

**Agenda for Licensing and Enforcement  
Committee  
Wednesday, 13th November, 2024, 10.00 am**



**Members of Licensing and Enforcement Committee**

Councillors: B Bailey, I Barlow, K Bloxham (Vice-Chair),  
M Chapman, O Davey, T Dumper, S Gazzard, J Heath,  
R Jefferies, Y Levine, T McCollum, C Nicholas, J O'Leary,  
S Westerman and J Whibley (Chair)

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(or group number 01395 517546)

Tuesday, 5 November 2024

- 1 Minutes of the previous meeting (Pages 3 - 5)
- 2 Apologies
- 3 Declarations of interest  
Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)
- 4 Public Speaking  
Information on [public speaking](#) is available online
- 5 Matters of urgency  
Information on [matters of urgency](#) is available online
- 6 Confidential/exempt item(s)  
To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which officers recommend should be dealt with in this way.
- 7 Committee update report - Licensing Act 2003, Gambling Act 2005, Taxis and General Licensing (Pages 6 - 11)
- 8 Hackney carriage fare setting procedure (Pages 12 - 42)
- 9 Draft Statement of Gambling Policy 2025 - 2028 (Pages 43 - 100)
- 10 Review of Street Trading Policy (Pages 101 - 126)

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[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 17 July 2024**

#### **Attendance list at end of document**

The meeting started at 10.02 am and ended at 10.58 am

#### **1 Minutes of the previous meeting**

The minutes of the previous meeting held on 8 May 2024 were agreed and signed as a correct record.

#### **2 Declarations of interest**

There were no declarations of interest.

#### **3 Public Speaking**

There were no members of the public registered to speak.

#### **4 Matters of urgency**

There were no matters of urgency.

#### **5 Confidential/exempt item(s)**

There were no confidential / exempt items.

#### **6 Committee Update – Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing**

The Licensing Officer, Mr Lee Staples, presented the report which provided 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, for the period 8 May to 8 July 2024.

The following points from the report were highlighted to Members:

- During the reporting period, 231 applications were received and processed under the Licensing Act 2003.
- A Devon wide working group is currently drafting a pavement licensing policy to be used by Local Authorities across the county following the Levelling Up & Regeneration Act 2023 coming into force on 31 March 2024.
- Based on advice from the Gambling Commission, officers had undertaken a summary review of the Statement of Gambling Policy [minute 8 refers].
- With regard to taxi and private hire licensing, there had been a slight drop in the issue of hackney carriage driver licences, private hire drivers, vehicles and operators during the reporting period. There had been a slight increase in the number of hackney carriage vehicle licences issued.
- Four referrals to the Licensing & Enforcement Sub Committee for taxi matters had been made during the reporting period.

- An open consultation is currently underway regarding the potential tax impacts of recent High Court judgements on transport legislation in the private hire sector and its passengers.
- At the time of the report, 29 street trading consents were in operation.
- A new Licensing Support Officer was appointed on 1 July 2024.

Responses to questions from Members and discussion included the following points:

- The new pavement licensing policy would include issues such as keeping premises clean and tidy and the storing of furniture. It was noted that a uniform approach was needed with clear definitions for pavement licence holders. Complaints regarding premises in East Devon could be addressed by the Licensing team under enforcement powers.
- The emerging pavement licensing policy would be brought to the Committee at a future date as it would be helpful to have Members' comments.
- Following discussion on comparative figures for Licensing Act 2003 applications in previous reporting periods, it was agreed that these would be included in future reports.
- The Licensing team advised that it is aware of the new 'Martyn's Law' and has looked at the training. Most of the businesses in East Devon fall into the small businesses tier. The Licensing Team is awaiting further information from the Government and would be contacting all licensed premises as information becomes available.

The Committee thanked officers for their work and agreed to note the contents of the update report.

## 7 **Hackney carriage fare review update**

The Licensing Officer, Mrs Emily Westlake, presented the report which was to advise the Committee that the new Hackney Carriage Table of Maximum Fares, agreed by the Licensing & Enforcement Committee at a meeting on 8 May 2024, came into effect on 18 June 2024 following the statutory advertisement and public consultation period and, following the receipt and subsequent withdrawal of an objection.

The Committee was advised that an email was sent to all East Devon hackney carriage proprietors on 19 June 2024 to inform them that the revised Table of Maximum Fares had come into operation and that all hackney carriage meters must be re-calibrated to the new fares at their earliest convenience and no later than 1 October 2024.

In response to questions from Members, the following points were noted:

- There had been a few concerns among members of the taxi trade with regard to the fare increase, but overall there was consensus that the increase was necessary.
- The fares are the maximum which may be charged. Proprietors may decide to charge less and it would be up to the driver to explain any lower charges to customers.
- It was noted that the authority is currently at a relatively high position in the league table of fares, partly due to the high level of dead mileage. The agreed introduction of the Guildford Method would take factors such as dead mileage and inflation into account when calculating fares in the future.
- A report on the introduction of the Guildford Method would be brought to the Committee at its November meeting.

The Committee thanked officers for their work and noted the content of the report and the new Hackney Carriage Table of Maximum Fares.

## 8 **Draft Statement of Gambling Policy 2025- 2028**

The report was presented by the Licensing Officer, Mr Lee Staples. The Council's current Statement of Licensing Policy under the Gambling Act 2005 was written in 2021

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and came into effect in January 2022. There is a legal requirement to review such policy statements every three years. The current policy must be reviewed by 31 January 2025.

The report included a draft policy which had been reviewed and updated to reflect changes in national guidance and feedback from the Gambling Commission, but a further, more in depth review of the Policy was proposed to be undertaken once the Gambling Commission had completed updating its guidance to Local Authorities.

The report asked the Committee to consider a proposal to consult with statutory consultees, in order to obtain their views on the proposed draft Statement of Licensing Policy attached to the report.

Discussion and responses to questions from Members included the following points:

- It was not yet known whether there would be further changes in the national guidance from the Gambling Commission following the recent change in Government.
- When the updated national guidance is received, a much wider full public consultation would be held, to include members and representatives of the gambling industry.

## **RESOLVED**

1. That having considered the draft Statement of Licensing Policy, the Committee approved the sharing of the draft Policy with the statutory consultees as set out at Appendix B to the report.
2. That the draft Policy document be returned to the Licensing and Enforcement Committee for further consideration following consultation with the statutory consultees.

## **Attendance List**

### **Councillors present:**

I Barlow  
K Bloxham (Vice-Chair)  
M Chapman  
T Dumper  
J Heath  
Y Levine  
C Nicholas  
J Whibley (Chair)

### **Councillors also present (for some or all the meeting)**

R Collins

### **Officers in attendance:**

Sarah Jenkins, Democratic Services Officer  
Giles Salter, Solicitor  
Lee Staples, Licensing Officer  
Emily Westlake, Licensing Officer

### **Councillor apologies:**

O Davey  
S Gazzard  
T McCollum

Chair .....

Date: .....

Report to: Licensing and Enforcement Committee

Date of Meeting 13 November 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A




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**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: Phillippa Norsworthy, Licensing Manager (Governance and Licensing).

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**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** [Consultation on the VAT Treatment of Private Hire Vehicles - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/vat-treatment-of-private-hire-vehicles)

**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, premises visited and number of hearings.**
- 1.2 The reporting period refers to the last quarter reporting period. This will be referred to as the 'reporting period'.
- 1.3 During the reporting period and at the time of writing this report the licensing team received and processed 222 applications, these all included, new premises licence applications, full and minor variations, transfer of the premises licence, DPS variations and Temporary Event Notices (TENs). As well as other miscellaneous administrative functions.
- 1.4 A total of 17 personal licences were issued in the reporting period.
- 1.5 A total of 14 premises of interest were visited during the reporting period.
- 1.6 No Licensing Act 2003 applications have been referred to the Licensing & Enforcement Sub-Committee since 6 March 2024 and at the time of writing this report.
- 1.7 At the previous meeting Members were advised that a Home Office Public Consultation in relation to 'Alcohol in licensed pavement areas' was underway. The consultation ended on 11 July 2024. At the time of writing this report a check was made to the Home Office website to monitor the progress of the consultation. A check to the website revealed that the data received is currently being analysed. Members will be advised of the outcome of this consultation when the results are published.
- 1.8 In general this area of licensing remains steady at this time of year, however due to major local events, such as the Ottery St Mary tar barrels event, the number of received TENs has increased.
- 1.9 It is the intention of the licensing team to visit the tar barrels event to check to ensure all ad-hoc alcohol sellers are authorised, and all person's street trading hold a consent.

### 2 Pavement Licencing

- 2.1 On 31 March 2024 the Levelling Up & Regeneration Act 2023 (LU&RA 2023) came into force. This means that the temporary pavement licences issued under the Business & Planning Act 2020 are now permanent by way of the LU&RA 2023. A Devon wide working group has been established from the Devon Licensing Officers Group (DLOG) and work is underway to produce a draft policy to be used by Local Authorities across Devon.
- 2.2 As an update to Members, a draft Devon wide policy has been produced from the DLOG and has been forwarded to local authorities across Devon for comment to be returned to DLOG for consideration at their next meeting in November.

### 3 Gambling Act 2005

- 3.1 The Gambling Commission circulates a regular bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest bulletin can be found here [October LA Bulletin \(mailchi.mp\)](mailto:October LA Bulletin)

- 3.2 Members were notified at the previous meeting of the Licensing & Enforcement Committee of the statutory requirement of the Local Authority to renew their Statement of Gambling Policy every 3 years.

'As required by the Gambling Act 2005 each Licensing Authority is required to renew their Statement every 3 years. The renewal date in this current cycle is January 2025. The Commission is advising that you should make plans as to how to conduct this renewal process.

Given the ongoing consultations regarding the Gambling Act it is very unlikely that we will be able to amend the Guidance to Licensing Authorities document in sufficient time for you to incorporate changes within your own Statement.

Whilst it is a matter for local determination, we suggest that the Statement is refreshed in line with the requirements of the Act so as to be enforceable from January 2025.

Thereafter we will publish a revised GLA which you can include in a refreshed Statement. You are permitted to revise your Statement within the 3-year timescale.' (Source: Institute of Licensing News 15/04/2024'.

This position was also reinforced during a Gambling Commission training session for Licensing Officers held on 16<sup>th</sup> April.

- 3.4 Based on the advice given by the Gambling Commission above, Officers have undertaken a summary review of the Statement of Gambling Policy and will be presenting a draft policy to Members in a separate report at this meeting, with a view to considering any recommendations for minor amendment to the Policy that are required in order to publish an updated policy by the statutory deadline (31<sup>st</sup> January 2025). Officers further propose that the Policy is reviewed again at such time as the Guidance to Local Authorities from the Gambling Commission is published.
- 3.5 A separate report and a draft Gambling Statement of Licensing Policy will submitted during this meeting.

## **4 Taxi and Private Hire Licensing**

### **4.1 Applications Received and Licences Issued.**

- 4.2 Licensing Officers continue to work effectively by issuing licences upon receipt of fees and all relevant documentation. The latest figures indicate a significant rise in the renewal of hackney carriage driver licences, private hire drivers, vehicles, and operators. This is due to the legacy of a previous licensing administrative function of issuing all licences from 1 November. This practice no longer takes place, and all licences are issued throughout the year.

There are currently 23 outstanding applications in progress for new hackney carriage and private hire drivers.



Year	Taxi Driver Licences	Taxi Vehicle Licences	Private Hire Drivers	Private Hire Vehicles	Private Hire Operators
2022	153	135	52	40	22
2023	155	133	49	42	24
Feb 2024	146	129	51	43	26
May 2024	144	131	51	43	27
July 2024	143	132	49	40	26
November 2024	139	133	52	40	27

- 4.3 One entry to the National Register of Revocations, Refusals and Suspensions was made during the reporting period. It is mandatory for local authorities in England to input details of individuals whose driver licences have been revoked, suspended, or refused.
- 4.4 The entry to the National Register of Revocations, Refusals and Suspensions was concerning a suspension of a hackney carriage driver licence.
- 4.5 During the reporting period a total of one hackney carriage driver's licence and two hackney carriage vehicle licences were suspended.
- 4.6 The licensing team records and investigates complaints received by the public and reported by other drivers which is recognised as an effective procedure by the Department of Transport (DfT). Six complaints relating to hackney carriage and private hire drivers were received during this reporting period. The complaints related to a number of issues including, alleged over charging of fares, a report of harassment between licensed drivers, not displaying a vehicle taxi plate and roof sign, smoking inside a licensed vehicle and behaviour not conducive to the taxi and private hire driver good conduct policy. All complaints, apart from one have been resolved by Officers.
- 4.7 No referrals to the licensing sub-committee for taxi matters occurred during the reporting period. A licensing sub-committee is due to take place on 6 November to determine the following taxi/private hire matters, an application for the grant of a private hire vehicle, over 5 years, two referrals for existing hackney carriage drivers, to determine driver suitability and a referral to determine the suitability of a hackney carriage proprietor of two licensed hackney carriages.
- 4.8 In November 2023 it became policy that all East Devon hackney and private hire drivers complete Safeguarding Training. The council has chosen the e-learning course ['Safeguarding Children and Adults at Risk' provided by Uniformed Transport Systems](#) All new drivers have 12 months after obtaining their licence to complete the course. All existing drivers must have completed the course by 1 November 2024. All existing drivers were notified of this mandatory requirement via a newsletter in September 2023. At the time of writing this report 60% of drivers have completed the safeguarding training. A letter will shortly be sent out to all those drivers who have yet to complete this training giving a final chance to undertake this before further action is considered.

#### **4.9 The Guildford Method.**

The Guildford Method is a court tested method of calculating the average cost of operating a hackney carriage. A fully comprehensive separate report has been submitted to Members for this meeting for members to consider approving the licensing authority to go to a consultation with the hackney carriage trade to obtain motoring and other relevant data to calculate the average cost of operating a hackney carriage in East Devon. This data when completed, will provide a comprehensive process which can be used as the main basis to set taxi fare levels.

#### **4.10 Meetings between Councillors, Taxi Proprietors and Officers.**

Officers remain in regular contact with the East Devon Taxi Association (formerly the Exmouth Taxi Association) and continue to offer support through sharing information to all licenced drivers over email. Officers have also committed to regularly attending the Association's meetings. The role of Officers at these meetings is primarily to answer questions from the Trade and to provide updates on any regulatory or policy changes.

#### **4.11 Consultation on the VAT Treatment of Private Hire Vehicles.**

- 4.12 Members will be aware from the previous report that an open consultation was launched on 18 April 2024 regarding the potential tax impacts of recent High Court judgements on transport legislation on the private hire sector and its passengers. The now closed consultation can be viewed at 'Links to background information' at the top of this report.
- 4.13 The consultation sought views on potential government interventions that could help to mitigate any undue adverse effects on the Private Hire sector and its passengers.
- 4.14 The open consultation closed on 8 August 2024 and after a recent check to the webpages, it was discovered that the data from the consultation is currently being analysed and the Government will produce a published response in due course.
- 4.15 Just prior to the consultation closing, on 15<sup>th</sup> July 2024 the UK Court of Appeal overturned the previous 2023 High Court ruling that private hire operators must collect VAT on the basis that they act as contract 'principal' (DELTA Merseyside Limited & Anor v Uber Britannia Limited). The 2024 Appeal Court judgement held that the private operator was not always the contracting party, a key assumption of the High Court decision. The legal opinion at present is therefore that private hire operators (outside of London), should not be required to charge VAT. It is expected that any subsequent consultation response from the Government will acknowledge the updated legal position (pending any further appeal).

### **5 General Licensing – Street Trading Consents.**

#### **5.1 Applications received, Street Trading Consents Issued.**

- 5.2 At the time of writing this report 25 street trading consents are in operation. These include sole traders and traders as part of an event not held under a premises licence. At the time of writing this report there are currently 15 applications in progress.
- 5.3 A separate report has been submitted to Members for this meeting to request a review of the street trading policy and to request a review of the existing fees and charges.

## **6 Staffing within the Licensing Team.**

- 6.1 There have been no updates to staffing within the licensing team during the last reporting period.

## **7 Councillor Training and Elections**

- 7.1 Training is mandatory to provide sufficient understanding for Members to determine contested applications at licensing sub-committee hearings and to withstand any challenges upon appeal.
- 7.2 Further to the Councillor training sessions provided by the Institute of Licensing (IOL), subsequent catch-up training for those not able to attend IOL training can be provided.
- 7.3 A refresher training session for Members of the Licensing & Enforcement Committee has been arranged to take place on 21 November. Refresher training includes the Licensing Act 2003 and taxi and private hire licensing.
- 7.4 The [Licensing Act 2003 Councillor's handbook \(England and Wales\)](#) is also an informative briefing that was updated last year.

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### **Financial implications:**

There are no financial implications.

### **Legal implications:**

There are no legal implications requiring comment.

