

**Agenda for consultative meeting of the
Licensing and Enforcement Committee
Wednesday, 17th November, 2021, 11.00 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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Venue: Online via the Zoom app

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(or group number 01395 517546)
Tuesday, 9th November 2021

**Important - this meeting will be conducted online and recorded by Zoom only.
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Public speakers are now required to register to speak – for more information please use the following link: <https://eastdevon.gov.uk/council-and-democracy/have-your-say-at-meetings/all-other-public-meetings/#article-content>

Between 27th July 2021 to 17th January 2022, the Council has delegated much of the decision making to officers. Any officer decisions arising from recommendations from this consultative meeting will be published on the webpage for this meeting in due course. All meetings held can be found via the [Browse Meetings](#) webpage.

1 Public Speaking

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

2 Minutes of the previous meeting held on 21 July 2021 (Pages 3 - 7)

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 is one item which officers recommend should be dealt with in this way.

Part A Matters for consideration in public session

7 Quarterly Update Report (Pages 8 - 15)

8 Gambling Policy Report (Pages 16 - 73)

9 Taxi Fare Tariff Report (Pages 74 - 81)

Part B Matters for consideration in private session

10 Report Regarding Suspension of Licensed Drivers (Pages 82 - 86)

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Licensing and Enforcement Committee held at Council Chamber, Blackdown House, Honiton on 21 July 2021

Attendance list at end of document

The meeting started at 10.15 am and ended at 12.08 pm

1 Public Speaking

There were no members of the public registered to speak.

2 Minutes of the previous meeting held on 17 February 2021

The minutes of the meeting held on 17 February 2021 were agreed as a correct record.

3 Declarations of interest

Minute 6. Quarterly update report.

Councillor Marcus Hartnell, Personal, Councillor is a member of Devon County Council which is responsible for licensing on highways.

Minute 6. Quarterly update report.

Councillor Steve Gazzard, Personal, Member has applied for a Temporary Event Notice for a forthcoming event in Exmouth.

4 Matters of urgency

There were no matters of urgency.

5 Confidential/exempt item(s)

There were no confidential / exempt items.

6 Quarterly 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, the Gambling Act 2005, Taxi legislation and general licensing including street trading and pavement licences.

Prior to the Licensing Manager presenting the report, the legal advisor to the Committee, Giles Salter, provided the following legal advice regarding a member of the Committee who was currently self isolating and was participating in the meeting remotely via the Zoom app.

Mr Salter referred to the recent High Court ruling which stated that when Councillors were exercising their functions under the Local Government Act 1972 regarding taxi licensing and general policy decisions, Councillors should be present together in a place where they would debate and register their decision. Members were present at this meeting in the Council Chamber for this purpose. Item 8 on the agenda [Gambling Policy report] is an item under the Gambling Act 2005 regarding consultation on the

Gambling Policy. As the Gambling Act sits outside the Committee's functions under the Local Government Act 1972, the legal advice was that Councillor Millar, who was present remotely, could participate fully in item 8 and could debate, make recommendations and vote on that item.

With regard to all other agenda items [7, 9 and 10], the legal advice was that Cllr Millar could speak, but could not make recommendations or vote as he was not present in the Council Chamber.

The Licensing Manager highlighted the following points from the report:

- The report detailed the increase in applications for premises licences which was also a national trend currently
- It was anticipated that the Licensing Service would also see an increase in applications for Temporary Event Notices (TENs) as a result of the new draft legislation to increase TENs limits and extend off-sales of alcohol
- There was an increase in applications for outdoor music and bars which were coming under scrutiny from local residents
- The increased work load for the Licensing Service continued to present challenges for the staffing level which had resulted in the recommendation to enable recruitment of the additional posts as identified in the report
- The background to the request for the additional budget was explained to the Committee
- Despite the challenges, there was no backlog of work and the team was motivated and working effectively.

The Chair requested that the Committee's thanks be passed to the members of the Licensing Team.

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

- There was a need to be proactive rather than reactive in response to the increasing workload resulting from changes in the volume and nature of applications due to the Covid-19 pandemic and changes in society generally
- The relationship between the four licensing objectives and the Council's Licensing Policy was explained as there was concern that there was confusion among local residents when making representations on applications as to how the objectives and the Policy fit together
- There was an opportunity for training for Members of the Committee who had not been trained previously and it was noted that this would enable more Members to be available to sit on the Sub Committee to determine licensing applications
- Management of the trading pitches for Sidmouth Folk Week had been handed over to the Streetscene Events team and income generated would go to the Streetscene service

The vote on the recommendation in the report was taken by roll call. The following Members voted in favour of the recommendation; Cllrs J Whibley, K Bloxham, M Chapman, A Dent, S Gazzard, M Hartnell, G Pratt, B Taylor and T Wright.

There were no votes against and no abstentions.

RESOLVED

1. That the report be noted
2. That the recommendation be made to full Council to approve the additional budget of £40,545 to enable recruitment of the additional posts as identified in the report.

RECOMMENDATION TO FULL COUNCIL

That Council approves the additional budget of £40,545 to enable recruitment of the additional posts as identified in the report [Committee Update report].

7 Gambling Policy report

The Licensing Manager presented his report which updated the Committee and sought approval to commence consultation on the draft Gambling Policy. It was noted that Gambling Policies generally mirror each other across other local authorities in Devon.

In response to the report, Cllr Millar proposed the development of a detailed 'Local Area Profile' as soon as possible and also proposed that the Committee considers whether to recommend to full Council that East Devon should be a no casino area.

Discussion on the proposals for a detailed Local Area Profile and the district being a no casino area included the following points:

- Drawing up a district Profile should, if appropriate, also include Planning in the data gathering and drafting process
- A wide range of data including public health, housing and community groups should also be included in a more detailed Local Area Profile
- Evidence gathered in an updated and detailed Local Area Profile would strengthen the case for East Devon being a no casino area and this could be included in the draft Gambling Policy at the point when it is put to full Council for approval
- Due to time constraints it would not be possible to redraft a detailed Local Area Profile within the deadlines for consulting on the draft Gambling Policy
- Having a no casino policy would strengthen the Council's position in the future should an application ever come forward

The vote on the recommendation in the report was taken by roll call. The following Members voted in favour of the recommendation; Cllrs J Whibley, K Bloxham, M Chapman, A Dent, S Gazzard, M Hartnell, P Millar, G Pratt, B Taylor and T Wright.

There were no votes against and no abstentions.

RESOLVED

That, having considered the draft Statement of Gambling Policy (Appendix B to the report), the Committee approved the Licensing Service to start the formal public consultation process that is required by the legislation.

The vote on the proposal by Cllr Millar regarding development of a Local Area Profile with a view to consideration for a no casino policy in the future was taken by roll call.

The following Members voted in favour of the recommendation; Cllrs J Whibley, K Bloxham, M Chapman, A Dent, S Gazzard, M Hartnell, P Millar, G Pratt, B Taylor and T Wright.

