



Members of the Licensing Committee –

Councillors R P Lillis (Chairman), H J W Davies (Vice Chairman),  
I Aldridge, T Hall, S Y Goss, J Parbrook, R Thomas,  
N Thwaites, K H Turner, D J Westcott

7 March 2017

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Dear Councillor

**LICENSING COMMITTEE MEETING**

**Date: Wednesday 15 March 2017**  
**Time: 3.00 pm**  
**Venue: Council Chamber, Council Offices, Williton**

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Yours sincerely

**BRUCE LANG**  
Proper Officer

## RISK SCORING MATRIX

Report writers score risks in reports uses the scoring matrix below

**Risk Scoring Matrix**

<b>Likelihood</b>	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
<b>Impact</b>							

<b>Likelihood of risk occurring</b>	<b>Indicator</b>	<b>Description (chance of occurrence)</b>
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

- Mitigating actions for high ('High' or above) scoring risks are to be reflected in Service Plans, managed by the Group Manager and implemented by Service Lead Officers;
- Lower scoring risks will either be accepted with no mitigating actions or included in work plans with appropriate mitigating actions that are managed by Service Lead Officers.

# **LICENSING COMMITTEE - AGENDA**

**15 March 2017 at 3.00 pm**

**Council Chamber, Williton**

1. **Apologies for Absence**

2. **Minutes of the meeting held on 29 November 2016**

Minutes of the Meeting of the Committee held on 29 November 2016 – **SEE ATTACHED** – to be confirmed.

3. **Declarations of Interest**

To receive and record any declarations of interest in respect of any matters included the Agenda for consideration at this Meeting.

4. **Public Participation**

The Chairman to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three-minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

5. **Licensing Update Report**

To consider Report No. WSC 28/17. To be presented by the Councillor Turner. Report Author is John Rendell, Licensing Manager – **SEE ATTACHED**.

The purpose of the report is to provide an update on the activities of the Council's licensing service, changes to legislation, current consultations and other general licensing matters.

6. **Licensing Training Presentation**

An update to be given from the Safety Advisory Group. To be presented by John Rendell, Licensing Manager – **TO FOLLOW**.

7. **Minutes of the meeting of the Licensing Sub-Committee**

Minutes of the meeting of the Licensing Sub-Committee held on 14 December 2016, for information – **SEE ATTACHED**.

## **COUNCILLORS ARE REMINDED TO CHECK THEIR POST TRAYS**

### **The Council's Vision:**

To enable people to live, work and prosper in West Somerset

### **The Council's Corporate Priorities:**

- Local Democracy:  
Securing local democracy and accountability in West Somerset, based in West Somerset, elected by the people of West Somerset and responsible to the people of West Somerset.
- New Nuclear Development at Hinkley Point  
Maximising opportunities for West Somerset communities and businesses to benefit from the development whilst protecting local communities and the environment.

**LICENSING COMMITTEE**

**Minutes of the Meeting held on 29 November 2016 at 4:30pm**

**In The Council Chamber, West Somerset House, Williton**

**Present:**

Councillor R P Lillis ..... Chairman  
 Councillor I Aldridge  
 Councillor J Parbrook  
 Councillor D Westcott  
 Councillor I Jones  
 Councillor R Thomas

**Officers in Attendance:**

Licensing Manager (J Rendell)  
 Licensing Officer (L Fumagalli-Roberts)  
 Democratic Services Officer (M Prouse)

**LEP1 Apologies for Absence**

Apologies were received from Councillors Davies and Turner.

**LEP2 Minutes of the meeting held on 8 March 2016**

(Minutes of the Meeting of the Licensing Committee held on 8 March 2016 – circulated with the Agenda.)

**RESOLVED** that the Minutes of the Licensing Committee held on 8 March 2016 be noted.

**LEP3 Declarations of Interest**

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

<b>Name</b>	<b>Minute No.</b>	<b>Member of</b>	<b>Action Taken</b>
Councillor I Aldridge	All	Williton Parish Council	Spoke and voted
Councillor J Parbrook	All	Minehead Town Council	Spoke and voted
Councillor R Thomas	All	Minehead Town Council	Spoke and voted
Councillor D Westcott	All	Watchet Parish Council	Spoke and voted

**LEP4 Public Participation**

No members of the public had requested to speak on any item on the agenda.

**LEP5 Licensing Update Report**

The purpose of the report was to keep the Council's statutory Committee up to date on the activities of the council's Licensing service, changes to legislation, current consultations and other general licensing matters.