Report to: Licensing and Enforcement Committee



Date of Meeting: 13<sup>th</sup> November 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

## Hackney Carriage Fare Setting Procedure

### Report summary:

The Licensing & Enforcement Committee is asked to consider authorising a full review of the procedure used by East Devon District Council to calculate and set a table of maximum fares chargeable by hackney carriages in the district, with a view to introducing a new fare setting procedure for 2025 based upon a methodology produced by Guildford Borough Council.

If a review of the fare setting procedure is agreed, the Licensing & Enforcement Committee is asked to consider authorising a detailed consultation with the taxi trade to ascertain average figures for the cost of running a taxi in East Devon.

### Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

### Recommendation:

That the Licensing & Enforcement Committee consider authorising a review of the procedure used to calculate hackney carriage fares in the district, based upon the methodology and fare setting calculator developed by Guildford Borough Council and adjusted for local considerations.

That the Licensing & Enforcement Committee consider authorising the launch of a consultation with the East Devon taxi trade to ask all hackney carriage drivers and proprietors to participate in the setting of suitable average figures for the cost of running a taxi in the district.

### Reason for recommendation:

To enable the taxi trade within East Devon to continue to operate economically whilst still maintaining an efficient, safe and cost-effective service for service users.

Officer: Emily Westlake, Licensing Officer. 01404 515616. [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

Portfolio(s) (check which apply):

- ☐ Climate Action and Emergency Response
- ☒ Coast, Country and Environment
- ☐ Council and Corporate Co-ordination
- ☐ Communications and Democracy
- ☐ Economy
- ☐ Finance and Assets
- ☐ Strategic Planning
- ☐ Sustainable Homes and Communities

☐ Culture, Leisure, Sport and Tourism

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information**

1. [Local Government \(Miscellaneous Provisions\) Act 1976 \(legislation.gov.uk\)](https://legislation.gov.uk)
2. [Taxi and private hire vehicle licensing best practice guidance for licensing authorities in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

**Link to [Council Plan](#)**

Priorities (check which apply)

- ☐ A supported and engaged community
  - ☐ Carbon neutrality and ecological recovery
  - ☒ Resilient economy that supports local business
  - ☐ Financially secure and improving quality of services
- 

**Report in full**

1. **Background**

- 1.1. Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 permits District Council's to set a fare tariff for hackney carriages licensed within the district and East Devon District Council, in common with most other Councils, have used this power for many years.
- 1.2. One of the roles of the Licensing & Enforcement Committee, under Section 2.5.5.(c) of East Devon District Council's Constitution, is to consider and determine amendments to the hackney carriage fare tariff.
- 1.3. East Devon's current hackney carriage fare table is attached at **APPENDIX A** of this report and sets out the maximum costs and fares that drivers may charge the public for journeys taken in a taxi.
- 1.4. The current taxi fare tariff sets out the maximum fares that can be charged on the Weekday Daytime Rate (Tariff 1), Evening, Night & Sunday rate (Tariff 2) and Bank Holiday, Christmas, and New Year rate (Tariff 3).
- 1.5. Although this is table of maximum fares and these fares cannot be exceeded, hackney carriage drivers are permitted to charge lower than the metered fare at the driver or proprietor's discretion.
- 1.6. The current fare tariff table came into effect on the 18<sup>th</sup> June 2024 following authorisation by the Licensing & Enforcement Committee on the 8<sup>th</sup> May 2024 and a subsequent statutory public consultation.

## **2. Purpose of this report**

- 2.1. Following implementation of the new hackney carriage fare tariff, the Licensing & Enforcement Committee is now asked to consider whether it is an appropriate time to review the procedure used by East Devon District Council to calculate a suitable fare tariff for hackney carriage vehicles in the district.
- 2.2. The Licensing & Enforcement Committee has been asked to consider this on a previous occasion. On the 13<sup>th</sup> March 2024 a report was taken to a meeting of the Committee asking for authorisation to be given for a full review of the fare setting procedure, with a view to determining whether a variation of the hackney carriage fare tariff was necessary at that time.
- 2.3. At that meeting, the Committee noted the taxi trade's remonstrations about the rising costs of running a taxi in the district and were concerned that a review of the fare setting procedure would lead to a delay in the implementation of a fare increase, which the Committee considered to be of urgent priority at that time.
- 2.4. For this reason, the Committee resolved on that date to delay the review of the fare setting procedure until a fare increase had been implemented, using the existing procedure for calculating fare tariff changes in the district. The Committee requested that separate report be brought to a later meeting with a view to implementing a fare setting procedure, based on the Guildford Borough Council methodology, in 2025.
- 2.5. The purpose of this report is therefore to request that the Licensing & Enforcement Committee now consider authorising a review of the fare setting procedure used to calculate an appropriate hackney carriage fare tariff in the district and agree to the launch of a consultation with East Devon hackney carriage drivers and proprietors, to include a fact-finding cost survey, to ascertain appropriate average costs of running a taxi in East Devon.

## **3. Reasons for implementing a robust fare setting procedure**

- 3.1. The Department for Transport's "Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England" states the following in relation to the setting of taxi fares:

*Maximum fare rates should be designed with a view to practicality and reviewed regularly, including any variability of the fare rates dependent on time of day or day of the week. Authorities should consider adopting a simple formula for deciding on fare changes as this will increase understanding and improve the transparency of the process for passengers. The Department recommends that in reviewing fare rates, authorities should pay particular regard to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also to the need to give taxi drivers the ability to earn a sufficient income and so incentivise them to provide a service when it is needed. There is likely to be a case for higher fare tariffs at times of higher demand to encourage more drivers to make themselves available or when the journeys are required at anti-social times.*

*To ensure that taxi tariffs reflect the costs of the trade they should be reviewed following significant changes in licensing fees and other major costs such as fuel. Regular reviews will assist drivers in maintaining their earnings and so continue to attract those*

*seeking to become taxi drivers and provide existing licensed drivers with greater confidence to remain in the trade and plan for future investment in new vehicles. Regular reviews will also avoid large changes in fares for passengers that infrequent reviews are more likely to result in.*

*The Competition and Markets Authority recognised in its 2017 report the need for licensing authorities to be responsive to patterns of demand, that they:*

*“should monitor waiting times and consider adjusting the regulated fare cap to address mismatches between supply and demand. Addressing such mismatches is likely to benefit passengers”.*

(Department for Transport's Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England)

- 3.2. The guidance states that “*authorities should consider adopting a simple formula for deciding on fare changes*” and the Committee is asked to consider whether it therefore is appropriate to put a more robust procedure for calculating fares for hackney carriages into place.
- 3.3. An agreed fare setting procedure would give the Licensing & Enforcement Committee a clear and transparent method for reviewing the fare tariff table in the future and would assist in ensuring that any fare tariff provided a sufficient income for taxi drivers and proprietors (once the costs of running a taxi in the district had been covered) while remaining cost effective for the travelling public.
- 3.4. The most recent fare reviews carried out by East Devon District Council have been calculated by increasing the table of maximum fares in line with the following considerations:
  - 3.4.1. Inflation – using information from the Office of National Statistics on the Consumer Prices Index and consumer price inflation rates.
  - 3.4.2. Fare comparison - using the National Taxi Tariff League Table published in the Private Hire and Taxi Monthly (PHTM) magazine.
  - 3.4.3. Trade Consultation.
  - 3.4.4. Trade Costs – using information provided by the East Devon Taxi Association and local proprietors.
- 3.5. While this has offered an appropriate way of calculating fares, the Best Practice Guidance, and a request from the taxi trade that consideration be given to implementing the Guildford fare setting procedure, indicates that this may be an appropriate time to consider putting into place a clear and transparent written procedure.

#### **4. Fare setting procedure based on a model produced by Guildford Borough Council**

- 4.1. If the Licensing & Enforcement Committee agree to authorise a review of the fare setting procedure, it is proposed to base the new procedure upon a fare setting procedure produced by Guildford Borough Council.
- 4.2. Guildford's fare setting procedure involves a formula that produces the basic charge per mile (travelled with one passenger by an average driver) required to provide an annual salary for the driver/proprietor once average running costs have been covered. The running costs include allowances for factors such as fuel, tyres, parts and servicing, depreciation, and insurance.

- 4.3. There are three elements to Guildford's fare setting procedure as follows:
- 4.3.1. The fare setting procedure itself, which is a written methodology setting out the process
  - 4.3.2. The fare calculator, which is an excel spreadsheet used to undertake the calculations
  - 4.3.3. The table of maximum fares
- 4.4. The procedure used by Guildford is considered best practice for setting hackney carriage fare tariffs by many Licensing Authorities as it has been the subject of a Judicial Review by the Guildford taxi trade, which was dismissed in December 2017 when the judge found comprehensively in the Council's favour. The judge determined that Guildford Borough Council had gone to considerable lengths to try and ascertain the correct costs for running a taxi in their district by using a comprehensive methodology and carrying out detailed consultation with their trade.
- 4.5. Were a similar procedure to be adopted by East Devon District Council, it would need to be adjusted to provide an appropriate salary for a driver/proprietor within the East Devon district, account for the average total, live and dead mileage travelled by an East Devon taxi and, cover the average running costs of running a vehicle in the district.
- 4.6. It is acknowledged that the total running costs associated with operating a taxi in East Devon are likely to vary substantially to those associated with operating a taxi in Guildford and this means that, if the Committee were to agree to proceed with a similar methodology, considerable work would be required to determine the costs of running a taxi specific to the district of East Devon.
- 4.7. It is not possible to calculate an exact cost of running a taxi in East Devon as many of the contributing costs are variable and differ for each driver and vehicle. For example, if you were to look at just one of the cost factors, vehicle insurance premiums, these vary substantially depending on numerous factors including: the policyholder's annual mileage, age, driving history and the make and model of the vehicle being insured.
- 4.8. In addition, when determining the relevant factors to be included in the procedure, consideration must be given to the fact that taxi proprietors often have differing business practices. It is accepted that running costs may vary between businesses and it is not intended to compensate some proprietors for bad business practice or for figures that differ greatly from the average.
- 4.9. It therefore proposed to determine the relevant cost factors involved in running a taxi in East Devon and estimate average values for each cost factor by using factual evidence including:
- 4.9.1. data held by East Devon District Council
  - 4.9.2. data from national statistics
  - 4.9.3. data from other appropriate information sources
  - 4.9.4. consultation data from the East Devon taxi trade
- 4.10. It is recognised that East Devon hackney carriage drivers and proprietors are best placed to know the costs involved with running a hackney carriage vehicle and providing a taxi service in the district. For this reason, it would be proposed to carry out detailed consultation with the taxi trade to try to obtain sufficient and reliable cost data to inform the calculations.



- 4.11. Once each salary, mileage and cost factor has been calculated, it would be proposed to input these calculations into “the fare calculator” included within the fare setting procedure to produce a table of maximum fares.
- 4.12. It is hoped that the considerable work and time required to produce a fare setting procedure and set appropriate cost factors and figures would in turn provide a robust and transparent formula for future use when conducting fare reviews.
- 4.13. It is intended that once in place, the fare setting procedure would enable the Council to carry out annual reviews of the East Devon hackney carriage table of maximum fares. The taxi fares calculator included within the procedure would allow the inputted values to be adjusted as appropriate each year, giving a less time consuming and less costly process for reviewing fares.
- 4.14. It is acknowledged that regular fare reviews assist drivers in maintaining their earnings and avoid sudden larger changes in fares for passengers. The taxi trade in East Devon have indicated through the East Devon Taxi Association that they are very much in support of yearly fare reviews going forward.
- 4.15. East Devon District Council would like to thank to Guildford Borough Council for agreeing to share their hackney carriage fare setting procedure with other local authorities.

## **5. Consultation proposals**

- 5.1. If the Licensing & Enforcement Committee agree to authorise a review of the East Devon fare setting procedure, they are also asked to agree the commencement of a comprehensive consultation with the East Devon taxi trade with a view to seeking their views on each salary, mileage and cost factor to be used in the fare calculations.
- 5.2. It would be the Licensing Authority’s intention to invite every hackney carriage vehicle proprietor and driver in the district to take part in a survey about the costs of running a taxi in East Devon and a mileage recording exercise.
- 5.3. The survey would detail the salary, mileage, and cost factors the Council intend to use to populate the fare calculator and, explain how the Council intends to calculate an average figure for each factor. The taxi trade would be asked to give evidence-based feedback when completing the survey.
- 5.4. A draft of the survey can be found at **APPENDIX B** of this report. The draft survey sets out the type of questions that would be asked of the trade and would be adapted to best suit an online survey.
- 5.5. Drivers would also be asked to complete a mileage record on one (or more) of their typical working days to record the social domestic and pleasure mileage, live mileage (with a fare paying customer) and dead mileage (miles travelled without a fare paying customer while working) travelled. A draft of the mileage record log can be found at **APPENDIX C** of this report.
- 5.6. The Licensing authority would propose to include an estimated draft figure for each salary, mileage and cost factor within the survey itself, for the trade to base their feedback upon. These draft figures have not yet been finalised as a significant amount of work is required to obtain the data needed to accurately estimate each figure.

- 5.7. The reasoning behind including an estimated draft figure for each cost factor would be to give the trade a “starting point” from which to make comment, with the hope that this would provide more specific, quantifiable, and measurable responses to the consultation, as opposed to general comments on each cost.
- 5.8. It would also allow the Licensing Authority to explain to the taxi trade, within the consultation survey, how these figures had been calculated and to ask for their feedback on - not only the cost factors and figures themselves - but also the methodology used to calculate the estimated draft figures.
- 5.9. It is proposed to base the draft estimates upon fleet data held on record by East Devon District Council, national statistics and data from appropriate information sources including the AA Motoring Costs Report last published in 2014.
- 5.10. Guildford Borough Council have based some of their cost calculations on the AA Motoring Costs Report from 2014 and have adjusted the figures accordingly to account for the increase in inflation since the report was last published in July 2014.
- 5.11. The AA state that the information in the cost report is intended as a general guide only, has no official status and, is not intended to be used as a basis for setting mileage rates for business use of private cars. They also state that the tables are based on the costs of running a four-year-old car and that actual running costs will vary depending on car choice, age, type of use and driving style.
- 5.12. All of these disclaimers are acknowledged and accepted by the Licensing Authority, however the data is still considered, once adjusted for inflation, to be a useful starting point from which to take the average costs of owning and running a standard vehicle. This is provided that these figures are then adjusted to take into account feedback from the trade in relation to both the suitability of the figures and the additional costs involved in running such a vehicle as a taxi.
- 5.13. For this reason, it is vital that the taxi trade engages with the consultation to enable the Council to obtain sufficient and reliable evidence upon which the estimated figures can be adjusted to accurately reflect the costs of running a hackney carriage vehicle in the district.
- 5.14. It is recognised that members of the taxi trade are best placed to inform these calculations as the actual costs incurred in running a taxi and the actual distances travelled are known only by those operating such vehicles themselves.
- 5.15. Some of the factors included within the survey (such as dead-mileage and garage costs) are very difficult to calculate and a reasonable figure can only be reached through constructive input from the trade through consultation.
- 5.16. Historically, a very low response rate has been recorded from the taxi trade in relation to consultations about fare reviews. To encourage participation in the consultation, the Licensing Authority would therefore propose to:
- 5.16.1. Publish the survey online to give the trade an accessible and cost-free way to participate. A link to the survey would be sent to all hackney carriage drivers and proprietors by email and paper copies of the survey would be posted out and made available for collection upon request.

- 5.16.2. Attend any meeting of the East Devon Taxi Association to which they are invited to during the consultation period to take any questions and note any feedback from the attendees in relation to the survey.
- 5.16.3. Arrange a taxi liaison meeting at the Council's Offices during the consultation period, to which all East Devon hackney carriage drivers and proprietors would be invited. At the meeting a presentation would be given about the proposed fare setting procedure and a question-and-answer session held.
- 5.17. If the Licensing & Enforcement Committee are minded to authorise such a consultation, they are asked to consider how long the consultation period should be? A minimum 8-week consultation period is recommended to allow the trade to collate the data required to respond to the consultation substantively, but this could be extended to 12 weeks if the Committee were to consider this more appropriate.

## **6. Next steps and timescales**

- 6.1. If the Licensing & Enforcement Committee agree to authorise a review of the East Devon hackney carriage fare setting procedure and a full consultation with the trade, the following steps would be taken:
  - 6.1.1. the Licensing Authority would finalise the work required to draft an estimated figure for each salary, mileage, and cost factor calculation.
  - 6.1.2. Once the draft figures had been compiled, the Licensing Authority would commence a consultation with the trade by publishing the survey online for a set period. A link to the survey would be sent to each hackney carriage proprietor and driver in the district together with an invite to attend a taxi liaison meeting.
  - 6.1.3. A taxi liaison meeting would be held to encourage high participation levels and any invitation to attend the taxi trade association meeting would be accepted by Licensing Officers.
  - 6.1.4. Upon completion of the consultation period, the results would be collated, the information analysed and, with due regard being given to the results of the survey and consultation feedback, the Licensing Authority would calculate a revised figure for each salary, mileage and cost factor calculation.
- 6.2. The Licensing Authority would then aim to bring to the meeting of the Licensing & Enforcement Committee scheduled for the 2<sup>nd</sup> April 2024, a report including:
  - 6.2.1. A draft hackney carriage fare setting procedure. This would include a detailed written procedure explaining how the Council would intend to calculate an appropriate hackney carriage fare tariff table for the district and would include a methodology setting out how each salary, mileage and cost factor had been determined and calculated.
  - 6.2.2. A fare calculator populated with the estimated costs for each salary, mileage and cost factor identified.
  - 6.2.3. A draft revised hackney carriage fare tariff table informed by the fare calculator.
- 6.3. The Licensing & Enforcement Committee would be asked at that meeting to consider the written fare setting procedure and calculations and decide whether to approve the hackney carriage fare setting procedure at that time or whether to authorise further

consultation with the trade to ask for their feedback on the finalised procedure and revised cost figures.

