

**Agenda for Licensing and Enforcement
Committee
Wednesday, 18th November, 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, P Jarvis, C Pepper, G Pratt, B Taylor, T Wright, L Jeffery and T Woodward

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

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Issued: Monday, 9 November 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 (Pages 7 - 12)

8 Taxi Policy - Statutory Standards Policy (Pages 13 - 66)

9 Seaton Taxi Rank (Pages 67 - 70)

10 Licensing Policy Report (Pages 71 - 156)

Due to the requirements of the Licensing Act 2003 only parties to the hearing are permitted to address the sub-committee (through their representative as appropriate)

[Recording the meeting](#)

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Licensing and Enforcement Committee held On line via the Zoom app on 3 September 2020****Attendance list at end of document**

The meeting started at 10.00 am and ended at 11.20 am

41 Public Speaking

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

42 Minutes of the previous meeting

The minutes of the meeting held on 27 July 2020 were agreed as a true record.

43 Declarations of interest

There were no declarations of interest.

44 Matters of urgency

There were no matters of urgency.

45 Confidential/exempt item(s)

There were no matters of urgency.

46 Quarterly Update report -September 2020

The Licensing Manager presented his report to the Committee. It provided an update of the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005, taxi legislation and general licensing, including street trading and pavement licensing.

The Licensing Manager highlighted that the licensing team covered many things across East Devon. This included:

- All alcohol related matters.
- Taxis and private hire work.
- Gambling (excluding online betting)
- Street trading.
- Pavement Licensing
- Charitable collections
- Cemeteries and burial bookings.

The previous update provided to the committee was in February 2020 before the impact of Covid 19 that has since impacted 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.

The Taxi and Private Hire Driver trade was also significantly challenged as a result of the Coronavirus lockdown. A number of drivers and businesses continued to provide essential transport for vulnerable members of the community.

It was reported at the extraordinary meeting on 27th July that the responsibility for issuing short term Pavement Licences would pass to district Councils in August. These procedures were now in place, but despite the high profile and level of awareness there have been fewer applications than were expected.

During discussions the following points were noted:

- In view of the fewer number of applications received for Pavement Licences than expected, would the post of the new member of staff be taken up? The Licensing Manager reported that this work had been very onerous on licensing staff and it was still expected that this post would be needed; although the post had not yet been filled.
- With regard to outdoor areas, were separate areas required for smokers and non-smokers? The Government had given an exemption for licensed premises to use outside areas until September 2021.
- Would Licensing staff be expected to carry out premises inspections soon? This would be part of the Councils overall Covid 19 risk assessment.
- How many Pavement Licences had been received so far? There had been two applications received by the Licensing Service, but more were expected.
- Is there an update by Licensing on the services ability to close premises if they were not complying with Covid 19 regulations regarding such things as social distancing. The Licensing Manager reported that there was continually changing Government guidance on this area. There were 500 licensed premises in East Devon and there had been no complaints received from the public or police about failure to comply with Covid 19 guidelines.

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RESOLVED that the report be noted

47 **Licensing Act Policy consultation**

Members received the report of Steve Saunders, Licensing Manager, which updated the committee on the review of the Council's Statement of Licensing (Act 2003) Policy and sought approval to commence the consultation process on the draft policy which had been updated in the light of recent changes in legislation and experience over the past five years.

During discussions the following points were noted:

- Could more consideration be given to the public health impacts of the Licensing policy. Although it was noted that public health at Devon County Council were a consultee.
- Would like to see research carried out to see the effect of lockdown on the late night trade of the lockdown and how much was saved by the police and other agencies during this period.
- Designated Premises Supervisors should be held responsible for tidying any litter produced by their customers outside their premises.
- Some of the problems caused in late night premises were customers consuming alcohol bought in supermarkets prior to going out.

RESOLVED that approval be given to the draft Statement of Licensing Policy as attached to the report, subject to addition of the point made above regarding litter outside licensed premises and for the Licensing Service to start the formal consultation process that was required by legislation.

48 **Taxi Fare Tariff**

Members received the report of Steve Saunders, Licensing Manager which asked the committee to note the new Hackney Carriage Fare Table following the public consultation and to consider timeliness and procedures of future fare review processes.

During discussions the following points were noted:

- Is there a definition of soiling of taxis and the charges? The Licensing Service normally mediated on any of these issues which arose each year. There was no data available to show that taxi cab soiling by passengers had increased. The website would be updated to add a comment regarding the Licensing Services ability to mediate on taxi cab soiling issues.
- That for the sake of clarity, points 9 & 10 in Appendix B be added to the first paragraph.

RESOLVED 1. that with the addition of the amendment made above, the Hackney Carriage Table of Fares as attached to the report be adopted with immediate effect.
2. that agreement be given that the Table of Fares be reviewed annually and no earlier than 12 months after a previous review through an agreed procedure.

49 **Taxi Policy**

Members received the report of Steve Saunders, Licensing Manager which informed the committee on recent Government guidance issued in July 2020 with regard to the Taxi Licensing Policy ahead of full implementation.

In response to a question it was noted that the Licensing Service had not received sufficient data to make CCTV in taxi cabs mandatory and certainly not many complaints from members of the public. It was noted that there was a considerable cost for drivers to introduce CCTV in cabs and the recording equipment. The requirement for DBS checks for taxi drivers was an additional cost, but other licensing authorities in Devon had introduced a service for drivers at a cost of £30 each whereby they would make on line DBS checks for drivers every six months.

RESOLVED that the new statutory guidance which the Licensing Authority will have regard to until it is full incorporated into the Councils Taxi Licensing Policy be noted.

50 **Covid 19 Taxi Policy**

Members received the report of Steve Saunders, Licensing Manager, which asked the Committee to note the COVID-19 Taxi Policy and sought approval to continue adoption of the policy. It was noted that the taxi trade had significantly reduced trade during the lockdown period and were continuing to see a reduction in customers. Some drivers had chosen to SORN their vehicles to save money.

RESOLVED 1. that the temporary adoption of the Emergency Covid 19 policy introduced in April 2020 be noted.
2. that its continuing use, in conjunction with the full taxi policy, be approved until further review by this committee at a later date

Attendance List

Councillors present:

J Whibley (Chairman)
K Bloxham (Vice-Chairman)
M Chapman
A Dent
S Gazzard
S Jackson
G Pratt
B Taylor
T Wright
L Jeffery
T Woodward

Councillors also present (for some or all the meeting)

S Hawkins
P Millar

Officers in attendance:

Christopher Lane, Democratic Services Officer
Giles Salter, Solicitor
Stephen Saunders
Anita Williams, Principal Solicitor (and Deputy Monitoring Officer)

Councillor apologies:

F Caygill
N Hookway
P Jarvis

Chairman

Date:

Report to: Licensing and Enforcement Committee

Date of Meeting 18 November 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



Committee Update on Licensing Matters

Report summary:

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 (ssaunders@eastdevon.gov.uk)

Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

There are no finance implications.

Legal implications:

There are no legal implications requiring comment.

