



**Agenda for Licensing and Enforcement
Committee
Wednesday, 20th February, 2019, 9.30 am**

Members of Licensing and Enforcement Committee

Councillors: S Hall (Chairman), J O'Leary (Vice-Chairman),
M Armstrong, B Bailey, C Brown, P Carter, Chapman, J Dyson,
S Gazzard, G Jung, C Nicholas, G Pratt, B d Saram and Stott

Venue: Council Chamber, Exmouth Town Hall, Exmouth, EX8
1AW

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Monday, 11 February 2019

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1 Public Speaking

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

2 Minutes of the previous meeting -21 November 2018 (Pages 3 - 7)

3 Apologies

4 Declarations of interest

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

5 Matters of urgency

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

6 Confidential/exempt item(s)

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

Part A - Matters for Decision

7 **Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis &
General Licensing** (Pages 8 - 13)

8 **Street Trading Policy** (Pages 14 - 17)

9 **Taxi Licensing Policy** (Pages 18 - 19)

10 **The Animal Welfare (Licensing of Activities involving Animals)(England) Regulations 2018** (Pages 20 - 21)

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Members of the public exercising their right to speak during Public Question Time will be recorded.

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Committee held at Exmouth Town Hall, Exmouth on Wednesday, 20 February 2019

Attendance list at the end of the document

The meeting started at 9.30am and ended at 10.35 am

16 Minutes

The minutes of the meeting of the Licensing & Enforcement Committee held on 21 November 2018, were confirmed and signed as a true record.

17 Declarations of interest

Councillor Steve Hall

Minute 18

Disclosable Pecuniary Interest – Private Hire Licence Holder

Councillor John O’Leary

Minute 18

Disclosable Pecuniary Interest – Designated Premises Supervisor

Councillor Steve Gazzard

Minute 19

Disclosable Personal Interest – Event Organiser

18 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing

The Licensing Manager presented his report - the following issues were highlighted and discussed.

1. Licensing Act 2003

Over the previous period relating to this report officers had issued 205 alcohol licenses relating to new and variations of licensed premises, personal alcohol licenses and temporary event notices (TEN’s) throughout the district. Work undertaken by the licensing team during the previous quarter predominantly concerned applications and issuing licences in the run up to Christmas and the New Year festive period.

On 5 November 2018 officers attended the annual Ottery St Mary Tar Barrel event to check the various temporary event notices issued for alcohol sellers and late night refreshment food stalls. A total of 24 checks were made and all were found to be in order.

2. Gambling Act 2005

The licensing team had continued its work to ensure gaming machine permits were submitted on the occasions when licensees left and took over a premises licence. Following approval by the Committee the Council’s revised Gambling Policy was successfully published in January 2019 for review in 2022.

The programme of visits to licensed premises and other premises where gaming was permitted continued and whenever a licensed premises inspection occurred, the existence of gaming machines and any issues of compliance were duly considered and inspected. Officers assess compliance and suitability of gaming

machines sited in public houses and to date it had not been necessary to take enforcement action.

3. Taxis

Although the previous period saw some taxi licence holders retiring or leaving the trade during the autumn renewal period, this had been balanced by a recent increase in new driver applications over the previous three months.

Reports to this Committee had highlighted the increase in officer time completing new processes and online checks and although some online processes reduce the amount of paperwork that applicants need to provide it has increased the time spent by officers.

In addition to those processes already being completed, advance notice had been issued by DEFRA to all licensing authorities of a forthcoming duty to provide information on licensed taxis and private hire vehicles. Under the Air Quality Regulations 2019, it was proposed that regulations would come into force on 1 April requiring all licensing authorities to provide details on a minimum weekly basis about vehicles that had been licensed including as a minimum, the Registration Number, start and expiry date of the vehicle licence and whether the vehicle was a taxi or Private Hire. A new database would form part of the infrastructure that government was developing to support the introduction of charging Clean Air Zones by some local authorities from 2020 to ensure compliance with statutory nitrogen dioxide limits. These new requirements would further add to processing work that officers undertake in the future.

It was noted that the introduction of a National Register regarding taxi driver revocations and refusals was being implemented by the Local Government Association formalising information sharing between licensing authorities concerning applicants that were revoked or refused a licence. Further progress had not yet been forthcoming and further updates would be provided when available during 2019.

At the previous meeting of the Committee members were informed that the ballot was open following requests by some sections of the taxi trade to review fares that could be charged by taxis. Each hackney carriage proprietor was balloted for a five week period from 5 November to 7 December 2018 asking the question of whether a fare review was necessary. Subsequent responses were two to one in favour of an increase with 66% answering yes to raise fares. A comprehensive update on the proposed tariff increase would be discussed at the next meeting of Officers, Councillors and trade members in early April. Although no new tariff would be introduced before the financial implications of Brexit on 29 March were better understood.