There were no votes against and no abstentions.

RESOLVED

That the Licensing Authority commissions a piece of work on local area profiling with regard to gambling with a view to considering a no casino policy in the future.

8 Temporary Taxi Policy report

The Licensing Manager presented his report which updated the Committee with amendments to the Temporary Covid Taxi and Private Hire Licensing Policy and sought approval to continue its need until 31 December 2021.

It was noted that feedback from the taxi trade showed support for an extension to the temporary policy which had assisted licencees during the Covid-19 pandemic.

The vote on the recommendation in the report was taken by roll call. The following Members voted in favour of the recommendation; Cllrs J Whibley, K Bloxham, M Chapman, A Dent, S Gazzard, M Hartnell, G Pratt, B Taylor and T Wright.

There were no votes against and no abstentions.

RESOLVED

1. That the update of the temporary Covid Taxi & Private Hire Licensing Policy be noted
2. That the continuance of this temporary policy that exists in addition to the full Taxi and Private Hire Licensing Policy, being extended to 31 December 2021 be approved.

9 Pavement Policy report

The Licensing Manager presented his report on the update on Pavement Licences – Business and Planning Act 2020.

Members' attention was drawn to point 4.2 of the report regarding permanent café Pavement Licences which were still managed by Devon County Council on highways land. It was noted that the Government had only recently confirmed that the temporary arrangement for Pavement Licences being managed by District Councils would be extended until 30 September 2022.

In response to a question, the Licensing Manager advised that sufficient space must be available for tables and chairs when considering a Pavement Licence. Sitting out consents for tables and chairs on grass were administered by the Streetscene team.

It was agreed that information be made available to ensure that businesses are aware of the continuing arrangements for temporary Pavement Licences.

The vote on the recommendation in the report was taken by roll call. The following Members voted in favour of the recommendation; Cllrs J Whibley, K Bloxham, M Chapman, A Dent, S Gazzard, M Hartnell, G Pratt, B Taylor and T Wright.

There were no votes against and no abstentions.

RESOLVED

1. That the Committee noted the update of the 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. That the Committee agreed with continuance of the adopted application process, conditions and fee for temporary Pavement Licences as provisions are being extended to 30 September 2022.

The Chair thanked the Licensing Team and the Licensing Manager for his reports.

Attendance List

Councillors present:

J Whibley (Chair)
K Bloxham (Vice-Chair)
M Chapman
A Dent
S Gazzard
M Hartnell
P Millar - attended remotely via the Zoom app
G Pratt
B Taylor
T Wright

Councillors also present (for some or all the meeting)

None

Officers in attendance:

Giles Salter, Solicitor
Rebecca Heal, Solicitor
Sarah Jenkins, Democratic Services Officer
Giles Salter, Solicitor
Stephen Saunders, Licensing Manager
Alethea Thompson, Democratic Services Officer

Councillor apologies:

I Chubb
P Jarvis
T Woodward

Chair

Date:

Report to: Licensing and Enforcement Committee



Date of Meeting 17 November 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

Reason for recommendation:

To keep the Council's statutory committee up to date with current arrangements relating to the Licensing Service

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

Portfolio(s) (check which apply):

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

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; .

Links to background information.

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

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 from July to November 2021.
- 1.1.2 The increase in Licensing Act applications reported to this Committee throughout the year has continued as we approach the end of 2021 and it has been possible to calculate the increase in comparison to previous years. The number of (premises) licences issued over the course of ten months this year increased by 53% over the same period last year. An 80% increase in licences issued was identified when comparing the same periods of 2018 and 2019. To date **137** applications for the variation, transfer or new licensed premises were processed and issued by the team this year. Applications continue as licensed businesses adapt and recover from the pandemic.
- 1.1.3 The removal of all national lockdown restrictions for licensed businesses ended on 19th July and there has been a welcome return to popular locations being able to arrange weddings and similar events. Increasing numbers of Temporary Event Notices (TENs) were received from event organisers over the summer months (indoor and outdoor) and with the number of applications returning to similar levels before the Coronavirus pandemic.
- 1.1.4 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 preparing Committee reports before issuing licences. The timescales for officers to assess acceptance or rejection is within 24 hours of receipt for some applications, which includes the web updates and consultations commencing. Regardless of any potential concerns or objections being anticipated, the licensing authority cannot refuse a properly prepared and paid application which must progress to consultation.
- 1.1.5 Officers have persisted with the necessary work that authorities undertake collecting annual licence fees payable by licensed businesses on the anniversary of each licence being issued. The Act is prescriptive in that a premises licence must be suspended for those failing to pay an 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 Licensing officers arrange mediation if appropriate when representations are received for new licensing applications and there were contested applications over the previous period.
- 1.2.2 Licensing sub-committee hearings have occurred on:
 - 11th July for a time limited premises licence for an outdoor music event in Kilminster that occurred shortly afterwards,
 - 8th September for a time limited premises licences for an outdoor festival planned in Sidmouth next year.
- 1.2.3 Officers are also preparing arrangements for a further Licensing sub-committee hearing planned for 24th November for a new licence application in Exmouth.

- 1.2.4 Over the course of the previous period it was evident that procedures for Licensing Act hearings and Planning hearings differ considerably which can cause frustration for the public. The guidance approved by this Committee has been circulated subsequently on occasions to help inform Councillors and the public with regard to submitting relevant representations.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The Gambling Commission was set up under the Act in 2005 to regulate commercial gambling in partnership with licensing authorities and it has responsibility for licensing operators and for all online betting with a primary aim of preventing harm to the public. Local authorities oversee the gambling premises licensed in each district.
- 2.1.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest bulletin can be viewed online at [September LA Bulletin \(campaign-archive.com\)](http://September LA Bulletin (campaign-archive.com))
- 2.1.3 It is mandatory under the Act that licensing authorities submit an annual return to the Commission detailing number of gambling licences, permits and notices managed along with details of inspections and enforcement work undertaken. Officers completed the return prior to the deadline of 30 October 2021. Responses are usually published by the Commission at a later date that will allow the details to be shared at a meeting of this Committee.
- 2.1.4 The annual return identified this licensing authority administered 1 Bingo Premises Licence, 4 Adult Gaming Centre Premises Licences, 11 Family Entertainment Centre Gaming Machine Permits, 7 Betting Premises Licences, 11 Club Machine Permits, 1 Prize Gaming Permit, 11 Alcohol Licensed Premises Gaming Machine Permits, and 138 Small Society Lotteries over the last year. In addition, 116 alcohol licensed premises gave notification of having gaming machines in public house premises.
- 2.1.5 A separate report has been prepared today with regard to adopting the Council's Gambling Policy from January 2022 to 2025. In line with that report, the need to develop a Local Area Profile was agreed and the Gambling Commission will provide a briefing to authorities on 8th November concerning Public Health England's evidence review on gambling related harms, being attended by the Licensing Manager. It is aimed at the public health community to share the key findings from the review to promote advancing work to tackle gambling related harms in the public health space. The briefing is expected to support the work to deliver a more meaningful Local Area Profile in the months ahead.