Equalities impact Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Climate change Low Impact

Risk: Choose a risk level; Low

Links to background information

Previous report to Licensing Committee September 2020

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

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 area of work that the team oversees.
- 1.1.2 Since the last meeting of this committee the government has twice introduced further emergency legislation due to Coronavirus, firstly in September with the requirement for licensed businesses to close from 10pm and being restricted to table service only.
- 1.1.3 From 5th November the country moved in to a four week lock down that ordered the closure of pubs, restaurants and cafes. The restrictions prohibit consuming any food or drink, including alcohol in or adjacent to a business. A business may sell food and non-alcoholic drink for take away from that premises up to 10pm and customers can only enter to collect non-alcoholic drinks and food. Alcohol may only be provided by currently licensed businesses however alcohol must be pre-ordered with purchase being made via a delivery to a booking, by click and collect to a booking or through a drive-through. It is specific that purchasers must not enter a licensed premises for alcohol and the regulations do not change or override the existing hours and conditions of each Premises Licence which must still be adhered to.
- 1.1.4 The resurgence of the virus reduced the number of potential events that would usually be going ahead in the run up to the festive period and those events that are still being considered will have to adhere to the government guidance relevant at that time along with completing necessary Covid-19 risk assessments.
- 1.1.5 It is a statutory obligation under the Licensing Act that authorities collect annual fees payable by licensed premises on the anniversary of each licence being issued. The approach by this licensing authority and all others continues sensitively with businesses maintaining payments to continue trading. The amount of each annual fee payable is based on the rateable value of each business and whilst there has been no dispensation from central government in this regard, there have been other forms of financial support this year.
- 1.1.6 Applications for various licences continue to be received despite challenges to the hospitality industry with Personal Alcohol Licences being submitted to allow supervision of licensed premises, changes for premises supervisors and also newly licensed businesses. Comparison of the number of all premises licences issued by the team during 2020 against the previous year to date shows a 16% increase of applications this year in this area of work.
- 1.1.7 The licensing team continues supporting licence holders to run their businesses in these difficult times with higher levels of contact by providing guidance and information swiftly. The contribution of licensing team members over the previous period, particularly during October/November with the added challenges of taxi renewals and further licensing restrictions has been exemplary in meeting new challenges in all areas of licensing work.

1.2 Hearings

- 1.2.1 Licensing officers arrange mediation if representations are received for new licensing applications and there were no contested sub-committee hearings for licensed premises over the previous period.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The Gambling Commission was set up under the Act in 2005 to regulate commercial gambling in partnership with licensing authorities and it has responsibility for licensing operators and for all online betting with a primary aim of preventing harm to the public. Local authorities oversee the gambling premises licensed in each district. The Gambling Commission recently reduced staff posts that had interfaced with local authorities including that of regional compliance officer (South West) and a local authority partnership officer post. The posts were key to providing effective working arrangements with licensing authorities whether through conducting joint inspections or broadening expertise in this specialist field.
- 2.1.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest bulletin can be viewed online at <https://www.gamblingcommission.gov.uk/PDF/LA-bulletin/LA-BULLETIN-September-2020.pdf>
- 2.1.3 It is mandatory under the Act that licensing authorities submit an annual return to the Commission detailing number of gambling licences, permits and notices managed along with details of inspections and enforcement work undertaken. Officers completed the return prior to the deadline of 30 October and all responses are usually published by the Commission at a later date that will allow the details to be shared at the next meeting of this Committee.
- 2.1.4 The annual return identified this licensing authority administered 1 Bingo Premises Licence, 4 Adult Gaming Centre Premises Licences, 11 (+3) Family Entertainment Centre Gaming Machine Permits, 8 (-2) Betting Premises Licences, 12 (-5) Club Machine Permits, 1 Prize Gaming Permit, 10 (+1) Alcohol Licensed Premises Gaming Machine Permits, and 144 (-20) Small Society Lotteries over the last year. In addition, 115 (-1) alcohol licensed premises gave notification of having gaming machines in public house premises. Figures provided in brackets highlight any increase or decrease on the return submitted for the previous year.
- 2.1.5 Although the number of licensed gambling premises generally remains constant, the decrease in betting offices was as a result of one national chain closing a branch in Exmouth along with the last independent betting office in this district closing in Axminster.
- 2.1.6 The reduction in the number of gaming machine permits held by members clubs was attributed to clubs removing machines to reduce costs by not having to pay an annual fee for the permit along with any costs payable to gaming machine companies. The reduction in lottery permits is due to fewer fundraising events occurring held this year because of Coronavirus.

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 The impact of Coronavirus continues to challenge the Taxi and Private Hire trade nationally and locally with fewer passengers using taxis late evenings or travelling to airports. There is an important need nationally for licensed taxis and private hire vehicles undertaking educational transport work with a small increase in new drivers applying for private hire licences before seeking transport contracts managed by Devon County Council. Licensing officers circulated contact details for Devon Transport Services to all licensed drivers in support of increasing options for gaining work during these difficult times.

3.1.2 In 2017 this authority ended a requirement for all taxi licences to renew annually by 31st October as it provided less flexibility for the trade and increased demands on staff. A proportion of licences still have to be renewed each October although numbers are decreasing. This autumn presented challenges by completing renewal work remotely and without direct contact with licensees. Officers had to plan and engage earlier with licensees providing clear, helpful communication to support those renewing to do so on time.

3.1.3 The renewal work is shared within the licensing team with all staff rising to the challenge of increased demands this year. The contribution made by lead taxi licensing officer, Lucy Maxwell should be acknowledged and smarter use of IT systems, effective planning and communication ensured that the work was completed within the timescales with positive feedback received from licences holders.

3.1.4 The October renewal period usually sees a small number of licence holders choosing that time to retire and not renewing their licences. The impact of Coronavirus has not increased that number significantly with previous years having higher numbers of drivers not renewing. Following the renewal period, on 2nd November 2020 figures show an annual decrease in taxi driver and vehicle licences managed by the licensing authority over the last five years:

Year	Taxi Driver Licences	Taxi Vehicle Licences	Private Hire Drivers	Private Hire Vehicles	Private Hire Operators
2016	206	170	22	18	15
2017	195	165	26	20	13
2018	179	161	30	24	16
2019	162	148	37	31	20
2020	155	126	40	32	18

3.1.5 These figures reveal that over the last five years the number of licensed taxi drivers has reduced by 25% with a reduction of licensed taxi vehicles over 30% in the district.

3.16 A small number allowed their taxi licences to lapse to instead take up Private Hire licences with the reduction of taxi licences being slightly balanced by increases in continued Private Hire driver and vehicle licences each year. Although Private Hire vehicles are not permitted to operate from taxi ranks, the increase in numbers is considered due to more pre-booked work and also increasing educational transport work by Private Hire vehicles. Others also delayed the renewal under provisions in the emergency Covid-19 Taxi and Private Hire policy.

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

3.2.1 The resurgence of the virus through the late summer and autumn further reduced the custom previously available to the trade and those still working continue to provide essential transport for the public and for vulnerable members of the community.

3.2.3 The government changed guidance in September making it mandatory for passengers to use face coverings in licensed vehicles and officers circulated the updates to all drivers which was well received.

