

Agenda for Licensing and Enforcement Committee

Wednesday, 21st July, 2021, 10.00 am



Members of Licensing and Enforcement Committee

Councillors J Whibley (Chair), K Bloxham (Vice-Chair), M Chapman, I Chubb, A Dent, S Gazzard, M Hartnell, P Jarvis, D Manley, P Millar, C Pepper, G Pratt, B Taylor, T Woodward and T Wright

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(or group number 01395 517546)

Tuesday, 13th July 2021

Important - temporary arrangements are in force which will enable face to face meetings to take place in compliance with legislation, whilst providing alternative participation opportunities to maintain a Covid-19 safe environment.

Please do not attend Blackdown House unless you are a voting member of Licensing and Enforcement Committee.

Members will still be able to attend virtually online via Zoom, and 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 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-public-meetings/#article-content>

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1 Public Speaking

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

2 Minutes of the previous meeting held on 17 February 2021 (Pages 3 - 6)

3 Apologies

4 Declarations of interest

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

5 Matters of urgency

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

6 Confidential/exempt item(s)

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

7 Quarterly update report (Pages 7 - 17)

8 Gambling Policy report (Pages 18 - 73)

9 Temporary Taxi Policy report (Pages 74 - 84)

10 Pavement Policy report (Pages 85 - 87)

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Licensing and Enforcement Committee held Online via the Zoom App on 17 February 2021****Attendance list at end of document**

The meeting started at 10.02 am and ended at 10.45 am

60 Public Speaking

There were no members of the public registered to speak.

61 Minutes of the previous meeting

The minutes of the meeting held on 18 November 2020 were agreed as a correct record.

62 Declarations of interest

Minute 66. Pavement Licence Update Report.
Councillor Steve Gazzard, Personal, Member plans to hold a temporary event on the Strand, Exmouth, to raise funds for charity.

63 Matters of urgency

There were no matters of urgency.

64 Confidential/exempt item(s)

There were no confidential / exempt items.

65 Quarterly Licensing Update Report

A report from the Licensing Manager had been circulated in advance and provided 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.

The Licensing Manager highlighted the following points from the report:

- A high level of enquiries were being received regarding temporary event notices or time limited premises licences for later this year despite the current national Covid-19 lockdown
- The Council's Street Trading policy has regard to consideration of local need or appropriateness of the location where there was the potential for conflict with businesses selling similar goods
- Taxi drivers were being supported with an online process as there were difficulties with booking a GP appointment for the required medical assessment due to the pandemic
- No response had been received from local MPs Simon Jupp and Neil Parish, or from Grant Schapps, MP Secretary of State for Transport and Rishi Sunak, MP Chancellor of the Exchequer, to the Council's letter sent in November 2020 regarding the impact of the coronavirus on the taxi and private hire trade
- Taxi and private hire drivers had been supported by the Council by way of the Additional Restrictions Grant (ARG)

In response to the report, the following points were discussed:

- There was concern regarding the use of EDDC land for events due to the Covid-19 pandemic, and in particular, land close to listed buildings or in a conservation area
- It was noted that the Police and Environmental Health have the ability to raise objections to temporary event notices, although it would be advisable to address general concerns about the use of EDDC land during the pandemic before applications were received
- There was a requirement under the Licensing Act for EDDC to have a clear policy on landowner permission
- The Licensing Service was responding to a large number of pre-application advice enquiries, with approximately 3 – 4 traders contacting the Council on a daily basis and higher demand for space on seafronts in the District
- It was noted that Cornwall Council identified suitable locations for temporary events in advance and goes out to tender annually
- EDDC had already received three applications for summer festivals despite the current national lockdown
- Members noted the lack of response from MPs to the Council's letter regarding the impact of the coronavirus on the taxi and private hire trade and agreed unanimously that this should be followed up

RESOLVED

1. that the report be noted
2. that, due to the lack of any response to the Council's letter of November 2020, a follow up letter be sent to Simon Jupp MP, Neil Parish MP, Grant Schapps, MP Secretary of State for Transport and Rishi Sunak, MP Chancellor of the Exchequer regarding the impact of the coronavirus on the taxi and private hire trade.

The Committee wished to record its thanks to members of the Licensing team for their excellent work during the current challenging times and thanked the Licensing Manager for his comprehensive report.

66 **Pavement Licence Update Report**

A report from the Licensing Manager had been circulated providing an update on the streamlined process for the grant of pavement licenses under The Business and Planning Act 2020, part of the Government's business recovery plan for tourism and the hospitality trades resulting from the Covid-19 pandemic. The arrangement had been put in place for a year and confirmation was awaited as to whether there would be an extension beyond 30 September 2021. The outcome of a review by the Home Office and Local Government Association was expected imminently.

The report also addressed the need for recruiting additional staff resource to deal with the increase in workload for both pavement licenses and taxi administration and outlined possible options.

In response to a question, the Licensing Manager advised that the £100 fee for a pavement licence would cover EDDC's costs where an application was straightforward but would not cover costs should additional work be required.

RESOLVED

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

67

Report on Taxi and Private Hire Vehicle Statutory Standards

The Licensing Manager had prepared a report to inform the Committee of updates and progress concerning new 'Statutory Taxi and Private Hire Vehicle Standards.' Members' attention was drawn to correspondence from the Minister for Roads, Buses and Places, Baroness Vere, who had written to all Council Leaders expressing the expectation that Councils would sign up to the national taxi refusal database known as NR3 (Appendix A of the report refers).

The Licensing Manager advised that the Committee would need to consider the costs and other potential implications of signing up to the national database and an update would be brought to the April meeting.

Members noted that a national database would only be effective if all local authorities agreed to sign up.

RESOLVED that the report be noted.

Attendance List

Councillors present:

K Bloxham (Chair of this meeting)
F Caygill
M Chapman
A Dent (Vice-Chair of this meeting)
S Gazzard
P Jarvis
G Pratt
T Wright

Councillors also present (for some or all the meeting)

G Jung

Officers in attendance:

Nicola Cooper, Solicitor
Rebecca Heal, Solicitor
Susan Howl, Democratic Services Manager
Sarah Jenkins, Democratic Services Officer
Lucy Maxwell, Licensing Officer
Stephen Saunders, Licensing Manager
Louise Bennett, Licensing Officer

Councillor apologies:
J Whibley (Chair of the Committee)
T Woodward

Chair

Date:

Report to Licensing and Enforcement Committee:

Date of Meeting 21 July 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

**Committee Update -****Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing****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 including Street Trading and Pavement Licences

Is the proposed decision in accordance with:Budget Yes No Policy Framework Yes No **Recommendation:**

That the report be noted and the Committee recommended to Council to approve the additional budget (of £40,545) to enable recruitment of the additional posts as identified in the report.

Reason for recommendation:

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 and Emergency response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Tourism, Sport, Leisure & Culture
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

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

Links to background information Click here to enter links to background information; appendices online; and previous reports. These must link to an electronic document. Do not include any confidential or exempt information.

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. It covers the period after the cancelled meeting of this Committee on 14 April 2021.
- 1.1.2 An increase in Licensing Act applications was reported to this Committee in February, with more details provided for the last meeting scheduled in April. The number of (premises) licence applications in the first three months of 2021 was over twice as that for the same period in 2018 and 2019. **44** applications for the variation, transfer or new licensed premises were processed between 1st January to 31st March 2021 compared with **18** for the same period in 2018, **17** in 2019 and **23** applications during the first quarter of 2020.
- 1.1.3 The increase continued over the first six months of 2021 with **70** licences in comparison to **38** for the same period in 2020. There were **44** in 2019 and **38** for the same period in 2018. Applications for variation, transfer and for new licences continue to be submitted as businesses reopen and recover from the pandemic.
- 1.1.4 Temporary Event Notices (TENs) received from event organisers has continued in recent months for outdoor events being planned for the remainder of the summer. Devon County Show usually occurs in this district each May and took place instead in early July with almost 30 traders being licensed under TENs by the team.
- 1.1.5 Licensing Act applications area complex and time consuming area of work that require extensive engagement before, during and after the 28 day consultation with applicants and with those submitting representations. The work involves reviewing applications, consulting on those accepted, checking notices and adverts, recording responses, engaging with authorities, mediation, and preparation of Committee reports and finally issuing licences. Premises applications and Temporary Event Notices require acceptance or rejection within 24 hours of receipt, including web updates and consultation commencing and the increase of both continues to impact on the Licensing Team given the statutory timescales.
- 1.1.6 The government roadmap to ease national lockdown in phases to allow hospitality businesses to reopen fully without restriction was extended from 21st June 2021 for four weeks. Step 4 is expected to begin on Monday 19th July if the government's tests for easing Covid restrictions have been met and to be confirmed on 12th July after reviewing the latest data.
- 1.1.7 It remains a statutory obligation under Sec. 55A the Licensing Act for authorities to collect the annual fees payable by licensed premises on the anniversary of each licence being issued. The amount payable is based on the rateable value of each business with no dispensation given by the government although financial support in the form of grants was provided. The

Act is prescriptive in that a premises licence must be suspended for failure to pay the annual fee and suspension cannot be lifted until payment is made. A licensee would commit an offence if he/she carried on licensable activities from the premises otherwise.

1.2 Hearings

- 1.2.1 The licensing team continues to offer mediation if appropriate when representations have been received for new licensing applications, to ascertain whether objectors and applicants can reach an agreed position.
- 1.2.2 Licensing sub-committee hearings have occurred on:
 - 21st April for a new premises licence in Exmouth,
 - 19th May and for two new premises licences for businesses in Exmouth and Sandygate
 - 16th June for the variation of a licensed premises in Budleigh Salterton and
 - 7th July for a new premises licence for a business in Exmouth
- 1.2.3 Officers completed work with regard to a Licensing sub-committee hearing scheduled for 28th July for which the applicant then withdrew the application.
- 1.2.4 A national online licensing forum indicates that over twice the number of hearings are occurring nationwide with applications that may have previously been unopposed now receiving representations. That trend is expected to continue as businesses bounce back with new and revised business models. An increase in camping 'glamping' events is evident too with landowners taking the opportunity to licence outdoor music and bars for campers.
- 1.2.5 The procedures for Licensing Act and Planning hearings differ considerably and it can be frustrating for the public and for Members that unless a written representation is submitted, there is no right to attend or to address a Licensing sub-committee. Revised guidance to help inform Councillors and the public was provided for the previously scheduled meeting of this Committee and this has recently been circulated to assist (**Appendix A**).

1.3 Draft Legislation to Increase Temporary Event Notice limits and Extend Off-Sales

- 1.3.1 New regulations that are due to apply to England and Wales will extend provisions in the Business and Planning Act 2020 to allow sales of alcohol for consumption off the premises to licensed premises that did not have that permission for a further year (to 30 September 2022) and to increase the allowance for Temporary Event Notices. On Tuesday 8th June 2021 the Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021 were laid in Parliament.
- 1.3.2 This will amend the limits prescribed in the Licensing Act 2003 to increase the allowance for TENs from 15 to 20, and increase the maximum number of days on which temporary events may be held from 21 to 26, in the calendar years 2022 and 2023. The regulations have to be debated in both Houses of Parliament, that could change and they will be made in September and a further update will be provided at the next meeting of this Committee in November.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 Under the Gambling Act 2005, it is the responsibility of the Council to develop and publish a Statement of Gambling Policy which provides the framework for all decisions on applications and the way the Authority carries out its functions in relation to the legislation. Council adopted

the current Policy on the 31 January 2019 being due for review and adoption again in January 2022 when the present policy will expire. An additional report is provided today seeking approval of this Committee to begin consultation of the new draft of the policy.