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 Last year officers circulated contact details for Devon County Council Transport Services to all licensed drivers to support options for gaining transport work during difficult times. The subsequent take up of licensed taxis and private hire vehicles undertaking educational and health related transport work has been confirmed by the trade. Gaining transport contracts that are managed by Devon County Council helped to supplement income for many drivers.
- 3.1.2 Although this authority ended its requirement in 2017 for all taxi licences to be renewed annually by 31st October, the proportion of licences that still have to be renewed each October are high, although numbers are decreasing. Each autumn presents the challenge of completing bulk licence renewals and officers again engaged early in the process with licensees, providing clear communication to support all renewing their licences.
- 3.1.3 The renewal work is shared within the licensing team with all staff rising to the challenge of increased demands this time of year. It can be a stressful period for companies renewing high

numbers of licences and when positive feedback is received it is always appreciated with a recent example from one company stating, “*Thank you so much for your very impressive response time to my recent requests for the re-licensing, and transfer of license for two of my vehicles. We really do appreciate your work, and helping to keep us on the roads providing the service for our local community.*”

3.1.4 The October renewal period usually sees a small number of licence holders choosing that time to retire and not renewing their licences. Following the renewal period, on 2nd November 2021 figures show an annual increase in all taxi and private hire licences managed by the licensing authority over the last year:

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 (Nov)	156	129	41	37	19

3.1.5 It is encouraging that a small upturn of licences has occurred in the district. National statistics for England and Wales collected by the Dept of Transport report that the total licensed taxi and private hire vehicles licensed fell by 15.9% and that taxi and driver licences fell by 5.7% nationally, being largely attributed to the pandemic.

[Taxi and Private Hire Vehicle Statistics: England 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

3.1.6 This trend has also been reported in the media and in early November, the Licensed Private Car Hire Association (LPCHA) estimated the industry is short of 160,000 of the previously 300,000-strong workforce who have not returned after the pandemic. The association has suggested that a backlog in some licensing and registration of vehicles, as well as criminal and medical checks for drivers, are partly to blame [BBC Online: Public safety fears due to taxi driver shortage](#)

3.1.7 That situation is not attributed to East Devon. Although there is a mandatory procedure for assessing all new and renewal applications against the ‘fit and proper’ test, there have been no back logs or delays for this authority when dealing with applications or during the recent ‘bulk’ taxi licence renewal period. It has been reported previously to this Committee that officers have worked diligently throughout the pandemic revising procedures to actively avoid delays in processing applications. Recently our officers shared with other Devon authorities a faster process for providing vehicle licence plates that we introduced through new working practices with the company producing taxi licence plates.

3.1.8 The contribution made by officers, Lucy Maxwell and Martha Loak has ensured that delays in issuing licences are not a factor for this Council. In addition, the involvement of Strata staff based in the digital mail room at Blackdown House offices has also contributed to supporting our licence holders over the last 18 months with receiving timely licence renewals.

3.2 Enforcement

3.2.1 The licensing team records and investigates complaints received from the public which is recognised as an effective procedure by the Department of Transport. Two complaints were received over the previous period regarding matters relating to failure to attend pre-booked appointments by licensed drivers (different proprietors in different locations). Officers always

follow up with contact and review on these occasions and any repeated course of behaviour can lead to enforcement.

3.3 Hearings

3.3.1 It has not been necessary to convene a Licensing sub-committee hearing for taxi or private hire related matters over the previous period.

3.4 Implementation of Tax Conditionality and Tax Checks

3.4.1 Officers attended an online partnership meeting in October concerning a new requirement next year for tax checks regarding the industry. The government has legislated in the Finance Act 2021 to apply tax conditionality to licence applications for taxi and private hire drivers, private hire vehicle operators and scrap metal dealers. The legislation will come into effect on 4 April 2022 in England and Wales and it will place new obligations on licence applicants to complete a tax check which will be shared with licensing authorities to confirm that an applicant has completed a tax check before making a decision on the application.

3.4.2 The online briefing was provided by HMRC and attended by authorities and representatives from trade bodies. This is mandated in law and is in line with the government's tax consultation framework for which HMRC has published draft regulations for technical consultation. The draft regulations contain administrative details about how the tax check process will operate; in particular, how certain actions must be carried out and when certain actions take place. It is proposed that where a licensee doesn't complete and provide the necessary tax code that a licence renewal cannot proceed until received and checked by authorities. The draft regulations can be viewed here [Draft regulations: tax conditionality for the hidden economy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/draft-regulations-tax-conditionality-for-the-hidden-economy).

3.4.3 The additional tax code checking will be a new task required of officers from next April and being added to other similar tasks including provision of vehicle emission data and the increased frequency of DBS checking that was introduced under new Statutory Standards.

3.5 Taxi 'Statutory Standards' Taxi and Private Hire licences

3.5.1 On 2nd November officers and members attended an online briefing regarding an update on the new Statutory Standards that authorities are required to incorporate within existing tax policies. It is an expectation that of the Department for Transport (DofT) for all licensing authorities to implement 'Statutory Standards' Taxi and Private Hire licences. The measures set-out a range of robust standards to protect passengers that licensing authorities should implement unless there is a compelling local reason for not doing so.

3.5.2 A previous meeting of this Committee resolved to adopt the Statutory Standards in two phases with changes to the frequency of Disclosure and Barring Service (DBS) checks now being adopted earlier this year. The second phase still requires a detailed review of the Statutory Standards in conjunction with our taxi policy before consulting licensees and stakeholders ahead of implementation in 2022.

3.5.3 This Council started from a positive position having introduced a comprehensive Taxi and Private Hire policy and keeping it under review since 2017. It is considered appropriate to adopt the Statutory Standards within the existing policy and authorities not adopting them will need to provide a rationale for failing to act.

3.5.4 The Minister for Roads, Buses and Places, Baroness Vere, wrote to all Council Leaders earlier this year expressing the expectation to sign up to the national taxi refusal database

known as NR3 and reinforced this approach at the recent online briefing this month. A bill is now in the process of being prepared to require all authorities to sign up by law.

3.5.5 This is a key area of work to be completed by this authority, along with all other Devon licensing authorities. It is a complex project and a mixed approach was reported at the recent briefing heard with some signing up, others signing up but not making use and many others not yet being in a position to complete the preparation work to sign up. This remains a key project for officers to move forward with in the months ahead in conjunction with fully revising the Council's Taxi and Private Hire policy.

3.5.6 This section of report is to inform members of the necessary work and the necessary officer time. Signing up to the national licensing database will allow secure information sharing on revoked or refused licences referred to as the 'NR3 Database' and the recent consolidation of staffing in the licensing team will support officers to concentrate on this. Over the forthcoming period it will be necessary for officers to progress:

- a Memorandum of Understanding under a Membership Agreement,
- The Licensing Authority will need to specify a Data Controller,
- Preparing policy together with need to contact licensees, including those previously subject of refusal or revocation (inclusion on the database requires consent of each party),
- IT compliance by working with Strata.

