

**Agenda for Licensing and Enforcement
Committee
Wednesday, 17th February, 2021, 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, P Jarvis, C Pepper, G Pratt, B Taylor, T Wright, L Jeffery, T Woodward and E Wragg

East Devon District Council
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ
DX 48808 HONITON
Tel: 01404 515616
www.eastdevon.gov.uk

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

Contact: Sue Howl 01395 517541
(or group number 01395 517546)
Monday, 8 February 2021

**Important - this meeting will be conducted online and recorded by Zoom only.
Please do not attend Blackdown House.
Members are asked to follow the [Protocol for Remote Meetings](#)**

This meeting is being recorded by EDDC for subsequent publication on the Council's website and will be streamed live to the Council's Youtube Channel at <https://www.youtube.com/channel/UCmNHQruge3LVI4hcgRnbwBw>

Public speakers are now required to register to speak – for more information please use the following link: <https://eastdevon.gov.uk/council-and-democracy/have-your-say-at-meetings/all-other-virtual-public-meetings/#article-content>

- 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 Licensing Update Report (Pages 7 - 14)
- 8 Pavement Licence Update Report (Pages 15 - 18)
- 9 Report on Taxi and Private Hire Vehicle Statutory Standards (Pages 19 - 23)

[Decision making and equalities](#)

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Licensing and Enforcement Committee held at Online via the Zoom App on 18 November 2020****Attendance list at end of document**

The meeting started at 10.00 am and ended at 11.00 am

51 Public Speaking

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

52 Minutes of the previous meeting

The minutes of the meeting held on 3 September 2020 were agreed as a true record.

53 Declarations of interest

There were no declarations of interest.

54 Matters of urgency

There were no matters of urgency.

55 Confidential/exempt item(s)

There were no confidential/exempt items.

56 Quarterly Update

The Licensing Manager presented his report to the committee. It provided an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005, taxi, and general licensing and the new Business and Planning Act.

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

- Applications received, licences issued and notices given under the Licensing Act 2003.
- Applications received, licences issued and notices given under the Gambling Act 2005.
- Taxis:
 - Applications received and licenses issued.
 - The impact of coronavirus on the taxi and private hire trade.
 - Enforcement.
 - Hearings.
 - Taxi ranks.
- Street trading consents – applications received and consents issued.
- Pavement licences.
- Consultation and partnership working – Safety Advisory Group meetings.
- Member training.

Since the last Licensing and Enforcement Committee meeting the Government had twice introduced further emergency legislation due to the coronavirus pandemic. The impact of coronavirus also continued to challenge the taxi and private hire trade, with fewer passengers using taxis late evenings or travelling to airports.

In response to a question regarding the number of disabled vehicles currently licensed, the Licensing Manager advised that he would report this figure back and that information was available on the Council's website.

The Committee agreed to write to ministers to lobby for a specific package of help for taxi and private hire drivers. Drivers at the moment did not currently appear to fit into any of the categories for government aid.

RESOLVED:

1. that the update report be noted.
2. that the Chairman and Licensing Manager write to the local MPs and Secretary of State requesting that government support be provided to taxi and private hire drivers who have been adversely affected by the coronavirus pandemic.

57 **Taxi Policy - Statutory Standards Policy**

The Licensing Manager's report informed the Licensing and Enforcement Committee of the recently published 'Statutory Taxi and Private Hire Vehicle Standards' issued by the Department for Transport and invited the committee to consider recommendations to meet the requirements in conjunction with the Council's policy. The Licensing Manager recommended that progress to adopt the statutory standards be considered in two phases; the first being changes to be adopted into the taxi policy by the end of the year, and the second being a full review along with consulting on further changes. The areas that required further consultation by the Council were detailed in the report. It was noted that there would be financial as well as resourcing implications and staffing arrangements would need to be reviewed.

Members discussed the cost of CCTV for taxi drivers. The CCTV would need to be audio and visual and EDDC would need to be data controller of the data, with significant costs involved. Discussion also took place on DBS checks, with the frequency changing from once every three years to six monthly. The committee felt that a review should be undertaken on an increase in staffing due to the additional work load put on the licensing team.

RECOMMENDED: that a phased approach be considered for revising the Council's Taxi and Private Hire policy in consideration of the new statutory standards:

1. to adopt key changes necessary under the new statutory standards by revising the current policy in the first phase by recommending to Council to adopt the revised Taxi and Private Hire Policy with amendments shown at Appendix C,
2. 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,
3. that a review of staff training would be necessary to undertake the new and additional workload,
4. that a full consultation be undertaken before adopting the changes by 31 March 2022.

58 **Seaton Taxi Rank**

The Licensing and Enforcement Committee was asked to note the adoption and removal of the taxi ranks in Seaton following the necessary consultation with the public and relevant authorities. The Seaton seafront regeneration scheme would commence in early 2021 and as a result the existing taxi rank in Seahill would no longer be available by being designed out. The siting of the new rank to Castle Hill, in close proximity would maintain the rank numbers and give licensed taxis an alternative location to trade upon completion of the regeneration. There had been no representations of objection to the public notice phase.