2.1.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The bulletin for March can be viewed online at [May LA Bulletin \(campaign-archive.com\)](http://May LA Bulletin (campaign-archive.com))

2.1.3 Local Licensing Authorities are not involved in licensing or authorising of online gambling and betting that is dealt with by the Gambling Commission along with regulating the National Lottery. The Gambling Commission recently circulated its [strategy for the next three years](#).

3 Taxis

3.1 Applications Received and Licences Issued

3.1.1 The current number of all licences to July is detailed below and details will be updated for forthcoming meetings to identify changes in the number of all licences granted:

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
2021 (June)	159	126	41	34	17

3.1.2 Despite the roadmap for easing lockdown, the impact of Coronavirus has challenged the Taxi and Private Hire trade nationally and locally. The ongoing need for the Council's [Covid-19-emergency-taxi-policy](#) is still considered necessary until the end of this year and is the subject of a further report today.

3.2 Hearings

3.2.1 There has been no requirement for a meeting of the Licensing and Enforcement Subcommittee over the previous period for Taxi or Private Hire related matters.

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

3.3.1 Following resolution by this Committee in November 2020, letters were sent to local MPs Simon Jupp and Neil Parish, and to Grant Schapps, MP Secretary of State for Transport and to Rishi Sunak, MP Chancellor of the Exchequer detailing challenges from limited funding made available to the Taxi and Private Hire industry. Responses were not received and further letters were sent in February in accordance with the resolution of this Committee.

3.3.2 Responses were subsequently received from MPs Simon Jupp and Neil Parish and are provided at **Appendix B**.

3.3.3 The Licensing Team has provided assistance recently to the Council's Economic Development Team by circulating details of the last and final round of financial support available up to June under the ARG.

3.4 The Statutory Taxi and Private Hire Standards

- 3.4.1 The review and consultation of the existing Taxi and Private Hire Policy by 31 March 2022 remains a priority to consider adopting key changes necessary from the new Statutory Standards. It is proposed that officers will review potential policy changes with regard to matters of Vehicle Emissions, CCTV in vehicles, National Refusals Register, Fees and Safeguarding Training with a more detailed report at the next meeting of this Committee.
- 3.4.2 Officers continue to collaborate with Devon Licensing Group colleagues and ongoing meetings continue to identify shared and coordinated approaches with regard to policies.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. At previous meetings of this Committee, the increase in enquiries and applications from prospective food traders was highlighted and still continues.
- 4.1.2 Currently there are 28 Street Trading Consents in being across the district on public areas with a further 7 application under a consultation. Some event organisers considering outdoor festivals this year remain cautious and look towards the end of this month with the prospect of planning events over the remainder of the summer months.

4.2 Street Trading during Sidmouth Folk Week

- 4.2.1. The Sidmouth Folk Week event takes place from 30th July to 6th August and previously 60 sea front trading pitches were managed by the Licensing Team under a process operating since 2008. More recent, robust licensing conditions included sturdier, fire resistant trading gazebos being required by traders with positive feedback from the general public and town council with regard to management of the stalls in 2019.
- 4.2.2 The event was cancelled in 2020 and the Folk Week organisers have scaled down this year's event having fewer locations across the town in response to the continuing situation.
- 4.2.3 Allocation of the EDDC seafront trading pitches has been reduced to 19 pitches allocated after 20 were offered to traders. Control of the pitches has passed to the Streetscene Events Team for the first time and the smaller, covid compliant trading area will allow the Events Team to assess and develop options for the seafront pitches next year.

5.1 Pavement Licences

- 5.1.1 The Business and Planning Act 2020 introduced a faster process to allow businesses selling food/drink to apply to the Local Authority for placing tables and chairs on a highway adjacent to their premises – a “temporary Pavement Licence”. The long-stop expiry date for the Act was 30 September 2021.
- 5.1.2 This is the subject of a further report today as new measures will extend the 2020 Act to 30 September 2022.

6. Licensing Team update

- 6.1 The licensing team is presently at the budgeted allocation of staff numbers along with casual temporary staff employed to cover for one staff member on maternity leave and another post that recently changed by undertaking reduced weekly hours.

- 6.2 The requirement to manage more procedural work checking Taxi and Private Hire licences with increased frequency of DBS vetting still exists which had formed part of the bid to recruit an additional administrator with the work currently being absorbed within the team.
- 6.3 The Licensing Team consists of:
Manager post (Full Time),
3 Licensing Officer posts (2 Full Time and 1 Part Time)
4 Licensing Support Officer posts (3 Part Time working 22 weekly hours and 1 FT). The diverse work involves team members having differing responsibilities for taxis, licensed premises (alcohol), gambling, street trading, charitable collections and pavement licences.
- 6.4 The Manager and two Licensing Support Officers also oversee burial and memorial requests in the three cemeteries managed by the Council.
- 6.5 Increasing volume of applications reported in Sec 1.1 includes the requirement to meet statutory timescales when issuing licences as numbers increase along with the challenge of more contested applications that lead to licensing hearings. With Step 4 for easing all restrictions from 19th July and with licensed businesses and event organisers submitting more applications than previously, the significant risk to the Licensing Team exists for meeting demand despite all best efforts and by prioritising work and deadlines.
- 6.6 Government plans detailed in Section 1.3 of this report will further increase opportunities for the number of Temporary Event Notice in the years 2022 and 2023 (see point 1.3).
- 6.7 The Licensing Manager provides this update with the approval of the Strategic Lead for Governance and Licensing, to address those risks by moving forward to recruit an additional Licensing Officer (scale 6) post. With the clear demand and increasing Licensing Act applications and subsequent hearings, it is considered necessary to recruit a Full Time (37 hour week) Licensing Officer. This recruitment will ensure that the Licensing Team can continue to meet its statutory obligations in each area of licensing work as demand increases.
- 6.8 In addition, with the requirement to meet and address increased administrative and vetting work (sec 6.2), it is further proposed to seek recruitment of a Licensing Support Officer (scale 5) post of 25 hours weekly. Administration by receiving and consulting upon applications, including the anticipated increase of Temporary Event Notices in year 2022/23 is the shared responsibility of Licensing Support Officers also undertaking all web page updates, having responsibilities for IT systems including application software and the licensing database.
- 6.9 Both posts sought are partly budgeted and with recruitment not requiring full FTE costs. Previous funding approved and budgeted for a Scale 4 administrator didn't proceed to recruitment and will not do so, allowing that funding to be utilised (under 6.8) with £20,272 still required. With regard to the Scale 6 post, 40% funding already exists in the budget as a result of recent employee changes leaving £20,273 outside budget, with the additional requirement in terms of both posts being £40,545. It is expected that the additional costs will be met from increased fee income through the increased volume of work along with the outcome of the fee(s) review to be carried out later in the year.
- 6.10 Presently ongoing IT projects and software developments projects have been paused, including implementation of a new licensing database. The benefits to applicants and to the public by delivering these processes require licensing staff to work closely with Strata in programming delivery on a daily basis, with the need to increase the current administrative staffing to achieve daily tasks and supporting IT projects over 2021 and 2022.

7. Training Update for Members

- 7.1 The importance of Licensing Councillors receiving suitable guidance in matters relating to hearings is important and ensures availability of suitably trained Members for Licensing Sub-Committee hearings. Further training opportunities have been provided by the Institute of

Licensing for Councillors who may require training with dates available on 10th August and 13th October. The training will be delivered virtually through Zoom and attendance will benefit the pool of trained Councillors that can sit on hearings through a greater understanding of;

Taxis and private hire vehicles - a basic overview

Licensing Act 2003 - a basic overview

General Principles concerning Councillor conduct

Hearings for Licensing Act 2003, Taxis and Private Hire

Decision making, Appeals and Conditions

Financial implications:

Ref Point 6.7, proposed recruitment Grade 5 Licensing Support Officer 0.7 FTE including on-costs £20,272 outside of budget. Proposed recruitment for Licensing Officer Grade 6 1 FTE, already included within budget 0.40 FTE additional costs outside of budget including on-costs £20,273

Legal implications:

There are no specific legal implications requiring comment

Licensing Act 2003: Guidance on Making a Representation

Introduction

This guidance is to help members of the public, Councillors and anyone wishing to make a **representation** against an application for a premises licence in East Devon.

When an application is made for the grant or the variation of a premises licence, any person may make a representation about the application. The guidance only applies to applications for premises that want to supply alcohol, provide entertainment such as live music or provide late night refreshment (food after 11pm).

Representations must be made to the Licensing Authority in writing and during the 28 day consultation period, including by letter or e-mail. To be considered as relevant representation, it must relate to the likely effect of the grant of a licence on the promotion of one or more of the **four licensing objectives**:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

There is nothing in the Act to say that a representation must be of a negative nature and the Licensing Authority will consider both positive and negative representations provided they are relevant to these objective. To be a 'relevant' representation it should express whether **being in support** or **objecting** to an application.

Each licence application will set out the proposed activities, the operating hours and should also contain a section explaining what the applicant proposes to do to promote the **four licensing objectives**.

What is relevant to the four licensing objectives?

Each of the four licensing objectives has equal importance and your concerns on one of the objectives may overlap with another. For example, anti-social behaviour at a venue may lead to public nuisance, crime & disorder and public safety.

You could think about the possible causes of harm to each of the licensing objectives that could arise by the venue operating as requested under the terms its application.

If you think a risk that relates to one of the licensing objectives, has not been properly addressed in the application, then this will be relevant.

You can refer to our Licensing Policy, which provides more detail on the risks and measures that the applicant could take to minimise or eliminate them under a Pool of Conditions.

What can you comment on?

You can comment on anything in the application but it will only be regarded as being 'relevant' if your comments clearly relate to the potential impact the application may have on the **licensing objectives**. In simple terms, a relevant representation for it to be considered must:

- Be received within the 28 day application period
- Clearly outline whether in 'Support' or an 'Objection' to an application
- Comment clearly on how that licence (if granted in the form it was applied for) will impact or relate specifically to one or more of the licensing objectives
- Avoid general comments around uncertainty, fear, concern instead being specific around risk to each or any of the four licensing objectives
- Comments should not be 'frivolous' or 'vexatious'.

For example, the licensing authority might find the representation is vexatious if it arises because of disputes between rival businesses or it might be a frivolous representation if it clearly lacks seriousness. If a representation is not relevant, or is frivolous, vexatious or repetitive, it will not be possible to accept it and the Licensing Authority will confirm that.

Licensing and Planning Applications

Licensing applications should not be seen as a repeat of a planning application process as planning permission, building control approval and licensing regimes will be properly separated.

Planning matters cannot be reconsidered at licensing hearings which will not be a rerun of contested planning decisions.

Advertising Applications

The applicant must advertise the application by placing a blue notice at or on the premises and must also place a notice in a local newspaper circulating in the area of the venue. There are rules about the format of the advert and notice but the main aim is to inform the community that an application has been submitted and to provide a summary to give people the opportunity to comment. There may be reasons why an application merits written support too.

When an application is submitted, the licensing team will publish the application details on our website. You will have 28 days from the day after we receive the application to submit a supporting comment or objection. Under the Act, any response received after 28 days cannot be accepted or considered after this time.

You can view new applications on our licensing register. Using the register, you will be able to check what the applicant is proposing to do, for example the opening hours and activities such as selling alcohol and providing entertainment.