Officers have continued to prepare plans to introduce safeguarding awareness briefings for hackney and private hire drivers in line with protecting safeguarding children and vulnerable adults in society. An additional report had been prepared seeking approval to revise the taxi policy to make attendance at Safeguarding Awareness briefings mandatory.

Members noted that following the festive break officers had received two complaints of taxis overcharging customers for journeys. Each allegation had been investigated by officers comparing the fare tariff costs against the route and fee that customers were required to pay. Calculations for one journey had identified a slight overcharge

for which the proprietor had been formally warned. The second allegation was still under review at this time to establish whether the charged fare was correct. At the meeting the Licensing Manager received another complaint over overcharging from a member of the Committee. He confirmed that he would update members on this issue at the next meeting. Meters should be used in taxis except where the customer and driver agree.

The training provider who delivered safeguarding awareness sessions for other Devon authorities had proposed dates to deliver sessions later this year throughout 2019. It remained the aim to provide funded awareness sessions free to licence holders in the first year in advance of costs being charged and included within later fee reviews.

4. General Licensing

Following the introduction of a new street trading regime in October 2017 with further revisions to the policy approved by the Committee in March 2018, there had been 185 street trading consents granted. The trend continued with ten percent of applications granted being for commercial food vendors with 18 consents granted across the district to business traders operating weekly and continually throughout the year.

Amendments to the current street trading policy were addressed under a separate report to the Committee (see minute 19 below).

5. Consultations and Partnership Working

Officers attend Licensees meetings within the East Devon area whenever possible as it was felt that these meetings should be supported and were a useful forum for the exchange of ideas, information and keeping up to date with issues within each area. Officers had attended licensees meetings over the previous period in Exmouth, Sidmouth and Axminster.

Members noted that licensing officers were attending meetings of the Safety Advisory Group (SAG), which had been established earlier in the year and being chaired by managers from Environmental Health. The SAG operated as a multi-agency partnership meeting to provide advice and guidance to event organisers when planning events. Meetings were now arranged quarterly and in advance for 2019 with core members from each Responsible Authority including the licensing authority.

6. Licensing Team update

Since the last meeting of the Committee in November, the licensing officer role vacated as a result of Neil McDonald's retirement had been filled through the recruitment of Licensing Support Officer, Lucy Maxwell being successful in her application.

7. Training for Members

Work by the managers of Licensing and Democratic Services had identified the need for training for Licensing Committee members and it was hoped this would happen during the first week of June, with the Barrister Philip Colvin providing training for members.

RESOLVED:

that the report be noted;

19 Street Trading

Following the introduction of a new Street Trading regime in October 2017, with further revisions to the policy in March 2018, it was noted that there was now a need to include amendments including new Guidance to Pedlars, revising the approach to block booking arrangements, addressing environmental concerns and amending processes following feedback from applicants when using street trading consents. This would include a section to ensure that applicants had the relevant insurance.

RESOLVED

- 1 that the revised street trading policy as attached as Appendix A to the report be adopted;
2. that the new guidance to Pedlars as attached as Appendix B to the report be adopted;
3. that the actions that will be taken as a consequence of the above being agreed be noted.

20 Taxi Licensing Policy

Members received the report of the Licensing Manager which sought approval to revise the Taxi Licensing Policy, namely an additional requirement that all new driver and renewal applications should be accompanied by evidence that the applicant had attended a Safeguarding Awareness Workshop relating to Children and Vulnerable Adults. This was in line with the Council's commitment to protect the safety of those most vulnerable in our communities.

RECOMMENDED: that Council at its meeting on 24 April 2019 adopts the revised Taxi Policy.

21 The Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018

The report advised the Licensing & Enforcement Committee of the fee review process which had been carried out in accordance with both DEFRA guidance and the Open for Business requirements.

Members noted that there was no update on the issue of legally regulating professional dog walkers.

RESOLVED: that the following new fees be adopted from 1 April 2019:

- a) New and Renewal applications - £330
- b) Annual Compliance Visit - £50
- c) Minor changes during licence period – No charge
- d) Review of star rating – No charge
- e) Vets Fees – Invoiced per premises where required.

22 Committee update – National Consultation on Statutory Guidance for Licensing Authorities “Taxi and Private Hire Vehicle Licensing: Protecting Users”

The report provided an update to the consultation commencing in February and ending on 22 April 2019. The Government hoped to see national standards for taxi and private hire licensing in place across the country. The Committee wished to thank the Licensing Team for their valuable contribution to this initiative.

RESOLVED: that the report be noted.

Attendance list

Councillors present

Steve Hall (Chairman)
John O’Leary (Vice Chairman)
Megan Armstrong
Maddy Chapman
Bruce de Saram
John Dyson
Steve Gazzard
Cherry Nicholas
Pauline Stott

Councillor apologies:

Brian Bailey
Colin Brown
Paul Carter
Geoff Jung
Jim Knight
Geoff Pratt

Officers present

Giles Salter, Solicitor
Steve Saunders, Licensing Manager
Janet Wallace, Principal Environmental Health Officer
Chris Lane, Democratic Services Officer

Chairman Date

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 20 February 2019

Public Document: Yes

Exemption: None



Agenda item: To be completed by Democratic Services.