- 6.4. If and when a new fare setting procedure was agreed, the Licensing & Enforcement Committee would then be asked to consider authorising the implementation of a new hackney carriage fare tariff for 2025.
- 6.5. If a new fare tariff was agreed, the Licensing & Enforcement Committee would be asked to exercise the Council's powers under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 and approve moving to public consultation on the proposed amendments to the East Devon hackney carriage fare tariff.

## **7. Fare Setting Process and Legislative Considerations**

- 7.1. The process for setting and revising hackney carriage fares is set out in the Local Government (Miscellaneous Provisions) Act 1976 and must be undertaken before a revised table of maximum fares can be brought into effect.
- 7.2. Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to set the maximum costs and fares that drivers may charge the public for journeys taken in a taxi and states that:

### **65 Fixing of fares for hackney carriages.**

- (1) A district council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a "table of fares") made or varied in accordance with the provisions of this section.*
- (2)*
  - a) When a district council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen days from the date of the first publication of the notice, within which and the manner in which objections to the table of fares can be made.*
  - b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of fourteen days from the date of the first publication thereof be deposited at the offices of the council which published the notice, and shall at all reasonable hours be open to public inspection without payment.*
- (3) If no objection to the table of fares or variation is duly made within the period specified in the notice referred to in subsection (2) of this section, or if all objections so made are withdrawn, the table of fares or variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever is the later.*
- (4) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the table of fares shall come into force with or without modifications as decided by them after consideration of the objections.*

*(5) A table of fares made or varied under this section shall have effect for the purposes of the Act of 1847 as if it were included in hackney carriage byelaws made thereunder.*

*(6) On the coming into operation of a table of fares made by a council under this section for the district, any hackney carriage byelaws fixing the rates and fares or any table of fares previously made under this section for the district, as the case may be, shall cease to have effect.*

*(7) Section 236(8) (except the words “when confirmed”) and section 238 of the Local Government Act 1972 (except paragraphs (c) and (d) of that section) shall extend and apply to a table of fares made or varied under this section by a district council in England as they apply to byelaws made by a district council in England.*

## **8. Conclusion**

- 8.1. The East Devon hackney carriage table of maximum fares was last reviewed in Spring 2024 and came into effect on the 18<sup>th</sup> June 2024.
- 8.2. The Licensing & Enforcement Committee are now asked to consider whether a full review of the fare setting procedure (to include the production of a fare setting procedure based upon the methodology, fare setting calculator and table of fares developed by Guildford Borough Council) is appropriate at this time.
- 8.3. If a review of procedure is considered appropriate, the Licensing & Enforcement Committee are asked to consider authorising a full consultation with the trade to include a survey of East Devon hackney carriage drivers and proprietors to determine the costs of running a taxi in the district.
- 8.4. If the Licensing & Enforcement Committee authorise such a consultation, they are asked to consider whether an 8- or 12-week consultation is most appropriate.
- 8.5. If all proposals above are agreed the Licensing Authority will finalise the work required to estimate average salary, mileage and cost factor figures to include within the consultation and then carry out a full consultation with the trade.
- 8.6. The Licensing & Enforcement Committee will be kept updated on progress with a further report to be brought before the Committee upon completion of the survey and analysis of the results. This report will include a draft fare setting procedure for calculating a hackney carriage fare tariff and will include a revised hackney carriage table of maximum fares, based upon calculations set out in the methodology, for the Committee’s consideration.

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### **Financial implications:**

There are no financial implications contained within the report at this stage.

### **Legal implications:**

The legal framework is set out within the report and requires no further comment at this stage of the consultation process.

## EAST DEVON DISTRICT COUNCIL

### Maximum Fares for Hackney Carriages

Effective from 18<sup>th</sup> June 2024

	<b><u>TARIFF 1</u></b> For hirings begun between 0700 hrs and 1900 hrs Monday to Saturday inclusive other than those subject to tariff 2 or 3	<b><u>TARIFF 2</u></b> For hirings begun on any day between 1900 hrs and 0700 hrs and all day Sunday other than those subject to tariff 3	<b><u>TARIFF 3</u></b> 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	<b>£4.40</b>		
For each subsequent 251.43 yards (1/7 of a mile) or uncompleted part thereof	<b>£0.39</b>		
For the first 880 yards (½ mile) or uncompleted part thereof		<b>£5.28</b>	
For each subsequent 176 yards (1/10 of a mile) or uncompleted part thereof		<b>£0.33</b>	
For the first 880 yards (½ mile) or uncompleted part thereof			<b>£6.82</b>
For each subsequent 251.43 yards (1/7 of a mile) or uncompleted part thereof			<b>£0.55</b>
<b><u>Extra Charges</u></b>			
For each passenger after the first	<b>£0.22</b>	<b>£0.22</b>	<b>£0.22</b>
For each item of baggage	<b>£0.22</b>	<b>£0.22</b>	<b>£0.22</b>
For each dog (not including assistance dogs)	<b>£0.22</b>	<b>£0.22</b>	<b>£0.22</b>
Toll, ferry & car park fees incurred with journey	<b>Actual Fee</b>	<b>Actual Fee</b>	<b>Actual Fee</b>
<b><u>Waiting Time</u></b>	<b>£0.39 for 43 secs.</b>	<b>£0.33 for 37.5 secs.</b>	<b>£0.55 for 62.5 secs.</b>
<b><u>Soiling Charge</u></b>	<b>£88.00</b>	<b>£88.00</b>	<b>£88.00</b>
<b><u>Booking Charge</u></b> 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.		<b>Maximum £13.20</b>	
<b><u>Extras</u></b> An extra charge of 10p added to the total fare when the South West average price of fuel oil exceeds £1.75 per litre based on the latest available AA Fuel Price Report with a further 10p added for each subsequent increase of 10p per litre.		<b>Maximum £0.10</b>	

### **Overview**

East Devon District Council licences and regulates taxi and private hire services in the district of East Devon.

As part of this, we set the maximum fares which taxis (hackney carriages) licensed in the district can charge. When doing this, we aim to reflect both the costs of operating a taxi in East Devon, and what it is reasonable for the public to pay for the service.

The Licensing & Enforcement Committee have authorised work to begin on the drafting of a new “fare setting procedure” which will aim to outline how the Council intends to calculate taxi fare tariffs and charges in the future.

The procedure will be based upon a methodology and formula for calculating taxi fares produced by Guildford Borough Council, which allows the costs of running a vehicle and providing the service to be recovered over the number of miles licensed vehicles complete.

Once the procedure is in place, this will enable the Council to review the fare tariff each year by adjusting the calculations accordingly.

To help us draft the procedure and determine the calculations, we are asking you to participate in a survey which aims to determine an accurate cost for running a taxi in East Devon. Hackney carriage drivers and proprietors are best placed to know the costs involved with running a hackney carriage vehicle and providing a taxi service and it is very important that we hear your views.

Please take the time to complete the survey. The Licensing Team will use the results of this survey when determining the data to input into the fare calculations within the fare setting procedure and all feedback received will be considered.

A high response rate will ensure that the views of the trade are considered when calculating a table of maximum fares for hackney carriages. It is important you provide as much detail and evidence as possible with your response such as copies of receipts and journey records to support any figures given.

Some of the figures in the formula, such as setting a percentage of “dead mileage” can only be calculated with your assistance. Please help us to set a fair and accurate fare tariff by responding to this survey.

### **Timescales**

Please participate constructively in this survey and let us know your views by (TIME TO BE INSERTED) on the (DATE TO BE INSERTED). Anonymous responses, late responses and historical submissions will not be considered.

We will update the trade on progress through our newsletters, email correspondence and at the East Devon Taxi Association meetings.

**Please note that any responses received may be published by the Council but your personal details will remain anonymous.**

When the survey has ended, we will use the feedback received, together with data held by the Council and data from national statistics, to draft a fare setting procedure and determine appropriate cost calculations.

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The draft procedure will then be put before the Licensing & Enforcement Committee for their consideration.

Once the fare setting procedure has been finalised, consideration will be given to whether a change to the maximum table of fares chargeable by hackney carriages in East Devon is necessary.

If a change to the table of fares is proposed, a notice will be published in a local newspaper and at the Council Offices, setting of the table of fares and specifying a period (of not less than 14 days from the date of publication of the notice) within which objections can be made.

If no objections are received, the revised table of fares will come into operation on the date of the expiration of the notice period.

If any objections are received (and not withdrawn) the District Council will set a further date, no later than two months after the first specified date, upon which the table of fares will come into force with or without modification as decided by the Licensing & Enforcement Committee after consideration of the objections.

Updates will be provided to the taxi trade at each stage of the process.

### **IMPORTANT: BEFORE YOU BEGIN**

**The survey will ask you to tell us what percentage of your journeys are for:**

- **Social, domestic and pleasure purposes (personal use)**
- **dead mileage (when working as a taxi but without a fare paying passenger onboard)**
- **live mileage (with a fare paying passenger is onboard)**

**You will also be asked what you think the average distance of a typical journey with a passenger is.**

**It would be of great assistance if, as part of your response, you were able to provide us with data to support this by completing a log of all journeys completed in your licensed vehicle for a typical day in your life as a taxi driver.**

If you are able to do this, please use the mileage record sheet attached to record this information. You can upload these with your survey or send it to us by email.

We thank you for taking the time to give us your feedback.

Any enquiries about this survey can be made to the Licensing Team.



## **Section 1: Figures used to Calculate Fares**

The table below shows all the figures we intend to use to calculate an appropriate fare tariff using the fare calculation methodology set out by Guildford Borough Council.

Each figure will be calculated by using data from survey responses and evidence provided by the trade together with data held by East Devon District Council, national statistics, and information from reliable sources.

Next to each cost factor we have explained how we intend to calculate an average figure and, for most of the cost factors, we have inserted an estimated figure. Please give us your comments and feedback on this.

**PLEASE NOTE THAT THESE FIGURES ARE ESTIMATES ONLY AND ARE INTENDED AS A STARTING POINT FROM WHICH COMMENT CAN BE MADE.**

**We need to receive your feedback so that we can adjust these figures accordingly to reflect the accurate costs of running a taxi in the district.**

You can also tell us if you think a figure shouldn't be included or, if you think there are costs involved which have not been included below.

Please provide as much evidence as possible to justify your comments and substantiate any figures given, for example if you spend £700 on tyres per year, record this figure and provide a copy of the receipt. Figures provided without supporting evidence cannot be considered.

Cost Factor	Estimated Figure	Calculations and considerations
Annual average salary for East Devon	[TBC]	<p>We are proposing to include an appropriate level of remuneration for taxi drivers that is relevant to East Devon. It is intended to calculate this using the most recent information published by the Office for National Statistics in its Annual Survey of Hours and Earnings (ASHE) to find an average annual gross salary for East Devon.</p> <p>The most recent data from these statistics (which was last updated in 2023) suggests that the average annual salary for the district is [TBC]</p> <p>Do you think this is an appropriate way of calculating an average salary?</p> <p>Do you think this is an appropriate salary?</p>
Average total annual mileage	[TBC]	<p>The average annual mileage is relevant in determining taxi fares because it can be used to determine the annual cost per mile of running a taxi.</p> <p>We are proposing to obtain the average annual mileage from the meter readings recorded on each vehicle's two most recent annual MOT certificates.</p>

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		<p>If a licensed vehicle has not yet been subject to two MOTs, we will use the mean mileage calculation for this vehicle instead.</p> <p>We will then divide the total number of miles travelled by all licensed taxis by the number of licensed taxi drivers to provide the average mileage per driver.</p> <p>Please let us know whether the estimated figure provided is an accurate estimate of total annual mileage per driver?</p>
Dead mileage rate	50%	<p>Dead mileage is the mileage travelled by a taxi without a fare paying passenger onboard.</p> <p>It does not include:</p> <ul style="list-style-type: none"> <li>any distance travelled with a fare paying customer (on or off the meter) which is live mileage</li> <li>any distance travelled in the vehicle for personal (social, domestic, pleasure) use, or</li> <li>distance travelled to and from home to work</li> </ul> <p>We do not hold any data that can help us calculate the exact amount of dead mileage travelled by each taxi so we will need your help to set a suitable figure for this.</p> <p>We need set a figure to show what percentage of the overall mileage travelled by an East Devon taxi is “dead mileage”.</p> <p>For example, a 50% dead mileage rate would allow for a taxi to, on every journey, take a customer from point A (the rank) to point B (the destination), and then return to point A again without a passenger.</p> <p>Please let us know if you think 50% is an accurate estimate for dead mileage or do you think this should be lower or higher?</p> <p>If possible, please use our <b>mileage record sheets</b> to record a snapshot this information over one or more days and attach it to this survey.</p>
Personal mileage rate	Unknown	<p>Some drivers use their taxi for personal, social and domestic journeys away from work. Some drivers only use their taxi when working.</p> <p>We need to set an average figure to show what percentage of the overall mileage travelled by an East Devon taxi is for social, domestic and pleasure (SDP) purposes. This would include any mileage used commuting to East Devon, from outside the district.</p>

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		<p>Do you use your vehicle for SDP purposes?</p> <p>What percentage of your annual mileage is SDP?</p> <p>If possible, please use our <b>mileage record sheets</b> to record a snapshot this information over one or more days and attach it to this survey.</p>
Average annual live mileage for an East Devon taxi	Unknown	<p>Live mileage is the number of miles travelled by a taxi with a fare-paying passenger (whether metered or unmetered).</p> <p>We intend to calculate live mileage by taking the average mileage travelled by an East Devon taxi and deducting an appropriate percentage to account for driver's personal use of the vehicle for social, domestic and pleasure purposes.</p> <p>We will then use the "dead mileage" rate to calculate the number of dead mileage miles and deduct this from the total to give us a "live mileage" figure.</p> <p>Please give us an estimate of the number of miles you travel with a fare-paying customer each year, or the percentage of your annual mileage that is carried out with a fare-paying passenger onboard?</p> <p>Please let us have any comments about how we intend to calculate this.</p> <p>If possible, please use our <b>mileage record sheets</b> to record a snapshot this information over one or more days and attach it to this survey.</p>
Average miles travelled by each fare paying journey in East Devon	2.5 miles	<p>We need to estimate of the average length of a fare-paying journey travelled in the district.</p> <p>We do not hold any data that can help us calculate this, so we will need your help. In Guildford, they have used an average journey length of 2.5 miles per journey.</p> <p>Do you think this is a suitable average journey length for taxis in East Devon or are most of your journeys longer or shorter than this?</p> <p>Please let us know what you consider to be a suitable figure for an average journey length.</p> <p>If possible, please use our <b>mileage record sheets</b> to record a snapshot this information over one or more days and attach it to this survey.</p>

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Average number of journeys travelled with a fare paying passenger annually	Unknown	<p>We will need to estimate an average number of journeys that each driver travels with a fare paying customer each year.</p> <p>We intend to calculate this by dividing the average live mileage by the average distance per journey.</p> <p>Please let us have any feedback you have about this and, if you have any records of your journeys and are able to tell us how many journeys you travel with a fee paying passenger in an average week, month or year, that would be very helpful.</p>
The purchase price of an East Devon taxi when new	[TBC]	<p>We intend to use the values contained in the Automobile Association's (AA) annual motoring costs report to calculate some of the costs of operating of a taxi in East Devon.</p> <p>The AA Motoring Costs Report was last published in 2014 and lists the cost factors involved in running a vehicle in cost brackets which are based upon the purchase price of the vehicle when new.</p> <p>It is difficult to estimate the cost of an East Devon taxi when new because there are many different vehicle makes and models licensed in East Devon, each with different specifications.</p> <p>To calculate an appropriate figure, we intend to find the average purchase price, when new, of the top 10 vehicle models licensed in the district and use this to determine an average cost of an East Devon taxi when new. We will then use this figure to determine which cost bracket to use when calculating the costs of operating a taxi in East Devon.</p> <p>We will adjust the cost brackets for inflation (using the ONS RPI Motoring Expenditure Costs Index) to ensure they reflect today's prices rather than prices in 2014.</p> <p>Do you think this is a suitable way to calculate which cost bracket to use?</p> <p>How much would your vehicle model cost to buy new?</p>
Annual vehicle depreciation	[TBC]	<p>Depreciation is the difference between the amount you spend when you buy a car and the amount you get back when you sell the car or trade it in. Different vehicles lose value at different rates depending on their make, age, mileage and condition. On average, new cars can lose 20 to 30 per cent of their value in the first year and then around 15 per cent of their value for the next couple of years, normally adding up to around 50% or more over three years. However, new car shortages in recent years mean used cars have been holding their value longer.</p> <p>We intend to use the AA Motoring Costs Report figures from</p>