3.5.7 The costs for authorities to join the new register as a new member of between £130 and £265 and then with an annual membership fee of £1600 per year. It will be necessary to factor costs in to the 2022/23 budget with work by officers to progress that over the remainder of this financial year.

3.5.8 Phase one for implementing the Statutory Standards has been completed by requiring Disclosure and Barring Service (DBS) checks every six months being more frequent than previously. Full implementation of the Statutory Standards in conjunction with revising the Council's Taxi and Private Hire policy may have implications for passing on increased costs to the licence holders, that being a factor already highlighted by national trade associations as a further financial burden to the trade. The approach adopted by this Committee for a gradual, comprehensive review to fully revise the Taxi and Private Hire policy will enable the necessary work going forward to together with consulting stakeholders and licence holders to introduce the Statutory Standards.

3.5.9 In addition to the online update briefing provided earlier this month, the LGA has also prepared a handbook for Councillors to help understand some of the key issues concerning taxi and PHV licensing in this complex area of business regulation. The handbook outlines that it is not a replacement for the training necessary in this field:

[Councillor Handbook: Taxi and PHV Licensing | Local Government Association](#)

3.6 Taxi Tariffs Fares

3.6.1 A further report to this Committee refers to a recent request from some taxi proprietors seeking an increase to the fares tariff.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

4.1.1. This council adopted policy in 2018 for the current street trading regime whereby most of the district is designated to allow street trading upon prior application and with consent. Currently

there are 25 Street Trading Consents in being across the district on public areas with a further 3 applications under consultation.

- 4.1.2 The level of street trading across the district has continued over the summer period and the uptake by new mobile businesses is one of the few growth areas during the pandemic. In recent months officers have been engaged in licensing arrangements for a number of outdoor events (alcohol and late night refreshments) that included the Ottery St Mary Tar Barrels event that officers also attend for compliance checks.

5.1 Pavement Licences

- 5.1.1 The Business and Planning Act 2020 introduced a 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”. This has been extended to allow applications up until 30 September 2022.
- 5.1.2 The take up by businesses applying to place tables and chair on highways has remained very low. With the County Council still retaining responsibility for permanent café pavement licences, businesses have not needed to apply for the temporary option.
- 5.1.3 There has been one application received over the previous period to renew an existing licence which upon on consultation was refused by Devon County Council highways being the landowner. For that reason, it is not procedurally possible to grant a licence contrary to refusal by the highways authority. That takes the total to one Pavement Licence issued by this Council. Consents granted on land owned by EDDC do not fall within this process, instead being managed by other Services under Sitting Out Consents or Lease agreements.

6. Consultation and Partnership Working

6.1. Safety Advisory Group (SAG) Meetings

- 6.1.2 Quarterly meetings of this council’s Safety Advisory Group (SAG) occur to consider advanced planning for outdoor events although the number of events reduced significantly. The SAG operates as a multi-agency, non-statutory group that provides guidance to event organisers to support safely organised events licensed in the district. The meeting held over the previous period considered a reduced list of prospective events through to the end of this year and with a further meeting planned for next year.
- 6.1.3 Overall where an event organiser applies to run a safely organised and well planned event, the priority is to ensure that the latest government guidance, relevant at that time, is adhered to along with completing necessary risk assessments

7. Member Training

- 7.1 Initial training was provided for Licensing and Enforcement Committee members in 2019 when delivered by leading expert, Phillip Kolvin QC who attended locations in the South West.
- 7.2 Training is mandatory to provide sufficient understanding for members to determine contested applications at licensing sub-committee hearings and to stand any challenges upon appeal. It was also highlighted recently during the online briefing for the new Statutory Standards that suitably trained Councillors are important in supporting the licensing regime
- 7.3 Further training opportunities have been offered by the Institute of Licensing for Councillors on 10th August and 13th October being delivered virtually through Zoom. Attendance benefits 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

- 7.4 Further virtual training dates are expected to be provided by the Institute early next year and officers have recently circulated an online training event occurring later this month that has availability for members to attend.

8. Licensing Team update

- 8.1 The Licensing Manager has provided updates to this Committee concerning the challenges and the need to meet new and existing demands through growth within the team. The support and resolution of this Committee was evident and also appreciated. It has supported recruitment of one further Licensing Officer (full time) and one Licensing Support Officer (part time) to take place by the end of the year.
- 8.2 The need to manage more Licensing Act applications and contested hearings, the increased allowance for temporary event notices, additional procedural work checking Taxi and Private Hire licences and DBS vetting, together with implementing new Statutory Standards in the year ahead is achievable through the recent recruitment.
- 8.3 From December, the Licensing Team will consist of:
Manager post (Full Time),
4 Licensing Officer posts (2 Full Time and 2 Part Time)
5 Licensing Support Officer posts (4 Part Time and 1 FT).
- 8.4 The Licensing Team also oversee burial and memorial requests in the three cemeteries managed by the Council, not being the responsibility of this Committee.
- 8.5 Officers will also be working with Strata in the months ahead with delivery for a number of IT projects in 2022.

Financial implications:

Significant Officer time updating policies and records with the administration of DBS checks and Training for Licence Holders. Potential sanctions from Government if the draft standards have not been implemented. Other Financial costs have also been included within the body of the report

Legal implications:

The legislative framework is set out within the report.

Report to: Licensing and Enforcement Committee



Date of Meeting 17 November 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A.

Gambling Policy Tri-annual Review

Report summary:

Gambling Act 2005 – Tri-annual Review of the Council’s Gambling Policy and Policy Adoption

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That the Committee:

1. Note the results of the public consultation undertaken on the Council’s draft Policy relating to the Gambling Act 2005.
2. Recommend to Council at its meeting on 8 December 2021 to adopt, for the period 31 January 2022 to 31 January 2025, the East Devon Gambling Act Licensing Policy as attached at Appendix B and
3. Recommend to Council to resolve not to issue casino premises licences, under the Gambling Act 2005 for a ‘No Casino’ policy.

Reason for recommendation:

It is a legal requirement of the Act for the Council to determine a Gambling Policy in order to carry out its statutory functions under the Gambling Act 2005. The Licensing and Enforcement Committee and officers must have regard to its Gambling Licensing Policy when deciding upon licence applications. The Policy was last reviewed in 2019. It must be reviewed at least every three years and therefore an amended Policy must be adopted by the 31 January 2022

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

Portfolio(s) (check which apply):

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

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk.

Links to background information.

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1. Background and Proposed 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. Council adopted the current Policy on 12 December 2018.
- 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. However a number of recent changes are proposed to reflect current practices including updated further guidance 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 Invitations were circulated widely to take part in the consultation to all Responsible Authorities, Council Members, the business community, Town and Parish Councils, the Community Safety Partnership and the Devon Primary Care Trust. The draft Policy was

published on the Licensing Service's dedicated web pages to allow web users to comment online.