Subject: **Committee Update -
Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing**

Purpose of report: 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.

Recommendation: **That the report be noted**

Reason for recommendation: To keep the Council's statutory committee up to date with current arrangements relating to the Licensing Service.

Officer: Steve Saunders, Licensing Manager

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

1.1.1 Over the previous period relating to this report officers have received and issued 205 alcohol licences relating to new and variations of licensed premises, personal alcohol licences and temporary event notices (TEN's) throughout the district.

1.1.2 Work undertaken by the licensing team during the previous quarter predominantly concerned applications and issuing licences in the run up to Christmas and the New Year festive period.

1.1.3 On 5 November 2018 officers attended the annual Ottery St Mary Tar Barrel event to check the various temporary event notices issued for alcohol sellers and late night refreshment food stalls. A total of 24 checks were made and all were found to be in order. The checks occurred with a member of the police licensing team and the planning arrangements made with the organisers works effectively each year.

1.1.4 On 22 January 2019 officers attended the de-brief meeting for the Tar Barrels event and it was agreed by all authorities that the event was well organised. The event was co-ordinated under the EDDC Safety Advisory Group (SAG) arrangements to plan safely managed events.

1.2 Hearings

1.2.1 The licensing authority continues to offer mediation when representations have been made against new licensing applications to clarify whether an agreed position can be reached between objectors and applicants. Mediation meetings are often successful and can reduce the number of contested hearings before the licensing sub-committee.

1.2.2 On 19 December 2018 a Licensing and Enforcement Sub-committee hearing occurred to consider an application to vary an existing premises licence for a licensed restaurant with regard to replacement of a front window and installation of a small fixed bar. The hearing followed a mediation meeting managed at the premises earlier that month. Whilst the applicant was prepared to compromise on some aspects it was not possible to reach an agreed position with one objector. The Sub-committee took the decision for the licensable activities to remain unchanged whilst imposing conditions that were relevant to the new window and regarding when doors and windows should be closed.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

2.1.1 The licensing team has continued its work to ensure gaming machine permit notifications are submitted on the occasions when licensees leave and take over a premises licence.

2.1.2 Following approval by this committee the Council's revised Gambling Policy was successfully published in January 2019 for review in 2022.

2.2 Enforcement

2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected. Officers assess compliance and suitability of gaming machines sited in public houses and to date it has not been necessary to take enforcement action.

2.2.2 The Gambling Commission provides guidance and support to licensing authorities and their staff attend licensing forums. A regular bulleting is circulated by the commission regarding changes in gambling legislation, national trends and any enforcement action taken. The last bulletin was circulated in November 2018 and can be viewed online going to <https://www.gamblingcommission.gov.uk/PDF/LA-bulletin/Licensing-authority-bulletin-November-2018.pdf>

3 Taxis

3.1 Applications Received and Licences Issued

3.1.1 Although the previous period saw some taxi licence holders retiring or leaving the trade during the autumn renewal period, this has been balanced by a recent increase in new driver applications over the previous three months.

3.1.2 Reports to this committee have highlighted the increase in officer time completing new processes and online checks (Knowledge tests, MOT's, vehicle excise, DVLA driving licences) and although some online processes reduce the amount of paperwork that applicants need to provide it has increased the time spent by officers. Further possible change concerns recent notice issued by DEFRA to all licensing authorities of a duty to provide information on licensed Vehicles (taxis and private hire) for a new central database being introduced under the Air Quality Regulations 2019. DEFRA reported that regulations

will come into force on 1 April or shortly afterwards requiring all licensing authorities to submit details via a central portal on a minimum weekly basis about vehicles that have been licensed, including the registration numbers, start and expiry date of vehicle licences, whether licensed as a taxi or Private Hire and the name of the licensing authority. The database will form part of the infrastructure that government is developing to support the introduction of charging Clean Air Zones by some local authorities from 2020 to ensure compliance with statutory nitrogen dioxide limits. When introduced the work in providing details will add to the processing that officers already undertake.

- 3.1.3 The current taxi policy has a requirement to review all licensed vehicles upon reaching 14 years from date of manufacture and currently there are two licensed hackney taxis that have been subject of an extra review, both being considered suitable for renewal. There are two further licensed taxis having reached 12 years of age and both will be subject of an enhanced review in 2020 (unless replaced by the owners before that time).

3.2 Enforcement

- 3.2.1 The licensing team continues to carry out inspections of hackney carriage vehicles whilst parked on East Devon taxi ranks ensuring that vehicles comply with legislation and meet required safety standards. Officers also inspect new vehicles when submitted by applicants to be licensed. The number of checks undertaken each quarter can fluctuate due to other competing demands such as annual licence renewals.