## APPENDIX B

		<p>2014 to calculate this. This report states that, for a vehicle within the price bracket [TBC], the typical depreciation per year in 2014 would have been [TBC].</p> <p>Adjusted for inflation using the ONS RPI Motoring Expenditure Costs Index, this would give an annual average depreciation cost in 2024 of: [TBC]</p> <p>Please let us know whether you think this figure is accurate and whether you think this is a suitable way of calculating vehicle depreciation costs?</p> <p>The AA figures relate to the depreciation of a vehicle over 4 years. It should be noted that the average age of an East Devon taxi is 7 years old and therefore these vehicles have already depreciated beyond the level of the figures used.</p> <p>Taking this into consideration, do you think depreciation should be included as a relevant cost factor?</p>
Cost of capital	[TBC]	<p>This cost of capital represents the loss of income from having money tied up in a vehicle which could otherwise be in a deposit account. The purchase of vehicles is funded in different ways with some vehicles being purchased outright and some on Hire Purchase Finance or Personal Contract Purchase.</p> <p>We intend to use the AA Motoring Costs Report figures from 2014 to calculate this. This report states that, for a vehicle within the price bracket [TBC] the typical cost of capital per year in 2014 would have been [TBC]</p> <p>Adjusted for inflation using the ONS RPI Motoring Expenditure Costs Index, this would give an average cost of capital in 2024 of: [TBC]</p> <p>Please let us know whether you think this figure is accurate and whether you think this is a suitable way of calculating the cost of capital?</p>
Average cost of insurance	[TBC]	<p>We need to calculate the average annual cost of vehicle insurance for a taxi operating in East Devon.</p> <p>We intend to use the AA Motoring Costs Report figures from 2014 to calculate this. This report states that, for a vehicle within the price bracket [TBC], the typical cost of insurance per year in 2014 would have been [TBC]</p> <p>Adjusted for inflation using the ONS RPI Motoring Expenditure Costs Index, this would give a typical cost of insurance in 2024 of: [TBC]</p> <p>We acknowledge that it is likely that additional insurance premiums will be incurred to the “hire and reward” element of insurance cover and this is not accounted for in the AA</p>

## APPENDIX B

		<p>Motoring Costs Report. We therefore intend to include an additional allowance of [TBC] for this purpose.</p> <p>This would increase the average cost of insurance to [TBC] per year.</p> <p>Please let us know whether you think this figure is accurate and whether you think this is a suitable way of calculating the cost of insurance?</p> <p>If you are able to provide us with the cost of your insurance premium this would be very helpful and any evidence you have to support this.</p>
Cost of road tax	[TBC]	<p>We need to calculate an average cost of road tax for an East Devon licensed hackney carriage.</p> <p>We intend to use the current vehicle tax rates to calculate an average figure.</p> <p>The rate of tax paid depends on the age of the vehicle and cars registered before the 31<sup>st</sup> March 2017 pay a different rate of tax to those registered on or after the 1 April 2017.</p> <p>In addition vehicles registered on or after the 1<sup>st</sup> April 2017 pay a first tax payment and then a standard rate for the second tax payment onwards.</p> <p>We have worked out the annual tax payable by each of our licensed vehicles and used this data to calculate an average.</p> <p>Do you think this is an appropriate way to calculate this figure?</p>
Average breakdown cover	[TBC]	<p>We need to calculate the average annual cost of breakdown cover for a taxi operating in East Devon.</p> <p>We intend to use the AA Motoring Costs Report figures from 2014 to calculate this. This report states that, for a vehicle within the price bracket [TBC], the typical cost of breakdown cover per year in 2014 would have been [TBC].</p> <p>Adjusted for inflation using the ONS RPI Motoring Expenditure Costs Index, this would give a typical cost of breakdown cover in 2024 of: [TBC]</p> <p>Please let us know whether you think this figure is accurate and whether you think this is a suitable way of calculating the cost of breakdown cover?</p> <p>It would be very helpful if you can provide us with the cost of any breakdown cover that you have and any evidence you have to support this.</p>

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Average cost of fuel per litre over past 12 months (pence per litre)	[TBC]	<p>We intend to use the Department for Energy Security and Net Zero's annual weekly road fuel price statistics to calculate an average fuel cost per litre.</p> <p>While we acknowledge that fuel prices will change throughout the year, it is not practical to recalculate the running costs of a taxi every time fuel costs go up or down. We therefore intend to calculate an average cost of fuel per litre from the last month of data and add on an additional 5 pence per litre to allow for any upward changes to the cost of fuel that may occur during the year.</p> <p>Most vehicles licensed in East Devon are diesels and we intend to base the figures on the cost of diesel fuel.</p> <p>Do you think this is an appropriate way to calculate this figure?</p>
Annual cost of tyres	[TBC]	<p>We need to calculate the average annual cost of tyres for a taxi operating in East Devon.</p> <p>We intend to use the AA Motoring Costs Report figures from 2014 to calculate this. This report states that, for a vehicle within the price bracket [TBC], the typical running cost of tyres in 2014 would have been [TBC] per mile.</p> <p>Adjusted for inflation using the ONS RPI Motoring Expenditure Costs Index, this would give a typical cost of tyres in 2024 of: [TBC]</p> <p>This means that a vehicle averaging 20,000 miles in a year for example would spend [TBC] on tyres.</p> <p>Please let us know whether you think this figure is accurate and whether you think this is a suitable way of calculating the cost of tyres?</p> <p>Please provide us with any evidence you have relating to the cost of tyres and the average tyre life you have experienced.</p>
Annual service labour costs	[TBC]	<p>Service labour costs cover normal servicing and parts replacement taking UK average labour rates.</p> <p>We intend to use the AA Motoring Costs Report figures from 2014 to calculate this. This report states that, for a vehicle within the price bracket [TBC], the average service labour costs in 2014 would have been [TBC] per mile.</p> <p>Adjusted for inflation using the ONS RPI Motoring Expenditure Costs Index, this would give an average cost of service labour in 2024 of: [TBC]</p> <p>This means that a vehicle averaging 20,000 miles in a year for example would spend [TBC] on service labour costs.</p>

## APPENDIX B

		<p>Please let us know whether you think this figure is accurate and whether you think this is a suitable way of calculating the cost of service labour?</p> <p>It would be very helpful if you can provide us with any invoices you have for any services, MOTs or repairs your taxi has had this year. We will then look at the labour costs itemised to inform our calculations.</p>
Annual cost of replacement parts	[TBC]	<p>Replacement parts include items that may require replacement through normal driving conditions such as brake materials, oils, filters, bulbs, wipers etc.</p> <p>We intend to use the AA Motoring Costs Report figures from 2014 to calculate this. This report states that, for a vehicle within the price bracket [TBC], the average cost of replacement parts in 2014 would have been [TBC] per mile.</p> <p>Adjusted for inflation using the ONS RPI Motoring Expenditure Costs Index, this would give an average cost of service labour in 2024 of: [TBC]</p> <p>This means that a vehicle averaging 20,000 miles in a year for example would spend [TBC] on replacement parts.</p> <p>Please let us know whether you think this figure is accurate and whether you think this is a suitable way of calculating the annual cost of replacement parts?</p> <p>It would be very helpful if you can provide us with any invoices you have for any services, MOTs or repairs your taxi has had this year. We will then look at the parts costs itemised to inform our calculations.</p>
Annual car cleaning costs	[TBC]	<p>Car cleaning costs would include the cost of cleaning products and/or the cost of the car wash.</p> <p>This is not a figure included in the AA Motoring Costs Report 2014 but we consider it relevant for East Devon taxis as they are expected to be in a clean and tidy condition at all times.</p> <p>We do not have any figures to inform this calculation and please let us know whether this is a cost factor you think needs to be included and how much you estimate that you spend annually on cleaning your taxi?</p> <p>You can attach any invoices you have to support this.</p>
Annual cost of parking and tolls	[TBC]	<p>We need you to tell us if this cost factor is relevant to taxis in East Devon?</p>



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		<p>Please can you let us know if you regularly pay any parking fees, tolls, or anything similar?</p> <p>If feedback suggests that this is relevant to East Devon, we intend to use the AA Motoring Costs Report figures from 2014 to calculate this. This report states that, for a vehicle within the price bracket [TBC], the average cost of parking and tolls in 2014 would have been [TBC] per mile.</p> <p>Adjusted for inflation using the ONS RPI Motoring Expenditure Costs Index, this would give an average cost of service labour in 2024 of: [TBC]</p> <p>This means that a vehicle averaging 20,000 miles in a year for example would spend [TBC] on parking and tolls.</p> <p>Please let us know whether you think this figure is accurate and whether you think this is a suitable way of calculating the cost of parking and tolls?</p>
Annual station rank permit or other required permits	[TBC]	We need to hear about any regular permit fees that you incur when carrying out hackney carriage journeys. Please provide us with further information above if you feel this is a relevant expense incurred.
Annual hackney carriage licence fee	£262	<p>East Devon's current fee for a 1-year hackney carriage vehicle licence is £262.</p> <p>Do you think this should be included as a cost factor?</p>
Vehicle compliance test fees	[TBC]	<p>We have estimated the annual cost of vehicle compliance tests to be [TBC].</p> <p>We have calculated that approximately [TBC%] of East Devon taxis have an annual inspection and [TBC%] have a six-monthly inspection. We have used this cost to calculate an average cost per year.</p> <p>Do you think this is an appropriate way to calculate this figure?</p> <p>How much did your most recent vehicle compliance test cost? Please provide us with a figure for this and provide any evidence you have available to support this (garage invoices etc).</p>
Driver licence fee (pro rata)	[TBC]	East Devon's current fee for a 1-year hackney carriage driver licence is £104. East Devon's current fee for a 3-year hackney carriage driver licence is £229. There is also a £15 fee on initial licensing to cover the cost of the badge.

## APPENDIX B

		<p>We have used data held to determine that [TBC%] of East Devon drivers hold a 1 year licence and [TBC%] hold a 3 year licence.</p> <p>We have used this information to calculate an average yearly cost of the driver licence of [TBC]</p> <p>Do you think this should be included as a cost factor?</p> <p>Do you think this is an appropriate way to calculate the cost?</p>
Cost of providing a roof sign and meter	[TBC]	<p>We have contacted both council approved meter engineers to obtain costs for this and will use these figures to calculate a yearly estimate of [TBC].</p> <p>Do you think this should be included as a cost factor?</p> <p>Do you think this is an appropriate way to calculate the cost?</p>
Cost of medical report	[TBC]	<p>All East Devon hackney carriage drivers are required to undergo regular medicals at differing frequencies.</p> <p>We have calculated the percentage of our drivers that will not require a further medical until 45 years of age, the percentage of our drivers who undertake 5-yearly medicals and the percentage of our drivers that undertake yearly medicals.</p> <p>We have used these calculations to estimate a mean annual cost for this. While we are aware of the fees D4Drivers charge for carrying out a medical examination, we have less data on the fees charged by GPs.</p> <p>Do you think this should be included as a cost factor?</p> <p>Do you think this is an appropriate way to calculate the cost?</p> <p>How much did your most recent medical cost?</p>
One-off cost of safeguarding training	[TBC]	<p>This is a one-off cost of £22. We have worked this out as an annual fee of [TBC]</p> <p>Do you think this should be included as a cost factor?</p> <p>Do you think this is an appropriate way to calculate the cost?</p>
One-off cost of taxi driving test on initial licensing	[TBC]	<p>All licensed drivers are required to take a driving test on first licensing. This is a one-off cost, and the driving test only has to be re-taken if a certain number of points are incurred on a driving licence or complaints about the driver are received.</p> <p>We have worked this out as an annual fee of [TBC]</p>

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		<p>Do you think this should be included as a cost factor?</p> <p>Do you think this is an appropriate way to calculate the cost?</p>
One-off cost of first full DBS check	[TBC]	<p>The fee for a full DBS check is currently £67. We expect all East Devon hackney carriage drivers to register with the DBS update service after completion of their first full enhanced DBS check.</p> <p>We have worked this out as an annual fee of [TBC]</p> <p>Do you think this should be included as a cost factor?</p> <p>Do you think this is an appropriate way to calculate the cost?</p>
Annual cost of DBS update service subscription	£13	<p>The current annual cost of a subscription to the DBS update service is £13. We recommend that all of our driver's register their enhanced DBS certificate with the DBS update service to allow 6 monthly DBS status checks to be carried out. We will be assuming that all of our drivers have signed up to the DBS update service after their initial DBS when calculating these figures.</p>
Cost of card payment terminal (per year)	[TBC]	<p>We would welcome feedback on how many of our hackney carriage drivers have a card payment terminal and the cost of such a terminal.</p> <p>We have used data held about the cost of card terminals to estimate an annual cost of [TBC]</p> <p>Do you think this should be included as a cost factor?</p> <p>Do you think this is an appropriate way to calculate the cost?</p> <p>Do you have a card payment terminal in your taxi? How much did it cost? Are there any ongoing running costs?</p>
CCTV	[TBC]	<p>CCTV is not a mandatory requirement for East Devon taxis but is encouraged.</p> <p>We have estimated the cost of a CCTV system to be [TBC] using data held on record about the cost of CCTV systems used by drivers in our district. We have then divided this by [TBC] to account for the fact that many East Devon taxis do not have a CCTV system.</p> <p>Do you think this should be included as a cost factor?</p> <p>Do you think this is an appropriate way to calculate the cost?</p> <p>Do you have a CCTV system in your vehicle? How much did it cost? Are there any ongoing running costs?</p>

### **Section 2 – additional information**

We are pleased to hear views from the trade on the inclusion or removal of any of the costs listed above as contributing towards running a hackney carriage vehicle. We are also interested to hear from you as to whether you consider a fare review appropriate at this time and whether you consider the times applicable to each of the three current tariffs to still be suitable.

Please use the space below to make any suggestions, for example other costs associated with running a taxi in East Devon which you would want to see included in the fare calculator.

Please make any comments in the section below and include as much evidence as possible to justify your comments:

Finally, we are pleased to hear views from the trade on any other items relevant to taxi fares which would benefit both the licensed trade and passengers.

Please use the space below to make any other relevant suggestions or comments.

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### **Driver Details**

Please complete your details below.

Please note that anonymous responses will not be considered.

Full name:	
Hackney Carriage Driver Licence Number:	
Hackney Carriage Vehicle Licensing Number:	

**Please complete the survey by (INSERT TIME AND DATE HERE)**

**Thank you for taking the time to complete the Costs Survey as this will greatly assist us with calculating a revised fare tariff.**

## Mileage Record

We need your help to calculate both the percentage of dead mileage travelled by hackney carriage vehicles in our district and, the typical distance travelled by a licensed taxi per journey when carrying a fare paying passenger.

Please help us to calculate this by using the table below to record the journeys you have taken in your licensed taxi on any one chosen day during the consultation period.

If you want to record the data for more than one day, that would be very helpful and please complete a separate sheet for each day. If you are only recording data for one day, please choose a typical day in your life as a taxi driver when you can record data for all your journeys in the day.

This should include any mileage you have travelled with a fare paying passenger (live mileage), any mileage travelled without a fare paying passenger (dead mileage), mileage you have travelled commuting to and from work and any mileage travelled on private journeys for social, domestic or pleasure purposes.

You will need to tell us each type of journey you are recording. Please record the outward and return journeys separately and please read the information below relating to the different journey types.

### Live mileage – mileage with a fare paying passenger

Live mileage is the mileage travelled by a taxi with a fare-paying passenger onboard.

If you are recording a journey where you have a fare-paying passenger travelling with you, please circle “live mileage”.

Please note that any journeys carried out on contract, such as regular school runs will count as “live mileage” and should be recorded as such.

### Dead mileage – mileage while working without a fare paying passenger

Dead mileage is the mileage travelled by a hackney carriage vehicle without a fare paying passenger on board **EXCLUDING** mileage travelled to and from work, mileage travelled on private journeys and mileage travelled on unmetered journeys.

#### Example 1:

You pick up a passenger at the Strand taxi rank in Exmouth, at 2pm on a Monday afternoon, and take them to East Devon District Council's Offices at Blackdown House, Honiton. This journey type is “live mileage”.

## APPENDIX C

You then travel back to the Strand taxi rank without picking up another passenger, this return journey type is “dead mileage”.

You would record these journeys like this:

<u>Journey Number</u>	<u>Journey Distance</u>	<u>Fare Tariff (1, 2 or 3)</u>	<u>Journey type</u>		<u>Notes (optional)</u>
1.	18 miles	1	Live mileage	Dead mileage	Exmouth to Honiton with passenger
			SDP	Commute	
2.	18 miles	1	Live mileage	Dead mileage	Honiton to Exmouth no passenger
			SDP	Commute	

### Example 2:

You pick up a passenger at the Strand taxi rank in Exmouth, at 2pm on a Monday afternoon, and take them to East Devon District Council's Offices at Blackdown House, Honiton. This journey type is “live mileage”.