3.2.3 Since the easing of the first lockdown, licence holders have again been able to obtain MOT tests for vehicles although there continue to be differences between doctor surgeries for driver medical appointments. Obtaining DBS checks and certificates works effectively with remote procedures and officers have processed new private hire driver applications.

3.2.4 The ongoing need for the emergency Covid-19 Taxi and Private Hire policy continues, in addition the general policy, in view of the second period of lockdown at this time. Officers will report on the continued need of the policy at the next meeting of this committee.

3.3 Enforcement

- 3.3.1 The licensing team records and investigates complaints that are received from the public which is recognised as an effective procedure by the Department of Transport. One complaint was received over the previous period regarding the behaviour of a driver towards a public official, being managed through a written formal warning. This was the first occasion that the driver had been subject of a complaint and the course of action was appreciated by the complainant as any repeated or similar behaviour by the driver could be referred to the Licensing Sub-committee in the future.

3.4 Hearings

- 3.4.1 A Licensing Sub-committee was held in October regarding an application for a new taxi vehicle that had previously been categorised as a low category write-off which required referral for the members. Licensing was approved upon a comprehensive officer report and detailed information from the applicant that gave the necessary assurance and confidence that allowed the vehicle to be licensed.

3.5 Taxi Ranks

- 3.5.1 Further to a report to this committee in February regarding relocating a taxi rank in Seaton, officers have completed all the necessary procedures after the proposal passed without any representations being received and this is subject of a separate report today.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. This council adopted policy in 2017 for the current street trading regime whereby most of the district is designated to allow street trading upon prior application and with consent.
- 4.1.2 The level of street trading reduced over the previous periods for events and activities that have not been possible. However availability of suitably licensed and regulated food sellers during Coronavirus restrictions continues to be beneficial to the public using the services. The uptake by new mobile businesses is one of the few growth areas during the pandemic.

5.1 Pavement Licences

- 5.1.1 The take up by businesses applying to place tables and chair on highways has been very low following the temporary arrangements introduced by the government this summer when licensing responsibility was passed to district councils. Short term licences were already being granted by Devon County Council before that change and as the temporary licences have expired this autumn, few were renewed with this Council given the timing and weather.
- 5.1.2 The County Council retains responsibility for permanent café pavement licences with some businesses holding permanent licences and not needing to apply for the temporary option.
- 5.1.3 There has been one application received over the previous period taking the total to three businesses seeking a Pavement Licence from this Council. The most recent application was refused by Devon County Council highways being the landowner and for that reason, it was not procedurally possible to grant the licence contrary to refusal by the highways authority.
- 5.1.4 On 3rd September Devon County Council chaired a meeting on the transition of Pavement Licences with officers from the Devon licensing authorities. The County Council withdrew the temporary licence arrangement and maintains the permanent café pavement licences it held previously. The meeting gave clarification on matters of enforcement and other procedures.

5.1.5 It is still anticipated that businesses will (re)apply for licences in the spring with the issuing responsibility for district councils lasting until September 2021. A review of this arrangement is due when this Committee meets in February 2021 and officers will provide a detailed report.

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 reduced significantly. The SAG operates as a multi-agency, non-statutory group that provides guidance to event organisers to support safely organised events licensed in the district. The meeting held over the previous period considered a reduced list of prospective events through to the end of this year.

6.1.3 Overall where an event organiser applies to run a safely organised and well planned event, the priority is to ensure that the latest government guidance, relevant at that time, is adhered to along with completing necessary Covid-19 risk assessments

6.2 Meeting between Members, Taxi Proprietors and Officers

6.2.1 Coronavirus restrictions resulted in postponement of the taxi proprietors meeting that would usually occur in November. Meetings of the Exmouth Taxi Trade Association which officers are invited to attend have not occurred either.

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 Training is necessary to provide sufficient understanding for members to determine contested applications at licensing sub-committee hearings and to stand any challenges upon appeal.

7.3 Officers arranged further virtual training, delivered via Zoom by the Institute of Licensing for members who were available in the previous period. This takes the current trained membership of this Committee to thirteen members. Further virtual training dates are expected to be identified by the Institute early next year and will be circulated when known.

7.4 Making arrangements for the Licensing Sub-committee held in October confirmed the need for officers to provide early engagement with members to allow availability to be considered. This will be taken forward together with providing the opportunity for more trained members to be involved in contested application hearings in the future.

Report to: Licensing and Enforcement Committee



Date of Meeting 18 November 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

The Statutory Taxi and Private Hire Vehicle Standards

Report summary:

To inform members of the Licensing Committee of the recently published 'Statutory Taxi and Private Hire Vehicle Standards' issued by the Department for Transport (DofT) and to consider recommendations to meet the requirements in conjunction with this Council's policy

Recommendation:

That a phased approach be considered for revising this Council's Taxi and Private Hire policy in consideration of the new Statutory Standards, therefore to seek approval from this Committee:

- a) To adopt key changes necessary under the new Statutory Standards by revising the current policy in the first phase by recommending to Council on 9 December 2020, to adopt the revised Taxi and Private Hire Policy with amendments shown at Appendix C, and
- b) That a detailed review be conducted by officers for further policy changes under a second phase with regard to matters of Vehicle Emissions, CCTV in vehicles, National Refusals Register, Fees and Safeguarding Training, and
- c) To review staffing that will be necessary to undertake the new and additional work, and
- d) To undertake full consultation before adopting the changes by 31 March 2022

Officer: Steve Saunders, Licensing Manager (ssaunders@eastdevon.gov.uk)

Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

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:

The legal implications are explained within the body of the report

Equalities impact Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Climate change Low Impact

Risk: Choose a risk level; Low

Links to background information Previous Reports to Licensing & Enforcement Committee September 2019, October 2019 and February 2020

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
 - Outstanding Homes and Communities
 - Outstanding Economic Growth, Productivity, and Prosperity
 - Outstanding Council and Council Services
-

Report in full

1 Main Body of the Report

- 1.1 It was reported at the last meeting of this committee that the Secretary of State for Transport had issued new Statutory Taxi and Private Hire Vehicle Standards to licensing authorities referred to as Statutory Standards. They set-out a range of robust measures to protect passengers, particularly those most vulnerable, with the expectation that licensing authorities implement the recommendations unless there is a compelling local reason for not doing so.
- 1.2 The Department for Transport expects licensing authorities' responses to the Statutory Standards by providing an update by the end of January 2021 and this report will assist in managing the response by this Council.
- 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 and should publish their consideration of the measures in their policies. Any authorities not adopting the Standards will need to provide a rationale for failing to act to protect passengers.
- 1.4 One of the main requirements of the revised standards, is that licensing authorities should have a cohesive Taxi and Private Hire policy with a minimum review of every 5 years and as members of this Committee are aware, a comprehensive policy review was completed by this authority in 2017 which followed a full consultation of eight weeks before adoption. The existing policy is kept under review and changes in legislation or national procedures may not always require consultation for reasons of necessity to meet legal requirements.