RESOLVED: that the Licensing and Enforcement Committee in exercise of its powers under section 63 of the Local Government (Miscellaneous Provisions) Act 1976:

1. Notes that 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 distance of 15 metres in an easterly direction.

59 **Licensing Policy Report**

The Licensing Manager's report updated the committee on the results of the public consultation to the proposed new Licensing Policy. It was a legal requirement of the Licensing Act 2003 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 and must be reviewed at least every five years, therefore a policy must be adopted by 7 January 2021. The main changes to the policy were outlined in the Licensing Manager's report.

On behalf of the committee the Chair thanked the Licensing Manager and his team for all their hard work and it was commented that the lack of specific responses to the proposed policy indicated how good it was and demonstrated general acceptance of it by businesses, bodies and public alike.

RECOMMENDED:

1. that the results of the public consultation undertaken on the Council's proposed Licensing Policy relating to the Licensing Act 2003 be noted.
2. that the East Devon Licensing Act 2003 Policy as attached to the report at appendix B, be adopted by the Council for the period 7 January 2021 to 6 January 2026.

Attendance List

Councillors present:

J Whibley (Chair)
K Bloxham (Vice-Chair)
M Chapman
A Dent
S Gazzard
N Hookway
P Jarvis
B Taylor

T Wright
T Woodward

Councillors also present (for some or all the meeting)

P Arnott
P Faithfull

Officers in attendance:

Lesley Barber, Licensing Officer
Amanda Coombes, Democratic Services Officer
Rebecca Heal, Solicitor
Lucy Maxwell, Licensing Officer
Giles Salter, Solicitor
Stephen Saunders, Licensing Manager
Alethea Thompson, Democratic Services Officer

Councillor apologies:

G Pratt

Chairman

Date:

Report to: Licensing and Enforcement Committee



Date of Meeting 17 February 2021

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 18 November 2021

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 From 5th November the country moved in to a four week lock down that ordered the closure of non-essential businesses including licensed pubs, restaurants and cafes. Restrictions prohibited consumption of food or drink, in or adjacent to a business and with food and non-alcoholic drink sold for take away from a premises up to 10pm.
- 1.1.3 From 2nd December, new national tier restrictions meant that pubs could only remain open where alcohol was served as part of a table meal presenting new challenges around interpretation. That was particularly for traditional drinks led (wet) pubs that wanted to remain open with consideration of what was a 'substantial meal' together with how long alcohol could be served with a substantial table meal.
- 1.1.4 On 20 December 2020, the All Tiers Regulations came into force, the Christmas period was reduced to 1 day for gatherings before all of England then moved to Tier 4 on 6th January 2021, with what has been described as the third national lockdown. Hospitality businesses including licensed premises are now required to close. Selling food and non-alcoholic drinks for takeaway between the hours of 05:00 and 23:00 is permitted. Alcohol can be provided through pre-ordered delivery by suitably licensed businesses.
- 1.1.5 Applications for various licences continue to be received by the licensing team with Personal Alcohol Licences submitted to allow supervision of licensed premises, changes for premises supervisors and also for newly licensed businesses.
- 1.1.6 Despite still being in lockdown, enquiries are being received by the licensing team with regard to businesses seeking to sell alcohol on beach fronts and outdoor locations by submitting temporary event notices or time limited premises licences later this year. Options include pop-up bars, horseboxes and similar proposals that previously would have traded at outdoor festivals. Most proposals would be closely situated near established businesses that have faced challenges in surviving during the pandemic. The Licensing Act does not allow consideration of local 'need' or commercial demand of such businesses during an application process although the cumulative impact can be something taken into account. The Council's Street Trading policy does have regard to such factors particularly where there is a conflict with businesses selling similar goods (**see 4.2**).
- 1.1.7 Members of this Committee will be aware that the Council's Statement of Licensing policy was revised last month for the next five years. Section 5 (Environmental Factors) refers to the need to mitigate the detrimental impact on East Devon's exceptional coastline as a WHS and AONB. Prime areas for trading have always existed but could become quickly overprescribed and therefore an appropriate assessment of need and suitability before any trading in prime locations should be a consideration.

1.2 Hearings

- 1.2.1 There were no contested sub-committee hearings for licensed premises over the previous period although a contested application will be considered on Wednesday, 24th February.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The national restrictions introduced in England from 6th January 2021 also required closure of gambling premises including betting shops and amusement and arcades. During the previous period, a further licensing betting premises licence was surrendered and the office, based in Exmouth, has closed.
- 2.1.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest bulletin was produced in December and can be viewed online at <https://www.gamblingcommission.gov.uk/PDF/LA-bulletin/LA-BULLETIN-December-2020.pdf>
- 2.1.3 The national update from the Commission relating to the mandatory annual return submitted by licensing authorities has not been published yet to allow details to be shared at this Committee. The deadline for submission has passed and although not all licensing authorities have completed the mandatory return, this authority did so within the timescales.
- 2.1.4 The previous report to this Committee outlined that the Commission had removed posts of South West regional compliance officer and a local authority partnership officer that were key to effective working with licensing authorities. The Commission has since updated authorities that contact options with compliance managers has ceased and for any gambling related requests from licensing teams to be emailed to a Commission mailbox. The important function of conducting compliance inspections and regulatory work for licensed gambling premises clearly falls now to local authority licensing officers from this point.