- 3.2.2 Following the festive break officers received two complaints of taxis overcharging customers for journeys during the period. Each allegation has been investigated by officers comparing the fare tariff costs against the route and fee that customers were required to pay. Whilst fares increase considerably under tariff 3 for bank holidays, calculations for one journey identified a slight overcharge for which the proprietor has been formally warned. The second allegation is still under review at this time to establish whether the charged fare was correct.

3.3 Hearings

- 3.3.1 A meeting of the Licensing and Enforcement Sub-committee occurred on 9 January to determine whether a new applicant for a hackney driver licence met the criteria as being fit and proper to hold a licence with regard to past character and medical issues. The matter has been adjourned to allow further details to be gathered by the applicant and to be submitted for a further hearing by the Sub-committee.

3.4 Taxi Licensing Processes

- 3.4.1 Members will recall at the previous meeting that the introduction of a National Register regarding taxi driver revocations and refusals is being implemented by the Local Government Association formalising information sharing between licensing authorities concerning applicants that are revoked or refused a licence. Further progress has not been forthcoming and further updates will be provided when available during 2019.

- 3.4.2 Previous reports to this committee have highlighted the increasing time that is spent by officers completing new processes and online checks. Over the last year or so this has involved conducting knowledge tests and right to work checks of new applicants, reviewing vehicles prior to reaching 14 years, vehicle write-off history checks, online MOT's, vehicle excise and DVLA driving licences checks. Although some online processes reduce the paperwork that applicants need to provide it has increased time being spent by officers.

- 3.4.3 In addition to those processes already being completed, advance notice has been issued by DEFRA to all licensing authorities of a forthcoming duty to provide information on licensed taxis and private hire vehicles. Under the Air Quality Regulations 2019, it is proposed that regulations will come into force on 1 April requiring all licensing authorities to provide details on a minimum weekly basis about vehicles that have been licensed including as a minimum, the Registration Number, start and expiry date of the vehicle licence and whether the vehicle is a taxi or Private Hire. A new database will form part of the infrastructure that government

is developing to support the introduction of charging Clean Air Zones by some local authorities from 2020 to ensure compliance with statutory nitrogen dioxide limits. The new requirement will further add to processing work that officers undertake in the future

3.5 Fares Review for Hackney Carriages

- 3.5.1 At the previous meeting of this committee members were informed that the ballot was open following requests by some sections of the taxi trade to review the fares that can be charged by taxis. Each hackney carriage proprietor was balloted for a five week period from 5th November to 7th December 2018 asking the question of whether a fare review was necessary. The ballot included the Devon authority comparison. Subsequent responses were two to one in favour of a fare increase with 66% answering yes to raise fares. The outcome was acknowledged in writing to all who responded detailing the outcome will be reported to this committee. A comprehensive update on the proposed tariff increase will be discussed at the next meeting of Officers, Councillors and the trade members in early April.
- 3.5.2 Now that the taxi trade has given a clear indication of a wish to review the current fare tariff officers will move forward with the arrangements. However the implication of setting a new fare tariff prior to Brexit occurring on 29th March is a considered risk. Fuel prices may increase and whether significantly or considerably for any period of time, it will be necessary to initially assess the impact and any changes after 29th March.
- 3.5.3 Experience has shown that consultation and communication with the taxi trade is key to delivering a successful change of the fare tariff. For this reason the proposed timescales are considered possible by the end of the main renewal period in October through delivery of the following timeline:
- a) Officers are required to calculate a draft increase of the fare tariff following ballot,
 - b) The impact of Brexit concerning fuel prices after 29th March will need assessing,
 - c) Communicate the progress and timeline at the next meeting between Councillors, Officers and the taxi trade in early April 2019 (date to be confirmed shortly),
 - d) Dates in summer months will be identified with local taxi meter installers to recalibrate all hackney meters at Camperdown Terrace, Exmouth (in conjunction with officer availability)
 - e) Officers to produce the revised tariff (a) to the Licensing and Enforcement Committee when it meets next seeking approval to proceed with the necessary legal adverts showing the fare prices and if approved, to proceed with newspaper advert,
 - f) Any objections that may be received should reported back to the Committee for consideration and a decision whether to proceed to adopting a new tariff (or otherwise),
 - g) Subject to (e) and (f) maintaining communication with the taxi trade by confirming dates to attend Camperdown Terrace to have the meters changed and identifying any licence holders who may need alternative dates (meter changes at the cost of each proprietor),
 - h) To introduce the new fare tariff and recalibrate all taxi meters by 31st October.