2 Current Policy

- 2.1 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 outline that a district council will not grant a licence to drive a private hire or taxi licence unless being satisfied that the applicant is 'fit and proper person' to hold a driver's licence.
- 2.2 Once granted, a licence holder will be required to maintain their ability to be a 'fit and proper person' while licensed and must report any driving offences, changes to medical conditions, civil or criminal offences for which they have been interviewed or charged to the licensing authority.
- 2.3 The current Taxi and Private Hire policy is used by the Committee, Officers, licensees and members of the public as a single point of reference and as the document is a working policy, it was recommended upon implementation that a full review and consultation with all stakeholders should occur by July 2022.

3 Proposed Policy changes

- 3.1 The Statutory Taxi and Private Hire Vehicle Standards sets out a framework of policies that, under section 177(4), licensing authorities must have regard to when exercising their functions with full document provided in **Appendix A**.
- 3.2 Paragraph 2.8 states ‘although it remains the case that licensing authorities must reach their own decisions on overall policies and on individual licensing matters in conjunction with relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice. Any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence if that were to be the case.
- 3.3 The expectation on licensing authorities to implement the measures outlined as soon as possible was reported in an interim briefing at the last meeting of this Committee. For ease and to avoid detailed commentary on every aspect covered in the Statutory Standards, a table detailing the full requirements with further updated comments in respect of them is provided at **Appendix B**.
- 3.4 Only those aspects that require further consideration by the Licensing Committee are detailed in this report. A brief summary has been included with regard to the present situation for this licensing authority that will require review, whether under consideration for immediate change shown at **Appendix C** and through a full consideration and review.
- 3.5 For that reason, it is recommended that the progress to adopt the Statutory Standards is considered in two phases, the first being those changes to be adopted in the policy by the end of the year and with phase two being a full review along with consulting on further changes.
- 3.6 To summarise the points in Appendix A that require further consideration by this authority are:
- a) Signing up to a national licensing database that allows secure information sharing on revoked or refused licence referred to as the ‘**NR3 Database**’ (under points 6 and 7 Appendix A),
 - b) Driver criminality checks will require Disclosure and Barring Service (**DBS**) checks every six months being far more frequent than currently with an impact on officer time and licence holders (point 13),
 - c) **Safeguarding Awareness** briefing for licence holders; already being mandatory in our policy, 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).
 - g) That ‘no licence will be issued to any individual that appears on either the children or adult barred lists.’ This would be a current requirement given the risks of otherwise doing so.
 - h) Policy be amended to require a basic disclosure from the DBS and that a check is undertaken annually for private hire operators, coming into effect for all new applications and for licence and DBS renewals from January 2021 and all existing operators by 31 March 2022.
 - i) Policy be amended to require Private Hire Operators to hold a register of all the staff that will take bookings or dispatch vehicles to come into effect for all operators from 31 March 2022. That Private Hire Operators collect the following information as part of their records; the name of the driver; the name of any individual that responded to the booking request and the name of any individual that dispatched the vehicle.
 - K) Policy be amended to require Private Hire Operators to conduct DBS checks on all call handling and dispatching staff as well as to have a policy on employing ex-offenders. All records

must also be made available to the Licensing Authority upon request. It is proposed these conditions will come into effect for all operators from 31 March 2022.

- 3.7 That the Licensing Committee considers a policy review to start in 2021 to consider looking at further quality standards for both Hackney Carriage and Private Hire vehicles to consider such matters as CCTV, vehicle emissions, safeguarding training and reviewing licence fees charged.

4. Financial implications including resources.

- 4.1 Taxi and Private Hire Licensing fees set by the Council must meet the cost of delivering the licensing regime. Any increased costs arising from this report should be met from the fee structure including additional staffing time that will be necessary to meet increased processing.
- 4.2 Specifically, the proposal to subscribe to the NR3 National Register of Taxi and Private Hire Refusals and Revocations would entail set-up costs in the region of £2000 for the first year along with annual membership fees of £1050. The current fee structure would need to be reviewed in conjunction with increased staffing arrangements for checking new and current licensees. The DoT wrote to all licensing authorities in October outlining that 23% of all Councils have so far taken up membership and reiterating the expectation for others to do so in the future.
- 4.3 More frequent DBS checking under the proposal for nearly 200 licensed drivers twice yearly will create 390 transactions with the proposal to check staff working for Private Hire Operators increasing that number.
- 4.3 Safeguarding awareness sessions require the actual or virtual training being delivered by trainers specialising in that field with costs to be met by applicants when applying for their licence. Work is being done between the Devon authorities to seek best value for shared briefings for the most appropriate training.
- 4.4 The recommendation to considers an extensive under point 3.7 will facilitate the extent of work the be completed along with the costs to the Council and licence holders review to start in 2021 to consider looking at further quality standards for both Taxi and Private Hire vehicles to consider such matters as CCTV, vehicle emissions, safeguarding training and reviewing licence fees charged.

5. Next Steps

- 5.1 Licensing taxis and private hire is a higher risk licensing activity with the primary aim of the regime being to maintain public safety. In terms of passengers, the risk can be seen with regards to abuse, exploitation and sexual crimes and although no licensing authority can eliminate all risks entirely, by having a robust set of policies and by maintaining high licensing standards, it supports safeguarding and protecting the public using those services.
- 5.2 The Department for Transport (DoT) has expressed an expectation that licensing authorities meet compliance with the Statutory Standards with this Council already well placed through existing policy in many aspects. Whilst reference was made to 'compelling local reasons' for not implementing the measures, costs or additional work are unlikely to be sufficient and failure to adhere to the standards could be legally detrimental to any authority that does not meet them.
- 5.3 The approval of this Committee is sought to revise the existing Taxi and Private Hire policy as shown as **Appendix C**. The full list of amendments and changes would be progressed in 2021.

- 5.4 Recently increased reporting and other mandatory checking has increased the work of licensing staff with data submissions to DEFRA for emission levels of currently licensed vehicles and Right to Work checks of all new applicants. These mandatory checks were absorbed within current staffing in the team although the proposed additional work necessary by increasing DBS checks, conducting NR3 checks and co-ordinating safeguarding briefings will require a review of staffing that could be assessed in the early part of 2021 to establish requirements.
- 5.5 The recommendations for an immediate change to current policy along with a graduated review next year is considered necessary to enable this Council to properly cost, evaluate and consult stakeholders on taking this forward.



Department
for Transport

APPENDIX A

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends 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.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 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. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 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.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#).

Consultation at the local level

- 3.12 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 (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 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

- 4.12 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. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, 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.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 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.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 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
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 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

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. 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.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 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?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 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.
- 6.2 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.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 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:

- 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.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 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.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore 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

7.2 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.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 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.

7.9 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.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators 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 driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 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.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **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.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a ['responsible organisation'](#) to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 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.

Joint authorisation of enforcement officers

9.2 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 will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 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.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of 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.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

APPENDIX B

East Devon District Council Update on 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 sets out the options for this licensing authority.