2.2 Review of the Gambling Act 2005 (Terms of Reference and call for evidence)

- 2.2.1 The Act 2005 is the basis for all regulation of gambling in the UK with Local Authority licensing overseeing licensed gambling premises and the Gambling Commission having responsibility for operators (those who run premises) and for online, remote, internet betting. The Culture Secretary (DCMS) has launched a wide ranging review to assess whether the balance of regulation is right and being in the digital age fifteen years after inception of the Act, there are online opportunities to gamble almost anywhere and at any time. With concern that too many people are still experiencing significant harm, the review will look at whether the regulatory framework is effective and whether further protections are needed. Preventing exploitation of vulnerable people, individuals, families and communities from the effects of gambling-related harm remains a priority.
- 2.2.2 A previous review in 2016 of Gaming Machines and Social Responsibility Measures led to legislation cutting the maximum stake on Fixed Odds Betting Terminals (FOBT's) to £2, machines predominantly located in licensed betting premises. In the last 18 months the Commission tightened rules on the age and identity checks operators must do before allowing someone to gamble online and such reviews highlight the need for responses.
- 2.2.3 To provide a coordinated response under 2.2.1, the Institute of Licensing (IoL) are undertaking a survey that will close on Friday 19th March and it is proposed that the Licensing Manager will provide a response. The IoL will then formulate its national response before the deadline of 31st March 2021. The call for evidence [can be viewed online.](#)

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. Current restrictions see the continued need for licensed taxis and private hire vehicles undertaking vaccinations trips and medical appointments although educational transport work which many licensed drivers gain employment from, has paused.
- 3.1.2 Despite the current working challenges, licensing officers have continued receiving new Private Hire driver applications and ongoing renewals for licensed drivers and vehicles. Officers must adhere to the test of 'fit and proper' whenever considering new and renewal driver applications and it has been necessary for officers to develop innovative procedures by utilising online payment methods, revising existing forms and contact methods whilst working remotely to engage efficiently with applicants and licence holders. Innovation has included a direct approach to having vehicle plates printed by the plate supplier and them sending out to the licensee which streamlined the process that was completed by an officer.
- 3.1.3 Licensing officers completed process mapping of taxi and Private Hire applications in January 2020 and the licensing team await roll out of an online application process being delivered by Strata. Applicants and licensees would be able to upload all documents and fees using the Firmstep process which the larger companies have been seeking from some years.
- 3.1.4 The resurgence of the virus through the winter further reduced custom available to the trade with national guidance requiring the public to stay at home. The ongoing need for the Council's [Covid-19-emergency-taxi-policy](#) continues and although garages and MOT test stations have remained open during this period of lockdown, it is evident that the GP medical appointments at doctor surgeries needed by drivers to update their medical assessments have been limited. Officers have been innovative by utilising online medical checks that other Devon licensing authorities are also implementing. The DVLA has not amended the Group 2 medical standards or frequency of medicals for drivers as a result of the outbreak of Covid-19 and so to ensure that medical fitness of drivers can still be suitably assessed, it is possible to signpost drivers to medicals carried out by a nationwide company called D4 Drivers.
- 3.1.5 The existing medical assessment form incorporates the D4Drivers information and when an applicant or existing driver cannot obtain an appointment at their own surgery, drivers can book online with D4Drivers at <https://d4drivers.uk/> with appointments taking place in Exeter. Drivers still need to obtain a 'Medical Summary' from their own GP Practice to take with them to their D4Drivers appointment. The cost of medicals is lower than most doctor surgeries and this process allows driver to maintain their assessment as being medically fit and proper to retain or be granted a licence during these challenging times.

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

- 3.2.1 At its previous meeting, this Committee resolved to lobby ministers for a specific package of financial help for taxi and private hire drivers through not previously falling in any categories for government aid. The resolution was passed that the Chair and Vice Chair, with the Licensing Manager would write to the local MPs and Secretary of State requesting that government support be provided. This course of action was reinforced by Cabinet at the meeting in November with the emphasis on funding being considered under the Additional Restrictions Grant (ARG).
- 3.2.2 In late November, the letters produced at **Appendix A** were sent to local MP Simon Jupp and Neil Parish, to Grant Schapps, MP Secretary of State for Transport and to Rishi Sunak, MP Chancellor of the Exchequer. Responses have not been received to date.
- 3.2.3 With regard to the financial support considered under the ARG, the Council's Economic Development Manager confirmed those applying were awarded £934 under the grant. At the end of January, officers were able to respond positively to a national request submitted by the National Taxi and Private Hire monthly magazine (PHTM) which asked for details of Councils which have, or have not provided grants, for inclusion in the February edition.