The Licensing Manager presented the report which contained details of the Licensing Service's activity since the last meeting of the Committee as well as updating Members on the backlog of applications and updating the Members on the staff appointments that had been made.

Enclosed with the reports was data comparison concerning the numbers of applications received for each of the regimes administered by the Licensing Team between July and September and the numbers of licenses in force and notices given as at 2 November 2016.

During the discussion the following pointed were raised:-

- The Licensing Manager invited Members to bring forth any suggestions for training that could be given at the end of Committee's.
- Members stated they would be interested in any training with The Chairman expressing a preference for the Committee to look at Extensions of Hours Training and TENS.
- It was felt that as Extensions of Hours was particularly an issue that came up before the Committee in this area more regularly, it would be beneficial for Members to look at Training in this regard.
- The Chairman also felt that it would be good for the Committee to start looking at Areas where this Council would have to merge and align with other Councils due to recent decisions, and would possibly help when that would be due to take place.
- Members praised the Licensing team for being pro-active in ensuring proper vetting with Hackney Carriage and Private Hire drivers, and that West Somerset seems to be ahead of the game as opposed to other Areas.
- Member queried as to why there had been such a rise in the Gaming Act Applications this year?
- Officers informed the Committee that they believed this was down the Small Society Lotteries who a majority had had to renew their licenses this year.

**RESOLVED** that the update report be noted.

**LEP6 Proposed Changes to the Licensing of Sites for Moveable Dwellings**

The purpose of the report was to consider proposed changes to the licensing requirements for camping and touring caravan sites and the recommendations set out within the report with regard to the requirement to renew the licence annually.

The Licensing Officer presented the report which contained details that the Council currently granted campsite licences for a duration of one year, but no fee is charged for this licence. Section 269 of the Public Health Act 1936 gave the Local Authority the power to control the use of moveable dwellings and to licence the use of land as a site for use by tents and touring caravans. The legislation did not refer to a licence period or renewal of a licence.

A licence is only required if the land is to be used for more than 42 consecutive days or for more than 60 days in any consecutive 12 months.

There are some exceptions to the requirement for a site licence to be issued by the Local Authority, these included (but are not limited to) sites occupied by exempted organisations such as camping club, or if the site is to be used by agricultural workers.

Members were informed that there were 12 sites currently licensed within the West Somerset district and these licences were renewed annually. No fee is charged for the licence and renewal applications are generated and issued by the department each year.

The time taken by a member of the Licensing Team to complete the application process for an individual premises is approximately 20-30 minutes on average, this took into account the time taken to generate and issue the renewal documents through to receiving the completed application and issuing the licence. This time could be increased if there were any issues such as missing documents which would have to be requested from the applicant.

The proposal was to remove the licence period to enable licences to be issued indefinitely unless there is a restriction on the site with regards to the planning permission, in which case the licence would be issued for a period to coincide with the expiry of the planning permission for the site.

Licence holders would be able to notify the Council of any relevant changes, such as a transfer or change to the number of units, by completing a form as per the current arrangement.

The abolition of the licence period would reduce the burden on the Licensing Department resources and reduce financial loss, particularly as there is no fee charged for this licence. Removal of the requirement to renew a licence also reduced the burden on applicants and supports the Council's Corporate Aims.

During the discussion the following points were raised:

- Discussed in depth was the exact classifications around what exactly qualified as a Moveable Dwelling.
- One Member requested clarification around static caravans (with wheels off) would they be classed as a moveable dwelling, but Officers stated that they were not and were licensed under separate legislation.
- Specifically, the Caravan Sites and Control of Development Acts.
- These changes applied only to Tents and Touring Caravans only, and would in essence align the legislation with the Static Caravan legislation.
- Another Councillor raised queries around Caravan sites that are suffering from coastal erosion, and whether it was the remit of the Licensing Committee to make sure a site is safe?
- Officers could not give a definitive answer on this issue, but were happy to provide a response for the minutes or a written response.
- It was known that licences could include a restriction on the number of dwellings on a site and other safety measures such as spacing.
- It was considered that other agencies may be monitoring the safety of sites with regard to erosion, such as environmental health.

- In the Officer's opinion and experience of Caravan site Licensing, there were a lot of crossovers with pieces of legislation for example, with the Fire Service, who when issues arise with Caravan sites usually take the lead, as their enforcement powers are more encompassing.
- Concerns were raised around people living in Caravan sites residentially when the permission were only allowed for a certain number of months in a year.
- Licensing Officer stated that they had to do some work on this, but it would be the owners who would have to be engaged with on this.