3.6 Safeguarding Awareness Training

- 3.6.1 Officers have continued to prepare plans to introduce safeguarding awareness briefings for hackney and private hire drivers (new and existing licence holders) in line with protecting safeguarding children and vulnerable adults in society. An additional report has been prepared seeking approval to revise the taxi policy to make attendance at Safeguarding Awareness briefings mandatory.
- 3.6.2 The training provider who delivers safeguarding awareness sessions for other Devon authorities has proposed dates to deliver sessions later this year throughout 2019. Dates will be communicated at the next meeting between Councillors, Officers and the taxi trade in early April 2019 together and by writing to all licence holders. It remains the aim to provide funded awareness sessions free to licence holders in the first year in advance of costs being charged and included within later fee reviews.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. Since the Council introduced the street trading policy in October 2017, there have been 185 street trading consents granted by the licensing team, the majority since April 2018 and most being for short term events where organisers applied using block booking arrangements.
- 4.1.2 The trend continues with ten percent of applications granted being for commercial food vendors (pizza, fish and chips vans and similar) with 18 consents granted across the district to business traders operating weekly and continually throughout the year. Experience over the previous 15 months has identified that short term events that require a block booking generally involve 20 to 50 traders attending and event organisers are applying far in advance.
- 4.1.3 During the late months of 2018 officers saw an increase in applications from commercial food sellers seeking to trade in Cranbrook and further consultations have occurred. Cranbrook Town Council has continued to provide its response to applications and whilst not fully objecting to applications, the council highlights the status as one of ten NHS Healthy New Town demonstrator sites along with signing up to a regional Public Health initiative.

4.2 Enforcement

- 4.2.1. The Council has a Regulatory Enforcement and Prosecution Policy and officers provide guidance to new applicants as the first step in securing compliance. It was previously reported that officers had undertaken visits to locations where an unlicensed trader had been operating. The trader had ceased trading and the information provided allowed submission of a street trading application leading to grant of a street trading consent.

4.3 Street Trading Policy Review

- 4.3.1. At the last Licensing and Enforcement Committee members raised a need to consider further review of the street trading policy exploring options to re-introduce fees for commercial street traders. Amendments to the current street trading policy are addressed under a separate report to this committee today.

5. Consultations and Partnership Working

5.1 Officers attend Licensees meeting

- 5.1.1 Officers attend Licensees meeting within the East Devon area whenever possible as these meetings should be supported and are a useful forum for the exchange of ideas, information and keeping up to date with issues within each area. Attendance by council, local police and also police licensing staff is keenly sought by the licensing trade to discuss local crime and disorder issues. Officers have attended licensees meetings over the previous period in Exmouth, Sidmouth and Axminster.

5.2 Meetings between officers and the police licensing team

- 5.2.1 Officers attend licensing liaison meetings on a regular basis with the police licensing team to exchange information and discuss licensing issues in East Devon. This exchange of information is useful when specific problems or incidents involving licensed premises require joint investigation. Officers from both authorities have completed joint visits to licensed premises over the previous period, including premises in Ottery St Mary and Exmouth.

5.3 Safety Advisory Group (SAG) Meetings

- 5.3.1 Licensing Officers have attended meetings of this Council's Safety Advisory Group (SAG) in October and January along with other sub-group meetings taking place to consider advanced planning for event applications. The SAG operates as a multi-agency partnership meeting to provide advice and guidance to event organisers when planning events. Meetings are now arranged quarterly with core members from each Responsible Authority attending.
- 5.3.2 This committee was informed of the debrief meeting of the SAG for Sidmouth Folk Week on 9th October. Although the meeting concerned safety planning arrangements by folk week organisers there followed extended discussions regarding other locations where activities take place in the town including matters relating to the traders licensed by the Council on Sidmouth seafront. Representatives from the fire service specified a need for trader gazebos to be of a fire resistant material in the future together with being of a more sturdy structure for reasons of public safety at the event in 2019.
- 5.3.3 As a result, officers arranged a meeting on 7th November with other services from the Council and representatives from the police and Town Council attending. This was a constructive meeting with proposals for all to work more closely when considering folk week arrangements this year. Feedback regarding the general untidy appearance of the trading gazebos licensed by the Council on Sidmouth seafront was received from parties attending along with the need for more uniformity and a higher level of tidiness. Representatives attending proposed a condition that all stalls/gazebos be of the same white colour as a minimum standard in addition to meeting fire resistant standards this year. A further option by the folk week organisers to take responsibility for all seafront trading pitches was also discussed by incorporating all seafront trading into the overall management of other areas of the town organised by Sidmouth Folk Week. This option has not been followed up by the organisers since and a written proposal including costings has not been forthcoming for this year's event.
- 5.3.4 Officers are presently planning the process to allow online applications to begin during April and have contacted previous traders granted a consent to inform them of the safety and uniformity requirements for gazebos used on Sidmouth seafront at folk week this year.

6. Licensing Team update

- 6.1 Since the last meeting of this committee in November, the licensing officer role vacated as a result of retirement has been filled through recruitment of Licensing Support Officer, Lucy Maxwell being successful in her application. Interviews for the subsequent vacant post occurred in early February and an update will be provided to the committee at the next meeting.