	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.	This Council introduced its taxi and Private Hire Policy in 2017 and has kept it fully under review since its introduction. It is recommended that a phased approach now be considered for revising the existing policy inline with the National Standards by: a) Amending Key changes required under the new Standards to the policy in Phase 1 by January 2021, and b) Further Review and Consult on matters relating to Vehicle Emissions, CCTV, the National Refusals Register, licence fees and Safeguarding Training under Phase 2 by 31 March 2022
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. It is not proposed to adapt current procedures and to maintain an ongoing view as to that being necessary in the future
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. Licensing staff have had training with regard to Whistleblowing and with a requirement to undergo the e-learning training every 3 years. It is recommended that: a) Current staff training be reviewed each Performance year to ensure training is kept up to date, and b) Staff when joining the Licensing Team undergo the training within the first year

4	Consultation at the local level	<p>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 (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>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 association that represents Exmouth.</p> <p>The next proposed full review of current policy is planned for July 2022.</p> <p>See Point 1 Above.</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> <p>There are changes considered necessary to the DBS Checking under the new Statutory Standards that are proposed as being necessary under Phase 1 and Phase 2 of the Policy changes.</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> <p>The new standards recommend that the 'NR3' National Register of Taxi and Private Hire Refusals and Revocations, is used to share information with other Licensing authorities, and that this register should be consulted for new applications as this can reduce the risk of non-disclosure of relevant information.</p> <p>The Service already asks applicants to detail any previous refusal or revocations, and details of licences held elsewhere, but it is felt that the recommendation to also use and consult NR3 would be an additional safeguard in the future by sharing information on revoked or refused licence referred to as the 'NR3 Database' (under point 7 below).</p> <p>Other Devon authorities are still to sign up, there are considerable data protection</p>

			<p>issues to address and there is a cost to the council of £1000 to 2000 to join the system with an annual fee of £1050.</p> <p>It is therefore proposed that the further work being conducted with the other Devon authorities continues with the aim to subscribe and implement this service by 31st March 2022.</p>
7	NR3 Database	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>This Council like the majority has not yet signed up to the national database for sharing refusal or revocation information.</p> <p>Now requires further review as 6 above.</p>
8	Complaints against licensees	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>This Council has a quarterly review through the Scrutiny Committee for complaints reported and investigated by Licensing Officers who record the data as a P.I. measurement and report on it</p> <p>A further requirement is that 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>The service has systems in place, and is currently undergoing a change of software with a new licensing database which will enhance the authority's recording and analysis capability further.</p> <p>This IT project is anticipated to be completed in mid-2021 although the current procedures meet the new standards.</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	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	This Council like many has signed up to a conducting DBS checking every 3 years. The increased frequency of checking DBS every 6 months will require a mandatory change of the current policy to require all licence holders to sign up the online checking facility payable at the cost of licence holders. It is recommended that a phased approach now be considered for revising the existing policy by: a) Amending Key changes to the policy in Phase 1 by January 2021 to make 6 monthly DBS check mandatory, and b) To require as mandatory that all current licensees provide an email address as primary contact with the DBS Service & Licensing

		<p>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>c) To Review and Consult under Phase 2 by 31 March 2022 relating to fees charged of applicants and licence holders</p> <p>There is considerable work for staff to change the DBS expiry check dates for all our drivers move to check every 6 months rather than 3 years.</p> <p>The work will require over 400 DBS transaction checks for new and current licence due to the twice yearly need (rather than checks being every 3 years).</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. 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 that are cost effective for the licence holders whilst providing a meaningful briefing.</p> <p>It is recommended that a phased approach now be considered for revising the existing policy by:</p> <ul style="list-style-type: none"> A) Maintaining the policy requirement that all applicants and licence holders undergo Safeguarding briefing as a mandatory need, and B) That Officers identify an appropriate, remote/virtual training session inline with the other Devon Authorities under Phase 2 and C) That all the costs for providing Safeguarding be included within a review of fees under Phase 2
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 oral and written English language skills to achieve the objectives stated above.</p>	<p>This Council has introduced this requirement in the current taxi policy.</p> <p>It is recommended that a phased approach now be considered for reviewing the testing requirements that are used by other authorities including Transport for London.</p>

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 and to include changes to operators and staff employed by Private Hire Operators.</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:</p> <ul style="list-style-type: none"> • 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. <p>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. 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-£700 per CCTV unit in a licensed vehicle.</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. It is recommended that a phased approach now be considered for revising the existing policy by:</p> <p>a) To Review and Consult on matters relating to Vehicle Emissions, CCTV, the National Refusals Register, licence fees and Safeguarding Training under Phase 2 by 31 March 2022</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

Index of Proposed Changes Taxi & Private Hire Policy
Phase 1 – November 2020

1	<p>Introduction to current Policy to Include</p> <p>“The Statutory Taxi and Private Hire Vehicle Standards published in 2020 reflect significant changes in the industry from local authority experience leading to new version of the Department’s Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme). The existing policy will be due for further review in 2022 and the Statutory Taxi and Private Hire Vehicle Standards will be fully considered and reflected in this policy document.”</p>	<u>Page 2</u>
10.2.12	<p>HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER’S LICENCE</p> <p>All new applicants for a hackney carriage or private hire driver’s licence must undertake an enhanced Disclosure and Barring Service (DBS) check and must then undertake further enhanced DBS checks every six months three-years.</p> <p>Information An explanatory leaflet will be sent out to the applicant explaining the procedure. Currently, although this may change during the life of this policy the checks must be completed on line by the applicant/licence holder. The DBS and administration fees and the relevant original identity and supporting documents must then be produced to the Council’s licensing office for checking online. Licensing officers can give assistance if required.</p> <p>New applicants and existing holders of hackney carriage and private hire driver’s licences will be required to provide a current email address as primary form of contact with Licensing officers and the DBS.</p> <p>Existing holders of hackney carriage and private hire driver’s licences must retake an enhanced Disclosure and Barring Service (DBS) sign up to the Disclosure and Barring Service (DBS) update service check every six months three-years.</p> <p>All applicants and existing holders of driver’s licences issued by the Council are required recommended to subscribe to the DBS update service.</p> <p>This provides a requirement that all new applicants for a hackney carriage or private hire driver’s licence subscribe to the enhanced Disclosure and Barring Service (DBS) check and must then undertake further enhanced DBS checks every 6 months.</p>	<u>Page 12</u>

11.2.2	<p>Amendment to Insurance Write-off to reflect changes in categories of insurance write-off.</p> <p>Vehicles previously categorised as a category C or D write off and now category S or N may be considered for licensing by a Licensing and Enforcement Sub-Committee subject to higher levels of examination and vehicle reports. Where examinations provide any cause for the safety of the public such applications may be refused.</p>	<u>Page 20</u>

Report to: Licensing and Enforcement Committee



Date of Meeting 18 November 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Adoption and Removal of Taxi Ranks – Seaton Town

Report summary:

The Licensing and Enforcement Committee is asked to note the adoption and removal of Taxi Ranks in Seaton following the necessary consultation with the public and relevant authorities

Recommendation:

That the Committee in exercise of its powers under Sec. 63 of the Local Government (Miscellaneous Provisions) Act 1976:

- 1) Notes the appointment of a taxi rank in Castle Hill, Seaton: North side from a point 20 metres west of its junction with Seahill for a distance of 10 metres in a westerly direction, to create 2 spaces at anytime 7 days a week, and
- 2) Revokes the taxi rank in Marine Place, Seaton: North side from a point 3 metres east of its junction with Seahill for a direction for a distance of 15 metres in an easterly direction.