End of the 28 day consultation

Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application may be considered by a Licensing Sub Committee at a hearing. Any party to a hearing may expand on their representation but may not introduce new or different representations.

Where a notice of a hearing is given to an applicant, the licensing authority is required 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. Persons making representations should be aware that their personal details will be disclosed during the hearing process and anonymous representations will not be accepted.

Where relevant representations have been made, the Licensing Authority may consider mediation between the applicant and any objectors. Due to reasons of timeliness, this may occur through emailing or telephone contact with relevant parties as mediation can allow each party to express concerns in an attempt to reach an agreed position which can remove need for contested hearings.

You must give us notice at least 5 working days before the start of the hearing, stating:

- whether you will attend the hearing in person
- whether you will be represented by someone else such as your ward Councillor or a solicitor
- whether you think that a hearing is unnecessary, if for example you have come to an agreement before the formal hearing)
- if you want another person to appear at the hearing (not to represent you) and details of their name and how they may be able to assist us in relation to the application.

The timescales from the period the 28 day application closes through to arranging a hearing are short and specific, it is not possible to delay unnecessarily.

This guidance provides an outline

It is not a complete statement of the law, therefore, it is important that you do not rely on this document alone and if you want to know more you should read the Licensing Act 20031 (the Act), Home Office Guidance issued under section 182 of the Act and our current Licensing Policy.

RESPONSES RECEIVED:

From: Neil Parish MP <email>
Sent: 22 April 2021 17:06
To: Licensing EDDC <email>
Subject: (Case Ref: NP12788)

Dear Cllr Whibley and Cllr Bloxham,

Thank you for your letter. Please accept my apologies for the delay in responding to you. Due to the pandemic, I am receiving a very high volume of correspondence at present, and as such, responses are taking longer than usual.

I appreciate your concerns regarding support funding for Taxi and Private Hire businesses in East Devon. Therefore, I have made representations on your behalf to Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport, enclosing a copy for your correspondence.

Once I have gained a response, I will of course update you.
Yours,

Neil

Neil Parish MP

Member of Parliament for Tiverton and Honiton
Chair of the Environment Food and Rural Affairs Select Committee
House of Commons | London | SW1A 0AA
Telephone: | Email:

From: JUPP, Simon <email>
Sent: Monday, April 19, 2021 7:07:11 PM
To: Cllr Joe Whibley <email>
Subject: Financial funding for the taxi and private hire industry

Dear Cllr Whibley,
I hope you are well.

Thank you for your letters on behalf of EDDC's Licensing & Enforcement Committee. May I apologise for the delay in responding.

I'm glad to hear EDDC have since used the government's Additional Restrictions Grant (ARG) to support taxi and private hire operators.

As you'll be aware, the ARG is designed so local authorities can use their discretion to support hard-hit businesses and sectors. The Budget announced further funding for the scheme so this support can continue.

The government also extended the SEISS which helps support the roughly 80 per cent of taxi and private hire drivers who are self-employed.

Ministers have no plans to introduce a specific government scheme, pointing towards the SEISS and discretionary funding administered by local authorities.

Kind regards,
Simon

Simon Jupp MP Member of Parliament for East Devon

Report to Licensing and Enforcement Committee:

Date of Meeting 21 July 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

**Gambling Act 2005 – To seek approval to consult on the draft Gambling Policy****Report summary:****Update the Committee and to seek approval to commence consultation on the draft policy****Is the proposed decision in accordance with:**Budget Yes No Policy Framework Yes No **Recommendation:****That the Committee considers this draft Statement of Gambling Policy (attached as Appendix B) and gives approval for the Licensing Service to start the formal public consultation process that is required by the legislation**

Reason for recommendation:

It is a legal requirement of the Act for the Council to determine a Gambling Policy in order to provide a framework for all licence applications. The Policy was last reviewed in 2018 and must be reviewed at least every three years. Therefore an amended Policy must be adopted by the 31 January 2022.

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

Portfolio(s) (check which apply):

- Climate Action and Emergency response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Tourism, Sport, Leisure & Culture
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

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:** Low Risk; Click here to enter text on risk considerations relating to your report.**Links to background information** [Statement of gambling policy 2019-2022 - East Devon](#)

[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

Background and Proposed Draft Amendments to the Existing Policy

- 1.1 Under the Gambling Act 2005, it is the responsibility of the Council to develop and publish a Statement of Gambling Policy. The published Policy then provides the framework for all decisions on applications relating to the Gambling Act 2005 and the way the Authority carries out its functions in relation to the legislation. This Council adopted the current Policy on the 31 January 2019.
- 1.2 The Act requires that the Licensing Authority review its Gambling Policy every three years. The Council's present policy will expire on the 31 January 2022 and therefore the Authority is under a duty to have reviewed and published a fresh policy by that date.
- 1.3 Over the past three years the current policy has been kept under review by the Licensing Service. A small number of changes have been necessary to reflect current practices including recently updated Guidance to Licensing Authorities (GLA) issued by the Gambling Commission.
- 1.4 The adopted policy must set out the authority's general approach to licence applications and may only be determined following consultation. The revised policy now includes the additional updates:
 - Updated information for the Geographical & Local area data relevant to East Devon. Whilst not a requirement on a Licensing Authority, developing a 'Local Area Profile' (Part A. Sec.3) provides more local focus for statements of licensing policy and reflects good practice;
 - Updated declaration with the addition of adherence to the Human Rights Act (Sec 5),
 - The addition of links to the present Guidance to Local Authorities (Sec 6)
 - Inclusion of licensing activities not undertaken or the responsibility of Local Authorities (Sec 11.2).
 - Inclusion requirement to adhere to Safeguarding principles on application for changes in Betting Office premises (Part C. Sec 3.5).
 - General amendment to web links and contact details that have changed
- 1.5 It is proposed to circulate invitations widely to take part in the draft Policy consultation to include all Responsible Authorities, Council Members, the business community, Town and Parish Councils, the Community Safety Partnership and the Devon Primary Care Trust. A more comprehensive list appears at **Appendix A** and Section 4 of the draft Policy document. The Policy will also be published on the Licensing Service's dedicated web pages and web users will be invited to comment online.
- 1.6 The consultation and publication timetable for the Policy is:

- 2 August 2021 - Revised policy circulated for consultation
- 1 October 2021 - Consultation period ends
- 17 November 2021 - Result of consultation reported to L & E Committee
- 1 December 2021 - Cabinet
- 8 December 2021 - Licensing Policy considered by full Council for adoption

2 Conclusion

- 2.1 A copy of the draft Gambling Policy appears at **Appendix B**. The legislation requires that publication of the policy takes place by 31 January 2022.

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:

The legal implications are outlined within the report

List of consultees

Gambling Policy Consultation 2021

Responsible authorities under the Gambling Act 2005:

The Gambling Commission

Devon & Cornwall Police

Devon & Somerset Fire & Rescue Service

Environmental Health, East Devon District Council

Health & Safety Executive

Planning, East Devon District Council

Area Child Protection Committee and Local Safeguarding Children Board

H M Revenues & Customs

Maritime and Coastguard Agency

Additional responsible authorities under the Licensing Act 2003:

Devon & Somerset Trading Standards

Home Office – Immigration Enforcement

Public Health Devon

Schools and Colleges:

The Kings School

Clyst Vale Community College

Sidmouth Community College

Colyton Grammar School

Exmouth Community College

Honiton Community College

Axe Valley Academy

Cranbrook Education Campus

Local businesses and organisations:

Axminster Chamber of Commerce
Blackdown Hills Business Association
Budleigh Salterton Chamber of Commerce
Exmouth Chamber of Trade and Commerce
Federation of Small Businesses
Honiton & District Chamber of Commerce & Industry
Seaton & District Chamber of Commerce
Sidmouth Chamber of Commerce
Devon Chambers of Commerce & Industry

Licensing specialists and Local Solicitors:

Poppleston Allen
Crosse & Crosse Solicitors
Laceys Solicitors
Gosschalks Solicitors
Flint Bishop
TLT Solicitors
John Gaunt & Partners
Beviss & Beckingsale
Everyys
Gilbert Stephens
Ashfords
Ford Simey

Licensees Associations:

Exmouth Licensees Association
Axminster Licensees Association
Sidvale Licensees Association
Seaton Licensees Association

Charities:

NSPCC

Mencap

Gamblers Anonymous

GAMCARE

MIND

GambleAware

Young Gamblers Education Trust

Samaritans of Exeter, Mid & East Devon

Other Gambling Related Associations:

Citizens Advice Service

Association of British Bookmakers

The Bingo Association

BACTA

Lotteries Council

British Beer & Pub Association

Gambling Machine Suppliers:

Aaron Amusements

Regal Gaming & Leisure

Alan Davis Automatics

Gamestec Leisure Ltd

Inspired Gambling (UK) Ltd

Dransfield Novelty Company Ltd

Electromatics

F Simmonds & Sons Ltd

General Authorities or interested parties:

The Police and Crime Commissioner
East & Mid Devon Community Safety Partnership
Head of Adult Safeguarding – Devon County Council
Chief Officer for Adult Care and Health
Direct of Public Health
Care Direct Plus

General consultees:

All Parish and Town Councils in East Devon
All Ward Councillors in East Devon
All Gambling Premises Licence holders in East Devon
All Club Machine Permit holders in East Devon
All Licensed Premises Gaming Machine Permit holders in East Devon

The draft policy, including information about how to take part in the consultation, was also made available on the East Devon District Council website.



EAST DEVON DISTRICT COUNCIL

Draft

Statement of Licensing Policy

GAMBLING ACT 2005

For the period **31 January 2022 to 31 January 2025**

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Part A

1 The Licensing Objectives

1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The relevant licensing objectives are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
- ensuring that gambling is conducted in a fair and open way, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling

1.2 This Licensing Authority particularly notes the Gambling Commission’s Guidance (5.34) to local authorities that:

“In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met. Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority’s decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).”

1.3 This licensing authority is aware that, in making decisions about premises licenses and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority’s statement of licensing policy

2 Introduction

2.1 The Gambling Act 2005 (the “Act”) requires this Licensing Authority to draft, consult and publish a Statement of Licensing Policy in relation to its responsibilities under the Act. Once published, this Policy Statement, called the Statement of Gambling Policy will be kept under constant review and, in any case, will be re-published after every three years. Before any revision of the Statement of Gambling Policy is published this Authority will carry out a full consultation exercise on the relevant sections. This version of the Statement of Gambling Policy has been revised following the third 3 year review and is for the period **2022 – 2025**.