Report on the Review of Licence Fees for Activities Involving Animals.

Animal Welfare (Licensing of Activities Involving Animals)(England)Regulations 2018

Janet Wallace PEHO and Allison Ferrero PEHO, Environmental Health, EDDC, February 2019

Introduction.

1. There are a number of different activities involving animals that require licenses. These include dog and cat boarding premises, dog day care, dog home boarders, pet sales, riding establishments and some situations where animals are used for performance. Most of these activities have been licensed for many years and the fees charged for administering these licences have not been reviewed for some time.
2. The “Open for Business” scheme includes Local Government Association guidance on locally set licence fees (June 2017) and the new guidance on animal activities requires this to be referred to when carrying out the review. Further guidance is also included in the DEFRA guidance “Animal Welfare Licence Fees – a practical guide to fee setting.” January 2018. Both of these documents, together with time monitoring carried out by officers during the inspection and licensing process during December 2018 and January 2019, have been used when carrying out this fee review.
3. There is a notable change in the new regulations in that licences can be issued for between 1 and 3 years depending on the standards met by the premises. A risk assessment system is used to determine this, and a star rating scheme from 1 to 5 must be applied. Most licences are expected to be valid for 2 years, a few premises will only get 1 year licences initially, and a few will reach the highest, 5 star, standard and therefore receive a 3 year licence. The income predicted for each year will therefore vary. Some premises will only pay one fee every 3 years, representing a net reduction in cost to the best businesses.

Principles to be followed.

4. Any charges must be reasonable and proportionate to, and not exceed, the cost of the procedures and formalities. Fees must be fair and evidenced.
5. The guidance requires that a local authority should achieve the following:
 - a) To recover the reasonable costs of administration and enforcement of each licence
 - b) To charge separately for application processing and enforcement
 - c) To seek service improvements to help reduce costs to businesses
 - d) To use evidenced based data as the basis of fee charges and retain this for transparency.
6. The local authority should not charge for matters not related to the licence or seek to make a profit.
7. Fees may be charged for new licences, renewals, licence replacements, variations and transfers. In relation to new licences and renewals two fees should be charged:

one for the cost of processing the application and a second to cover the cost of administration and enforcement.

The Fee Setting Process.

8. There are 3 types of activity to be considered when setting fees:
 - (i) Underpinning – eg. The development of policy documents, consultations, obtaining member approval, carrying out the fee setting process, specialist staff training, the cost of software packages.
 - (ii) Application costs – eg. Providing general advice, processing the application, the initial inspection visit, vets costs, and peer reviews.
 - (iii) Compliance and enforcement costs – eg. Planned monitoring and inspection visits, any resulting enforcement, dealing with enquiries and complaints, keeping databases and registers.

9. Vets fees, where required, should be charged separately by the local authority so that they can be recorded as part of the fee prior to issue of the licence, and so that the vet remains a contractor of the local authority with clear lines of accountability.

10. Fees cannot cover advice and enforcement relating to unlicensed premises, or prosecution costs that have been recovered, or the costs of freedom of information requests or general enquiries from members of the public.

11. Fees are subject to annual review of:
 - (i) The fee setting process
 - (ii) Time recording of process steps
 - (iii) Staff hourly costs
 - (iv) Specialist IT costs
 - (v) Profit and Loss from the last fee period

12. There are a number of process steps involved in administering, issuing and enforcing licences. These are set out below based on the total time taken for each step each year and then stating the associated annual cost. The underpinning and training costs will be significantly higher in the first and second year than they will be in the future, but there is potential for new staff to require training and for further changes in guidance to impact on underpinning time. Fees are required to comprise 2 parts : a “part A” fee which involves all costs related to application receipt and processing (shown in blue in the table), and a “part B” fee which relates to costs incurred after issue of the licence including updating records, carrying out compliance visits and initiating enforcement action (shown in red in the table).

The costs detailed below are based on there being 70 premises to be licensed.

PEHO = Principal Environmental Health Officer, process manager

TO = Technical Officer, Inspecting officer

AO= Administration Officer

Process Step	Staff level	Time	Hourly rate	Cost
1. Underpinning costs	PEHO	55 hours	£24	£1,320
2. Web page updates	TO	10 hours	£17	£170
3. Equipment				None

4. Training	PEHO/TO			£4,000
5. Pre-app advice	TO	20 hours	£17	£340
6. Send app forms	AO	70 hours	£14	£980
7. Receive app forms/fee	AO	35 hours	£14	£490
8. App form check/log	AO	35 hours	£14	£490
9. Inspection and travel	TO	420 hours	£17	£7140
10. Post-inspection paperwork	TO	140 hours	£17	£2380
11. Peer review	PEHO	35 hours	£24	£840
12. Licence and letter issue	TO	70 hours	£17	£1190
13. Annual compliance visit	TO	140 hours	£17	£2380
14. Complaint visit	TO	10 hours	£17	£170
15. Non-compliance revisit	TO	20 hours	£17	£340
16. Renewal remind letter	AO	35 hours	£14	£490
TOTAL		895 hours		£22,720
Application processing Total Per premises				£19,170 £280
Compliance and Enforce Total Per premises				£3550 £50