You drop your passenger off at the Council Offices in Honiton and drive to the taxi rank on Honiton High Street. This journey type is “dead mileage”.

You pick up a further fare-paying passenger at the Honiton rank who you take to Ottery St Mary town centre. This journey type is “live mileage”.

After dropping the passenger in Ottery St Mary, you return to the Strand taxi rank. This return journey is “dead mileage”.

You would record these journeys like this:

<u>Journey Number</u>	<u>Journey Distance</u>	<u>Fare Tariff (1, 2 or 3)</u>	<u>Journey type</u>		<u>Notes (optional)</u>
1.	18 miles	1	Live mileage	Dead mileage	Exmouth to Honiton with passenger
			SDP	Commute	
2.	0.5 miles	1	Live mileage	Dead mileage	Council offices to Honiton taxi rank – no passenger
			SDP	Commute	
3.	4.5 miles	1	Live mileage	Dead mileage	Honiton taxi rank to OSM with passenger
			SDP	Commute	
4.	4 miles	1	Live mileage	Dead mileage	OSM to Strand, Exmouth no passenger
			SDP	Commute	

### **Commute - using your taxi to travel to and from work**

Many taxi drivers use the vehicle to travel to and from work. You will need to record this mileage under the journey type “commute”. If you live within the district of East Devon, we can use this figure when calculating dead mileage. This is because, if you live in East Devon, you can ply for hire immediately within the district in which you are licensed (for example if you were hailed down when commuting to work). If you don't live in East Devon, you can't ply for hire until you are within the East Devon boundary and therefore any mileage travelled before entering East Devon cannot be included in the dead mileage section.

Please therefore record any mileage that you carry out travelling to and from work as “commute”. Please then tell us at the end of the form how many miles of your commute takes place outside East Devon (this may be none if you live in East Devon). We will then work out whether to allocate this against dead mileage or not.

### **Social, Domestic and Pleasure (SDP) - using your taxi for personal journeys**

Some drivers use their taxi for personal journeys away from work. These journeys are not counted as dead mileage and should be recorded as SDP (social, domestic and pleasure purposes).



## APPENDIX C

### Mileage Record

Date on which mileage recorded: \_\_\_\_\_

Please tell us how many miles (if any) you travel outside the district of East Devon when travelling to and from work: \_\_\_\_\_

<u>Journey Number</u>	<u>Journey Distance</u>	<u>Fare Tariff (1, 2 or 3)</u>	<u>Journey type</u>		<u>Notes (optional)</u>
			Live mileage	Dead mileage	
			SDP	Commute	
			Live mileage	Dead mileage	
			SDP	Commute	
			Live mileage	Dead mileage	
			SDP	Commute	
			Live mileage	Dead mileage	
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			SDP	Commute	

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			Live mileage	Dead mileage	
			SDP	Commute	
			Live mileage	Dead mileage	
			SDP	Commute	
			Live mileage	Dead mileage	
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			Live mileage	Dead mileage	
			SDP	Commute	
			Live mileage	Dead mileage	
			SDP	Commute	

Report to: Licensing and Enforcement Committee

Date of Meeting 13 November 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



## **Draft Statement of Gambling Policy 2025- 2028**

### **Report summary:**

East Devon District Council's current Statement of Licensing policy was written in 2021 and came into effect in January 2022. There is a legal requirement to review such policy statements every three years. The current policy must be reviewed by 31 January 2025. The draft policy attached to this report has been reviewed and updated to reflect changes in national guidance, and feedback from the Gambling Commission, but a further, more in depth review of the Policy is proposed to be undertaken once the Gambling Commission has completed updating its guidance to Local Authorities.

At the meeting of 17<sup>th</sup> July 2024, a statutory consultation on the draft Statement of Licensing policy 2025-2028 was approved, and this report summarises the responses to that consultation.

This Policy will ensure that the Council carries out its Gambling Licensing responsibilities in a fair, equitable and consistent manner.

Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

### **Recommendation:**

That the Licensing and Enforcement Committee recommends to Council that the draft Statement of Licensing policy 2025-2028, as amended, is adopted at the meeting on 4<sup>th</sup> December 2024.

### **Reason for recommendation:**

East Devon District Council's current Statement of Licensing policy was written in 2021 and came into effect in January 2022. There is a legal requirement to review such policy statements every three years. The current policy must be reviewed by 31 January 2025. The draft policy attached to this report has been updated to reflect changes in national guidance, and feedback from the Gambling Commission to date, but more substantive changes to the Guidance to Local Authorities are expected from the Gambling Commission in the near future, and it is anticipated that this will require a more substantive review of the Policy outside of the standard 3-year review window for the gambling Statement of Licensing policy.

Officer: Phillippa Norsworthy, Licensing Manager, [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

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

**Links to background information** N/A

**Link to** [Council Plan](#)

Priorities (check which apply)

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

## APPENDICES

APPENDIX A –Gambling Act 2005 Statement of Licensing Policy

APPENDIX B – Public Health Devon Consultation Response

**Report in full**

### 1 Background

1.1.1 Over the Summer of 2023, the Gambling Commission and HM Government launched a series of public consultations on a significant number of proposed amendments to gambling regulation across the UK. The Licensing Committee directed Officers to draft responses to the consultations and approved the responses put forward. Several of the proposed amendments addressed by the public consultations have the potential to significantly impact on Local Authority gambling regulation, but the Gambling Commission have confirmed that it is still considering the responses received and will not be in a position to amend Statutory Guidance to Local Authorities prior to the deadline for review of the Statement of Gambling Policy. The Gambling Commission have publicised this position as follows:

1.2.1 'As required by the Gambling Act 2005 each Licensing Authority is required to renew their Statement every 3 years. The renewal date in this current cycle is January 2025. The Commission is advising that you should make plans as to how to conduct this renewal process.

Given the ongoing consultations regarding the Gambling Act it is very unlikely that we will be able to amend the Guidance to Licensing Authorities document in sufficient time for you to incorporate changes within your own Statement.

Whilst it is a matter for local determination, we suggest that the Statement is refreshed in line with the requirements of the Act so as to be enforceable from January 2025.

Thereafter we will publish a revised GLA which you can include in a refreshed Statement. You are permitted to revise your Statement within the 3-year timescale.' (Source: Institute of Licensing News 15/04/2024).

1.2.2 The above approach was recommended by Officers to the Licensing and Enforcement Committee on 8<sup>th</sup> May 2024. A review of the Statement of Licensing Policy was therefore undertaken and a draft policy incorporating minor amendments only, was put before the Licensing and Enforcement Committee on 17<sup>th</sup> July 2024 and approved for consultation with statutory consultees (as required by Section 349 (3) of The Gambling Act 2005).

1.2.3 This report summarises the responses received from that statutory consultation process.

## **2 Legal**

2.1.1 The Licensing Authority must determine and publish a statement of Licensing Policy under Section 349 (1) of the Gambling Act 2005 ('the Act'). The Licensing Authority is under a duty under Section 349 (2) of the Act to keep its policy under review and make such revisions as it considers appropriate during each three-year period.

2.1.2 Before determining such a policy, Section 349(3) of the Act places a statutory duty on the Licensing Authority to consult with the listed interested parties. Where revisions are made the Licensing Authority must publish a statement of the revisions or the revised licensing statement.

2.1.3 Any significant responses to the sharing of the draft policy with the statutory consultees which lead to amendment of the draft policy would therefore need to be brought back to a subsequent Licensing and Enforcement Committee for them to consider any amendments or variations that may have been suggested during the consultation.

## **3. Consultation Responses**

3.1 Notice of the consultation was sent to some 31 statutory consultees and interested parties comprising the following:

- ☐ 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

❑ Representatives & Association of British Bookmakers

3.2 The consultation was undertaken between 30<sup>th</sup> July and 1<sup>st</sup> October 2024 and during that period the Licensing Team received two responses.

3.3 Only one of the two responses was substantive, that being the response from Public Health Devon which is attached in full at Appendix B. The response provides useful information to note in relation to the terminology used around gambling, at risk groups, and useful signposts for gambling related harm support services and mental health support services. Officers have carefully considered the response from Public Health Devon and have concluded that the draft Statement of Licensing policy sufficiently covers the elements raised in the consultation response, but will look to include a dedicated section in the policy signposting support services in the next policy revision in 2025.

3.4 The other response received was from Environmental Health who confirmed that they had no comments to make in relation to the consultation.

#### 4. Proposed Timeline

4.1 Proposed timeline for implementation of amended statement of Licensing Policy:

- 4th December: Full Council;
- 31st January 2025: proposed amended policy comes into effect;

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#### **Financial implications:**

“Consultation costs and officer time will be met in full from Gambling Act 2005 applications and renewal fees income.

#### **Legal implications:**

“The statutory framework is set out within the report and requires no further comment”



EAST DEVON DISTRICT COUNCIL

## Statement of Licensing Policy

### GAMBLING ACT 2005

For the period 31 January 2025 to 31 January 2028

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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 fourth 3 year review and is for the period 2025 – 2028.

- 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 Between 2024 and 2025 numerous widespread public consultations were launched on the future of gambling regulation. The Gambling Commission advised in April 2024 that 'Given the ongoing consultations regarding the Gambling Act it is very unlikely that we will be able to amend the Guidance to Licensing Authorities document in sufficient time for you to incorporate changes within your own Statement'. The Gambling Commission therefore recommended that statements of gambling policy be refreshed in line with the requirements of the Act so as to be enforceable from January 2025, but thereafter be further revised to reflect forthcoming changes to the Guidance to Local Authorities. The changes outlined in this document therefore reflect this proposed approach.
- 2.5 **The Statement takes effect on 31 January 2025.**

### **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 costal town areas with much higher population densities including towns such as Exmouth, Seaton and Honiton. The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population 48,613), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets. Cranbrook is the fastest-growing town in the South West with a young population with four times the England average of 0-4 year olds and a high proportion in the 25-39 age group. It is estimated that Cranbrook will house up to 28,000 residents by 2031 with the community infrastructure expanding since the first building works began in 2011. As one of the ten NHS Healthy New Towns, the programme is helping to create an environment that promotes healthy lifestyles using innovative approaches to create a healthy, vibrant, attractive and sustainable town. The population of East Devon has an older age profile with the average age of its residents being 50.7 years (national average is 40.1 years). East Devon has a highest age profile of all of the districts in Devon with the largest percentage of those aged 65+ at 30.06%, this equates to 42,758 people. The overall population is expected to increase by 14,300 people between 2017 and 2027, a rise of 10%.
- 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 636 licensed premises and clubs under the Licensing Act 2003, of which 114 have notified the licensing authority of having gaming machines. Additionally there are 11 Club Machine Permits across the district (figures correct at June 2024).
- 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 therefore 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. Comments on the proposed draft policy were invited between 22 July 2024 and 14 October 2024 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 13 November 2024 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](mailto: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](mailto: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 operating and personal licences, and also the regulation of online gambling activity. 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 Office for Product Safety and Standards in its consideration of the regulatory functions of local authorities, in particular the Primary Authority regime.

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 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 The Licensing Authority will require 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 passed a 'no casino' resolution in this district under Section 166 of the Gambling Act 2005. The 'no casino' effect came into effect on 31<sup>st</sup> January 2022. The 'no casino' decision was made by the Full Council on 8 December 2021. The Council will generally review this resolution at least every three years, but in this instance this review will be put on-hold pending the forthcoming updated guidance from the Gambling Commission and subsequent full update of this Policy.

This means that East Devon District Council will presently not consider any applications for a premises licence for a casino. We will return any applications, should it be received, with a notice that a 'no casino' resolution is in place. 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' (server) 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 cannot 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 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>
- ☐ 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 to the following:
- (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 authority 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 [Occasional Use Notices \(OUNs\) \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk/occasional-use-notices)

## **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: [Society lotteries \(gamblingcommission.gov.uk\)](http://Society%20lotteries%20(gamblingcommission.gov.uk))
- 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](mailto: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

Devon Safeguarding Children Partnership 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. Most gambling is illegal for anyone under 18.

**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 to be 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](mailto:101@dc.police.uk)) and Devon Safeguarding Children Partnership (by telephone: 0345 155 1071 or emergency out of hours 0345 600 0388).

## **Gambling Statement of Licensing Policy Public Health Devon Statement**

### **Purpose**

This Public Health Devon statement, which includes some key points from the Local Government Association, will be provided to all District Council Licensing teams when Public Health Devon are approached as part of the consultation process on Gambling Statement of Licensing Principles and Policies. Public Health Devon continue to appreciate communication and collaboration with colleagues in these matters.

Public Health Devon would advocate for District Council Licensing teams, updating their respective Gambling Statement of Licensing Principles and Policies, to consider the Local Government Association publication '[Tackling gambling related harm: A whole council approach](#)' and continue to seek opportunities for application of highlighted good practice in the local context.

### **Context**

There is increasing awareness about the harms that can be caused by gambling and its impact on families and local communities, as well as the individuals directly affected by it.

The Gambling Act 2005 underpins the legislative approach to betting and gambling in the UK. The Act changed the underlying approach to gambling from permitting but not encouraging it, to increasing the opportunities for adults to gamble, and treating it as a leisure activity.

These changes, coupled with technological advances, have led to significant increases in gambling participation and gambling related harms.

### **Language and terminology**

Public Health Devon would welcome licensing statements that reflect appropriate non-stigmatising language and terminology.

'Harmful gambling' is an umbrella term to describe any frequency of gambling that results in people experiencing harm.

Harmful gambling can impact on an individual's physical and mental health, relationships, housing and finances, and affect a wide range of people, such as families, colleagues, employers and wider local communities.

It is important to note that anyone can be negatively affected by gambling.



Narratives which suggest the individual experiencing harm is a 'problem', contributes to stigma and often leads to gambling harms being hidden.

Avoid using stigmatising language, which can include terms like 'problem gambler' and 'gambling addict.'

Individualising gambling harm does not recognise the impact of the gambling industry, addictive and harmful products and practices, and the wider environment in which gambling takes place.

## **At risk groups**

Whilst anyone can be negatively affected by gambling related harms, harms are not distributed equally.

It is acknowledged that the [Gambling Commission 'Statement of Principles'](#) does not offer an exhaustive list of 'vulnerable persons' but states that:

"With regard to 'vulnerable persons', whilst the following list is not exhaustive, the Commission considers that this group will include:

- people who spend more money and/or time gambling than they want to
- people who gamble beyond their means
- people who may not be able to make informed or balanced decisions about gambling, for example because of health problems, learning disability, or substance misuse relating to alcohol or drugs."

(section 5.26)

However, research cited in the LGA publication identifies the following groups or factors that could be considered vulnerable to, or at higher risk of, gambling harms:

- Young people
- unemployed and constrained economic circumstance
- area deprivation
- homeless
- mental ill health
- substance abuse/misuse
- personality traits/cognitive distortions
- people experiencing gambling harms who are seeking treatment

It would be useful to consider this in relation to applications for new or changed licenses, and the proximity of those premises to nearby services which may be frequented by groups considered to be at increased vulnerability to gambling harms. A Local Area Profile would assist in identifying different parts of the local area where there may be greater or specific risks of gambling related harm.

## Suicide risk

The LGA publication makes reference to the relationship between gambling and suicides or suicidality, acknowledging that suicide is generally multi-faceted and influenced by various factors, while also stating that it is evident gambling can be a prominent contributor.

The [National Suicide Prevention Strategy for England \(2023-2028\)](#) has been published since the LGA report was last updated, and harmful gambling is identified as a specific risk factor in that strategy.

## Staff training

The typical recommendation for staff training seen in policies of “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 people who may be vulnerable” focuses only on the duration of gambling as harmful.

Where possible, in recognition of the at risk groups and risk factor complexities individuals may be experiencing, the training recommended for staff could be broadened to encompass building employee’s ability to identify and provide support to vulnerable people.

Examples of opportunities for training are included in the LGA Guidance.

## **Support & signposting**

Public Health Devon encourage consistent availability and sharing of information on support for those experiencing gambling related harm. Details are listed below, further information is [available on the NHS website](#)

### **Gambling support**

#### South West NHS Gambling Service

Each region in England now has a specialist NHS gambling treatment service. The [South West Gambling Service](#) provides free confidential support including recovery courses, cognitive behaviour therapy, and support for affected family members.

People can self-refer to the Gambling Service by phoning 0330 022 3175 Monday to Friday, 9am-7pm.

#### National Gambling Helpline – GamCare

[GamCare](#) provides information, advice and support for anyone affected by gambling harms. Contact the National Gambling Helpline - 0808 8020 133

#### Gamble Aware

[Gamble Aware](#) raise awareness and identify support available for people affected by harmful gambling including guidance for self-exclusion.

