear - **people should stay at home if possible**. That is the way to save lives and protect our NHS. The public should avoid travel unless absolutely essential. Clearly if absolutely necessary to travel by taxi or private hire vehicle, best efforts should be used to follow the guidance as far as is practically possible, including washing your hands as soon as you get home.*

Taxi and private hire drivers should not generally be considered Critical Workers. Those undertaking Home to School transport or the transport of ['extremely vulnerable'](#) people may be considered Critical Workers on a case-by-case basis. Critical Workers should also whenever possible make suitable arrangements for their children to stay at home; [requests for children to attend school](#) should be discussed with the school."

Until such time that the government revises the Group 2 medical standards, the existing policy of this Council remains in being for currently licensed drivers to obtain a valid medical report from their GP.

The Council understands the impact of Covid-19 may impact on the ability of existing licence holders to obtain GP appointments to undertake driver medicals during this outbreak and will be assessed on a case by case basis.