- 2.2 This Statement of Principles (Licensing Policy) is written to conform to the provisions of the Gambling Act 2005 and regulations and Guidance issued under s.25 of the Act by the Gambling Commission. It outlines the way the licensing Authority will deal with applications for a range of premises licences, permits and enforcement of the Act.
- 2.3 Section 25 of the Gambling Act 'Guidance to local authorities' states that the Commission shall from time to time issue guidance as to:
- (a) The manner in which local authorities are to exercise their functions under this Act, and
 - (b) In particular, the principles to be applied by local authorities in exercising functions under this Act."
- 2.4 The aim of this Guidance is to ensure that every licensing authority has the information it needs to make effective decisions but does not seek to impose a 'one size fits all' model across all licensing authorities. The commission recognises that every licensing authority is different and will have different views about how it wishes to manage gambling locally. Indeed, the Act establishes a high degree of local accountability for gambling regulation'. The Gambling Act 2005 can be accessed on this link:
<http://www.legislation.gov.uk/ukpga/2005/19/contents>
- 2.5 **The Statement takes effect on 31 January 2022.**

3 The Geographical Profile of East Devon

- 3.1 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.~~

~~which currently stands at 135,560. Holiday and tourism industries are major contributors to the economy of the district. The district has a dispersed and largely rural population. The rural nature of the area is emphasised by the low population density of 1.6 persons per hectare (the England average is 4.11).~~

- 3.2 The District is fully parished with 63 Town and Parish Councils. Comprising of 30 2 wards, 21 have a population density below the England average with a mix of market and costal town areas with much higher population densities including towns such as Exmouth, Seaton and Honiton. ~~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%.~~

~~The main settlements are the coastal resorts of Exmouth (Devon's largest town – population 35,989) Budleigh Salterton, Sidmouth and Seaton. Inland are Honiton, Ottery St Mary and Axminster. There are numerous villages and hamlets and 2011 saw the emergence of the new town of Cranbrook to the north of the district along with other urban extensions including the Exeter Science Park and Skypark. At the last census there were 63,881 homes listed in East Devon – the highest number of all the Devon districts.~~

- 3.3 The natural environment also makes East Devon a popular place to visit with tourism bringing significant employment and business opportunities. The population increases during summer periods when larger holiday parks in coastal towns see full capacity taken up by holidaymakers. ~~East Devon has about 2,400 second homes that are used as holiday homes, which is about 3.8% of the homes in our district. Forty per cent of those are owned by those aged 65+.~~ The district has the second highest amount of holiday homes of the Devon districts. The tourist economy brings with it a number of gambling activities, for example Adult Gaming Centres (4)* and Unlicensed Family Entertainment Centre Permits (11 8)* requiring a permit rather than a premises licence.

- 3.4 The towns of Exmouth, Sidmouth, Seaton and Honiton have a number of betting shops, for which there are **79*** across the district. East Devon currently has **634 642*** licensed premises and clubs under the Licensing Act 2003, of which **116 114*** have notified the licensing authority of having gaming machines. Additionally there are **12 16*** Club Machine Permits across the district.
- 3.5 Predominantly, residents are from a white British background, with just 1.59 per cent of the district's population coming from an ethnic background. The migration of population into East Devon from other parts of the UK show that there were **2620 1246** more people moving into the area than out. The largest age group moving in **and out of to** the district was the 25-44 age group **and the largest group moving out being the 16-24 age group.**
- 3.6 Whilst not a requirement, in line with developing a more local focus for this statement, it is the desire of the Council to **develop adopt** a Local Area Profile. The creation of such a profile will entail a process of gathering and presenting information about the East Devon area and any particular areas of concern within the locality.

Data Sources

1 **2019** Knowing East Devon report EDDC

*Figures correct at the time of publication



4 Review of Statement of Principles

- 4.1 Licensing authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published. **The policy statement forms the licensing authority's mandate for managing local gambling provision and sets out how the licensing authority views the local risk**

environment and therefore its expectations in relation to operators with premises in the locality.

- 4.2 The Gambling Act requires that the following parties be consulted by Licensing Authorities:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 4.3 Before adopting this policy statement the Licensing Authority also made the draft policy available to the following for comment:
- All responsible authorities
 - Gambling premises licence and permit holders
 - British Beer & Pub Association
 - Chambers of Commerce within East Devon area
 - Citizen's Advice Bureau
 - Environmental Health Authority for the district
 - Devon and Cornwall Police
 - Devon County Council Children and Young Peoples Services
 - Devon and Somerset Fire and Rescue Service
 - East and Mid Devon Community Safety Partnership
 - Planning Authority for the district
 - Gamblers Anonymous
 - Gambling Commission
 - Gamcare
 - HM Commissioners of Custom and Excise
 - Local businesses and their representatives
 - Local residents and their representatives
 - Mencap
 - NSPCC
 - Primary Care Trust
 - Representatives & Association of British Bookmakers
 - Town and Parish Councils within East Devon
 - Voluntary & Community organisations working with children & young people
- 4.4 Proper weight has been given to the views of all those who have made comment on the draft Statement of Principles. Our consultation is to take place between **2 August 2021 and 1 October 2021** and we followed the Cabinet Office guidance on public consultations
- 4.5 The Statement of Principles is to be approved at a meeting of the Full Council on **8 December 2021** and is published on the Council's website. Copies are available for viewing at the offices of East Devon District Council, Blackdown House, Border Road, Heathpark Industrial Estate, Honiton, EX14 1EJ
- 4.6 Should you have comments regarding this Statement of Licensing Principles please write to the above address or email licensing@eastdevon.gov.uk
- 4.7 It should be noted that this statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

5 Declaration

- 5.1 In producing the Licensing Policy Statement, the licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the **current** Guidance to Licensing Authorities issued by the Gambling Commission (GLA) and any relevant responses from those consulted on the policy statement.
- 5.2 Where updates are necessary due to changes in national legislation, statutory guidance or regarding contact details and web links, the council reserves right to make those amendments to the policy without consultation to ensure those changes are reflected.
- 5.3 This licensing authority will have due regard to the Human Rights Act 1998 and in particular:
- Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest
 - Article 6 – right to a fair hearing
 - Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life
 - Article 10 – right to freedom of expression.

6 The Overriding Principle

- 6.1 In exercising its functions under the Act, this Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks fit:
- in accordance with the relevant codes of practice issued by the Gambling Commission including **the Licence Conditions and Codes of Practice LCCP s**;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - as is reasonably consistent with the licensing objectives; and
 - in accordance with the authority's Statement of Licensing Policy under section 349, **in accordance with the Gambling Commission's Guidance to Local Authorities (GLA) Licensing authority policy statement - Gambling Commission GLA**
- 6.2 Each case will be considered on its merits.
- 6.3 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are the subject of the application.
- 6.4 The overriding principle does not, however, apply to the consideration of an application for a casino licence if this Authority resolves not to issue casino premises licences.

7 Responsible Authorities

- 7.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licence. Such bodies are entitled to make representations to the licensing authority in relation to the applications. The Responsible Authorities are detailed in Appendix A and available via the Council's website at <http://eastdevon.gov.uk/licensing/gambling/>.
- 7.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- ❑ the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- ❑ the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

7.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Area Child Protection Committee and Local Safeguarding Children Board.

8 Interested Parties

8.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as: "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person -

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

8.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- (a) Each case will be decided upon its merits. This licensing authority will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the Guidance at 8.9 to 8.17. The authority will also consider the Gambling Commission's Guidance that "business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- (b) Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however, this licensing authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation may normally be sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing and Enforcement Committee or Sub Committee dealing with the licence application. If there are any doubts then please contact the Licensing Service: East Devon District Council, Blackdown House, Border Road, Heathpark Industrial Estate, Honiton, EX14 1EJ or email:- licensing@eastdevon.gov.uk or telephone:- **01395 517411**

9 Exchange of Information

- 9.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the General Data Protection Regulation Data Protection Act 2018 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005. The Licensing Authority will have regard to the principles of Better Regulation.
- 9.2 Should any protocols be established regarding information exchange with other bodies then they will be made available.
Licensing authorities are required to include in their Statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

10 Enforcement

- 10.1 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and in line with the Regulators Code.
- 10.2 This licensing authority's principles endeavour to ensure its enforcement should be:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - Consistent: rules and standards must be joined up and implemented fairly;
 - Transparent: regulators should be open, and keep regulations simple and user friendly; and
 - Targeted: regulation should be focused on the problem, and minimise side effects.
 - In line with the council's policy for regulatory and enforcement work with a graduated approach involving advice, guidance and support. Our approach is to engage with individuals and businesses to educate and to enable compliance.
- 10.3 In line with the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 10.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives
 - Relevant codes of practice
 - Guidance issued by the Gambling Commission, in particular at Part 36
 - The principles set out in this statement of licensing policy

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by this licensing authority but should be notified to the Gambling Commission.

This licensing authority will also keep itself informed of developments regarding the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this Council's Regulatory Enforcement and Prosecution Policy is available via the Council's website at **BROKEN LINK** <http://eastdevon.gov.uk/enforcement-policies>

11 Licensing Authority functions

11.1 Licensing Authorities are required under the Gambling Act 2005 to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**
- Issue **Provisional Statements**
- Regulate **members' clubs and miners' welfare institutes** who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits
- Issue **Club Machine Permits to Commercial Clubs**
- Grant permits for the use of certain lower stake gaming machines at **unlicensed Family Entertainment Centres**
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register **small society lotteries** below prescribed thresholds
- Issue **Prize Gaming Permits**
- Receive and Endorse **Temporary Use Notices**
- Receive **Occasional Use Notices**
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

11.2 Local Licensing Authorities are not involved in licensing or authorising:

- Remote (**online**) Gambling that is dealt with by the Gambling Commission,
- **Spread betting is regulated by the Financial Services Authority; and**
- **The National Lottery (regulated by the Gambling Commission).**

12 The Gambling Commission

12.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the Government about the matter in which gambling is carried out, the effects of gambling and the regulations of gambling generally.

12.2 The Commission has issued guidance under Section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

12.3 The Commission has also issued Codes of Practice under Section 24 about the way in which facilities for gambling is provided, which may also include provisions about the advertising of gambling facilities.

12.4 The Gambling Commission can be contacted at:

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP
Website: [Contact us - Gambling Commission](#)

13 Local Risk assessments

- 13.1 ~~With effect from 6 April 2016~~, The Gambling Commission's Social Responsibility Code's requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this Statement of Principles
- 13.2 Licensees are required to undertake a local risk assessment when applying for a new or transfer of a premises licence. Their risk assessment must be also be updated:
- When applying for a variation of a premises licence
 - To take account of significant changes in local circumstances, including those identified in this policy statement
 - Where there are significant changes at a licensee's premises that may affect their mitigation of local risks, to include any changes to the interior layout of the premises, for example erection of privacy screens sited around gaming machines
 - To require that local risk assessments will be kept available at a licensee's premises and being readily available for inspection by licensing authorities.
- 13.3 Where concerns do exist, perhaps promoted by new or existing risks, the Licensing Authority will request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns.
- 13.4 This Authority will pay particular attention to applications for the new grant of, or variations to existing, premises licenses where those premises lie within areas with a concentration of schools, Anti Social Behaviour (ASB) hotspots and hostels or homes for vulnerable people.
- 13.5 Applicants will be expected to tailor their application, and have policies, procedures and control measures to mitigate any risks. They should have the appropriate numbers of trained staff, and propose licence conditions to cater for the local area in which they propose to run their business.
- 13.6 As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that '*... it does, for regulatory purposes, assume that this group includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.*'
- 13.7 This Licensing Authority will consider the licensing objective of protecting children and other vulnerable persons on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision. This Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues in relation to this.

13.8 This Licensing Authority will expect compliance by operators and licence holders with anti-money laundering conditions by having measures in place to identify and report suspicious financial activity.

13.9 The code requires the Licensing Authority to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this Licensing Authority would recommend that the following matters are considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends,
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments,
- Appropriate staffing to adapt to difference in times of day and seasonal periods,
- Proximity to schools, commercial environment or other factors affecting footfall
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.
- Potential for money laundering

Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas that are prone to issues of youths participating in anti social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
- Recorded incidents of attempted underage gambling
- Areas where there is a presence of children and young persons on a seasonal basis (e.g. school holidays) such as holiday resorts, visitor attractions, etc.
- How matters relating to safeguarding issues and child sexual exploitation have been considered and details of any training that has been provided to employees

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends,
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate.
- What measures have been put in place in relation to supporting vulnerable adults and any training that has been provided to employees

Other issues that may be considered could include:

- Proximity of premises which may be frequented by large numbers of people including sports stadiums, leisure centres, places of worship.