Reason for recommendation:

The Seaton seafront regeneration scheme will recommence in early 2021 and a result of redevelopment, the existing taxi rank in Seahill will no longer be available by being designed out. The siting of the new rank in close proximity will maintain the taxi rank numbers and gives licensed taxis an alternative location to trade upon completion of the regeneration.

Officer: Steve Saunders, Licensing Manager (ssaunders@eastdevon.gov.uk)

Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

Financial costs have been included within section 2.4 of the Main Body of the Report

Legal implications:

The legal implications are explained within the body of the report.

Equalities impact Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Climate change Low Impact

Risk: Choose a risk level; Low

Links to background information Previous Reports to Licensing & Enforcement Committee September 2019, October 2019 and February 2020

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
 - Outstanding Homes and Communities
 - Outstanding Economic Growth, Productivity, and Prosperity
 - Outstanding Council and Council Services
-

Report in full

1 Main Body of the Report

- 1.1 Under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976, the district council can appoint stands for taxis on public highways and also determine the number of taxis that can use a stand along with removing (revoking) previously designated ranks when necessary. Where the land is to be on the public highway, the consent of the highway authority is required and also requires that notice must be given to the Chief Officer of Police.
- 1.2 It was previously reported at meetings of this Committee concerning a request received from Seaton Town Council to remove the taxi rank currently sited on Marine Place, Seaton and for it to be relocated to Castle Hill, being a short distance on the same side of the road. The reason for this request is that Seaton seafront is being redeveloped to update the road layout to enhance the area. Although that work had paused, it is anticipated to begin in early 2021.
- 1.3 The Committee previously considered the responses for relocating the taxi rank and resolved to approve the following, namely;
 - a) To exercise the Council's powers under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to appoint the rank in Castle Hill, Seaton
 - b) To take that forward by issuing the requisite public notice be given of the proposed appointment as required by Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976.
 - c) That following the appointment of the taxi rank Devon County Council Highways Authority be requested to put in place the appropriate legal provisions and to mark out the rank
- 1.4 All necessary steps have now been undertaken under point 1.3 including written notification to the head of the highway authority in 2019 as Devon County Council have to designate each rank with a traffic order and to have them signed and marked.
- 1.5 The procedure also required written notification to the Chief Constable of Devon and Cornwall Police. On 27th March, 2020 a response was received from the local policing Sergeant outlining this proposal was supported and that there are no objections from the police.
- 1.6 This Committee previously approved the requisite circulation of a public notice in a local newspaper to allow local residents the opportunity to make representations within a 28 day period from the date of publication. The notice was circulated in a local newspaper from 11th

March 2020 with copies also placed outside district and Seaton town council offices (**Appendix A**).

- 1.7 The 28 day notice period passed without any representations being received.

2 Next Steps

- 2.1 The relevant legislation outlines that where no written objection or representations are received with regard to the notice within the 28 day period, that the rank will be deemed appointed and therefore no further resolution is required by the licensing authority.
- 2.2 The list and details of all taxi ranks will be amended in the Taxi and Private Hire Vehicle Policy in the period between the conclusion of this meeting today and upon the completion of the marking and adoption of the new rank when the Neighbourhood Highway Engineers have completed their work.
- 2.3 Contact between licensing officers and local taxi proprietors will continue regarding the final timescale of the taxi rank completion and the Licensing Manager will maintain contact with the project architect conducting the redevelopment work on behalf of Seaton Town Council.
- 2.4 Taxi and Private Hire licensing fees are set by the Council and paid by applicants and licence holders for granting and renewing licences to meet the cost of delivering the licensing regime. The fees include reasonable costs borne by the district council for providing taxi stands (ranks). The costs of officer time in this matter (report writing, meetings, site visits) together with the cost of publishing the notice in a newspaper were conservatively calculated as costing £800 to reach the conclusion of this matter today.
- 2.5 Whilst the district council has concluded the formal changes to the taxi ranks in support of the town council seafront redevelopment, the costs shown were incurred as a result of Seaton Town Council requiring removal of the rank that would not have otherwise occurred.
- 2.6 This procedure has taken a considerable period of time due to initial report in late 2019 and then more recently due to the impact of Coronavirus and the members are thanked for concluding this matter.

APPENDIX A

GOVERNMENT (MISCELLANEOUS PROVISIONS ACT) 1976 PROPOSED REMOVAL & ESTABLISHMENT OF HACKNEY CARRIAGE RANKS

NOTICE is hereby given that the East Devon District Council proposes to remove the rank for Hackney Carriages in Marine Place, Seaton and to establish a rank for Hackney Carriages in Castle Hill, Seaton as described in the schedule below

Representations regarding the proposed removal and establishment of the Hackney Carriage ranks should be sent in writing to the undersigned by not later than noon on 08 April 2020. A plan showing the location of the ranks is available for viewing at the Council Offices, Blackdown House, Honiton being open on Mondays to Fridays from 8.30am to 5pm. Alternatively the information can be viewed on the Licensing pages of the District Council's website in the section under Licensing.

Mark Williams, Chief Executive, Council Offices, Blackdown House, Honiton, EX14 1EJ
Email – Licensing@eastdevon.gov.uk

SCHEDULE

- (1) That length of Marine Place, Seaton on its North side from a point 3 metres east of its junction with Seahill for a distance of 15 metres in an easterly direction.
- (2) That length of Castle Hill, Seaton on its North side from a point 20 metres west of its junction with Seahill for a distance of 10 metres in a westerly direction. This rank will create 2 spaces at anytime 7 days a week.

Report to: Licensing and Enforcement Committee



Date of Meeting 18 November 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Licensing Act 2003 – To seek approval to adopt a new Licensing Policy 2021-2026

Report summary:

This report updates the Licensing & Enforcement Committee on the results of the public consultation to the proposed new Licensing Policy

Recommendation:

That the Committee:

1. Note the results of the public consultation undertaken on the Council's proposed Licensing Policy relating to the Licensing Act 2003.
2. Recommend to Council at its meeting on 9 December 2020 that the East Devon Licensing Act 2003 Policy, as attached at Appendix B, be adopted by the Council for the period 7 January 2021 to 6 January 2026

Reason for recommendation:

It is a legal requirement of the Act for the Council to determine a Licensing Policy 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 (ssaunders@eastdevon.gov.uk)

Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

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:

Under the Licensing Act 2003 the Council is required to publish a reviewed and updated statement of licensing policy at least every five years. This has to set out the authority's general approach to licensing applications and the way it carries out its functions in relation to the legislation

Equalities impact Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Climate change Low Impact

Risk: Choose a risk level; Low

Links to background information

Previous Reports to Licensing & Enforcement Committee September 2020

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Report in full

1 Background

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.
- 1.2 The Act requires that the Licensing Authority review its Licensing Policy every five years. The Council's present policy will expire on the 6 January 2021 and therefore the Authority is under a duty to have reviewed and published a fresh policy by that date.
- 1.3 The current policy has been kept under review by the Licensing Service over the past five years and a number of changes were necessary to reflect changes and updated legislation and guidance issued over the past five years.
- 1.4 The adopted policy sets out the authority's general approach to licence applications and the way it carries out its functions in relation to the legislation and may only be determined following extensive consultation that was circulated widely to include all Responsible Authorities, Council Members, the business community, Town and Parish Councils, the Community Safety Partnership and leading local and national legal practices.
- 1.5 A more comprehensive list appears at **Appendix A**. The Policy was also published on the Licensing web pages with the invitation to comment online or in writing by post.
- 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 to 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 Licensing Act policy appears at **Appendix B**.