3.3 Enforcement

- 3.3.1 The licensing team records and investigates complaints received from the public which is recognised as an effective procedure by the Department of Transport. There have been no complaints received over the previous period regarding taxi or private hire licence holders.

3.4 Hearings

- 3.4.1 There has been no need to hold a Licensing Sub-committee over the previous period.

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 Although the level of street trading over the previous year has ceased at festivals and outdoor events, the uptake by new mobile businesses seeking to trade in various locations across the district continues remains one of the few growth areas during the pandemic.
- 4.1.3 The availability of suitably licensed and regulated food sellers continues to be beneficial to the public using their services although the licensing arrangement remains free of any charge when applying. That may be an added reason for the increasing enquiries officers are receiving. Food sellers based in other south west districts and counties where fees are being charged to trade in the streets of Cornwall, Somerset and South Devon have sought information with a view to applying to trade in East Devon this year. The matter of suitably set application fees was the subject of a previous report to this Committee last year and it is the intention of the Licensing Manager to provide an update in April to allow this Committee to consider options on charging fees to recover the costs for officer time.

4.2 Adherence to Street Trading Policy

- 4.2.1 There are various locations across East Devon where street trading could be easily and quickly oversubscribed, notably on the many seafronts and more recently in Cranbrook. During the implementation of the Street Trading policy, Licensing Councillors and Officers worked collectively following a series of consultations to ensure that the balance of trading remains appropriate and measured. That was recently evident with the working arrangement agreed between Cranbrook Town Council and this Council, given the desirability for trading in unsuitable areas of the town. Accepting that street trading allows a vibrant means of complimenting events together with offering choice for the public, there remains potential for commercial trading businesses (static/mobile food/alcohol sellers) that wish to trade in close proximity to existing outlets and selling similar goods that can impact established businesses.
- 4.2.2 The clear financial challenges to the hospitality industry for nearly a year have been offset to a degree through grants and some funding during long periods of closure, although some indications suggest that up to 50% of businesses may not survive. Increasing numbers of street vendors wishing to set up with lower start-up costs by trading on seafronts, in prime areas and in close proximity to other businesses should be a consideration.
- 4.2.3 The Council's Street Trading policy has regard to new applications that 'conflict with other like trading outlets' and the presence of like trading outlets and goods may not lead to consent being granted where clear conflict exists.

5.1 Pavement Licences

5.1.1 Applications from businesses wishing to place tables and chairs on highways stopped over the winter after the streamlined application arrangements were introduced by the government. It is anticipated that businesses will begin to apply for licences in the spring with the issuing responsibility for district councils lasting until September 2021. A review of this arrangement is due and a separate report to this Committee has been provided today.

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) consider advanced planning for outdoor events although the number of events has reduced significantly. The proposed meeting to be held in January was postponed to later in February. The size and potential for outdoor events taking place in late 2021 remains uncertain.

6.2 Institute of Licensing (South West IoL Region) Meeting – 21 January 2021

6.2.1 Officers attended the online regional meeting last month with updates provided on a number of relevant licensing subjects. Leads in their specialist area included an assessment from a festival licensing consultant who outlined the impact of the pandemic continuing in to 2021. Jim Button, lead for taxi and private hire matters, updated attendees with an assessment of the Statutory Standards. His proposal for Licensing Authorities to take sufficient time in the year ahead to fully review existing taxi policies is the approach this Committee has adopted. Emphasis that the standards aren't set in law and need to be adopted in taxi policies was reinforced. A presentation was also given with regard to the impact of Brexit on licensing matters and with regard to existing legislation and procedures.

7 Licensing Team update

7.1 Previous reports to this Committee highlighted anticipated impact from new areas of work on resourcing in the Licensing Team and the arrival of new pavement licences this spring as businesses emerge from lockdown, together with increased procedural work for the new national taxi standards has received support for additional staffing.

7.2 Capability for new areas of work is challenged currently due to staff cover being reduced by a third in the licensing team and although additional support is in place to cover maternity leave, extra staff to address new work in 2021 is still necessary and being progressed.

7.3 Staff in the licensing team also have responsibility for burial and memorial requests for the cemeteries managed by the council, with the manager and one of the support officers overseeing that work in addition to their licensing responsibilities. Policies regarding burials and cemeteries are not reported to the Licensing and Enforcement Committee.