This list is not exhaustive. Other factors not in this list that are identified must be taken into consideration.

- 13.10 This Licensing Authority will expect that Risk Assessment must be kept on the premises to which it relates and available for inspection by an authorised officer of the licensing authority or Gambling Commission

14 The Licensing Process

- 14.1 A Licensing Committee (Licensing and Enforcement Committee), a Sub-Committee, or an officer acting under delegated authority may carry out the powers of the authority under the Gambling Act 2005.
- 14.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.
- 14.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing and Enforcement Committee have received adequate training for their role under the Gambling Act 2005.
- 14.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.
- 14.5 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.
- 14.6 **REMOVE DUPLICATION OF 10.4** This Licensing Authority will delegate its licensing functions under the Act in accordance with council's [East Devon Regulatory Enforcement and Prosecution Policy principles](#)

Part B - Premises Licences: Consideration of Applications

1 General Principles

- 1.1 Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives and
 - in accordance with the authority's Statement of Principles.
- 1.3 It is appreciated that in line with the Gambling Commission's Guidance to licensing authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos later) and also that unmet demand is not a criterion for a licensing authority.
- 1.4 **Definition of "premises"** - In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 1.5 The Gambling Commission states in its Guidance that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.
- 1.6 Any premises granted multiple licences prior to clarification of guidance issued by the Gambling Commission in 2009, may be reviewed from time to time having regard to the amended guidance including more recent amendments; the decision making process taken at that time; the separation control measures put in place; any material changes noted since the granting of the application and the relevance of all these factors having regard to the promotion of the licensing objectives. In particular to the protection of children and vulnerable persons from being harmed or exploited by gambling.
- 1.7 This licensing authority takes particular note of the Gambling Commission's Guidance

to licensing authorities which states that: Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.
- Suitable and adequate separation by means of screening, walls, specific signage or similar
- There should not be any direct access to a premises (Adult Gaming Centre) from an area where a permit has been granted (for example an adjoining UFEC)

The Guidance also provides a list of factors which this licensing authority should consider and includes:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?
- This licensing authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission’s relevant access provisions for each premises type are reproduced below from the Guidance,-7.23:

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.21 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises

Betting Shops

- Access must be from a street (as defined at paragraph 7.22 of the Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

- No customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

Bingo Premises

- No customer must be able to access the premise directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - betting premises, other than a track

Part 7 of the Guidance contains further guidance on this issue, which this licensing authority will also take into account in its decision-making.

1.8 Premises “ready for gambling”

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that this licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this licensing authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

1.9 Applicants should note that this licensing authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

1.10 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58 – 7.65 of the Guidance.

1.11 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. In line with the Gambling Commission’s Guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. –It should be noted that any such policy does not preclude any application being made and each application will be

decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

1.12 **Planning:**

The Guidance states:

Paragraph 7.58 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This licensing authority will not take into account irrelevant matters in line with the above guidance. In addition this licensing authority notes the following excerpt from the Guidance:

Paragraph 7.65 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

- 1.13 **Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will, though, listen to, and consider carefully, any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this licensing authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

- 1.14 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to licensing authorities and further comment on the objectives is made below.

- 1.15 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime including prevention of money laundering. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

1.16 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however more of a role with regarding to tracks which is explained in more detail in the tracks section later.

1.17 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance to licensing authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc. The need to ensure safeguarding of children and other vulnerable adults is an expectation of the licensing authority. The Licence Conditions and Codes of Practice (LCCP) prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are present. In particular operators are expected to ensure:

- all staff are trained,
- that all customers are supervised when on gambling premises,
- procedures for identifying customers who are at risk of gambling related harm are in place.

The Council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility. These should cover all aspects including in particular staff training records and self-exclusion records.

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.

Appendix D provides information for licence holders and their employees regarding safeguarding and the safety of children and vulnerable persons, particularly to child sexual exploitation and trafficking.

1.18 This licensing authority is also aware of the Gambling Commission's Codes of Practice regarding this licensing objective, in relation to specific premises.

1.19 It is noted that the Gambling Commission is not seeking to offer a definition of the term "vulnerable persons" but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs."

The Local Government Association report titled "Tackling Gambling Related Harm – A whole council approach" references research supporting the suggestion that certain groups of people are more vulnerable. This is set out in page 7 of that report and is acknowledged by this licensing authority.

This licensing authority will consider the licensing objective on a case-by-case basis.

- 1.20 **Conditions** - Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises;
 - reasonable in all other respects; and
 - enforceable
- 1.21 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions on the way in which the licensing objectives can be met effectively when making their application.
- 1.22 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 1.23 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 1.24 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In line with the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 1.25 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
 - conditions relating to gaming machine categories, numbers, or method of operation;
 - conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
 - conditions in relation to stakes, fees, winnings or prizes.
- 1.26 **Door Supervisors** - The Gambling Commission advises in its Guidance that if a licensing authority is concerned that a premises may attract disorder or be subject to

attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (in line with the Guidance, Part 33).

- 1.27 In deciding whether door staff are needed and the level of training required the licensing authority will take into account the particular circumstances of the premises and the Gambling Commissions guidance.

2 Adult Gaming Centres

2.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover the following issues:

- CCTV
- Door supervisors
- Location of entry
- Notices/signage
- Physical separation of areas (an expectation for barriers to be tangible and evident)
- Proof of age schemes
- Provision information leaflets helpline numbers for organisations such as GamCare.
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances/machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

2.2 The question of sub-division of such premises has been the subject of further Gambling Commission Guidance. This Licensing Authority will have regard to any relevant additional guidance that may be issued by the Gambling Commission in respect to such applications any decision-making.

2.3 This Authority accepts that there must be no direct entry from one adult gaming centre into another and will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications.

3 (Licensed) Family Entertainment Centres

3.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

3.2 This licensing authority may consider measures to meet the licensing objectives including those relating to:

- CCTV
- Door supervisors
- Location of entry
- Measures/training for staff on how to deal with suspected truant school children on the premises
- Notice/signage
- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

3.3 This licensing authority will, in line with the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences

covering the way in which the area containing the category C machines should be delineated.

4 Casinos

East Devon District Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

Whilst the Council has not passed such a resolution, the Council is currently not enabled by the Secretary of State (in accordance with regulations made under Section 175 of the Act) to grant a premises licence for a casino.

5 Bingo premises

5.1 This licensing authority notes that the Gambling Commission's Guidance states:

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas. In consideration before issuing additional bingo premises licences, the licensing authority will need to consider whether bingo can be played at each of those new premises.

This licensing authority also notes the Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible for all of the gaming machines to which each of the licence brings an entitlement to be grouped together within one of the licensed premises. In these cases this Licensing Authority will have particular regard to the Gambling Commission Guidance on the 'meaning of premises' (7.5-7.11) and how it relates to the primary gambling activity.

Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

6 Betting premises

Betting machines

This Licensing Authority will consider whether it is appropriate to restrict the number of betting machines, their nature and the circumstances in which they are made available by way of licence condition for betting or casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in a particular premises, this Licensing Authority, amongst other things, will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.”

The Licensing Authority recognises that the design and layout of betting premises (or any other premises including tracks) will vary so will have particular regard to the sighting of age restricted gaming machines within each individual premises to ensure, so far as is reasonably practicable, that staff properly monitor the use of these machines by children and young persons. This Licensing Authority reserve the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so. Where a substantial or significant variation to a premises occurs, to include sighting or placement of screens and/or booths, it will be the expectation of the licensing authority for an application to vary the licence along with a revised plan of the premises to be submitted.

Factors to be taken into consideration will include the following:

- CCTV
- Re-location of the machines
- Door buzzers
- Remote cut off switches
- Training provision
- Any other factor considered relevant

7 Tracks

7.1 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In line with the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (that is the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

7.3 This licensing authority may consider measures to meet the licensing objectives including those relating to:

- CCTV
- Location of entry

- Notices/signage
- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

7.4 **Gaming Machines**

Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

Applicants are advised to consult the Gambling Commission's Guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This Licensing Authority will take note of this guidance. This Licensing Authority will also, in line with the Gambling Commission's Guidance, consider the location of gaming machines at tracks.

7.5 **Betting Machines**

This licensing authority will, in line with part 6 of the Gambling Commission Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

On tracks where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines, this Licensing Authority will generally consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

7.6 **Applications and plans**

Section 151 of the Gambling Act 2005 requires applicants to submit plans of the premises with their application, in order to ensure that this licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for this licensing authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or

racers. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This licensing authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this licensing authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.46).

8 Travelling Fairs

- 8.1 Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs it will be this Licensing Authority’s responsibility to decide whether the statutory requirement is met, that the facilities for gambling amounts to no more than an ancillary amusement at the fair.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It is been noted that the 27 day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.

9 Provisional Statements

- 9.1 Developers may wish to apply to this licensing authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 Section 204 of the Act provides for a person to make an application to this licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. This licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
 - they reflect a change in the applicant's circumstances.

In addition, this licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in this licensing authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

10 Reviews

- 10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below.
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives;
 - in accordance with the authority's Gambling Licensing Policy
- 10.2 The Licensing Authority will also consider whether the request is frivolous, vexatious, whether the request will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether the request is substantially the same as previous representations or requests for review;
- 10.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises on the basis of any reason which it thinks is appropriate.
- 10.4 Once a valid application for a review has been received by this licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by this licensing authority, who will publish notice of the application within 7 days of receipt.
- 10.5 This licensing authority must carry out the review as soon as possible after the 28-day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether this licensing authority should take any action in relation to the licence. If action is justified, the options open to this licensing authority are:-
- (a) add, remove or amend a licence condition imposed by this licensing authority;
 - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - (c) suspend the premises licence for a period not exceeding three months; and
 - (d) revoke the premises licence.
- 10.7 In determining what action, if any, should be taken following a review, this licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 10.8 In particular, this licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 10.9 Once the review has been completed, this licensing authority must, as soon as possible, notify its decision to:
- (i) the licence holder
 - (ii) the applicant for review (if any)
 - (iii) the Commission
 - (iv) any person who made representations
 - (v) the chief officer of police or chief constable; and
 - (vi) Her Majesty's Commissioners for Revenue and Customs

PART C

Permits / Temporary & Occasional Use Notice

1 Unlicensed Family Entertainment Centre - Gaming Machine Permits Statement of Principles – (Schedule 10 Paragraph 7)

- 1.1 Where an establishment does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a licensing authority may prepare a **statement of principles** that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year Statement of Principles (Licensing Policy), licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues." (Guidance Paragraph 24.8)
- 1.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application . . ." This Licensing Authority will require the applicant to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
 - that staff are trained to have a full understanding of the maximum stakes and prizes. (Guidance Paragraph 24.9)
 - an expectation for gaming machines to be properly marked and identified according to category
- 1.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.

1.5 Statement of Principles

- 1.5.1 This licensing authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow the council to better determine the suitability of the applicant and the premises for a permit.
- 1.5.2 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:
- they are a fit and proper person to hold the permit
 - they have considered and are proposing suitable measures to promote the licensing objectives, and
 - they have a legal right to occupy the premises to which the permit is sought.

1.5.3 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

1.6 Unlicensed family entertainment centres

1.6.1 The term ‘unlicensed family entertainment centre’ is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny-pushers. The premises is ‘unlicensed’ in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a ‘licensed family entertainment centre, which does require a premises licence because it contains both category C and D gaming machines.