2. Results of consultation

- 2.1. The Consultation exercise for the licensing policy has been wide spread under the list of consultees provided and although a number of changes were made within the draft policy that was presented to this Committee, very few responses were subsequently received during the consultation. Those that were received did not provide any representations or proposals to amend the policy and for this reason, there has been no further requirement to revise the draft policy that was approved for the consultation.
- 2.2. During the previous meeting of this committee, points were raised for consideration regarding the licensing policy which are addressed by the Licensing Manager in the following points.
- 2.3. ***Could more consideration be given to the public health impacts of the Licensing policy?***

In response, officers subsequently engaged with Public Health Devon clarifying appropriate contact details and to provide a reminder that they are one of the 'responsible authorities' consulted for all new licensed premises.

There is a strategic priority led by Public Health Devon for reducing harm from alcohol with the Safer Devon Partnership continuing to tackle 'problem drinking' and harm from drugs. Plans were underway earlier this year to hold an 'Alcohol Clear event for Devon' being hosted but then cancelled by Public Health Devon due to Covid-19. The aim of the Alcohol Clear initiative is to provide a partnership framework to help identify and inform priorities that make an impact to reduce harm from alcohol. This Council is linked in and involved through Community Partnership with work continuing to develop this initiative in the year ahead.

2.4. *Would like to see research carried out to see the effect of lockdown on the late night trade of the lockdown and how much was saved by the police and other agencies during this period.*

Licensing officers communicate through the Devon Licensing Group attended by licensing staff from each Council and also representatives from police licensing. This point was raised at the meeting held in September and although there was acknowledgement of the reduced demands on policing during the period from March to July, it is anticipated that any clear data or statistics will be provided by the annual Home Office statistical return that is due in the spring of 2021 and this committee will be kept informed.

2.5. *Designated Premises Supervisors should be held responsible for tidying any litter produced by their customers outside their premises.*

The existing and proposed licensing policies outline this authority will have regard to wider considerations affecting the residential population and the amenity of an area with littering being one of those factors. Applicants for licences will be required to demonstrate the measures they have in place to manage litter.

Furthermore, the new pool of licensing conditions that are included in the proposed policy include a specific reference for dealing with litter under section 19 and also with section 24 specifically detailing conditions for litter and waste.

2.6. *Some of the problems caused in late night premises were customers consuming alcohol bought in supermarkets prior to going out.*

The prevalence of “pre-loading” or “pre-drinking” amongst young people in the UK (consuming off-sale alcohol in private settings before visiting licensed premises) has been documented in several studies nationally although the present licensing restriction for pubs to close at 10pm and then fully under lock down 2.0 has reduced this practice temporarily.

The hospitality industry, policing and licensing authorities are alive to the challenges this activity presents and studies suggest that nationally developed strategies are more likely to be effective in reducing the alcohol quantities that young people pre-drink.

3. Conclusions

3.1 The lack of specific responses to the proposed Licensing Policy for East Devon seems to demonstrate general acceptance of it by businesses, bodies and public alike. The comments received for the policy do not seek or propose changes being made (**Appendix C**).

3.2 The Licensing Authority must adopt the policy prior to the 6 January 2021 in order to exercise its powers under the Act. Once the Council has approved its Licensing Policy it will be published and will be available through the Council’s website.

3.3 Existing licence holders and holders of club registration certificates will be up dated and advised that a copy is available on the Council’s website or alternatively they can request a copy to be sent to them.

East Devon District Council

Licensing Policy Document – Licensing Act 2003

Key Organisations and individuals Consulted

- ❑ 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



LICENSING ACT 2003

STATEMENT OF LICENSING

POLICY

For the period
7 January 2021 to 6 January 2026

Draft Version 3 (18 November 2020)

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FOREWARD

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

Section 5 of the Licensing Act 2003 (hereafter 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 copies of the policy are available by contacting the Licensing Team via email to licensing@eastdevon.gov.uk

East Devon District Council 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 175 per square km (the England and Wales average is 427). Of our 30 wards 21 of the have a population density below the England average. 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 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. Cranbrook is the fastest-growing town in the South West with a young population with four times the England average of 0-4 year olds and a high proportion in the 25-39 age group. It is estimated that Cranbrook will house up to 28,000 residents by 2031 with the community infrastructure expanding since the first building works began in 2011. As one of the ten NHS Healthy New Towns, the programme is helping to create an environment that promotes healthy lifestyles using innovative approaches to create a healthy, vibrant, attractive and sustainable town.

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%.

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.

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 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.

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 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, 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).

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.

3.2.4 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.
- 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.

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.

3.3 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.

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:

Matter to be dealt with	By Full Committee	By Sub-Committee	By Officers
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 made and not withdrawn	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 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 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 are available to complete online. Applicants can contact the licensing team prior to formal submission. 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.

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 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. Mediation allows each party to express their concerns or views in an attempt to come to an agreed position which is cost effective. Agreed positions negate need for 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 should contact the Safety Advisory Group co-ordinator at least six month before any event being considered under a 'time limited' premises licence.

- 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.
- 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 pool of conditions which applicants are invited to use when formulating their operating schedules

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.

- 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)

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.

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
- 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 (12 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.

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 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. In 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 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.

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.

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 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 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 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 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 is available on the council's website as a [Guide to Responsible Authorities](#)

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 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.

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 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 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.