Date:
Direct email: licensing@eastdevon.gov.uk
Our ref: LIC



APPENDIX A

To: Simon Jupp MP / Neil Parish MP / Secretary of State for Transport - Grant Shapps MP / The Rt Hon Rishi Sunak MP - Chancellor of the Exchequer

Dear Sir

Financial Funding for the Taxi and Private Hire Industry

East Devon District Council is aware of the severe financial difficulties experienced by the taxi trade as a result of the pandemic and during two periods of lock down this year, all taxi and private hire proprietors had little or no business as a result of the downturn in use by the public. That situation has been widely reported by the taxi trade nationally over recent months and the Council has explored all options of possible funding that could be available to the local taxi trade in East Devon with regard to the availability of grants or other support that local authorities could provide. Unfortunately there has been no revenue allocated centrally for local authorities to distribute to the taxi and private hire industry.

It was evident that the taxi industry was not an eligible business that qualified for all phases of the Local Authority Discretionary Grant funding, for which the criteria was set by central government regarding businesses that did qualify. Whilst more than 3,600 local businesses in East Devon applied for Schemes 1 and 2 receiving more than £42m in grants, along with a further 230 East Devon businesses that received over £2m in grants through scheme 3, the discretionary grant fund did provide the basis of any financial assistance to the taxi industry.

In May, officers from the council's licensing team circulated detailed information to the taxi and private hire trade across the district regarding the Self-Employed Income Support Scheme highlighting the government payments to self-employed workers adversely affected by Coronavirus for the taxable grant that worth 80 per cent of their average monthly profits over the last three years. In daily contact with members of the trade, officers also learnt that drivers and employees took the opportunity provided by the furlough scheme to further alleviate financial hardship.

Our officers acted to assist the taxi and private hire trade when Covid-19 restrictions began within the limits of what we could do to help and introduced an emergency Covid-19 taxi policy to support drivers and proprietors without any work when their staff were furloughed and taxi vehicles were not being used. Extending compliance test dates, postponing vehicles renewals where requested,

Blackdown House, Border Road, Heathpark Industrial Estate,
Honiton, EX14 1EJ
DX 48808 Honiton

Phone: 01404 515616
Email: csc@eastdevon.gov.uk
eastdevon.gov.uk
[@eastdevon](https://www.facebook.com/eastdevon)

Download the free East Devon App
to access council services at
eastdevon.gov.uk/app

delaying need to get medical appointments and having remote DBS check options were all possible to alleviate costs. These steps were taken to support drivers and businesses with the financial burdens at a time when many drivers had no work.

Therefore, whilst it is not possible for the Council to allocate funding to the taxi trade generated from licensing fees, our staff from a number of services have actively worked to identify potential loans and grants that the taxi trade has not been eligible for to take up the opportunity.

The most recent advice suggests that there are two possible funding paths for the taxi trade to pursue – both are loans rather than grants, and provide no relief in the short term to help this vital trade survive these trying times. As a council we have, as stated above, looked at all possibilities for funding streams for the trade. We have found none, and the latest guidance effectively confirms this.

So, as the Licensing and Enforcement committee, we politely ask that you consider plugging this gap, with a trade specific funding stream accessible to all licensed drivers suffering from hardship, to ensuring the taxi trade remains viable and can continue to function when we emerge from the clutches of the COVID – 19 pandemic.

Yours sincerely

Councillor Joseph Whibley

Chair – Licensing & Enforcement Committee

Councillor Kim Bloxham

Vice Chair – Licensing & Enforcement Committee

(On behalf of the East Devon District Council Licensing and Enforcement Committee)

Report to: Licensing and Enforcement Committee

Date of Meeting 17 February 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



Committee Update on Licensing Matters

Report summary:

Update on Pavement Licences – Business and Planning Act 2020

Recommendation:

That the Committee;

1. Notes the content of the report, in particular the process that District Councils adopted in July 2020 by issuing pavement licences to businesses within the District.
2. Agrees the adopted application process will continue with licences being granted, where suitable, to 30 September 2021.

Reason for recommendation:

Efficient and time critical administration of a service which a District Council must provide.

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:

It is envisaged that the costs incurred will be covered by the fees charged.

Legal implications:

The Act specifically precludes the granting of pavement licences from being an Executive Function meaning, in accordance with our Constitution, it is therefore a matter for the Licensing and Enforcement Committee rather than Cabinet. The report is seeking the Committee's approval to grant the pavement licences to 30th September 2021 date which was approved in July 2020.

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 The report itself is low impact but the issue of equalities (specifically consideration of access by the disabled) is a key consideration for the local authority when discharging its duties under the Act.

Risk: High Risk; If applications are not administered effectively within the statutory time frame (10 working days) they are deemed granted and the Council will have lost control of the process in controlling the public highway.

Links to background information

Previous report to Licensing Committee July 2020

The Health Protection (Coronavirus Restrictions) (England) (No.4)

Regulations: <https://www.legislation.gov.uk/ukxi/2020/1200/contents/made>

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

Business and Planning Act 2020 – Pavement Licences

1. The Business and Planning Act 2020, part of the Government's business recovery plan for tourism and the hospitality trades, gave the power to District Councils last summer to grant pavement licences by providing a streamlined process that allows businesses to secure these licences more quickly than those managed by Devon County Council highways. The arrangement was put in place for a year but still not beyond 30 September 2021 currently. The outcome of a review by the Home Office and Local Government Association is imminently awaited and that may be extended soon.