1.6 The consultation and publication timetable for the Policy is:

- 26 August 2021 - Revised policy that was approved for consultation for consultation
- 24 October 2021 - Consultation period ended
- 17 November 2021 - Result of consultation reported to L & E Committee
- 1 December 2021 - Cabinet
- 8 December 2021 - Policy considered by full Council for adoption

1.7 A wide consultation was conducted in accordance with the Guidance published under Section 182 of the Act to provide an opportunity for views and representations to be received from industry, statutory bodies, East Devon residents and other agencies.

1.8 This report presents the proposed Licensing Policy and the results of the public consultation.

2 Results of consultation

2.1 The Consultation exercise for this policy has been wide and a copy of the draft policy was placed on the Council's website.

2.2 A total of three responses have been received to the consultation exercise and have been listed in the table at **Appendix A** to this report. Column 6 (far right) in this document indicates whether a change is proposed to the draft policy as a result of the consultee's comment. Column 4 sets out the representations/comments received and column 5 records the Licensing Service's appraisal of the representation.

2.3 One response was from the gambling trade, being via a legal representative and making reference to issues requiring gambling operators to consider and document local risks. It is not considered necessary to amend the draft policy.

2.4 One response was from a charity organisation commenting on the potential impact of gambling upon vulnerable members of society with a link to new interactive maps that can be viewed by Ward and District.

2.5 One response was from a town council regarding the awareness of problem gambling for which a link to the Gambling Commissions guidance has been added in the policy.

2.6 During the consultation period on 23rd September, the Licensing Manager attended a Zoom meeting organized by the Gambling Commission for all coastal gambling authorities where emerging updates were discussed. There was a general consideration that licensing authorities receive a low number of responses to Gambling Policy consultations undertaken every three years.

3 Development of a Local Area Profile

3.1 Progression of a Local Area Profile was agreed by members as being worthwhile and officers have engaged with other Councils services over the last period to consider the data and the partner agencies that could make a valuable contribution. EDDC's Public Health Project Officer has engaged the Public Health team at Devon County Council and the question of strategies and relevant data that may be available has started. In addition EDDC's Community Safety Coordinator has reached out to partnerships and authorities to consider district and county based data that is also under consideration.

3.2 The Licensing Manager is a member of EDDC's Public Health Project group and the continuing work to gather and collect data to prepare a Local Area Profile will continue over

2021/22. Meaningful data and statistics need to be identified to form the basis of a credible Local Area Profile that can consider links to premises licences granted in this district. A response provided during the consultation to the draft policy identified the option for interactive maps relating to problem gambling by Ward, District and County that will be examined (see 2.4 above).

4 No Casino Resolution

4.1 The proposal at the last meeting of this Committee for consideration of a 'No Casino' resolution in the Gambling Policy was taken by roll call and it was regarded there is merit for this proposal. The recommendation today is that the Committee considers to recommend to Full Council to pass a new resolution for 'No Casino' policy at this stage. The alternative is to consider gathering further information upon the next policy review in 3 years time in 2025.

4.2 The inclusion of the 'No Casino Policy' has not been adopted previously by EDDC since introduction of the Act in 2005 and it has not received an application for a casino in that time. It is a matter for the Licensing Committee to decide if a new resolution should be passed and to make recommendations to Full Council to adopt in in policy.

4.3 The public consultation conducted between 26 August and 24th October 2021 with regard to the draft policy stated in relation to Casinos in Part B – Section 4:

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.

4.4 Under section 166 of the Gambling Act 2005 the Council can adopt a "No Casinos" resolution.

4.5 The Gambling Commission provides Guidance to Licensing Authorities (GLA) and with regard to resolutions not to issue casino licence it outlines;

- S.166(1) of the Act states that a licensing authority may resolve not to issue casino premises licences.
- The decision to pass such a resolution may only be taken by the authority as a whole and cannot be delegated to the licensing committee. In passing such a resolution the authority may take into account any principle or matter, not just the licensing objectives. Where a resolution is passed, it must be published by the authority in its statement of policy.
- The resolution must apply to casino premises generally, so that the authority cannot limit its effect to geographic areas or categories of casinos. The resolution must specify the date it comes into effect. The authority may revoke the resolution by passing a counter-resolution (again the whole authority must pass that resolution). The resolution will lapse after three years so, should the licensing authority wish to keep the policy in place, they should pass a resolution every three years.
- A resolution not to issue casino premises licences will only affect new casinos. It will not have any effect on casino premises licences issued before the resolution takes effect or on provisional statements issued before that date.

- 4.6 The resolution, if passed, must apply to casino premises generally and would mean that no application for a Casino Premises Licence would be considered. Any application received would be returned with a notification that a “No-Casino” resolution was in place.
- 4.7 A resolution once passed, is in effect for a period of three years from the date it takes effect and the Council would need to readopt it, otherwise it will lapse.
- 4.8 Once a resolution has been adopted it must be placed within the Council’s ‘Statement of Gambling Policy and with the date it commenced.
- 4.9 It is possible to challenge the policy adopted by judicial review.

5 Conclusions

- 5.1 The number of responses to the draft licensing policy for East Devon demonstrated varied viewpoints from a small number of respondents with differing backgrounds.
- 5.2 The Licensing Authority must adopt a new policy prior to 31 January 2022 in order to exercise its powers under the Act. Once the Council has approved the Gambling Act Licensing Policy on the 8 December it will be published and will be available through the Council’s website. Existing licence holders will be up dated and advised that a copy is available on the Council’s website or alternatively they can request a copy to be sent to them.
- 5.3 A copy of the full draft policy which is proposed for adoption appears at **Appendix B**.

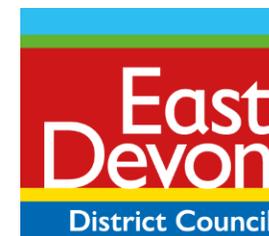
Financial implications:

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 legislative framework is set out within the report.

EAST DEVON DISTRICT COUNCIL



STATEMENT OF LICENSING POLICY CONSULTATION

Gambling Act 2005

REPRESENTATIONS AND RESPONSES

under the

GAMBLING ACT 2005

Consultation Period: 26 August 2021 to 24 October 2021

Table Headings

1 Reference number	A unique number given to the particular representation
2 Policy paragraph number	This identifies the section of the Policy to which the representation relates
3 Respondent	The identification of the individual, company or organisation responding
4 Details of comments	A copy of the representation made
5 Appraisal of comments	Sets out the appraisal of the representation and whether an amendment is necessary
6 Council's Response	Details the section of the policy that has been amended