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 Board of 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

POOL OF LICENSING CONDITIONS Licensing Act 2003

APPENDIX C

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 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 the Council's Safety Advisory Group safetyadvisor.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 [[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 be 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](http://eastdevon.gov.uk/guide-to-responsible-authorities) 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. The Licensing Team can be contacted by emailing licensing@eastdevon.gov.uk

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CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

<p>1.Training</p>	<p>D1</p>	<p>All staff engaged in licensable activity at the premises will receive training and information in relation to the following (<i>select from the following</i>):</p> <ul style="list-style-type: none"> i. The <i>Challenge 21/25*</i> (<i>delete as appropriate</i>) scheme in operation at the premises, including the forms of identification that are acceptable. ii. The hours and activities permitted by <i>the premises licence / club premises certificate*</i> (<i>delete as appropriate</i>) issued under the Licensing Act 2003 and conditions attached to the <i>licence/certificate*</i>(<i>delete as appropriate</i>). 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 (<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>
<p>2.Incident log</p>	<p>D2</p>	<p>An incident log shall be kept and maintained at the premises which will include a log of the following, including pertinent details (<i>select from the following</i>):</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>
<p>3.Alcohol Consumption</p>	<p>D3</p>	<p>With the exception of residents and their bona fide guests, no alcohol shall be consumed more than (<i>insert</i>) minutes after the permitted terminal hour for the supply of alcohol.</p>
	<p>D4</p>	<p>The consumption of alcohol on the premises shall cease at (<i>insert hour</i>).</p>
	<p>D5</p>	<p>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.</p>
	<p>D6</p>	<p>The sale and supply of alcohol for consumption in any <i>outdoor area of the premises/off the premises*</i> (<i>delete as appropriate</i>) shall be restricted to alcohol</p>

		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.
	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>(2)</i> door supervisors will be employed for the first <i>(150)</i> customers and one door supervisor for every <i>(75)</i> thereafter.
	D25	A minimum of <i>(2)</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	<p>The following details for each door supervisor will be contemporaneously entered into a register kept for that purpose:</p> <p>(i) Full name (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) (iii) The date and time they began their duty (iv) The date and time they completed their duty (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>
	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.
	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.
	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.
7.Substance Misuse	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.
	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.
	D38	<p>A structured training programme surrounding substance misuse will be in place. Training will be undertaken at (<i>regular intervals/annually/ _ monthly intervals*</i>) <i>delete as appropriate</i> 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>
	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 Inn keeping or similar accredited body.

	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.
	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>
	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.
	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 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.*) (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	<p>NOTE FROM LICENSING AUTHORITY ON IMPOSITION OF CONDITIONS SURROUNDING CCTV:</p> <p><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></p>	

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf

A blanket attachment of surveillance camera 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.

Guiding Principle One is shown below for information:

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.

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.

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	The premises shall install operate and maintain a comprehensive digital colour CCTV system to the satisfaction of the Police and local authority
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	<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.</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 14 days with date and time stamping. (Offers on applications in excess of 14 days are acceptable).</p> <p>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 (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>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 (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 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.</p>
D51	<p>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).</p>

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 the concerns to hand in relation to noise attenuation and resultant nuisance. An example of the type of inclusion that may be appropriate follows:</i></p>	
	N21	<p>Between (<i>specify hours/ days</i>), 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 (<i>specified distance (usually in metres, between the noise source and the receiver location(s))</i>) from any facade of any noise sensitive premises over any [<i>specify no. of minutes</i>] period with entertainment taking place, must not increase by more than [<i>specify dB tolerance (e.g. +3 dB, +5 dB, etc.)</i>] 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 (<i>specify no. of minutes</i>) 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.</p>
15. Point of Contact	N22	<p>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.</p>
	N23	<p>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.</p>
16. Noise Limiting Devices	N24	<p>A noise limiting device (<i>the specification and design to be agreed with North Devon Council's Environmental Protection Team</i>) 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.</p>
	N25	<p>The noise limiting device must be fully functional and in proper working order at all times during performances of live and recorded music.</p>
	N26	<p>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.</p>
	N27	<p>No performances of live and recorded music will proceed without the noise limiting device in proper working order.</p>

	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	<p>A noise limiting device shall be used in relation to all sound amplification equipment used in line with the following:</p> <ul style="list-style-type: none"> (i) The noise limiting device shall be kept at the settings approved by the Council through an authorised officer of the Council's Environmental Protection Team on <i>(Date)</i> (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 EDDC through an authorised officer of EDDC Environmental Health Team (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 within <i>(insert)</i> days of notification.

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.</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	<p>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:</p> <ul style="list-style-type: none"> -the date, time and location of the monitoring -the name of the person monitoring -any action taken <p>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.</p>
	N42	<p>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.</p> <p>(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.</p> <p>(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.</p> <p>(iii) Such records must be made available for inspection and copying at all times upon request to an authorised officer of a responsible authority.</p>
	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.
	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	<p>The following conditions apply to the management of smoking areas within curtilage of the premises (<i>select from the following</i>):</p> <p>(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.</p> <p>(ii) Patrons must not be allowed to take drinks into the smoking area.</p> <p>(iii) The area must be provided with an adequate number of suitable ashtrays/bins, the use of which must be monitored by door staff.</p> <p>(iv) The area must be regularly swept to remove cigarette ends.</p> <p>(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>).</p> <p>(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.</p> <p>(vii) Any bottle or bin stores located near an external smoking facility shall be enclosed and secured.</p> <p>(viii) There shall be no furniture in the outside areas, with the exception of the appropriate wall mounted receptacles for tobacco waste materials.</p> <p>(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.</p> <p>(x) Staff shall be instructed to clean the smoking area and adjacent pavements of smoking-related litter before and after each period of use.</p>
	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.
22. Deliveries & Handling of equipment	N60	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.
	N61	No deliveries (in relation to licensable activities) to the premises shall take place between <i>(insert)</i> hours and <i>(insert)</i> hours.

23. Reports & Schemes	N62	A detailed scheme of sound insulation works shall be submitted to and approved in writing by EDDC Environmental Health 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> .
	N63	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 All recommended works shall be completed prior to the commencement of the premises licence/club premises certificate* <i>(delete as appropriate)</i> .
	N64	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 All recommended works shall be completed prior to the commencement of the premises licence/club premises certificate* <i>(delete as appropriate)</i> .
24. Litter & Waste	N65	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.
	N64	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.
	N67	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 68	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 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 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 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 72	All packaging provided with takeaway food must be marked in some way as to show its point of origin.

	N 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 74	The use of lighting in (<i>specify area</i>) shall cease at (<i>insert</i>) hours except for health and safety or security reasons.
	N 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.

26. Fumes, Steam & Odours	N 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 77	Ventilation equipment will be regularly cleaned and maintained to control the levels of odour generated by the premises.
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 <i>(X)</i> 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 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 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.
CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM		
33. Proof of Age Scheme	C1	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.
	C2	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 (21/25)* years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be: <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>
34. Refusals Register	C3	<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)* (delete as appropriate)</i> that a Challenge (21/25) scheme is in operation.</p>
	C4	<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> <ul 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>

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* 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	(<i>Other than in hotel bedrooms</i>) 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.
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.
	O9	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. 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. Training records will be retained for at least 12 months.
	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. OR i. Cash orders for alcohol ordered by an online method will be limited to a maximum of £50 per order.

		<ul style="list-style-type: none"> 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/fix 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 premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00hrs.
44. Night time hatches	G1	<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.



LICENSING POLICY CONSULTATION

RESPONSES

under the

LICENSING ACT 2003

Consultation Period: September 2020 to November 2020

November 2020

Table Headings

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

Consultation Responses received – September - November 2020

	2	3	4	5	6
A	N/A	Cranbrook Town Council	Response in support of the proposed policy	N/A	No
B	N/A	Devon & Cornwall Police Licensing	Response in support of the proposed policy	N/A	No
C	N/A	West Hill Parish Council	No Comment to make	N/A	No
D	N/A	Budleigh Salterton Town Council	No Comment to make	N/A	No
E	N/A	Dunkeswell Parish Council	No Comment to make	N/A	No