2. A meeting of this Committee in July last year adopted the streamlined pavement licence process together with determining them after a short consultation period along with setting local conditions for a nationally set fee of £100. None of those procedures are proposed for change or amendment today. Officers from a number of services delivered an online application process with new conditions and payment arrangements in a period of a month for the new process to go live. That would usually have been implemented over far longer timescales by all involved.

3. Delegated authority was provided to the Strategic Lead (Governance and Licensing) in consultation with the Chair of the Licensing and Enforcement Committee and Portfolio Holder for Coast, County and Environment to make any necessary amendments to the process and local conditions which arise out of administration of the regime.

4. The recruitment of a Grade 5 post based on a fixed term of 6 months to support the administration of the service was also approved although the timing of the implementation offered little time for businesses to take up licences before inclement autumn and winter weather removed the desire for customers being seated outside. The slowdown in applications occurred across Devon and possibly nationally given the timing of the changeover.

5. The new process was introduced by government to offer a cheaper, easier and quicker way for businesses to obtain a licence. However the high expectations of businesses that had applied may have been unrealistic as a result of national and regional promotion that gave scant regard to the high public safety requirements on pavements and beside busy roads.

6. It is expected that responsibility for streamlined pavement licences will remain with District Councils after September, although whether this becomes a permanent arrangement is not yet known until the outcome of the government review is circulated. The delay currently leaves authorities and businesses uncertain of the longer term options for permanent pavement licences.

Licences Issued

7. Three businesses applied to place tables and chairs on highways last autumn with two in Exmouth and one in Sidmouth with the outcome being two refused and with one granted. Devon County Council removed the temporary licence process it had briefly introduced last year when this new process passed to District Councils and one business that had previously taken advantage of the County licence then had to apply to EDDC when the County licence expired in September. Devon County Council highways subsequently objected to the new licence application when managed by EDDC on the basis of public safety leaving no option but to refuse the application based upon the landowner, being lead authority objecting.

8. Another application elsewhere was refused by the licensing team on the basis that the seated area requested encroached over 'tactile' pavement slabs being important to visually impaired pedestrians and with the fixtures also presenting a hazard to public safety. The pavement licence that has been granted is due to expire at the end of this month and a renewal application is expected.

9. Despite a relatively low fee set, the work conducted by officers delivering the new process together with the time required when accepting and determining applications is significant. Officers have had need to provide higher levels of contact with applicants and those seeking guidance and upon receipt of an application, have had need to visit locations during the short consultation period to measure and inspect the safety of each proposal. The short period of 14 days from receipt to grant places additional pressure. Post refusal time spent by officers and the Licensing Manager in respect of appeal and feedback has been significant to date and it is clear that each application has the potential to be contended when being unsuitable for grant.

10. The enforcement of licensed or unlicensed businesses remains with the County Council highways team, being the only agency with powers to remove furniture or to commence legal proceedings for unregulated breaches. The District Council may only revoke a pavement licence.

Continued administration of these licences by EDDC

11. Responsibility for these licences sits within the licensing team having gained experience in the administration and determination of applications last autumn. It was agreed that licences granted in 2020 would not be granted initially beyond 28th February 2021 and it is now proposed that the Committee resolves to continue the service to the current government deadline 30 September 2021.

12. In December 2020, the LGA conducted a short survey with District Council licensing authorities regarding adoption of this service to date, with a response provided by the Licensing Manager. Whilst no decision has yet been circulated before this meeting today, there is an understanding that the legislation will be extended for District Councils to continue beyond September. In the event that an update is received before this meeting but after this report has been circulated, an update will be included as a Matter of Urgency.

13. This Committee is reminded that the grant of a pavement licence only permits the placing of furniture on the highway and other regulatory frameworks still apply such as the need for alcohol licenses and the need to comply with registration requirements for food businesses. A pavement licence is a method to allow consumption although under the Business and Planning Act relaxation last year, if the applicant already had a licence to serve alcohol on-premises then temporary amendments to the Licensing Act 2003 allowed for consumption off the premises, which would permit the activity within the pavement licence area without needing to apply for a variation.

14. For any areas and locations that do not fall under the definition of a highway and being on land owned by this District Council, it requires an application to the Streetscene Events team for a Sitting

Out Consent attracting the same fee. Businesses using the central Strand area of Exmouth have been managed under Sitting Out Consents.

15. As the legislation has not yet extended power to District Councils to grant pavement licences beyond 30 September 2021, it currently means if a licence is 'deemed' granted until any change, then the licence will be valid for a year but again will not be valid beyond 30 September 2021.

16. The existing legislation outlines that if the District Council does not determine an application within the relevant period then the licence is automatically granted and therefore businesses can place the proposed furniture such as tables and chairs within the area set out in the application for the purpose or purposes proposed. Effectively the Council loses control of the licensing regime.