## Ara Gambling Support

[Ara offer services](#) in Wales & the South West. Confidential advice for people affected by harmful gambling, and their friends and family. Call 0330 1340 286

## Gamblers Anonymous

[Gamblers Anonymous](#) local peer support groups to stop gambling

## GAMSTOP

[Free service](#) to bar yourself from online gambling sites in the UK

## **Mental Health and Suicide**

### Samaritans

Call 116 123 if you or someone you know is struggling with thoughts of suicide, or [visit their web site](#) for other ways to get help

### SHOUT

[Free 24/7 mental health support](#) by text message – text ‘SHOUT’ to 85258

### First Response Service

[Devon Partnership NHS Trust](#) 24/7 crisis mental health support (18+) in Devon - call 111.

### Talkworks

Devon Partnership NHS Trust [Talking Therapies Service](#). A free, confidential service (18+) in Devon. Tools and techniques to improve mental wellbeing

### Every Mind Matters

Search [Every Mind Matters](#) for free, NHS approved advice and simple tips to help you look after your mental wellbeing

## **Drug & Alcohol Support**

### Together

[Together drug and alcohol services](#) (18+) for Devon, recovery support including 1-to-1 support and group work

### Y-Smart

[Y-Smart drug and alcohol services for under 18's](#), support and advice for young people, parents, families and professionals

## Money/Debt Support

### MoneyHelper

[Free, impartial guidance](#) about money and pensions, including information on money troubles, and signposting to further, trusted support

### National Debt Line

[Free support for anyone struggling with debt](#) - includes impartial, expert, easy-to-read information, and contact by phone or web chat for support

## Public Health Devon – harmful gambling

Public Health Devon undertook a [Spotlight Review in 2019](#) on harmful gambling, there are no further updates planned at this time.

In the Devon [Suicide Prevention Strategy & Action Plan \(2024 – 2027\)](#), led by Public Health Devon on behalf of Devon County Council, harmful gambling is identified as a priority risk factor.

As such, connections have been made from the DCC Suicide Prevention Implementation Group (SPIG) with the South West NHS Gambling Service, and information/promotional materials about the service is shared through SPIG, and other related networks and contacts.

In addition, suicide prevention training is promoted to all people, communities and workforces supporting those at risk of/experiencing any of the DCC Suicide Prevention Strategy priority risk factors - including harmful gambling. Information is available via the link above to the strategy and action plan.

**This statement is provided in response to District Council consultation processes on Gambling Statement of Licensing Principles and Policies. The content of the statement may change and be updated in response to any new local or national policy and guidance.**

**Feedback on the content of the statement, and its' usefulness, is welcomed.**

**For all queries, please contact [publichealth-mailbox@devon.gov.uk](mailto:publichealth-mailbox@devon.gov.uk)**

Report to: Licensing and Enforcement Committee

Date of Meeting 13<sup>th</sup> November 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



## Review of Street Trading Policy

### Report summary:

The purpose of this report is to seek approval from the Members to review the existing policy for street trading with a view to conducting a consultation regarding proposed amendments after a draft version of the policy is presented to the Members. Contained within the report is a request to the Members to permit the review of existing fees and charges and to consider the introduction of a fee for holding a consent, in addition to the application fee.

### Is the proposed decision in accordance with:

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

### Recommendation:

That the Committee;

Approves a review of the current street trading policy, a draft policy will be submitted to the Members at their next meeting.

Approves a review of the existing fee and charges including consideration of introducing a fee for holding a consent, in addition to the application fee.

### Reason for recommendation:

The existing street trading policy was approved by Members on 15<sup>th</sup> March 2023 and a recommendation was proposed from the Committee to Council to adopt the policy on 19<sup>th</sup> April 2023. This included a recommendation to introduce an application fee for street trading applications with effect from 1 May 2023.

Since the policy was approved in 2023, it has become apparent that some areas of the policy require a review. The proposed review refers to the policy itself and is not proposed to include a review of the current designation of the consent or prohibited streets. It is the Licensing Authority's view that a review of the policy at this time will identify amendments to the policy that will provide further clarity to Officers and the public and will promote consistency and fairness to new and existing applicants.

A proposal to review the current fees and charges and to review the need to introduce a consent fee in addition to an application fee is due to the on costs associated with the administration and enforcement of street trading which currently significantly outweigh the income generated by an application fee only.

Officer: Phillippa Norsworthy, Licensing Manager, [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

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:** Choose a risk level; Low Risk

**Links to background information** [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30\) \(legislation.gov.uk\)](#)

**Link to** [Council Plan](#)

Priorities (check which apply)

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

## **APPENDICES.**

**APPENDIX A -** Existing Street Trading Policy.

**APPENDIX B -** Existing Street Trading Fees and Charges.

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### **1. Report in full.**

**1.1** East Devon District Council (EDDC) adopted Part 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 on 1 December 1982. This permits local authorities to adopt provisions to control street trading within their districts. EDDC adopted a street trading policy, and this policy was most recently revised and approved on 15<sup>th</sup> March 2023. The existing policy can be found at **APPENDIX A**.

**1.2** A recommendation to Council on 19<sup>th</sup> April 2023 resulted in this policy being adopted, including approval to introduce an application fee, with effect from 1<sup>st</sup> May 2023, previously no fees or charges were applicable to street trading applications.

**1.3** Licensing officers and support officers refer to the current street trading policy daily in accompaniment to the Local Government (Miscellaneous Provisions) Act 1982, Part 3 and Schedule 4, in their duties of the administration and the enforcement of street trading consents. Since the policy was adopted in 2023, Officers and support officers have experienced challenges from applicants and the public whilst dealing with the administration and enforcement of street trading, due to ambiguous and interpretative wording in certain parts of the policy.

- 1.4** The licensing authority are of the view that some the wording within the policy requires further review and to be more robust to ensure not only clarity for officers and the public, but to ensure new applicants and existing consent holders are treated fairly and consistently.
- 1.5** The licensing authority would like to request that a review of the policy is carried out, with a view to presenting a draft policy update to Members at their next meeting in February. If members approve the draft policy in February a full public consultation will follow. Any amendments proposed to the policy after a consultation will be brought back to the Members for consideration.

## **2. Proposed areas of the policy for review.**

- 2.1** To further explain the areas of the policy that will be the principal focus of the review, Member's attention is drawn to the areas of policy, **APPENDIX A** set out below. This is not an exhaustive list, there are potentially other areas of the policy that may be looked at, during the review. The principal areas for review are set out below.

- To establish whether ice cream vans and mobile food vans, offering food for sale are to be considered as street traders.

**Section 3 (f) Exemptions (Statutory and Local) – page 4.** Refers to 'roundsmen' for the purposes of exemption. The legal precedent in case law (Kempin t/a British Bulldog Ice Cream v Brighton & Hove Council) (2001) determined that a roundsman could only be considered so if they delivered pre-ordered goods within a locality. On this basis ice cream vans and mobile food vans driving around the area offering goods for sale are not considered to be a roundsman, as they are not delivering pre-ordered goods.

**Also see Consents, 4.3, page 5. Ice cream vans and mobile traders**

*In the case of mobile street traders where there is a genuine need to ply trade in many locations, being those who move from street to street in residential areas/housing estates in a way that involves continuously moving around, but trade for less than 15 minutes at any one point and who don't return to a similar trading position within 24 hours (e.g. an ice-cream van).*

The above section of the policy is not sufficiently clear in that it leaves scope for mobile traders to be included under a street trading consent, or not. Officers would propose at this stage to clarify the above section to make it clear that mobile traders would be required to obtain a street trading consent. Such consents would be a roving/ mobile street trading consent which would permit the holder to trade from designated consent streets throughout East Devon. The policy would therefore also need to be amended to introduce provisions applicable to roving/ mobile consent applications, including amended application requirements and specific consent conditions.

- **Section 4.2 Privately owned and Enclosed Land – page 5.**

- 2.2** To provide Officers and applicants with more clarity as to the exemptions to street trading if trading on private land.

*(a) The public being required to make payment for entering,*  
page 103

The licensing authority believe the requirement for payment should refer to an admission fee to enter an organised event, such as a food festival, concert, or any other 'event' where an admission fee is due. It is not the intention of this policy to offer an applicant the opportunity to circumvent the requirement for a consent. For example, the policy should not permit a person to cordon off an area to where the public would not normally have to make a payment to gain access to a static or mobile trader, and then ask for a nominal fee to enter this area in order to avoid the trader's requirement to obtain a street trading consent.

*(b) Permanent, raised structural boundaries surrounding the trading location (walls, fencing and gates), or where access is gained by entering a building or premises,*

Clarity needs to be established as to what would constitute a structural boundary. For example, would a low wall or fence constitute a structural boundary in terms of this policy? And would the structural boundary need to be of a type adequate to conceal the trading from the sight of the public, therefore keeping the trading exclusive to persons visiting an area contained within a structural boundary. A site visit from officers for applications of this nature is proposed to determine the requirement for applying for a street trading consent.

*(c) On land within the approved plan of any premises being licensed for sale of alcohol, for example public house gardens and other licensed outdoor areas. Licensing reserve the right to review areas of land sought for trading that are outside the defined plan (for example beside, nearby and otherwise not part of a currently licensed area).*

A further review of this section of the policy is required to ascertain if a consent would be required for a lone mobile or pop-up premises authorised for the sale of alcohol. For example a lone mobile bar placed in an area on privately owned land, to which the public have access without payment and is authorised for the sale of alcohol under a premises licence or temporary event notice (TEN) *This does not include* mobile or pop-up premises' trading as part of an event authorised by a premises licence for the sale of alcohol.

Additionally, a consent would be required for any lone mobile van or pop-up premises authorised for the sale of alcohol under a premises licence or TEN, proposing to trade on the public highway or street as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

### **3. Review of the current fees and charges applicable to the administration and enforcement of street trading within East Devon.**

**3.1** Members of the Licensing and Enforcement Committee on 15<sup>th</sup> March 2023 approved the introduction of an application fee to lodge a street trading consent application alongside other fees and charges. These fees and charges came into effect on 1<sup>st</sup> May 2023 and were expected to be reviewed annually thereafter.

**3.2** The current fees and charges for street trading can be found at **APPENDIX B**. It is proposed that a full review of the existing fees and charges is conducted with a view to providing the Members with a report consisting of a review of the 'on costs' associated with administering and enforcing street trading applications and existing consents, a comparison with other local authorities in Devon and similar other rural authorities, and any relevant inflationary increases.

**3.3** It is proposed to include within the review of the existing fees and charges the introduction of a consent fee, in addition to the application fee.



## **4. Recommendation.**

**4.1** It is recommended to the Members to consider and determine whether a review of the current street trading policy is permitted to take place and to offer consideration as to whether the existing fees and charges are reviewed, and to consider the introduction of a consent fee, in addition to the existing application fee.

---

### **Financial implications:**

No cost implications at this stage, however if an increase to the fees and charges are approved, and the introduction of a consent fee is approved, this will provide further Street Trading income to the scheme. Costs would be incurred by conducting a public consultation by means of public notice to be advertised in the newspaper using the existing advertising budget.

### **Legal implications:**

The legal observations are contained within the report and require no further comment.



# **EAST DEVON DISTRICT COUNCIL**

## **Street Trading Policy**

**(Version 5)**

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

## APPENDIX A

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## 1 OVERVIEW

- 1.1 East Devon District Council (“the Council”) has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. The Council can properly regulate those traders who sell articles without the use of ordinary business premises and those traders who move from place to place.
- 1.2 In 2017 the Council designated all of its administrative area as a Consent Street for street trading purposes, although street trading has remained prohibited in a small part of Sidmouth. This means that in the consent streets anyone wanting to street trade must obtain consent from the Council first.
- 1.3 The purpose of this policy is to provide a framework for applicants looking to gain consent to trade within the district. The requirement to obtain a consent for any street trading is wide-ranging and would include, for example, all hot and cold food vendors selling burgers, kebabs, doughnuts, ice cream, drinks etc., and all vendors of non-food products from any vehicle, stall, barrow, trailer, bike or any other moveable or static structure. It sets out the standards for determination of applications and the enforcement of street trading activities to ensure a consistent approach.
- 1.4 Each application will be considered on its merits. Public Health and safety will be a key consideration with each application as well as the prevention of crime, disorder, and nuisance.
- 1.5 This policy supports a street trading experience that is diverse, vibrant and adds to the social and cultural fabric of East Devon that maintains, protects and enhances our environment. The policy aims to ensure that it meets the needs of traders, residents, businesses and visitors to East Devon

## 2 WHAT IS STREET TRADING

Within this document the following definitions apply:

<b><i>Street Trading</i></b>	Means the selling or exposing or offering for sale of any article (including a living thing) in any street. From this definition, any person offering purely a service e.g. a shoeshine (where there are no tangible goods such as a picture or sketch) will not be subject to the street trading legislation.
<b><i>Street</i></b>	Includes: <ol style="list-style-type: none"> <li>a) Any road, footway, beach or other area to which the public have access without payment.</li> <li>b) A service area as defined in section 329 of the Highways Act 1980,</li> </ol> and also includes any part of a street.
<b><i>Consent Street</i></b>	Means a street in which street trading is prohibited without the consent of East Devon District Council.
<b><i>Consent</i></b>	Means a consent to trade on a street by East Devon District Council.
<b><i>Consent Holder</i></b>	Means the person or company to whom the consent to trade on a street has been granted by East Devon District Council.
<b><i>Authorised Officer</i></b>	Means an officer employed by East Devon District Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982

### 3 EXEMPTIONS (Statutory and Local)

3.1 The following are legally exempt from the need to obtain street trading consent;

- (a) Shops and petrol filling stations (including selling in the street adjoining such premises provided it is part of the business of the premises).
- (b) Operating properly as a Pedlar (see our [Guidance for pedlars selling on the streets of East Devon - East Devon](#)),
- (c) Markets or fairs where the right is granted through any enactment or order,
- (d) Trading in a trunk road picnic area,
- (e) News vendors (unless the stall exceeds a certain size) and
- (f) Roundsmen, for the purposes of exemption, being defined as a person who regularly travels a set route making deliveries to regular customers. The legal precedent in case law (Kempin t/a British Bulldog Ice Cream V Brighton and Hove Council), ruled that a roundsman was someone who delivered pre-ordered goods within a locality.

3.2 The following are exempt from the need to obtain a street trading consent as a matter of policy choice;

- (a) School, church or village fetes or fetes organized by town or parish Councils (or similar such events) where the event is not in close proximity to a commercial area.
- (b) Funfairs or circuses where the primary purpose is the funfair or circus and the street trading activity is ancillary to the purpose, related to and in close proximity to the funfair or circus.
- (c) Non-commercial car boot sales (where the event organiser whether an individual or company does not profit).
- (d) Residential properties selling items which are surplus to domestic requirements (e.g. home grown / produced jams, fruit, vegetables, eggs etc) provided the sale is within the curtilage of the property or immediately adjacent to it and it is not a commercial concern.
- (e) Those activities that are so minor in nature that in the opinion of the Strategic Lead (Governance and Licensing) or Licensing Manager a street trading consent is not justified.

3.3 The following activities do not fall within the requirement for a street trading consent;

- (a) Educational / information / charity stands not selling any articles.
- (b) Charitable street collections (there is a separate policy for this) including those with one or two tables selling items which solely benefit a registered charity.

### 4 LOCATIONS, PERMISSIONS

#### 4.1 East Devon District Council Owned Land

When deciding where to trade, you must consider which permissions you may need

- (a) Any trading from any parks, car parks, open spaces, beaches or other land owned by East Devon District Council will require prior consent to hire the land and to conduct the activity before trading can be approved. The Council aims to ensure that only one fee is charged for use of land, although other chargeable contracts, permits or licenses may be required.
- (b) Consent for trading on the Councils land should be sought and initial confirmation received from Events/Property & Estates before any consideration to receiving a street trading application. The licensing team reserve the right to decline the commencement of Stage 3 consultation for street trading that does not have the initial approval to use the land.

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- (c) Officers cannot contact other departments on your behalf. All permissions should be in place before you submit your street trading application or an enquiry submitted to the events team for permission in principle.
- (d) Public Liability Insurance which will not be provided by the Council. The responsibility for reviewing and confirming all necessary insurance cover, including trading will be required by the Events team ensuring sufficient insurance cover exists for any events occurring on EDDC land.

### 4.2 Privately Owned And Enclosed Land

If you wish to trade on **private land**, written approval from the land owner must be obtained prior to making an application. Trading on privately owned land that abuts or joins any highway will usually require consent and persons wishing to trade from such areas should contact the licensing team prior to submitting an application or commencing trading. Trading on privately owned land may also require Street Trading Consent.