13. Fees may be a more significant cost to a small business than a large one. The local authority must consider that
- (i) Fees are about recovering costs so local authorities are not expected to stratify as the costs to them for small businesses are likely to be the same as for large ones.
 - (ii) Small businesses tend to depend more on local authorities for help and advice.
 - (iii) Domestic premises could have a higher level of animal welfare activities and concerns as they tend to be run by non-professional people.
14. A local authority can consider calculating fees for different types of premises but there needs to be a clearly perceived benefit, and in the analysis above each process step is required for every type of premises and therefore charging different fees is unlikely to be justified.
15. The local authority may charge fees for administrative changes that might take place during the life of the licence, for example change in proprietor, surrender of licence, request for star rating review or issuing a replacement licence. The administrative costs of each of these processes is low and therefore it is not considered necessary to charge an additional fee. The risk/star rating process is new to all parties in the 2018 regulations and therefore some reviews are inevitable. Officers therefore consider it appropriate to offer businesses a free review during this first round of licences. This position may be reviewed in the future.
16. Once the review has been completed, fees must be referred for Member approval, in this case to the Licensing and Enforcement Committee, and thereafter made public. This report will be retained for auditing and freedom of information purposes.

Final Outcome of Review.

17. The review has concluded that the following fees are fair and reasonable and should apply from **1st April 2019**:

New Licence or Licence Renewal	£280 (the “part A” fee)
Annual compliance visit	£50 (the “part B” fee)
Star Rating review reinspection	No charge
Administrative Change eg. in proprietor	No charge
Vets Fees (where necessary)	Separately invoiced by LA

18. For new licences and renewals received after 1st April 2019, the required fee will be Part A + Part B, ie. **£330**. The Part B fee would be refunded if for any reason the licence was not actually issued (for example because the premises could not meet the minimum standards required within a reasonable time).
19. Any premises which has already been inspected under the new regulations but using the previous fee scheme will be subject to the **£50** annual compliance visit charge, unless a renewal is due within 1 year. Invoices for this additional fee will be issued with the appointment letter, and the visit will not be carried out until the fee has been paid.
20. It is not appropriate to either stratify the fees or charge different fees for each type of premises because the work involved in administering and inspecting premises has been found to be broadly similar regardless of the type of animal activity.
21. These fees will be reviewed in February 2020, with any further changes coming into effect on 1st April 2020.



Report to: **Licensing and Enforcement Committee**

Date of Meeting: 20 February 2019

Public Document: Yes

Exemption: None

Agenda item: 10

Subject: **Committee update – National Consultation on Statutory Guidance for Licensing Authorities “Taxi and Private Hire Vehicle Licensing: Protecting Users.”**

Purpose of report: The report provides an update on the consultation commencing in February and ending on 22 April 2019

Recommendation: **That the report be noted**

Reason for recommendation: To keep the Council’s statutory committee up to date with national developments relating to Taxi and Private Hire Licensing

Officer: Steve Saunders, Licensing Manager

Financial implications: None

Legal implications: There are no legal implications currently identified.

Equalities impact: Low Impact

Risk: Low Risk

Background Papers:

LGA Councillors Handbook ‘Taxi and PHV Licensing’

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Background

1.1 At the meeting of this committee in August 2016, members were informed of LGA guidance for councillors entitled ‘Taxi and PHV Licensing’ which provides the framework and standards for licensing authorities with regard to Taxi and Private Hire driver licensing. The standards and guidance places protection of the public as being of paramount importance and all councils are expected to have safety measures within their policies.

1.2 This Council’s current Taxi Licensing Policy was approved in 2017 following a comprehensive review and full public consultation consolidating previous policies, national best practice and guidance issued by the Department for Transport (DofT). When setting out this policy, the Council placed the protection of public safety as its key priority.

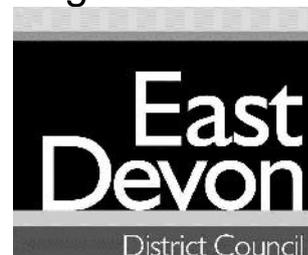
2 **National Consultation 2019**

- 2.1 The DoT announced this month it is seeking views on proposed recommendations contained in draft statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults. The consultation has been drawn to the specific attention of the National Police Chiefs' Council, the Local Government Association, the National Association of Licensing Enforcement Officers, the Institute of Licensing, and a range of trade representative bodies and publications of which the Department is aware across the country. It is a public consultation and the DoT is also keen to hear from groups or individuals with an interest.
- 2.2 The consultation is regarded as a positive development and follows the government issuing its response to the report of the Task and Finish Group on taxi and private hire vehicle licensing. The draft statutory guidance proposed a range of robust measures to protect taxi and PHV passengers, particularly those most vulnerable. Government and licensing authorities are required to work together to ensure that, above all else, the taxi and PHV services the public use are safe. The consultation on this guidance will commenced on 12 February and will run until 22 April 2019.
- 2.3 The consultation document can be read through this link:
<https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-licensing-protecting-users>
- 2.4 To read the Government's response to the report of the Task and Finish Group on taxi and private hire vehicle licensing: <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-government-response-to-independent-report>