Resourcing

17. The first meeting on this subject outlined that there will be a clear impact on resourcing as the licensing team would be doing new work not being done before 2020 and whilst the volume of licences has not yet arrived, that impact is imminent. Experience gained last autumn for work involving pre-application advice, consultation and grant/refusal did confirm the impact on the team from a small number of applications and with high levels of contact. Previous approval was given for temporary support through a Grade 5 position, either fixed term or secondment for 6 months, with that extra support still necessary to allow the licensing team to discharge this regime.

18. The recent need to also recruit a new administrative Grade 3 position to address increased taxi work under the Statutory Standards was also approved for increased frequency of taxi checks and procedures being factored in to the 2021/22 year.

19. The combination of both areas of new work being undertaken by one new Grade 4 administrator position for 12 months will provide sufficient support to oversee the administration of pavement licences and also the new taxi standards work. Costings for a Grade 4 post working 37 hours over a 5 day week are £26,642, by incorporating funding already factored in for the Grade 3 post and supplemented by income from new pavement licence fees and renewals. Having one Grade 4 post for a 12 month period provides sufficient time to recruit and to train a postholder along with fully reviewing future need and costs.

20. The alternative to recruit a new Grade 5 position, for 6 months (pavement licences) and a new administrative Grade 3 position (taxi administration) for 12 months duplicates the recruitment, induction and training costs and offers a less attractive opportunity to recruit prospective applicants.

Report to: Licensing and Enforcement Committee

Date of Meeting 17 February 2021

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 updates and the progress concerning new 'Statutory Taxi and Private Hire Vehicle Standards.'

Recommendation:

That the report be noted.

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. Other Financial costs have also been included within the 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, February 2020 and November 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. This report provides an update on the Department for Transport's (DofT) expectation that all licensing authorities will implement 'Statutory Standards' Taxi and Private Hire licences. The new measures set-out a range of robust standards to protect passengers that licensing authorities should implement unless there is a compelling local reason for not doing so.
2. The last meeting of this Committee resolved to adopt the Statutory Standards in two phases with changes to the frequency of Disclosure and Barring Service (DBS) checks now being adopted in the Council's Taxi and Private Hire policy at the end of last year. The second phase now requires a detailed review of the Statutory Standards in conjunction with our policy before consulting licensees and stakeholders ahead of implementation in 2022.
3. It was considered appropriate to adopt the Statutory Standards within the policy as authorities not adopting them will need to provide a rationale for failing to act to protect passengers. The measured approach being taken by this licensing authority was reinforced by a national lead in the field of Taxi and Private Hire licensing at the recent meeting of the south west region of the Institute of Licensing. This Council starts from a positive position having introduced a comprehensive policy in 2017 that followed an eight week consultation before adoption.

Contact from central government

4. In December, the Minister for Roads, Buses and Places, Baroness Vere, wrote to all Council Leaders expressing the expectation to signing up to the national taxi refusal database known as NR3 (**Appendix A**). The Licensing Manager made contact with the specified point of contact and further details were received at the end of January outlining the arrangements and costs to take this forward. Although the letter refers to this Council being in a minority of those that have not yet signed up, no other Devon authorities have yet signed up and it is understood that many Councils are exploring the requirements currently.
5. On 27 January an email request was sent to all licensing authorities by the DofT seeking a response on the timescales to implement the Statutory Standards. It was previously known that this request would be made and the Licensing Manager responded with the details and timescales approved by this Committee. It is now a matter of officers moving forward with key areas to revise the Council's Taxi and Private Hire policy and this report is to inform members to this point in time.

Progress and the next steps

6. To assist the Committee today here is a summary of the key areas that require progression in the months ahead along with updates that have already been provided.
 - a) Signing up to the national licensing database that allows secure information sharing on revoked or refused licences referred to as the '**NR3 Database**' requires a detailed examination of the costs and work involved with the response from the DofT, provided days before completion of this report. It is clear that work will be necessary with the EDDC Data Protection officer for a Memorandum of Understanding under a Membership Agreement. The Licensing Authority will need to specify a Data Controller and there will be extensive work in preparing policy together with need to contact all licensees, including those previously subject of refusal or revocation. Updating our forms and preparing IT compliance with Strata will be necessary. There are costs to join as a new member of between £130 and £265 and then with an annual membership fee of £1600 per year. Costs per check have been specified too once membership has been obtained, ranging from 0.70 pence to £26.50 for the most enhanced enquiry. Clearly

those costs are not factored in budget presently and that, together with the delivery of this aspect needs further and detailed assessment over the course of this year.