Consultation Responses received – August/October 2021

1	2	3	4	5	6
DCP page 22	N/A	Devon & Cornwall Police Licensing	Response received acknowledging the consultation and with no comments to provide.	No changes necessary in the draft policy.	No response required
GA1	N/a	GambleAware (Registered Charity)	<p>Thank you for consulting us on your draft Statement of Principles under the Gambling Act 2005.</p> <p>Due to resource constraints on a small charity, we are not able to offer specific feedback on your policy. However, you may find GambleAware's recently published interactive maps useful, which have been designed for use by local authorities. The maps show the prevalence of problem gambling severity in each local authority and ward area as well as usage of, and reported demand for, treatment and support for gambling harms.</p> <p>GambleAware also strongly commends two publications by the Local Government Association which set out the range of options available to local authorities to deal with gambling-related harms using existing powers:</p>	<p>While GambleAware have confirmed that they are not able to offer specific feedback, they have said that they support local authorities who carry out a local area profile to identify areas with increased levels of risk.</p> <p>The response that includes a new link to GambleAware's interactive maps designed for use by local authorities is a positive development that will support the work to prepare a more detailed Local Area Profile.</p> <p>Whilst this is not a mandatory requirement of the Gambling Act 2005, it is the desire of this licensing authority to adopt a Local Area Profile in the future and this response will assist in that work.</p>	No response required however the interactive map will support work to prepare a Local Area Profile

			<ul style="list-style-type: none"> • https://www.local.gov.uk/tackling-gambling-related-harm-whole-council-approach • https://www.local.gov.uk/gambling-regulation-councillor-handbook-england-and-wales <p>GambleAware is also fully supportive of local authorities which conduct an analysis to identify areas with increased levels of risk for any reason. In particular we support those who also include additional licence requirements to mitigate the increased level of risk. Areas where there are higher than average resident or visiting populations from groups we know to be vulnerable to gambling harms include children, the unemployed, the homeless, certain ethnic-minorities, lower socio-economic groups, those attending mental health (including gambling disorders) or substance addiction treatment services.</p> <p>Finally, GambleAware is a leading commissioner of prevention and treatment services for gambling harms. It provides these functions across England, Scotland and Wales and its work is underpinned by high quality research, data and evaluation. We encourage all local authorities to signpost people to the National Gambling Helpline on 0808 8020 133 and also www.begambleaware.org. Both are part of the National Gambling Treatment Service and offer free, confidential advice and support for those who may need it</p> <p>Many thanks,</p> <p>BeGambleAware.org</p>	<p>This can give a useful insight into the local area and any particular Wards or towns of the district with increased levels of risk for with a useful key separating the level of problem gambling that has been identified.</p> <p>This will be particularly useful for populating locations across the districts in conjunction with the location of gambling premises and where there can be high populations of groups considered to be vulnerable.</p> <p>The towns of Exmouth, Sidmouth, Seaton and Honiton currently have a number of betting shops, totalling 7 across the district (down by 2 from 2018). In addition, East Devon has 1 licensed bingo premises (down by 1) and 4 adult gaming centres which are situated in various coastal resorts (numbers haven't changed).</p> <p>In 2018/19 it was considered that a Local Area Profile was not necessary at that time due to the low density and number of gambling premises across the district.</p> <p>In preparing the consultation in 2021, this authority has considered that it is necessary to develop and to adopt a Local Area Profile. The revision of the policy will need further progress as a living document with relevant data being included.</p> <p>East Devon has a dispersed and mainly rural population with a low population density that up to now has not needed a Local Area Profile although the data that may be forthcoming from GambleAware's interactive map (in conjunction</p>	
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				<p>with those premises which hold a gambling premises licence) will assist in the future.</p> <p>The focus on the seaside economy, changing tourist gamblers at varying seasons, together with the interactive maps detailing online (problem) gambling presents a challenge in developing a Local Area Profile and the licensing authority will keep this under review over the period of this policy.</p>	
CTC	N/a	Cranbrook Town Council Clerk	<p>EDDC's recent invitation to respond to its Gambling Policy Consultation was discussed by the town council at their meeting on 20th September 2021.</p> <p>The Town Council wholeheartedly supports the licensing objectives set out in Section 1.1 of the policy. The policy document itself clearly sets out how the licensing authority proposes to achieve the licensing objectives in accordance with guidance by the Gambling Commission.</p> <p>However, whilst perhaps not strictly a licensing matter, the draft policy appears very light on any policy approach in relation to problem gambling and gambling addiction.</p> <p>Online gambling is also a very difficult area to control which is not bound to a particular premises but perhaps the policy could reference and reflect online gambling, especially as it is trying to protect the young and vulnerable.</p> <p>I hope the Town Council's comments can be taken into consideration.</p>	<p>Cranbrook Town Council have resolved to support the draft policy and a response was provided.</p> <p>With regard to comments concerning gambling addiction and online gambling, a response outlined that online gambling, it is a responsibility managed by the Gambling Commission with regard to the companies involved and also the subsequent harm arising from addiction.</p> <p>Although the Commission highlights and leads on the problems of gambling addiction, the licensing authority will include suitable links to the Commission's website in relation to Safer Gambling - Gambling Commission that can be added within the policy document .</p>	<p>Yes</p> <p>Part A 11.2</p> <p>Help and guidance in relation to Safer Gambling - Gambling Commission</p>



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.
- 3.2 The District is fully parished with 63 Town and Parish Councils. Comprising of 30 wards, 21 have a population density below the England average with a mix of market and coastal 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%.
- 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. 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) 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 7 across the district. East Devon currently has 635 licensed premises and clubs under the Licensing Act 2003, of which 116 have notified the licensing authority of having gaming machines. Additionally there are 12 Club Machine Permits across the district (figures correct at November 2021).
- 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 more people moving into the area than out. The largest age group moving in 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 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 took place between 26 August 2021 and 24 October 2021 and we followed the Cabinet Office guidance on public consultations

4.5 The Statement of Principles was 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) [Guidance to licensing authorities - Gambling Commission](#)
- 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

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 - Principles of Enforcement - Policy - East Devon](#) available via the Council's website

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,
- Help and guidance in relation to [Safer Gambling - 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 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.

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

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

Appendix B

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 [Appendix B: Summary of gaming machine categories and entitlements - Gambling Commission](#)

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 17 November 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A.

Report on Hackney Carriage Fares

Report summary:

Hackney Carriage Fares – To Consider a Request from Hackney Carriage Proprietors to increase the Taxi Fare Tariff and to adopt a New Fare Table

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That the Committee;

1. Considers a request from Hackney Carriage (Vehicle) licence holders to increase the current Hackney Carriage Table of Fares, and
2. If agreed, to set a timescale through the statutory procedure as required.

Reason for recommendation:

The Licensing and Enforcement Committee is asked to consider a request from East Devon Hackney Carriage Licensees to increase the current Hackney Carriage Fare Table

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

Portfolio(s) (check which apply):

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

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; .

Links to background information.