3 Future Consideration

- 3.1 It is reported that Government will, when time allows bring forward legislation to introduce national minimum standards for taxi and PHV licensing, reinforcing consistently high standards that the statutory guidance will bring to the sector. This is being proposed to ensure that drivers are under the same level of scrutiny when operating away from their licensing area to enable enforcement and compliance checks to be conducted by any licensing officer against any vehicle regardless of where they have been licensed.
- 3.2 Members will be aware that this Council experienced recent challenges and was prepared to take regulatory action through revoking the licence of a taxi driver who was operating in another licensing district last year. This licensing authority readily accepts the need to consider and take appropriate action to protect the public. The introduction of this Council's Taxi Policy together with Safeguarding Awareness measures that are planned further reinforce the standards that are expected nationally.
- 3.3 Underpinning these measures at some stage will also see the introduction of a national licensing database to assist the sharing of relevant information between licensing authorities and other bodies necessary to ensure that all those in the trade are 'fit and proper' and warrant the trust that is placed in them by the public.
- 3.4 Officers will provide further information upon the outcome and conclusion of the consultation when this committee next meets.

Report to: **Licensing and Enforcement Committee**



Date of Meeting: 20th February 2019

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 9

Subject: **The Animal Welfare (Licensing of Activities involving Animals)(England)Regulations 2018 – REVIEW OF FEES**

Purpose of report: To advise Licensing and Enforcement Committee of the fee review process which has been carried out in accordance with both DEFRA guidance and the Open For Business requirements, a report of which is attached to this committee report.

Recommendation: **For Committee to approve the adoption of the new fees with effect from 1st April 2019:**

New and Renewal Applications = £330

Annual Compliance Visit = £50

Minor changes during licence period = No Charge

Review of star rating = No Charge

Vets Fees = Invoiced per premises where required

Reason for recommendation: In order to meet the requirements of the regulations and guidance with regard to locally setting fees at a level which is estimated to be cost neutral.

Officer: Janet Wallace and Allison Ferrero, Principal Environmental Health Officers, jwallace@eastdevon.gov.uk; aferrero@eastdevon.gov.uk

Financial implications: Financial implications are contained within the report

Legal implications: The legal principles and fee setting regime are set out within the report and require no further comment.

Equalities impact: Low risk.

The application of the new fees required by the regulations will be achieved using reasonable and proportionate principles with the aim of keeping costs to every businesses as low as practicable.

Risk: Low risk. Application of the new regulations is a statutory requirement for the authority, as is the charging of appropriate fees to cover the cost of providing the service.

Links to background Appendices:

information: A – Report on the Review of Licence Fees for Activities Involving Animals

Link to Council Plan: Developing an outstanding local economy and continuously improving to be an outstanding council.

Report

1. Officers presented to the November 2018 Licensing and Enforcement Committee a report outlining the new regulations and guidance applicable to certain activities involving animals and the establishments associated with these activities. At that committee officers undertook to return in February with the required licence fee review completed.
2. Five activities involving animals are covered by these regulations:
 - (i) Selling animals as pets (no longer just in pet shops)
 - (ii) Providing boarding for cats or dogs (including kennels, day care and home boarding for dogs)
 - (iii) Hiring out horses for riding
 - (iv) Dog breeding
 - (v) Keeping or training animals for exhibition (licences commence 1st April 2019).
3. As part of the requirements Local authorities must review the fees charged both for the licence administration process and for subsequent compliance checks. The report attached at Appendix A sets out how this review has been done in line with the Open for Business Local Government Association Guidance on locally set licence fees.
4. The report concludes that the fees should increase from the current levels which range from £100 to £180 per premises (depending on the type of activity) to a set fee of £330. Whilst the increase may look significant, in many cases there is no effective increase as licences will be valid for 2 or 3 years, rather than for the current 12 months. Only premises classified as non-compliant will notice an increase in fee, and this will reflect the additional attention that officers will need to provide.
5. The proposed fees have been compared with other Devon Authorities. Some have already reviewed their fees and these are similar to the fees that East Devon has determined: Plymouth charge a total of £400, South Hams District Council charge £234, Torbay charge £399 and Mid Devon's fees are £292.
6. The local authority is required to review these fees each year and therefore the next review has been set for February 2020, with any further changes coming into effect in April 2020.