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 has been introduced in policy under the first phase.

c) **Safeguarding Awareness** briefing for licence holders; already being mandatory in our policy, the Covid-19 situation requires new procedures for remote, virtual sessions and being explored by all Devon authorities. There is a suitable trainer that may be available to provide a presentation for this Committee in the future to consider the input before delivery. Officers have commenced the possibility of also collaborating with Devon County Council Transport team as many of our licensed driver undertake educational work for the County Council and attended safeguarding sessions. Both options will be reported to this Committee when it meets in April.

d) DBS checking and increased frequencies for Private Hire despatch staff will require the progression on renewal or when new licences are received. This will form part of the work being factored in for the new administrator post.

e) **CCTV** and audio recording assessment and whether it is necessary in this district. Potential costs for licence holders will be necessary to purchase audio/visual units that still needs to be assessed against whether there is a specific need for mandating all licensed vehicles. The mandatory approach will place liabilities on the licensing authority by being a Data Controller and this area is also under review.

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. The arrangements and communication between the Devon licensing authorities works effectively although there are gaps with South Somerset and the new Dorset Council licensing authorities which will require contact between officers in the forthcoming period.

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. This will be a policy addition.

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. This will be a policy addition under the next phase of implementation.

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. This will also be progressed under the phase 2.

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 be progressed under phase 2 to come into effect in policy from 31 March 2022.

Financial implications including resources.

7. All officer time undertaken in this review in the months ahead will need to be evaluated and costed for consideration of the fees set by the Council to deliver the Taxi and Private Hire licensing regime. The additional costs arising from this work will be reported in more detail. Knowing that signing up to the NR3 Register, introducing virtual Safeguarding awareness sessions and the potential for adopting CCTV in licensed vehicles, all has implications for future licence fee setting once costed.

8. HMRC is currently completing scoping work following the government announcement in 2020 to introduce a tax registration check linked to licence processes specifically for taxi and private hire licences. Although in the early stage of review, it is anticipated that HMRC will focus on licensing authorities for providing support with tax registration checks when administering licences.

9. The increase of mandatory checking and processing will increase the work of licensing staff and the so previous approval for an additional staff administrator post has already been factored in. A separate report today concerning pavement licences deals with that in more detail.

10. The approach that has been adopted by this Committee for a gradual, comprehensive review to fully revise the Taxi and Private Hire policy will enable it to properly cost, evaluate and consult stakeholders going forward to introduce the Statutory Standards.

APPENDIX A

Baroness Vere of Norbiton
Minister for Roads, Buses and Places
Great Minster House
33 Horseferry Road
London
SW1P 4DR
Web site: www.gov.uk/dft

Dear Council Leaders,

TAXI & PHV LICENSING – USE OF THE NATIONAL REGISTER OF TAXI AND PRIVATE HIRE LICENCE REVOCATIONS AND REFUSALS (NR3)

The taxi and private hire vehicle (PHV) sector has shown remarkable resolve in this unprecedented time, this would not be possible without those responsible for ensuring that the safety of passengers is maintained. I am aware that in many areas licensing teams are responding to the challenges COVID presents. I would like to extend my gratitude to those who are continuing to process licensing applications which is vital to the long-term sustainability of the sector.

As you will be aware, in July this year the Government published the Statutory Taxi and Private Hire Vehicle Standards to licensing authorities, aimed at safeguarding children and vulnerable adults. The Statutory Standards set out a range of robust measures to protect taxi and PHV passengers including the use of the National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3) to facilitate information sharing between authorities. Authorities that are not sharing relevant and necessary information risk enabling those dishonest individuals that seek to enter or remain in the sector, by failing to disclose any previous licensing history.

When the Statutory Standards were published the Secretary of State wrote to all Council Leaders requesting an update on their consideration of the Statutory Standards by the end of January 2021. We are particularly keen to see all licensing authorities actively using NR3, as the effectiveness of the database depends on all authorities doing this. My officials have already written to yours, on 29 October (see attachment), highlighting the benefits of NR3 and urging licensing authorities that were not using the service to sign up and start using it as a matter of urgency.

I have been advised that your authority is one of the minority that has not yet activated an account to use NR3. I hope that this is an issue you have already begun to address. It is your statutory duty to ensure that your authority only licences drivers that are 'fit and proper' to be entrusted with safely transporting members of the public. I have heard of instances where a driver in one authority has been refused a licence for safeguarding reasons, only for their application to be accepted by another, in ignorance of a safety concern. Using NR3 will reduce the risk of such instances occurring in future, securing the safety of passengers and the reputations of the drivers who are overwhelmingly honest.

The vast majority of authorities are already members of the National Anti Fraud Network (NAFN), for these there will be no additional cost to use NR3. I understand that membership of NAFN also entitles licensing authorities to access their other data intelligence services, so the advantages of NAFN membership extend far beyond taxi and PHV licensing, supporting you in the delivery of other vital local government services. To discuss membership, you can contact NAFN via email on [\[===\].gov.uk](mailto:====@gov.uk) or call [===]. I would therefore urge you to act now to ensure your authority is doing all it can to safeguard the users of taxi and PHV services.

Yours

BARONESS VERE OF NORBITON