[Link to Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
 - A greener East Devon
 - A resilient economy
-

Report in full

1 Background Information

- 1.1 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 permits District Councils to set the fares tariff for Hackney Carriages licensed in the District and this Council, in common with most other Councils, have used this power for many years. The setting of fares for hackney carriages is a function for this Council's Licensing and Enforcement Committee.
- 1.2 This Committee approved an increase and adopted the current taxi fare tariff that appears at **Appendix A** in 2020. The tariff sets the maximum fares that taxis can charge the public and although the maximum fares cannot be exceeded, it is possible to charge lower if a driver wishes to.
- 1.3 The previous increase to the taxi fare tariff followed extensive debate over a two year period amongst licensees on the issue, including a district wide ballot as the trade had generally been divided over increasing fares. The taxi fare tariff sets the maximum fares that can be charged during the daytime (Tariff One), during evenings and night time (Tariff Two) and over Bank Holidays (Tariff Three).
- 1.4 The last agreed increase was minimal, being for 50 pence on the initial 'flag' charge resulting in an increase from £3 to £3.50 for Tariff One daytime fares. Tariffs Two and Three were left unchanged with the previous increase before that being in 2012. The soiling charge being the cost that owners charge for cleaning soiled taxis, was increased to £80 for Tariff One.
- 1.5 The process to increase the taxi fare tariff requires due consideration by this Committee which, if resolving to change the fare tariff then requires consultation by officers preparing the necessary public notices to take this forward. Legislation requires that before any alteration to the tariff table can take effect, a public notice explaining the changes must be placed in a local newspaper that provides the public and the taxi trade with a period of at least 14 days to comment on the proposals.
- 1.6 If no adverse comment/objection is received to the public notice, the approved changes must take effect. Alternatively if adverse comment/objection is received, then the matter must be returned to allow this Committee to consider the representation(s). The timeline from resolution to adoption can require a number of updates being reported to this Committee.

2 Consideration for a Fare Tariff Increase

- 2.1. This Committee resolved in September 2020 that the Table of Fares be reviewed annually and no earlier than 12 months after a previous review through a procedure agreed at **Appendix B**.

- 2.2. On 10th October 2021, the Licensing Manager met with the Chair of Exmouth Taxi Trade Association following verbal contact from its members seeking an increase in the fare tariff. Although the association has not been meeting during the coronavirus pandemic, taxi proprietors raised the proposal to increase the fares through the Chair. The reasons put forward were helpful to understand regarding ongoing financial challenges, both during and emerging from the pandemic. This is in conjunction with the impact of higher prices of fuel (diesel and petrol). It was also helpful for officers to learn that a number of existing taxi licensees have consolidated work by gaining contracts from Devon County Council Transport and providing a valuable means of transport for passengers with educational and medical needs. The timing of those contracted journeys and the increasing number of licensed drivers taking this work was reported as leaving a void at taxi ranks during key times of the day when the general public may need a taxi.
- 2.3. Feedback from the chair of Exmouth Taxi Trade Association and from some taxi companies through contact with officers, also highlighted the initial costs required for new applicants when applying for a taxi driver licence to gain mandatory aspects (e.g. a medical assessment from a GP, a driving test for proficiency and a DBS certificate) before being able to receive a licence. These necessary requirements have always been a precursor to gaining a licence and some companies meet the cost for new drivers to support them through the licensing process.
- 2.4. Following receipt of the reasons put forward, officers contacted all hackney vehicle licence holders across the district by email or letter on 22nd October 2021 seeking their views on a fare increase. All 68 licensed vehicle proprietors (individuals and companies) were asked to respond by 29th October 2021.
- 2.5. 19 written responses were received, being less than a third of all contacted providing a response (28%). 14 proprietors requested that the fare tariff be increased and 2 proprietors stated that it shouldn't rise. 3 responses were indifferent or unclear in their responses. Officers acknowledged to all who responded that the result will be reported back to this Committee. Unlike the previous fare increases that have occurred, the trade has not proposed specific details for an increase on this occasion which should be a consideration.
- 2.6. A number of proprietors outlined the reason for seeking an increase in the fare tariff being due to increasing fuel costs. Statistics published by the Dept of Business Energy and Industrial Strategy (BEIS) provide average UK retail 'pump' prices on a weekly basis. Figures available on 2 November outlined unleaded petrol prices increased by 30.6 pence a litre over the previous year with the price of diesel increasing by 29.4 pence per litre (**Appendix C**).
- 2.7. To assist consideration today, officers have researched and produced a comparison table of current fares set by this and other authorities in Devon (**Appendix D**). The comparison takes into account the position of highest to lowest fares set by all 352 licensing authorities in England and Wales being based upon the cost of the first two miles journey. The table of comparison is prepared by the national Private Hire and Taxi Monthly magazine.
- 2.8. This Council's tariff sits higher in the Devon table comparison and also in the national comparison for charging against the first two miles of a journey. The increase approved over 2019/20 when EDDC recalculated fares sees it remaining within the top third of all council charging fares, previously being 96th out of 362 Council tariffs (in 2019) and being 42-54 of 352 other Councils currently. The comparison is solely on a first two mile cost comparison. The last recalculation didn't change fares during evening/night time or over Bank Holidays.

3 Conclusion

- 3.1 The taxi trade in East Devon had not received a fare increase for eight years until 2019/20 with the last increase being relatively modest and only for daytime fares under Tariff 1. Taking into account the recent nature of the request to increase the fare tariff, members today may wish to consider that decision in three months at the next meeting of this Committee when more detailed information can be provided to allow clearer understanding of a need for increasing the fares and if approved, by how much.
- 3.2 Taking into account that the current fare tariff took over two years to agree and revise, this new request has been received within the previous month. The recommendation to members today is allow for a period of three months for officers to provide more detailed information and with a revised table of fares before considering to proceed or decline the request.
- 3.3 As explained earlier in this report, Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 outlines legal procedures to move forward requiring a public notice for which it would be necessary to prepare a new table of fares to be considered at that point.
- 3.4 Should members decline the latest request today based on the time since the last review and current comparison with other Council fare tariffs, the procedure agreed last year by this Committee at Appendix B outlines that no further proposal should be no considered for twelve months from the last increase or proposal reviewed.

Financial implications:

There are minimal costs mentioned in the report as a public notice in the local newspaper will be required before any alteration to charges. Also if there are any objections this will need to be referred to Committee which would incur minimal officer time.

Legal implications:

The legislative framework is set out within the report.