Street trading consent may not be required for privately owned land where access is restricted to the public as a result of;

- (a) The public being required to make payment for entering, or
- (b) Permanent, raised structural boundaries surrounding the trading location (walls, fencing and gates), or where access is gained by entering a building or premises, or
- (c) On land within the approved plan of any premises being licensed for sale of alcohol, for example public house gardens and other licensed outdoor areas. Licensing reserve the right to review areas of land sought for trading that are outside the defined plan (for example beside, nearby and otherwise not part of a currently licensed area).
- (d) Caravan and camping sites where the public do not have free or unobstructed access will be reviewed on a case by case basis. Where public access is restricted and where trading is not conducted on to a public area, trading consent will not be required.
- (e) Where existing businesses seek to allow trading or traders directly outside that premises selling products of the same nature or by providing access to their staff. The circumstances will be reviewed to consider inviting an application as commercial trader outside the premises.
- (f) Consent for trading from privately owned land and all land other than EDDC land should be confirmed in writing to the licensing team. Licensing may decline commencement of street trading consultation for trading that does not have the written approval to use the land.
- (g) Where trading is conducted directly onto any road or highway from an unrestricted location, street trading consent will be required. It is the responsibility of each applicant, in the first instance, to identify the location(s) they wish to consider trading from as there is no designated list of street trading 'pitches' provided by the licensing team.

### Consents

- 4.3 In the case of mobile street traders where there is a genuine need to ply trade in many locations, being those who move from street to street in residential areas/housing estates in a way that involves continuously moving around, but trade for less than 15 minutes at any one point and who don't return to a similar trading position within 24 hours (e.g. an ice-cream van).
- 4.4 Mobile street traders must adhere to relevant traffic legislation and conduct business in a safe manner. Conflict with an existing business in the immediate vicinity will not support trading under these circumstances.
- 4.5 Consents may be granted on a daily, weekly, monthly, seasonal or yearly basis. No consent shall be longer than 12 months. All consents will expire on the expiry date and further trading will require a new application to be made and granted. It is advised that a new application is applied for sufficiently in advance of the expiry date.

### 5 SUITABILITY OF APPLICANTS

When determining an application for the grant or renewal of a street trading consent, or a block booking consent the Council will consider all relevant information relating to the suitability of the applicant to hold such a consent. Street Traders are subject to minimum levels of supervision, they interact closely with members of the public and it is important that the public, especially vulnerable people are protected from harm, and from those who may harm them, wherever possible.

The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a consent unless satisfied that the applicant is suitable. In determining this, the Council may have regard to any information, which it considers relevant including:

- (a) Relevant responses received during each consultation
- (b) Whether the applicant has been convicted of a relevant offence outlined in the policy appendix
- (c) Refusal or neglect in paying fees due to the Council for a street trading consent, or for any other charges due for other services rendered by the Council to the applicant as the holder of a street trading consent;
- (d) Any previous enforcement action;
- (e) Any previous refusal of an application for the grant or renewal of a Street Trading Consent;
- (f) Any previous revocation of a Street Trading Consent
- (g) Any abusive, offensive, aggressive or insulting language or behaviour towards reception or licensing staff will not be tolerated. It will lead to contact ceasing instantly and the licensing process stopped.

### 6 APPLICATION PROCEDURE

- 6.1 The council will only accept and validate applications in the prescribed format. Contact can be made with the Council's Licensing Team by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk). Licensing officers cannot provide landowner permission to trade.
- 6.2 The application and approval procedure comprises certain stages, detailed below. Applications must be submitted no earlier than one calendar year of the proposed trading date. The Licensing team reserves the right to consult closer to the date requested. Applicants are advised to apply no later than 6 weeks prior to the proposed trading date.
- 6.3 There is no statutory requirement to consult before determining street trading consent, however, to ensure openness and transparency the Council has chosen to carry out consultation in relation to applications that meet the criteria for consideration.

#### STAGE 1 - SUBMISSION OF THE APPLICATION

- 6.4 In addition to a completed and signed street trading application applicants will need to submit a fully completed application and with the following documents (payable at the applicants own expense):
  - (a) 1 copy of a map of the trading site. The map should clearly identify the proposed site position by marking the site boundary with a red line. The map should include the nearest residential and commercial properties to the trading site. Applications for mobile trading consents (e.g. fish and chip vans) must provide specific routes and the locations they wish to trade from.
  - (b) Evidence of a current Food Hygiene Rating Scheme score of at least 3 from the relevant home Authority (to include which authority) where there is the sale of food or drink.
  - (c) A copy of the certificate of insurance that covers the street trading activity for third party and public liability risks with an appropriate level of cover (this will usually be a minimum cover level of £5,000,000).
  - (d) Consent holder to provide photographic ID and evidence of right to work in the UK (not being relevant

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to applications under block bookings below)

- (e) A Basic Disclosure with your application form being no older than 3 calendar months from date of issue, which can be obtained from the Disclosure and Barring Service <https://www.gov.uk/government/publications/basic-checks> (not being relevant to applications under block bookings below). An update will be necessary after 3 years from obtaining or if circumstances change, when the Licensing team should be notified.
- (f) Any assistant staff working alone at a consent location must be a minimum of 17 years old and have a sound understanding of the conditions outlined on the consent document. You will need to complete their details on the application form and supply a Basic DBS check (no more than three months old).
- (g) A colour photograph showing the stall, vehicle or barrow which is to be used from the front back and sides. It is not necessary to show what is being sold (being a discretionary requirement to applications under block bookings below).
- (h) Traders gaining consent for at least one location for the period of one year, may provide notification to Licensing to allow consent for trading at other temporary events if trading will be for less than 24 hours and the number of the trading days are less than 7 each year.
- (i) Written approval from the land owner must be obtained prior to making an application

### BLOCK BOOKING APPLICATIONS

- 6.5 An event organiser may apply for a single block consent for a short term event where there is to be a number of traders (e.g. farmers markets) using the application form. The event organiser will need to obtain confirmation from all stall holders carrying out a street trading activity that they comply with the requirements of 6.4 (b) and 6.4 (c) above, along with the details of what is being sold. A traders list will need to be provided to the Council as part of the application at least 10 working days prior to the event commencing. Event organiser(s) in receipt of a block consent will be expected to take reasonable responsibility for trading activities by ensuring compliance with the block consent conditions.
- 6.6 Compliance with laws and legislation (Food Hygiene, Health and Safety, waste disposal and so on) will be the responsibility of each trader and failure to comply may result in the trader consent being revoked, subsequent applications being refused and enforcement action occurring.

### FEES

- 6.7 The fees set by the District Council for the grant, variation or renewal of a street trading consent must be paid to validate and process the application. Council services may set different fees relating to nature of each contract, concession, licence or consent upon application. Market forces may be taken into consideration to a certain extent in determining the different fee levels for concessions.
- 6.8 Application fees will be reviewed annually on a cost recovery basis and any variation will be approved by Council. Details of the current fees can be found on the Council's website via this link [Street trading policy and application guidance - Street Trading application fees - East Devon](#).
- 6.9 Application fees must accompany the application for grant or renewal of the consent. If an application does not proceed to commencing Stage 3 Consultation, a refund will be repaid by the Council to the applicant. Failure to make payment may result in the consent not being renewed. If an Applicant does surrender their consent or the consent is revoked, the Council shall not refund the application fee being paid for work undertaken to consult, determine, grant or renew the consent.
- 6.10 It is not possible to process incomplete or unpaid applications or applications not received via the online portal.



### STAGE 2 – CONSULTATIONS

- 6.11 Before a street trading consent is granted, the council will carry out a consultation process with:
- The Highways Authority (Devon County Council) / Highways England
  - Devon and Cornwall Police
  - Devon and Somerset Fire & Rescue Service (DSFR) where appropriate
  - The Council's Environmental Health (Commercial and Environment Protection) Teams
  - The relevant Ward Members (unless they are the applicant)
  - The appropriate Parish or Town Council (unless they are the applicant)
  - Other appropriate organisations or businesses that may have a relevant need to be consulted being considered on a case by case basis.
- 6.12 Where practicable, 28 days will be given for representations to be received, where appropriate consultation may conclude sooner. Tacit consent does not apply. Trading cannot begin without consent as it is in the public interest that applications are processed before they can be granted.
- 6.13 Consultation for street trading applications will be separate to those consultations by other council services (for example for use or hire of council owned land).

### SAFETY ADVISORY GROUP

- 6.14 The popularity and increase of live musical and similar entertainment in the open with associated trading can provide opportunities for community involvement, civic pride and attracts visitors to East Devon. The success of such events depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event. The council has established a multi-agency Safety Advisory Group (SAG) to assist organisers co-ordinating events comprising of agencies having an interest in, or legislative role relevant to, such events together with representatives of the emergency services.
- 6.15 Where necessary a SAG meeting will consider any issues that will require to be addressed and to open up lines of communication with organisers. This is important as it will assist with measures that organisers need to put in place to plan the event. Risks can be adequately mitigated by the submission of an up to date, relevant, detailed and complete Event Management Plan specific to the proposed event on each separate occasion. It is a requirement when planning events on EDDC land.
- 6.16 The Council recommends that organisers of public trading events should contact the Safety Advisory Group coordinator at least six month before any event being considered emailing [SafetyAdvisor.group@eastdevon.gov.uk](mailto:SafetyAdvisor.group@eastdevon.gov.uk)
- 6.17 Stage 2 consultations may be delayed or not progressed in circumstances where an event organizer has not consulted or attended the SAG in advance of submitting an application.

### STAGE 3 – SITE ASSESSMENT

- 6.18 Officers will assess the suitability of the site for the street trading activity to occur.
- 6.19 Street trading consents from static locations will generally **not** be granted where;
- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
  - There are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or

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- There is a conflict with Traffic Orders such as waiting restrictions, or
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- The trading unit obstructs the safe passage of users of the footway or carriageway through the existence of any trading vehicle on a road or highway increasing risks to road users, or
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the consent holder, staff and customers to park in a safe manner, or
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- The siting and operation of any stall, barrow etc. operated by a consent holder or people employed by them causes problems of highway safety, obstruction to users of the highway, or conflict with the requirement of emergency vehicles
- Street trading requests for certain areas of Exmouth Seafront may not be considered suitable, due to health and safety and highway issues. Each application will be considered on its own merit.
- The impact of proposed trading within an area managed under Public Spaces Protection Orders - East Devon will be considered on its own merits at the application stage. Where trading consent is subject of anti-social behavior and/or breaches of a PSPO, the council reserves the right to revoke trading consent and to refuse future trading consents.
- Street trading requests for locations in Cranbrook will be considered on their merits. Emergence of issues including the growth of the town and transport identified that most roads are unsuitable for the purposes of street trading. Cranbrook is a designated healthy New Town (HNT) and that status is recognized by Licensing when receiving applications in the town. East Devon District Council and Cranbrook Town Council have prepared guidelines when considering new applications (see document Policy Guidelines – Cranbrook).

6.20 In certain circumstances and for larger events or markets, it may be necessary for a road closure order to be obtained by the event organiser to mitigate risks to safety.

### STAGE 4 – INSPECTION OF STREET TRADING UNIT

6.21 The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity may be inspected by an Authorised Officer of the Council, prior to the determination of any street trading consent. The unit to be used for the street trading activity shall comply in all respects to the legal requirements relating to the type of street trading activity proposed. In particular the proposed business shall comply with the following legislation;

- Food Hygiene (England) Regulations 2013
- Food Safety Act 1990 and any Regulations made under this act
- Health and Safety at Work etc. Act 1974 and any Regulations made under this Act.
- Environmental Protection Act 1990.
- Control of Pollution Act 1974
- Anti-social Behaviour, Crime and Policing Act 2014
- The Modern Slavery Act 2015
- Immigration Act 2016

Further advice on any of the above requirements can be obtained from Environmental Health Teams by emailing [environmentalhealth@eastdevon.gov.uk](mailto:environmentalhealth@eastdevon.gov.uk).

6.22 Evidence of compliance with any legal requirement may be requested by the Council at any time.

### STAGE 5 – CONSIDERATION OF APPLICATIONS

- 6.23 Any comments received from the consultation process which are relevant will be taken in to account as part of the consideration of the application at this stage.
- 6.24 The criteria listed below will be used to consider whether or not an application should be approved. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case though will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration;

#### Site safety

- 6.25 The location of the proposed street trading activity should not present additional risks to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the location. In particular reference will be made to the guidelines set out in Stage 3 on site safety assessment criteria and observations made by the Highways Authority. Trading consent should not be granted where there is insufficient space, undue interference to pedestrians/road users, where the existence of trading will cause heightened risk or where it would be prejudicial to highway safety.

#### Public Order

- 6.26 The street trading activity should not present a risk to public order in the locality in which it is situated. Observations from the Devon and Cornwall Police will be taken into consideration under this heading. Traders will conduct themselves in a professional manner, having respect for, and treating other traders, council staff and the public fairly and courteously.

#### Avoidance of Annoyance

- 6.27 The street trading activity should not cause annoyance from noise, smells, fumes or litter to households, businesses and public land in the vicinity of the proposed street trading site. Observations from Council’s Environmental Health Teams shall be taken into consideration under this heading.
- 6.28 Generators may be used or permitted at some locations. Where use of a generator is sought at a trading site the application will require details of the noise rating, the fuel type and the storage arrangements and conditions may be imposed to control their use.

#### Conflict with other like trading outlets and school premises

- 6.29 The presence of other like trading outlets and proximity of schools shall be taken into consideration as follows:
- The Council will not normally permit a new consent for the sale of goods or services which conflicts with those provided by nearby traders (whether street trading or in business premises).
  - Factors include the articles for sale and the geographical location of the proposed site. Each application will be considered on its own merits and on a case by case process.
  - Mobile food vendors will not normally be permitted to trade within 500m of a school during the school opening hours.
  - On lay-bys there shall only be one street trading consent granted.

#### Compliance with Legal and Environmental requirements

- 6.30 The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Observations made on the compliance with the requirements of Food Safety and Hygiene, Health and Safety, Environmental Protection and fire safety legislation shall be taken into consideration.
- 6.31 The impact of the proposed street trading activity on the local environment including street surfaces, power supply, coastal and inland waters, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste generated by customers. Provision of adequate measures to minimise the environmental impact of the proposed operation.

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- 6.32 The Council Plan for 2020 to 2024 highlights key priorities, principles and values including working towards reducing our carbon footprint and enhancing our environment, along with supporting initiatives that promote the health and well-being of our residents. The Licensing team works in support of the Council Plan noting the potential impact to the environment from time limited, outdoor licensed events and will expect applicants to be familiar with initiatives that reduce and mitigate the impact upon the environment. For example the relevance of avoiding of single use plastic drink containers, avoidance of materials that have a detrimental effect to the environment and similar initiatives. The use of biodegradable materials and packaging wherever possible not relying on single use plastics in support a reduction in plastic waste.

### Permitted Trading Hours

- 6.33 All street trading consents will normally be limited to daily trading hours between 8.00 am and 10.00 pm. However in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a case by case basis on their own merits. Any trading between 2300 – 0500 hours must be subject to a separate application under the Licensing Act 2003 where hot food and drink is proposed to be sold.
- 6.34 The Council retains the right to specify permitted hours of trading that are less than those applied for if local circumstances require it.

### Compatibility of the proposed street trading operation

- 6.35 The proposed trading operation should complement the trading area in which it is situated and/or be compatible with the character of the event to which the consent is related. In assessing this criterion consideration should be given to the type and nature of locality, the type of street trading that will be carried out and the visual appearance of the trading operation being proposed (including any associated equipment or structures). Consents should not be granted when there already exists sufficient retail outlets in the area.
- 6.36 The stall or vehicle must be maintained in good condition, smart appearance and meet criteria, including size, laid down in the standard Consent conditions. Photographs including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area. A trading or towing vehicle must be compliant with DVSA MOT standards being maintained in a roadworthy condition to include tax and insurance.

### Avoidance of duplication

- 6.37 Street Trading has the potential for the overlapping of trading activities covered by different regulatory regimes and services within the Council, for example food charitable collections, sale of alcohol or late night refreshment. In addition, street trading activities may require Planning, Highways or land owner permissions depending on the nature of the trading location. So far as is reasonably practicable the Council will avoid duplication with other regulatory regimes that already place obligations. Street traders are required to ensure all relevant provisions are satisfied with the relevant responsible authority in these respects.

- 6.38 Pavement licences require a separate application, approval and fee procedure.

### General

- 6.39 Refusal or withdrawal of street trading consents will be normal in the following circumstances where:
- (a) There are not enough suitable street trading locations available in the street for the applicant to engage in the trading in which they desires without causing undue interference or inconvenience to persons using the street.
  - (b) There are already enough consent holders or people employed by them trading in the street from shops or otherwise, in the goods in which the applicant desires to trade.
  - (c) A consent holder or people employed by them have failed to comply with the conditions attached to any consent.
  - (d) The street trading may damage the structure or surface of the street.
  - (e) Adverse comments are received from the statutory organisations which cannot be overcome.

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- (f) The imposition of conditions is not adequate to control potential problems.
- (g) Extreme weather conditions when street trading may present a risk to the applicant, their staff or other people.
- (h) There has been the selling of psychoactive substances.

### Varying a consent

- 6.40 The Act gives the council the power to vary the conditions attached to a consent at any time. Should the holder of a consent wish to change any of the conditions on their consent, they can, at any time, submit a written request to vary the consent. This would be required where the consent holder wishes to change the operating days and/or times or from a different location. A fee will apply to the variation.
- 6.41 The Council will determine a request to vary a condition or conditions in the same way it would consider a new application by carrying a consultation and making a decision based on the criteria listed in this policy.
- 6.42 There is no provision for transferring a street trading consent in the Act.