1.6.2 Unlicensed family entertainment centres (uFECs) will be most commonly located at seaside resorts, in airports and at motorway style service centres, and will cater for families, including unaccompanied children and young persons.

1.6.3 The council will only grant an uFEC gaming machine permit where it is satisfied that the premises will be operated as a bonafide unlicensed family entertainment centre.

1.6.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

1.7 Supporting documents

1.7.1 The council will require the following supporting documents to be served with all uFEC gaming machine permit applications:

- ❑ proof of age (a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- ❑ proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property’s deeds or a similar document
- the result of a criminal records disclosure checking (the disclosure must have been issued within the previous 3 months). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Disclosures can be obtained from the Disclosure and Barring Service (DBS). For further details visit their website: <https://www.gov.uk/request-copy-criminal-record>
 - Where an applicant provides evidence that they have an Operating Licence and as a result have undergone rigorous checks by the Gambling Commission, then a criminal record disclosure check will not be required.
 - Where an applicant is a company or organisation and does not hold an Operating Licence, then the proposed Manager responsible for the day to day running of the premises will be required to produce a criminal record disclosure check dated within one calendar month of the date of the application being submitted to the Licensing Authority.
 - When a permit holder appoints a new manager responsible for the day to day running of the premises, that person will be required to produce a criminal record disclosure check dated within one calendar month of the appointment date.
- ❑ In the case of applications for an uFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling machine

supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission

- ❑ A plan of the premises for which the permit is sought showing the following items:
 - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
 - (ii) where any category D gaming machines are positioned and the particular type of machines to be provided (for example slot machines, penny-falls, cranes)
 - (iii) the positioning and types of any other amusement machines on the premises
 - (iv) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
 - (v) the location of any ATM/cash machines or change machines
 - (vi) the location of any fixed or temporary structures such as columns or pillars
 - (vii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
 - (viii) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100. In any circumstance where the premises is bordering or separated to an Adult Gaming Centre the licensing authority will expect submission of a Local Risk Assessment for both premises.

1.8 Protection of Children

1.8.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm and to meet requirements for safeguarding. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- ❑ maintain contact details for any local schools and or the education authority so that any truant children can be reported
- ❑ employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- ❑ employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- ❑ maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- ❑ display posters displaying the 'Child Line' phone number in discreet locations on the premises
- ❑ maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends that require attention by the management of the premises.)
- ❑ ensure all young children are accompanied by a responsible adult.
- ❑ Maintain policies to deal with any young children who enter the premises unaccompanied and for staff to report suspicious activities or incidents
- ❑ The provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application. The Licensing Authority encourages applicants for UFEC Permits to consider adopting BACTA's voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres. This Code of Practice promotes awareness of social responsibility, and acknowledges that proactive specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

1.9 Protection of Vulnerable Persons Issues

1.9.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

1.10 Other miscellaneous issues

1.10.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

2 Alcohol Licensed Premises Gaming Machine Permits – (Schedule 13 Paragraph 4(1))

2.1 Automatic Entitlement for two machines

There is provision in the Act for a premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises and that breaches a condition of section 282 of the Gambling Act has occurred (for example that written notice has not been provided to the licensing authority, that a fee has not been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has not been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

The Licensing Authority will use its discretion to remove permits where appropriate taking into account individual circumstances considering a Code of Practice.

The premises must comply with the Code of Practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission.

All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.

2.2 Permit - three or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “other such matters as the Authority think relevant.” This licensing authority considers that “such matters” will be decided on a case-by-case basis. However generally there will be regard to the size of the premises in comparison to the number of machines sought and to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

2.3 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

2.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

- 2.5 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

Applicants should be aware that only those premises which have a 'bar' (servery) at which alcohol is sold for consumption on the premises will be eligible for gambling machines in the bar area of the premises. This means that premises such as restaurants which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food can not automatically qualify for two machines.

3 Prize Gaming Permits – Statement of Principles on Permits - (Schedule 14 Para 8 (3))

- 3.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

3.2 Statement of Principles

- 3.2.1 This licensing authority has adopted a Statement of Principles in accordance with paragraph 8 of Schedule 14 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a prize gaming permit. This will allow the council to better determine the suitability of the applicant and the premises for a permit.

- 3.2.2 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:

- they are a fit and proper person to hold the permit
- they have considered and are proposing suitable measures to promote
- the licensing objectives, and
- they have a legal right to occupy the premises to which the permit is sought.

- 3.2.3 This licensing authority will expect the applicant to set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.
- clear policies that outline steps to be taken to protection children from harm.

- 3.2.4 In making its decision on an application for a prize gaming permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

- 3.2.5 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

3.3 Prize gaming permits

- 3.3.1 Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The operator will determine the prizes before play commences. Prize gaming

can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed.

3.3.2 A prize gaming permit is a permit issued by the council to authorise the provision of facilities for gaming with prizes on specified premises.

3.3.3 Applicants should be aware of the conditions in the Gambling Act 2005 with which prize gaming permit holders must comply. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

3.3.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

3.4 Supporting documents

3.4.1 The council will require the following supporting documents to be served with all prize gaming permit applications:

- proof of age (a certified copy or sight of an original birth certificate, photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property’s deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Disclosures can be obtained from the Disclosure and Barring Service (DBS). For further details visit their website: <https://www.gov.uk/request-copy-criminal-record>
- A plan of the premises for which the permit is sought showing the following items:
 - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
 - (iii) The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
 - (iv) the positioning and types of any other amusement machines on the premises
 - (v) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
 - (vi) the location of any ATM/cash machines or change machines
 - (vii) the location of any fixed or temporary structures such as columns or pillars
 - (viii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
 - (ix) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

3.5 Safeguarding and Protection of Children

3.5.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult.
- Maintain policies to deal with any young children who enter the premises unaccompanied
- The provision of satisfactory basic disclosure checks (criminal records checks) for all staff that will be working closely with children.

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.

3.5.2 **East Devon District Council has a legal duty to work together with other statutory bodies and voluntary agencies to safeguard and promote the welfare of children.**

3.6 Protection of Vulnerable Persons

3.6.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (for example how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.

3.7 Other miscellaneous issues

3.7.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.

4 Club Gaming and Club Gaming Machine Permits

- 4.1 Members' clubs may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The **Club Gaming Permit** will enable the premises to provide gaming machines (3 machines of categories B3A or B4, C or D), equal chance gaming and games of chance as prescribed in regulations, namely pontoon and chemin de fer. This is in addition to the exempt gaming authorised under section 269 of the Act. Alternatively a member's club (but not commercial clubs) can apply for a **Club Gaming Machine Permit** which will only enable the premises to provide gaming machines (3 machines of categories B3A or B4, C or D).
- 4.2 Commercial clubs are not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act) which means that they should only apply for a Club Gaming Machine Permit. However they are not able to site category B3A gaming machines offering lottery games in their club.
- 4.3 Clubs which hold a club premises certificate under section 72 of the Licensing Act 2003 are exempt from the stricter vetting process that apply for the normal application for Club Gaming and Club Machine Permits. Under this fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the police, and the grounds upon which an authority can refuse a permit are reduced. This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12. Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.
- 4.4 With the exception of clubs that hold club premises certificates under section 72 of the Licensing Act 2003 the Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit or a club gaming machine permit. In order to do this, it will require proof of additional information from the operator, for example:
- Is there a list of committee members and evidence of their election by club members?
 - Are there minutes of previous meetings (where appropriate)?
 - Is the primary activity of the club something other than gaming?
 - Are the club's profits retained solely for the benefit of the club's members?
 - Are there 25 or more members?
 - Are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
 - Do members participate in the activities of the club via the internet?
 - Do guest arrangements link each guest to a member?
 - Is the 48 hour rule being applied for membership and being granted admission being adhered to (the 48 hour rule not being applicable for commercial clubs)?
 - Are there annual club accounts available for more than one year?
 - How is the club advertised and listed in directories and on the internet?
 - Are children permitted in the club?
 - Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club at an annual or special general meeting?
- 4.5 When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:
- Who makes commercial decisions on behalf of the club?
 - Are the aims of the club set out in the constitution?

- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- Is the club permanently established? (Clubs cannot be temporary).
- Are there suitable rules as to the election and admission to the club of new members?
- What is the usual duration of membership?
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long term club membership benefits?
- Is there a provision for annual general meetings?
- Is there a provision for the election of officers?

4.6 Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority will consider such factors as:

- How many nights a week gaming is provided;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits.

4.7 Supporting documents

4.7.1 In order for the Licensing Authority to satisfy itself that the club meets the requirements of the Gambling Act 2005 as described in paragraphs 4.4 to 4.6 to hold a club gaming permit or a club gaming machine permit the applicant/club will be expected to supply documentation that includes evidence that the club has elected officers, minutes of meetings and particularly those of annual general meetings. The documentation will include where appropriate:

- A copy of the club's constitution and a copy of the general/annual meeting that agreed the constitution.
- In the case of a club formed within the past two years a copy of the minutes of the inauguration meeting and minutes of any subsequent general or annual general meetings.
- Where the club has existed for more than two years a copy of the minutes of the last two annual general meetings and general meetings held during the previous two years.
- A full copy of the club's list of members including their addresses.
- A list of committee members and their positions within the club.
- A copy of the club's accounts for the last two years. Where a club is unable to provide this information because it has only recently been formed the Licensing Authority will expect an appropriate set of accounts for the time the club has been in operation.

4.7.2 The Licensing Authority will require a plan of the premises for which the permit is sought to be served with all club gaming and club gaming machine permit applications. The plan should show the following items:

- (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways

- (ii) where any gaming machines are positioned and the particular type of machines to be provided
- (iii) the positioning and types of any other amusement machines on the premises
- (iv) the location of any ATM/cash machines or change machines
- (v) the location of any fixed or temporary structures such as columns, pillars or serveries
- (vi) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- (vii) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

- 4.8 Many applications are dealt with by delegated authority to officers however should it be necessary for an application for a permit to be determined by a Sub Committee of the Licensing and Enforcement Committee members will expect to be able to speak to and or question the club on aspects of its operation. To that end it will be expected that an officer of the club would attend and be prepared to answer questions at any meeting arranged to determine the application.
- 4.9 Licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 4.10 In the case of the 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10 and paragraph 25.41 of the GC Guidance) there is no opportunity for objections to be made by the Gambling Commission or the police, and the ground upon which an authority can refuse a permit are reduced:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 4.11 The Licensing Authority will expect the holders of club gaming or club gaming machine permits when applying to vary them to comply with all the relevant requirements set out in this section as if the application was for a new permit.
- 4.12 There are statutory conditions on club gaming permits that no child uses a category B3A or B4 or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5 Temporary Use Notices

- 5.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 This licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Act (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards temporary use notices. "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of the Gambling Commissions Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 5.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.6 This licensing authorities expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

6 Occasional Use Notices

- 6.1 Occasional use notices enable betting on a track for up to eight days a year without a premises licence
- 6.2 The licensing authority has very little discretion regarding these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to serve the notice.
- 6.3 Further advice is available from the Gambling Commission's website at www.gamblingcommission.gov.uk/Occasional-Use-Notices-OUNs.aspx

7 Small Society Lotteries

- 7.1 Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The Licensing Authority will register and administer small society lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories:
- licensed lotteries (requiring an operating licence from the Gambling Commission);
 - and

- exempt lotteries (including small society lotteries registered by the Licensing Authority)
- 7.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:
- small society lotteries;
 - incidental non-commercial lotteries;
 - private lotteries;
 - private society lotteries;
 - work lotteries;
 - residents' lotteries;
 - customer lotteries;
- 7.3 East Devon District Council will register and administer small society lotteries as defined under the Act. Advice regarding small society lotteries and the definitions of the above exempt lotteries is available from the Gambling Commission website: www.gamblingcommission.gov.uk/Small-society-lotteries.aspx
- 7.4 This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:
- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held);
 - submission of incomplete or incorrect returns;
 - breaches of the limits for small society lotteries.