EAST DEVON DISTRICT COUNCIL

Fares for Hackney Carriages

Effective from 3 September 2020

	<u>TARIFF 1</u> For hirings begun between 0700 hrs and 1900 hrs Monday to Saturday inclusive other than those subject to tariff 2 or 3	<u>TARIFF 2</u> For hirings begun on any day between 1900 hrs and 0700 hrs and all day Sunday other than those subject to tariff 3	<u>TARIFF 3</u> For hirings between 1900 hrs 24 December to 0700 hrs 27 December and 1900 hrs 31 December to 0700 hrs 2 January and all Bank Holidays between 12 midnight & 12 Midnight
For the first 880 yards (½ mile) or uncompleted part thereof	£3.50		
For each subsequent 251.43 yards (1/7 of a mile) or uncompleted part thereof	£0.30		
For the first 880 yards (½ mile) or uncompleted part thereof		£4.00	
For each subsequent 176 yards (1/10 of a mile) or uncompleted part thereof		£0.25	
For the first 880 yards (½ mile) or uncompleted part thereof			£5.20
For each subsequent 251.43 yards (1/7 of a mile) or uncompleted part thereof			£0.40
<u>Extra Charges</u>			
For each passenger after the first	£0.20	£0.20	£0.20
For each item of baggage	£0.20	£0.20	£0.20
For each dog (not including assistance dogs)	£0.20	£0.20	£0.20
Toll, ferry & car park fees incurred with journey	Actual Fee	Actual Fee	Actual Fee
<u>Waiting Time</u>	£0.30 for 37.50 secs.	£0.25 for 31.25 secs.	£0.40 for 50 secs.
<u>Soiling Charge</u>	£80.00	£80.00	£80.00
<u>Booking Charge</u> At the discretion of the operator for each booking made by telephone and which requires the driver to drive to the hirer's designated pick up point, the hirer must have been informed of the charge at the time of making the booking.	Maximum £12.00		

APPENDIX B

East Devon District Council Hackney Carriage Fares Increase Procedure

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

Average UK Pump Prices

Dept of BEIS (November 2021)

(Unleaded Petrol)

(Diesel)

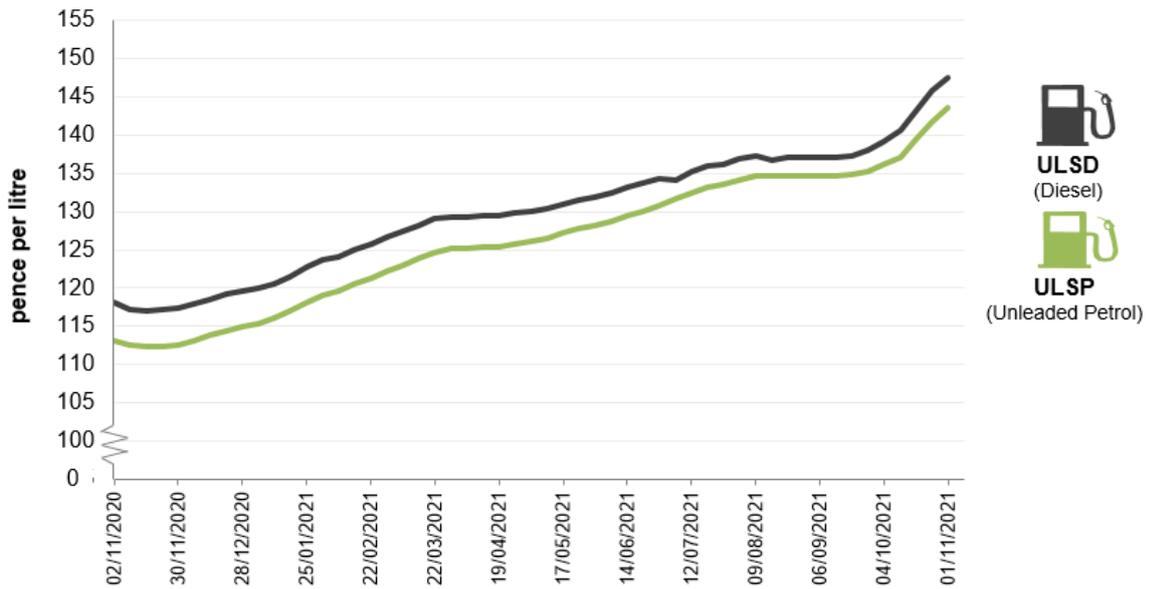
Change on previous week
 ↑ 1.9 pence per litre

Change on previous week
 ↑ 1.6 pence per litre

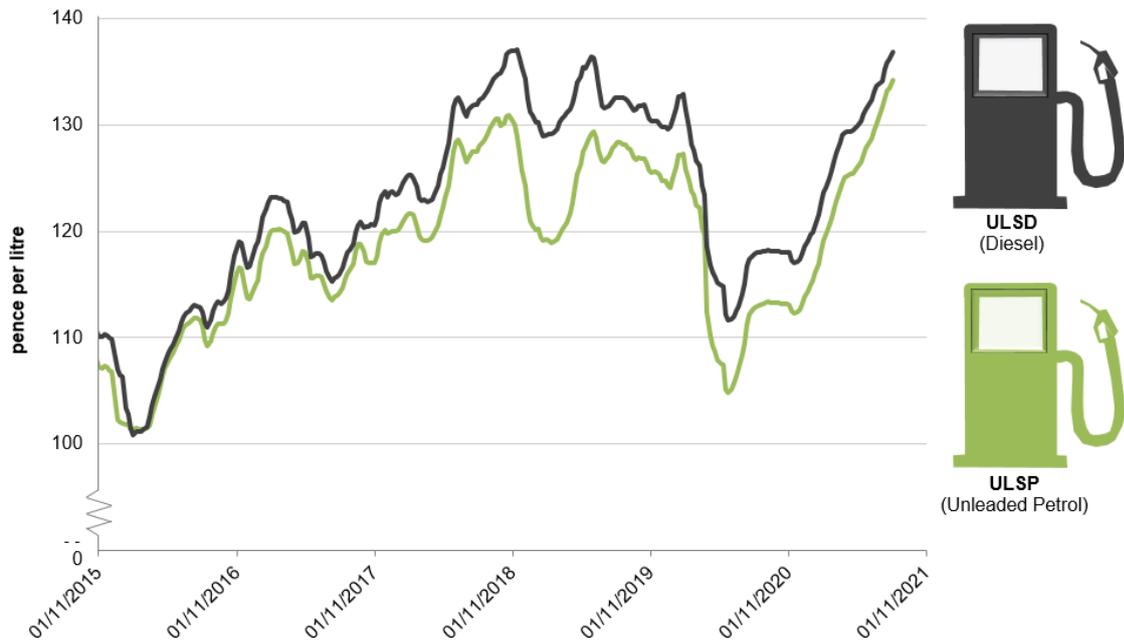
Change on previous year
 ↑ 30.6 pence per litre

Change on previous year
 ↑ 29.4 pence per litre

Weekly road fuel prices over the 12 months to November 2021



Weekly road fuel prices



**Comparison of Devon Hackney Carriage Taxi Fares
November 2021**

POSITION 1 to 352 Councils	COUNCIL	2 MILE FARE COST	LAST FARE INCREASE
19	TORRIDGE	£7.20	2020
42 – 54 (13 Councils)	EAST DEVON	£6.80	2020
57	TORBAY	£6.75	2019
71 (19 Councils)	EXETER	£6.60	2013
82 (19 Councils)	TEIGNBRIDGE	£6.60	2020
83	NORTH DEVON	£6.55	2016
125	PLYMOUTH	£6.30	2017
190	SOUTH HAMS	£6.00	2017
248	MID DEVON	£5.70	2010

Figures obtained from Private Hire & Taxi Monthly (PHTM) November 2021

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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