## **STAGE 6 – DETERMINATION OF APPLICATION**

- 6.43 Applications will be determined by officers under delegated authority, although officers have the absolute discretion to refer any application to the Licensing and Enforcement Sub-Committee.
- 6.44 Where there are relevant objections then officers will be permitted to try and overcome the objections through negotiations with the relevant parties and the applicant.
- 6.45 Where the decision of the officers is to refuse an application or grant it in terms substantially different than applied for (in this regard a change to the hours will not normally be viewed as substantial), the applicant will have the right to request a review of that decision by a more senior officer by making a written request within 10 working days. The review will be completed and the applicant notified of the outcome within 10 working days of the request.
- 6.46 The applicant and anybody objecting to the application will be notified of a referral to the Sub-Committee, the date when the application will be considered and the procedure to be followed. The appropriate Ward Member will also be notified. Unless special circumstances apply the Sub-Committee meetings are open to the public.

### Outcome

- 6.47 The reasons for refusal (whether a decision made by officers or the Sub-Committee) will be conveyed to the applicant. There is no right of appeal to the Magistrates' Court against the Council's refusal to issue a consent.
- 6.48 In respect of any application which is approved the Standard Conditions will be attached to the consent, together with any other conditions deemed to be necessary. Conditions will require the street trading operation to be carried out as detailed in the application (e.g. the nature of the goods to be sold, trading hours / days and the unit from which they are to be sold).
- 6.49 Conditions attached to the consent form part of the approval to carry out street trading in East Devon. They MUST be complied with at all times and failure to do so could lead to the consent being either revoked or any subsequent application not granted. It is the responsibility of the applicant / consent holder to familiarise themselves with the conditions relevant to their consent and to abide by them.

## **Enforcement**

- 6.50 The Council has a duty to carry out enforcement where it becomes aware of or receives allegations which concern unauthorised trading (trading in a street without first obtaining a consent) or non-compliance with street trading consents that have been granted.

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- 6.51 The Council will actively enforce the provisions of this Policy and street trading within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Council's [Regulatory Enforcement and Prosecution Policy - Principles of Enforcement - Policy - East Devon](#). The Council may at any time revoke a consent or vary the conditions of an existing consent where there are reasonable grounds for so doing.
- 6.52 Consent holders should allow access to authorised officers of the Council and Police Officers at all reasonable times. Council officers will carry with them and produce on request official identity cards issued by East Devon District Council. If you have any doubts about a person claiming to be from East Devon District Council ask to see their official identification card. If you remain uncertain please contact the Council on 01404 515616 to confirm the identity of an employee.
- 6.53 East Devon District Council has an agreed [Complaints procedure](#) for dealing with complaints about the services it delivers.

### Cranbrook

#### Introduction

- 6.54 East Devon District Council is the licensing authority for street trading and Cranbrook Town Council will be consulted when applications for new licences or renewals come forward.
- 6.55 East Devon District Council's policy statement is to create a street trading environment which complements premises-based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice and seeks to enhance the character and ambience of local environments.
- 6.56 Town Council experience to date has identified that there are a number of issues which have emerged in connection with previous consultations. These include the fact that the Main Local Route (MLR), now experiences increased vehicle movements including more buses per hour, is unsuitable as a street trading location and that no applications on the MLR could be supported and the fact that residential (in parcel) streets are generally narrow and are unsuitable as locations for street trading. Equally, street trading in residential parcels is likely to lead to impacts on residential amenity. These factors were confirmed by East Devon District Council and the Town Council in December 2019.
- 6.57 Cranbrook is a designated Healthy New Town (HNT) and one of ten NHS pilots. The basic aim of the HNT project was to reduce the impact on the NHS by encouraging lifestyle changes leading to a healthier population. Whilst it is an argument that people should have a choice about what they purchase and consume, the reality is that the pressures on the NHS created by unhealthy lifestyles is unsustainable. Cranbrook Town Council therefore takes the view that health and lifestyle considerations are material in this context.
- 6.58 In considering the balance of established shops and street traders, it is noted that the number of take-away premises in existing shops is limited by planning condition to no more than two. The Town Council therefore takes the view that the number of street trading permissions should be commensurate with this restriction.

#### Guidelines

- 6.59 Both the District and Town Council will consider each individual application on its merits. The Street Trading Policy adopted by the District Council includes criteria listed under 'Stage – 5 Consideration of Applications' that allow licensing officers to accept relevant factors received from the consultation process. The current criteria includes:
- Site Safety
  - Public Order
  - Avoidance of Annoyance
  - Conflict with other like trading outlets and school premises
  - Compliance with legal and Environmental requirements
  - Permitted Trading Hours
  - Compatibility of the proposed street trading operation



## APPENDIX A

### General Factors

- 6.59 Emergence of the issues identified in this report may add further weight to the Stage 5 criteria already listed in the Street Trading policy providing further grounds to refuse approval of an application. Where any of the following factors sit outside the Stage 5 criteria, due consideration will still be given by licensing officers. The following factors will be taken into consideration:
- 6.60 Location
- Is there enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street?
  - How many traders are already trading in the vicinity (from shops or other stalls) in the type of goods in which the applicant desires to trade?
  - Is there undue concentration of traders trading in the street in which the applicant desires to trade?
- 6.61 Residential Amenity
- Will the consent, if granted, result in nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which will be caused by granting the consent?
- 6.62 Highway Safety
- Is the proposed location on a main local route and likely to result in highway obstruction?
  - Is the proposed location likely to result in highway obstruction caused by parking of customers' vehicles?
  - Is the size, nature or appearance of the proposal (and any associated signage or equipment) appropriate for the proposed location in terms of amenity or public or highway safety?
- 6.63 Economic considerations
- Are the proposed trading hours outside the usual business hours of shops in the vicinity?
  - How close is the proposed location to established shops trading similar goods?
  - Would the proposal lead to the number of traders exceeding the number of permitted established shops trading in similar goods?
- 6.64 Health Considerations
- Is proposal consistent with the aspiration of Cranbrook as a Healthy New Town?
- 6.65 Operating History
- Is there a history of complaints or any other issues which might impact on a decision to grant or refuse an application?
- 6.66 Potential acceptable sites
- Town Council may wish to work with the Licensing Authority in identifying potential sites which may be acceptable as venues for street trading. In doing so, it is proposed that this be based on the provision of services to those parts of the town which are not as well served because they are located remotely from established services, are sufficiently removed from existing established providers to mitigate unfair competition and are situated away from locations which might give rise to highway or amenity issues. For example, until the town centre comes forward there may well be locations in that part of the town which are acceptable in all respects and meet the needs of residents. Such potential locations may have a lifespan and require revision as the town builds out.

**7 Appendices**

**Street Trading Application Fees  
East Devon District Council**

<b>Application Fees</b>		
Application fees are non-refundable, being the administrative payment to the Council to receive, review and start consultation. Payment will be required when submitting each application to Licensing using the online portal		
<b>New Consent to Trade</b>	<b>£45</b>	Payable for each location.  When applying for more than one location, an additional fee of £45 for each location.
<b>Renewal of Existing Consent upon Application</b>	<b>£45</b>	When applying for renewal (previously granted location).  Where an application is sought for any new location the fee payable is that for a new application (above).
<b>Application for Block Booking  (multiple trading)</b>	<b>£45</b>	Payable for any public area, highway or open space (not falling under EDDC ownership).  *Fees for hiring any EDDC gardens or open spaces to hold an event will incur a charge payable under <a href="#">Event Fees 2022/2023 - East Devon</a>
<b>Variation</b>	<b>£25</b>	If applying to vary an existing Consent for the same unit/vehicle in the existing granted location.
<b>Late submission (Traders List)</b>	<b>£25</b>	Provided late as part of an application at least 10 working days prior to the event commencing.

**Additional Notes:**

- a) Fees are payable where trading in any location where the public can access freely.
- b) Fees will be reviewed annually and any variation will be approved by Council
- c) \*This fee will be charged by StreetScene for land hire (owned by EDDC).
- d) Fees are none refundable once the consultation processes has been started.



### Relevant Convictions

#### **Determining suitability of an applicant for street trading consent**

Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision. The overriding consideration is the safety of the public.

#### **Dishonesty**

A street trading consent will not be granted unless 4 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

#### **Violence**

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted. In other cases a street trading consent will not be granted unless 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

#### **Drugs Offences**

A street trading consent will not be granted unless 10 years have lapsed since a conviction relating to the supply or importation of controlled drugs or completion of any sentence imposed whichever is the later. A Street trading consent will not be granted unless 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

#### **Sexual and Indecency Offences**

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

#### **Exploitation**

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

#### **Motoring Convictions**

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

#### **Street Trading Legislation**

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction unless 5 years have lapsed.

#### **Formal Cautions and Fixed Penalty Notices**

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

#### **Existing Consent Holders Convicted Of An Offence**

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

## STREET TRADING CONSENT

**STANDARD CONDITIONS & TERMS****STANDARD CONDITIONS**

1. A copy of this consent shall be displayed by the consent holder in a conspicuous position that is visible to members of the public and shall be produced for inspection if requested by an authorised officer of the Council or the Police.
2. In the case of a block consent where the application did not contain all of the required information for all stalls, it is the responsibility of the consent holder to ensure that the Council has given its written approval to all stalls prior to the event commencing.
3. The consent holder shall comply with all relevant legislation applicable to the street trading activity and ensure that where applicable the consent holder has and maintains a current Food Hygiene Rating Scheme score of at least 3 and gas safety inspection certificate.
4. The consent holder must notify the Licensing Manager immediately of any convictions or proceedings arising out of the consented activity.
5. The consent holder shall not assign his interest in this consent or any part thereof nor allow any person or trading unit, other than a person employed to assist the holder, to rely on it.
6. The consent holder shall observe and comply with any directions in relation to the consented activity or use of the street / public place by a duly authorised officer of the Council or the Police.
7. The consent holder shall for the duration of the consent maintain a valid Third Party Public Liability Insurance Policy for a minimum of £2,000,000 to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
8. This consent does not imply or grant exclusive rights to the holder for use of the location specified in the permission. If at any time at the permitted trading location other statutory bodies or organisations require access and use of the location to carry out emergency or other remedial works, they shall be afforded such access for such time as is necessary.
9. The consent holder shall not carry out any street trading activities other than those permitted by the consent and is expressly prohibited from;
  - (i) selling Psychoactive Substances,
  - (ii) holding an Auction Sale
  - (iii) selling, displaying or wearing any article which is or is intended to be offensive either in writing or pictures.
10. The consent holder shall not trade outside of the permitted location / route and the permitted times and days.
11. The consent holder shall not trade in such a way that is likely to cause;
  - (i) undue obstruction to any part of any street or public place, or
  - (ii) injury to any person using the street or public place, or
  - (iii) damage to any property in the street or public place, or
  - (iv) annoyance to persons using the street or public place, or occupiers of premises in the vicinity.
12. The consent holder shall at all times conduct their business in a clean, honest, civil and businesslike manner so as not to interfere with the business of other traders and consent holders.
13. Music may be played subject to having appropriate PRS and PPL licenses provided that the music

## APPENDIX A

shall not be audible outside the vehicle or beyond the boundary of the consented area without prior consent in writing from the Council.

14. The consent holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Council and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
15. Outside of the consented area the consent holder shall not place on or in any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever except with the prior consent in writing from the Council
16. At the expiry of the consent, all stalls, vehicles or other equipment associated with the street trading activity must be removed within 30 minutes of the expiry of the trading hours.
17. The consent holder when operating on a static site shall have access to suitable and sufficient sanitary accommodation for anyone carrying out the street trading activity.
18. With respect to litter and waste the consent holder shall;
  - (i) provide and maintain refuse receptacles for litter and shall remove waste arisings from the site on a daily basis and dispose of them in an approved manner,
  - (ii) keep their trading position and the area within 25m of the pitch in a litter free condition during the permitted hours and also leave the same in a litter free condition at the end of each daily period permitted by this consent,
  - (iii) make such provision as is necessary to prevent the deposit in any street or public place of solid or liquid refuse and shall not discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
19. Consent holders must notify the Licensing team of any variation to trading times or frequency, including absence in excess of 4 weeks. The reasons for any absence will be treated according to the individual circumstances provided.
20. The Council reserves the right to withdraw consent at any time should the land be required by the land owner. The requirement of the landowner approval is specific to this consent being in place.
21. The Council reserves the right to withdraw consent at any time should new development surrounding the trading location impact on the suitability of the location.
22. Should a gazebo or marquee be permitted by the Street Trading Consent and used by the Consent holder the following conditions apply:
  - i. Heavy ballast weights must be used at each leg to withstand uplift forces from wind. Calculations from the manufacturer, supplier or installers to show the weight requirements for each leg must be obtained and complied with.
  - ii. Anchorage should also prevent lateral movement of the structure. Ropes to anchorage points must not obstruct movement around or within the structure
  - iii. The Consent holder should be aware of the design wind load of the structure, and have a procedure for monitoring weather forecasts, and making safe by removal of covers any structure likely to be put at risk by high winds
  - iv. The structure must be British fire-rated BS 5438 and/or BS 7837 (or any replacement standard) and marked accordingly, the Licensee must carry out a fire risk assessment of the structure.
  - v. Domestic garden gazebos and old style market gazebos cannot be accepted as they are not structurally safe for use in public areas.
  - vi. Gazebos/stall coverings/marquees must be kept visually appealing and compliment the character of the area
23. All drinks served for shall be served in reusable Plastic/Polycarbonate or similar containers, no glasses or bottles are to be permitted.
24. The Consent holder must ensure that the area where the street trading activity takes place is kept clean and clear of refuse and litter throughout the operating times. Refuse and litter deposited on the highway in the vicinity of the street trading unit/s and other objects must be removed at the Consent holder's expense under the Environmental Protection Act 1990. The Consent holder must ensure that the street surfaces are kept clean at all times and should have particular regard to the

## APPENDIX A

removal of grease, fat deposits and similar to ensure that the surface does not present a hazard to users.

25. It is a condition of this Consent that clear routes of access around the street trading unit and the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of <https://www.gov.uk/government/publications/inclusive-mobility>. The Licensee must comply with the Guidance of the Secretary of State with regard to the needs of disabled people and the recommended distances required for access by disabled people, such guidance being shown at the following address or such other updated guidance as may be issued <https://www.gov.uk/government/publications/pavement-licences-draft-guidance/draft-guidance-pavement-licences-outdoor-seating-proposal>

### VARIATION OF CONDITIONS

The Council may vary any of the conditions attached to a consent or add new conditions at any time, subject to reasonable notice being given to the consent holder.

### REVOCATION OR SURRENDER OF CONSENT

This consent may at any time be revoked by the Council or surrendered by the consent holder.

The holder shall return this consent to the Council immediately on revocation or surrender of the consent. The Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

### LEGAL PROVISIONS

Nothing contained in these conditions shall relieve the consent holder or his employees or agents from any legal duty or liability and the consent holder in carrying out the consented activity agrees to indemnify the Council in respect of all claims, actions, demands or costs arising from this consent.

## APPENDIX A

### Currently designated as Prohibited Streets - List of designated streets in Sidmouth at 2 October 2017

The following are designated as prohibited streets where street trading is at all times forbidden by law;

- ☐ All Saints Road
- ☐ Bedford Square and including the un-named street leading from Bedford Square to the Esplanade
- ☐ Blackmore View
- ☐ Chapel Road
- ☐ Chapel Street
- ☐ Church Street
- ☐ Coburg Road - between Coburg Terrace and Church Street
- ☐ Dove Lane - and the lane between Dove Lane & New Street
- ☐ Fore Street
- ☐ Fortfield Place
- ☐ Fortfield Terrace
- ☐ Glen Road, - south of Manor Road
- ☐ Ham Lane and East Street - from the Esplanade to Fore Street
- ☐ High Street
- ☐ King Street
- ☐ Manor Road
- ☐ Market Place
- ☐ Mill Street, - west of its junction with Russell Street
- ☐ Millford Road, - north of the ford
- ☐ New Street
- ☐ Old Fore Street
- ☐ Peak Hill Road – east from its junction with Cotmaton Road.
- ☐ Prospect Place
- ☐ Radway, - south of the Post Office
- ☐ Salcombe Road
- ☐ Sid Road, - south of Redwood Road
- ☐ Station Road - between Knowle Drive and The Esplanade
- ☐ Streets adjoining the Three Cornered Plot (Known as The Triangle)
- ☐ The Beach – from the mouth of the River Sid westwards to a point opposite Clifton Cottage.
- ☐ The un-named street between Elizabeth Hotel and Marlborough Hotel (now Dukes)
- ☐ Vicarage Road, - south of Connaught Road
- ☐ York Street
- ☐ Vicarage Road, - south of Connaught Road

**The following is a Consent Street but as a matter of policy consents shall only be granted during Sidmouth Folk Week;**

- ☐ Esplanade & Promenade

## APPENDIX B

### Proposed Street Trading Application Fees

#### East Devon District Council

#### Application Fees

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