8 Vessels

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

Relevant Authorities' Contact Details

Responsible Authority Contacts -

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 (last updated 09.2015).

An up to date list of Responsible Authorities relating to East Devon with their contact details can be obtained by accessing the East Devon District Council's Licensing pages on the Council's website or by request to the Council's Licensing Office by emailing licensing@eastdevon.gov.uk ~~or telephoning 01395 517411.~~

East Devon Licensing Authority
The Licensing Manager
East Devon District Council
Council Offices
Blackdown House, Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

The Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Devon & Cornwall Police
Licensing Department
Devon & Cornwall Constabulary
Launceston Police Station
Moorland Road
Launceston
PL15 7HY

Devon and Somerset Fire & Rescue Service
East Devon Group Business Safety
Middlemoor Fire Station
Sidmouth Road
EXETER
EX2 7AP

Area Child Protection Committee and Local Safeguarding Children Board
CP Checks
MASH
PO BOX 723
Exeter
EX1 9QS

Environmental Health (Environmental Health and Parking Services Manager)
(Nuisance, Public Health & Health & Safety)

Environmental Health Service
East Devon District Council
Council Offices
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

Head of Planning
Planning & Countryside Service
East Devon District Council
Council Offices
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

HM Customs and Excise
HM Revenue and Customs
Excise Processing Teams
BX9 1GL

Additional Responsible Authority Contacts for vessels –
Maritime and Coastguard Agency
(For attention of Mr Tony Heslop)
Plymouth Marine Office
Western Region
New Fish Market,
Fish Quay
PLYMOUTH
PL4 0LH

Glossary of Terms

DCMS - Department for Digital, Culture, Media, and Sport

An Interested Party – is a person, in the opinion of the Licensing Authority who:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b).

Responsible Authority –

- (i) The Licensing Authority
- (ii) The Gambling Commissioner
- (iii) Devon & Cornwall Police
- (iv) The Devon and Somerset Fire & Rescue Service
- (v) The local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are wholly or partly situated
- (vi) The local authority by which statutory functions are exercisable in any area in which the premises are wholly or partly situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vi) A body which is designated in writing for the purpose of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated , as competent to advise the authority about the protection of children from harm:
- (vii) And any other person prescribed by regulations by the Secretary of State.

The following comprises a glossary of terminology used within the statement of licensing principles. Terms defined within the statement itself, or at length in the Gambling Act 2005, have not been included.

Adult Gaming Centre

A premises where the provision of Category B, C and D gaming machine facilities for adult customers is authorised by the Licensing Authority.

(Alcohol) Licensed Premises Gaming Machine Permit

Permit issued by Licensing Authority allowing more than two Category C or D gaming machines to be used on Alcohol-licensed premises

Betting Machine

A machine that accepts bets on live events, such as horse racing, as a substitute for placing bets over the counter.

Betting Premises

Premises where the provision of betting facilities is authorised by the Licensing Authority.

Bingo Premises

Premises authorised by the Licensing Authority where bingo, either cash or prize bingo, may take place.

Casino Premises

Premises authorised by the Licensing Authority where persons are given an opportunity to participate in casino games i.e. games of chance, which are not equal chance gaming.

Children

Means individuals who are less than 16 years old.

Club Gaming Permit

Permit issued by the Licensing Authority that authorises the provision of games of chance and gaming machines on premises from which a members club operates.

Club Machine Permit

Permit issued by the Licensing Authority which authorises a club to have up to three gaming machines on the premises.

Family Entertainment Centre

Premises where the provision of Category C and D gaming machines is authorised by the Licensing Authority.

Gambling Commission

The body which regulate all commercial gambling in Great Britain.

Gaming Machine

A machine that is designed or adapted for use by people to gamble. Such machines are classified in 4 categories, A, B, C and D. Category D has the lowest level of charge and prizes, whilst the other categories increase in value up to Category A, which has no limits to charges or prizes.

Gaming Machine Permit

Permit issued by the Licensing Authority regulating the operation of gambling machines.

Licensing and Enforcement Committee

The committee that has been established by the Licensing Authority to discharge its licensing functions under the Gambling Act 2005.

Licensing Manager

The Officer appointed by the Licensing Authority to carry out functions and duties delegated by the Licensing Authority.

Operator

The holder of a licence issued by the Gambling Commission or a Licensing Authority, being an individual or company which provides facilities for certain types of gambling.

Personal Licence

A licence issued to an individual by the Gambling Commission, authorising the holder to perform a specified management office or specified operational function in connection with the provision of facilities for gambling.

Premises Licence

A licence issued by the Licensing Authority that authorises the provision of gambling facilities on specified premises.

Prize Gaming

Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

Prize Gaming Permit

A permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

Provisional Statement

An authorisation issued by the Licensing Authority where the applicant expects premises to be constructed or altered in accordance with plans submitted, or expects to acquire a right to occupy the premises.

Regulators Code

Code of practice issued by the Government to ensure that regulatory best practice is adopted and carried out by regulators.

Relevant Representation

A representation received from a responsible authority or an interested party that relates to the licensing objectives, or that raises issues under this statement, the Gambling Commission's Guidance or codes of practice.

Remote Gambling

Defined by the Gambling Act 2005 as gambling in which persons participate by the use of remote communication including the internet, telephone, television, radio or any other kind of electronic or other technology for facilitating communication.

Remote Operating Licence

Issued by the Gambling Commission to individuals or companies running a gambling service through remote communication (including online gambling) and any part of your remote equipment is based in Great Britain or where remote equipment is based outside Great Britain and you advertise remote gambling to consumers in Britain through a British-facing business.

Review

The process by which a Licensing Authority may, either of its own volition or on the request of a third party, determine whether any action should be taken in relation to the operation of a premises licence.

Temporary Use Notice

A notice which permits the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.

Track

Sites (such as a horse racecourse or dog track) where races or other sporting events take place.

Young Person

Means individuals who are aged less than 18 years old and 16 years and over

APPENDIX C

GAMING MACHINES – CATEGORIES AND ENTITLEMENT

The summary of gaming machine categories and entitlements can be found on the Gambling Commission's website online at www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx

Category of machine	Maximum stake (from April 2019)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£2	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of max £20,000 linked progressive jackpot on premises basis only

APPENDIX D

SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

East Devon District Council along with other districts across Devon have produced and adopted a joint safeguarding policy designed to protect children and vulnerable adults. Safeguarding is a statutory responsibility placed on this and all councils. This council is committed to tackle child sexual exploitation and trafficking by working together with key partners.

It is important to ensure that functions are discharged with regard to safeguarding and promoting the welfare of children. The joint safeguarding policy states in relation to councils that it is our responsibility under the Children Act 2004, which places a duty on public bodies, including district councils to ensure that our functions are discharged with regard to the need to safeguard and promote the welfare of children.

Devon District Councils believe that all children, young people and adults have the right to be safe, happy and healthy and deserve protection from abuse. The councils are committed to safeguarding from harm all children, young people and adults with care and support needs using any council services and involved in any of their activities, and to treat them with respect during their dealings with the councils, our partners and contractors.

How gambling premises licence, permit holders and their employees can support Safeguarding

Gambling establishment licence and permit holders and their employees are in a good position to help identify those subject of or at risk of sexual exploitation because, through the operation of certain gambling activities, licence and permit holders and their employees regularly come into contact with children, young and vulnerable people. This means that licence and permit holders and their employees are in an ideal position to help protect young and vulnerable people.

Operators, licence and permit holders and their employees should consider and have regard safeguarding measures particularly when encountering young and vulnerable people in gambling premises by establishing:

- Do any customers appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do they appear are under the influence of alcohol or drugs?
- Are children/young people being brought regularly to your premises by older people? If so, ask yourself why?

The provision of staff training, awareness or development opportunities should be a consideration to improve their knowledge of skills in this area.

Operators, licence and permit holders and their employees with any reason to suspect a person is being abused or at risk of abuse now has a responsibility to report those concerns.

Information may be shared in confidence with Devon and Cornwall Police (by telephone: 101 or email: 101@dc.police.uk) and Devon Safeguarding Children Partnership (by telephone: 0345 155 1071 or emergency out of hours 0345 600 0388).

Report to Licensing and Enforcement Committee:

Date of Meeting 21 July 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



Committee Update and Amendment to Temporary Covid Taxi & Private Hire Licensing Policy

Report summary:

To update the Committee with amendments to the temporary policy and to seek approval to continue its need until 31.12.2021

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That the Committee;

1. Notes the update of this temporary policy, and
2. Approves continuance of this temporary policy that exists in addition to the full Taxi and Private Hire Licensing Policy, being extended to 31 December 2021.

Reason for recommendation:

To update the emergency policy that exists in addition to the Councils full policy to reinforce responsibilities for drivers, proprietors, operators and licence holders, ensuring licensed vehicles remain safe and roadworthy and that licenced drivers maintain the 'fit and proper' status for holding a licence

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

Portfolio(s) (check which apply):

- Climate Action and Emergency response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Tourism, Sport, Leisure & Culture
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

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

Links to background information [Microsoft Word - Taxi Policy 9 December 2020 \(eastdevon.gov.uk\)](#)

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 The ongoing Covid-19 pandemic provided legislative change with the Coronavirus Act 2020 and the Health Protection (Business Closure) Regulations 2020. Changes have impacted on the hackney carriage (taxi) and private hire trade that required this Council to introduce an emergency Covid 19 Taxi and Private Hire Licensing policy in April 2020 which exists beside the full, adopted policy. With the 'roadmap' for easing restrictions still to end after a further short extension it is considered necessary to maintain and review the emergency policy at this time.
- 1.2 The full Council's Taxi and Private Hire licensing policy was approved in 2017 and last revised in 2020, it remains in being and will do so throughout the current emergency with a full consultation proposed later this year for amending in 2022.
- 1.3 New legislation and government guidance required emergency amendments to the Council's current hackney carriage and private hire licensing policy in April 2020 that allowed the Council to properly respond when considering;
 - Vehicle MOT's,
 - Compliance tests,
 - Use of SORN,
 - Vehicle Insurance cover,
 - Driver/vehicle licence renewals and,
 - Disclosure and Barring Service (DBS) checks.
- 1.4 Emergency amendments also provided support to the challenges faced by the taxi and private hire trade in East Devon. Licence holders actively sought guidance from the licensing authority as to how they should act along with requests to adopt some changes under 1.3 above.
- 1.5 The amendments do not replace the legislation governing hackney and private hire operations and licence holders have to comply with the requirements of the Council's existing policy and the emergency amendments.
- 1.6 The emergency amendments reinforce existing responsibilities for drivers, proprietors, operators and licence holders to ensure that to the best of their ability, that licensed vehicles are safe and roadworthy and that licenced drivers maintain the 'fit and proper' status for holding a licence.

Acknowledging that public safety is paramount, licensing officers understand the circumstances experienced by the taxi trade and licence holders seek guidance to ongoing challenges.

- 1.7 The purpose of this report is to inform this Committee of the continuing need to continue with the emergency amendments in view of the continuing challenges. Although some of the requirements under 1.3 are no longer necessary, other factors are still required.
- 1.8 The changes to the emergency policy now include removal of section 2.1 and 2.2 regarding vehicle testing when garages were required to close in the first lockdown.
- 1.9 The licensing team has received requests from licensees seeking a temporary review of the current policy with regard to the age limit for licensing new vehicles as currently when licensing a hackney carriage or private hire vehicle, it shall be not more than **four years old** from the date of first registration. The presumption is that licences will not be granted for vehicles over 4 years old, but each such application will be considered on its own merits and where a vehicle may be regarded as being an exception, the application will be considered by a Sub-Committee of the Licensing and Enforcement Committee.
- 1.10 The current challenges experienced by licensees in the district have indicated that a temporary amendment until 31st December 2021 to increase that initial age limit that officers may grant a vehicle licence up to **5 years old**. The Licensing Sub-Committee would still need to be satisfied that a vehicle is in exceptional condition for its age in cases for a vehicle over 5 years old and subject of an application.
- 1.11 The merit and need for this temporary policy amendment will be reviewed when this Committee next meets and if the temporary Covid policy is further approved today, it is not proposed to extend the amendments beyond 31 December 2021. If consideration is still necessary to extend age limits of any vehicle up to 5 years old, consideration and consultation would be conducted in the Council's full Taxi and Private Hire licensing policy.
- 1.12 The changes to the temporary policy are provided in red font in **Appendix A**.

Financial implications:

The Policy is a comprehensive redraft which brings the Council's policy in line with current legislation. If the policy is not properly adopted by the Council the authority will be liable to legal challenge which if successful could entail costs being awarded against the Council

Legal implications:

The Legal comments are detailed within the report



**COVID-19 Response
Temporary
Statement of Licensing Policy**

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

First Version 8 April 2020
Reviewed July 2021

1. Introduction

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

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

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

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

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

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

2. Hackney Carriage and Private Hire Vehicle licences

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

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

This authority has adopted its existing taxi policy and must satisfy itself as to the criteria being met before issuing a renewed hackney licence. If any of the following options listed at 2.3, 2.4

or 2.5 are taken by licence holders it will prevent existing work for education and NHS authorities being completed during those periods that the licence holder has requested.

SECTION 2.1 TO BE REMOVED AS ALL MOT GARAGES THAT WERE CLOSED IN LOCKDOWN 1 ARE AVAILABLE AND OPERATING FULLY

2.1 MOT Testing

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

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

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

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

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

SECTION 2.2 TO BE REMOVED AS ALL MOT GARAGES THAT WERE CLOSED IN LOCKDOWN 1 ARE AVAILABLE AND OPERATING FULLY

2.2 Vehicle Compliance Inspections

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

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

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

2.3 Use of SORN

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

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

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

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

2.4 Cancellation of Insurance

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

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

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

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

2.5 Deferring Vehicle Licence Renewal Dates

With a maximum period of one year for vehicle licences and with no option for an extension period, licence holders have requested to defer the start date for renewing vehicle licences. The request to defer the date of renewal must be voluntarily requested in writing by the licence holder before the expiry of the current licence. The Licensing Authority will consider each request to postpone the start date for renewal of a currently licensed vehicle up to a maximum period of 3 months from the expiry date of the existing licence.

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

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

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

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

2.6 VEHICLE AGE POLICY

The Council's policy is that on initial licensing as a hackney carriage or private hire vehicle a vehicle shall be not more than **four years old** from the date of first registration as shown on the vehicle registration document. Licensed vehicles of more than eight years old shall only continue to be licensed subject to a satisfactory East Devon vehicle compliance report being obtained every six months from the date of licence issue. The test must be carried out by an authorised M.O.T examiner at a testing station approved by the Ministry of Transport, and must be conducted against an inspection checklist. This is in addition to an M.O.T, which for hackney carriages is required at 1 year-old and thereafter.

This policy shall not exclude a vehicle from being licensed as a hackney carriage or private hire by reason of being more than 4 years old if the vehicle was initially licensed by the Council and continually licensed thereafter as either a hackney carriage or private hire vehicle and the change merely being the transfer of the type of licence.

Where exceptional circumstances may apply applications to licence vehicles that are more than four years old from the date of first registration as shown in the vehicle registration

document will be considered by the District Council on a case by case basis. The presumption is that licences will not be granted for vehicles over 4 years old, but each such application will be considered on its own merits. Factors such as the condition of the vehicle and the mileage will be relevant. The application will be considered by a Sub-Committee of the Licensing and Enforcement Committee.

The current challenges experienced by licensees in the district have indicated that a temporary amendment until 31st December 2021 to increase the age limit that officers may grant a vehicle licence being up to **5 years old** will support licence holders.

The Sub-Committee will **still** need to be satisfied that the vehicle is in exceptional condition for its age **in cases where a vehicle over 5 years old is subject of an application**. The Council would expect the vehicle to have a full service history and a certification that the recorded mileage is correct. When considering to licence an older vehicle members will expect to be provided with an AA 'Comprehensive' test report or a RAC 'Essential Plus' report to indicate the condition of the vehicle. These reports must be provided at the applicant's own expense. Providing these documents does not mean that the vehicle licence will be automatically issued, but is a starting point at which the Council can make a decision to licence the vehicle or not, based on the vehicle condition. All the other relevant documents necessary for licensing must also be produced. This provision shall not apply to non-motorised vehicles.

Licensed vehicles over 14 years of age must be presented for inspection by a Licensing Officer prior to further renewal of the vehicle licence. In circumstances where a vehicle is not considered by an Officer to be of sufficient standard then the application will be referred to the Sub-Committee of the Licensing and Enforcement Committee who will decide whether to grant the renewal of the vehicle licence. If an appointment for an inspection is not made prior to the vehicle licence renewal date, the licence will automatically expire.

3. Hackney Carriage and Private Hire Driver licences

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

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

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

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

3.1 Changes to DBS ID Checking Guidelines

Temporary changes to ID checking guidelines have been made by the government as a result of the Covid-19 outbreak, coming into effect from 24 March 2020. To ensure that the necessary DBS checks can still be carried out, the DBS ID checking guidance will be changed for a temporary period that will enable ID documents to be viewed remotely and not in person and with scanned images to be used in advance of each DBS check being submitted; <https://www.gov.uk/government/news/covid-19-changes-to-dbs-id-checking-guidelines>

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

3.2 Medicals Assessments

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

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

~~The current approach has been considered in conjunction with the current NHS 'Advice for Everyone' is to stay at home and to adhere to the government guidance.~~
~~https://www.nhs.uk/conditions/coronavirus-covid-19/?gclid=EA1aIQobChMI3OgevYDK6AIV1ZTVCh0BGghYEAAYASAAEgKYv_D_BwE~~

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

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

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

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

It is evident that the GP medical appointments at doctor surgeries needed by drivers to update their medical assessments have been limited. 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

APPENDIX A

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.

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/>

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

Report to Licensing and Enforcement Committee:

Date of Meeting 21 July 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****Is the proposed decision in accordance with:**Budget Yes No Policy Framework Yes No **Recommendation:****That the Committee;**

- 1. Notes the update of this report with regard to the process adopted in July 2020 for issuing temporary Pavement Licences that was due to expire on 30 September 2021, and**
- 2. Agrees with continuance of the adopted application process, conditions and fee for temporary Pavement Licences as provisions are being extended to 30 September 2022.**

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 and Emergency response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Tourism, Sport, Leisure & Culture
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

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

Links to background information Previous report to Licensing Committee July 2020 [27/07/2020 09:30 \(eastdevon.gov.uk\)](#) Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) (Regulations 2021) <https://www.legislation.gov.uk/ukdsi/2021/9780348224344/contents>

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 (the Act) was given Royal Assent on 22 July 2020 to support recovery of the hospitality sector and to allow the businesses to operate whilst managing the risks arising from Covid 19. The Act initially relaxed licensing and planning laws until 30 September 2021 by (a) making it easier for the hospitality sector to obtain permissions to seat and serve customers outdoors, creating a faster Pavement Licence application process and (b) enabling automatic extension of alcohol off-sales to premises that already had permission for on-sales. Through the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021, the government now extends these temporary provisions until 30 September 2022.

2. This Committee resolved at its meeting on 27 July 2020 to adopt the procedures and a set of conditions for issuing temporary Pavement Licences that are applied for on highways land in accordance with the temporary legislation originally until 30 September 2021.

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. Three processes are available to applicants seeking outdoor tables and chairs, namely;

4.1 **Temporary Pavement Licences** being managed by the Licensing Team on highways land),

4.2 **Permanent café Pavement Licences** still managed and available upon application from Devon County Council on highways and

4.3 **Sitting Out Consent (Leases)** for areas of land that are owned by this Council and being managed by Streetscene and Property Services under the same provisions for 4.1

5. The new temporary process under 4.1 introduced a potentially cheaper and faster way for businesses to obtain licences although high expectations of some applying last autumn may have been unrealistic as the necessary public safety requirements on pavements and beside busy roads equally exists. The application process managed by the County Council (4.2) for many years also remains available to applicants and most businesses have continued renewing existing licences with the County Council still. The desire for businesses to provide seating on land owned by EDDC has been delivered through Sitting Out Consent and Lease arrangements (4.3) under similar principles and through the same legislation as 4.1

6. The new provisions extending procedures to September 2022 will only apply to applications made on or after the Business and Planning amendment regulations come into force (date to be confirmed by government). This means that any applications submitted before the effective date to extend the

legislation will only be valid until 30 September 2021 and those businesses will need to reapply to maintain their current, temporary pavement licence beyond that date. There is no automatic extension.

7. Five applications for temporary Pavement Licences have been managed by the Licensing Team since August 2020 with the outcome being three refused on valid objections received and two granted. Should Devon County Council highways object to a temporary Pavement Licence application during consultation, the licence must be refused based upon the County Council being both the landowner and lead authority.

8. Although the number of businesses choosing to apply to the District Council is small, the application process and the necessary checks for public safety is time consuming. To streamline the reapplication process for the current two holders, the Licensing team will contact both businesses that hold a temporary Pavement Licence by way of email to clarify whether they propose to reapply on the same terms as before, capturing the mandatory requirements of the Act. Statutory consultation with stakeholders will remain the same and all comments will be considered as part of the decision-making process. Options for current holders of Sitting Out Consent Leases are being considered through ongoing measures involving the relevant Services and Members.

9. New applications for temporary Pavement Licences and any renewing will continue to be submitted via the existing on-line portal.

10. The Act allows local authorities to set a fee up to a maximum of £100 and despite being relatively low (and below that set by the County Council), the work undertaken in accepting and determining applications is significant. Officers have need to visit locations subject of application during the short consultation period to inspect the safety of each proposal. Post refusal has required reviewing on appeal and providing feedback when unsuitable for grant. The number of temporary Pavement Licence applications has been lower than first anticipated with new work in this area being absorbed within the Licensing team

11. Enforcement of unlicensed street furniture on highways rests with the County Council highways team being the authority with powers to remove furniture on a highways or to commence legal proceedings for unregulated breaches. A District Council can only revoke a temporary Pavement Licence.

12. The extension of the legal provisions beyond this year maintains the responsibility of the Council to accept and progress applications. The Council therefore needs to continue its arrangements for receiving and determining applications for Pavement Licences up to 30 September 2022.

Financial implications:

Continuation of temporary Pavement licence fee income

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