**RESOLVED (1)** that the Licensing Committee approved the proposal to abolish the 12 month licence period currently applied to the licence for use of land as a site for moveable dwellings.

**The meeting closed at 5.00 pm.**



Report Number: WSC 28/17

## West Somerset Council

### Licensing Committee – 15 March 2017

#### Licensing Update report

This matter is the responsibility of Cabinet Member Councillor Keith Turner

Report Author : John Rendell, Licensing Manager

#### 1 Executive Summary

- 1.1 This report provides an update on the activities of the council's licensing service, changes to legislation, current consultations and other general licensing matters.

#### 2 Recommendations

- 2.1 That the report be noted.

#### 3 Risk Assessment

##### Risk Matrix

Description	Likelihood	Impact	Overall
If the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council's Corporate Strategy.	4	4	16
Demonstrating good governance of the licensing function through presentation of current arrangements and statistics relating to the licensing service.	3	4	12

**Risk Scoring Matrix**

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4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

**4 Background and Full details of the Report**

Performance of the service

- 4.1 The performance of the licensing service is measured against the number of applications that are completed within 14 days of them having been determined e.g. a licence is issued after a decision as to whether to grant the licence or not, has been reached. The target for the service is that, for all applications that are completed within a set quarter, 90% must be completed within 14 days of them being determined.
- 4.2 97% of all applications completed between the 1<sup>st</sup> of October and 31<sup>st</sup> of December 2016 were completed within the 14 day timescale.

Staffing

- 4.3 Licensing Officer Olivia Denis departed the team on the 5<sup>th</sup> of October. She was followed by Licensing Assistant Sally Attfield on the 9<sup>th</sup> of December.

- 4.4 After a lengthy recruitment process, Fern Avis and Bradley Fear were appointed to the vacant Licensing Officer and Licensing Assistant posts respectively. Both joined in January and have made promising starts to their careers in Licensing.

Applications received and licences in force

- 4.5 The numbers of applications received for each of the regimes administered by the licensing service, between October and December 2016, are shown in comparison with those received for the period in the preceding two years at **Appendix A**. The numbers of licenses in force and notices given as of the 27<sup>th</sup> February 2017 are shown at **Appendix B**.

Changes to the licensing of dog breeders

- 4.6 The Department for Environment, Food & Rural Affairs (DEFRA) has announced plans to tighten up dog breeding licensing legislation.
- 4.7 Under current rules, any person that sells five or more litters of puppies in a year needs a licence, as do businesses. Under the plans, it is proposed to reduce the limit to three or more litters per year. In addition, it will be completely illegal to sell puppies younger than eight weeks.
- 4.8 The new rules will mean smaller establishments; sometimes called ‘backstreet breeders’, which supply thousands of dogs to families each year, as well as larger commercial breeders, must meet strict welfare criteria to get a licence. Irresponsible breeders can neglect the health and welfare of the puppies they raise and may not properly vaccinate them, leading to steep vets’ bills and heartbreak for buyers.
- 4.9 The rules will also be updated and made fit for the modern age with anyone trading commercially in pets online needing to be properly licensed, to help make reputable sellers easily accessible to prospective buyers.
- 4.10 Those who do not adhere to the new rules face tougher penalties in the form of an unlimited fine and/or up to six months in prison. This is up from the current penalties of a fine of £2,500 and/or up to three months in prison.
- 4.11 It is anticipated that the above changes will coincide with the modernisation of the other animal licensing regimes, concerning riding establishments, pet shops, dangerous wild animals, zoos and animal boarders.

Policing and Crime Act 2017

- 4.12 The Policing and Crime Bill received Royal Assent on Monday 31<sup>st</sup> January 2017. Within the Act are a number of proposed changes to licensing legislation, specifically the Licensing Act 2003; the Act which regulates alcohol, entertainment and late night refreshment.
- 4.13 There are particular changes which will affect personal alcohol licences. Under current rules, licence holders are required to notify the courts when they are convicted of a ‘relevant offence’, with the purpose being that the courts can then decide if the licence should be suspended or forfeited. In practice, this rarely happens and licensing authorities have been, until now, powerless to take action of their own. The 2017 Act will allow licensing authorities to suspend or revoke a personal licence where they become aware that the holder has been convicted of a relevant offence or is required to pay an

immigration penalty.

4.14 In addition to the above, the list of relevant offences; which already includes offences involving alcohol, drugs, violence and psychoactive substances; has been expanded to include the following:

- Using someone to mind a weapon;
- Manufacture, import and sale of realistic imitation firearms;
- Offences listed under section 41 of the Counter Terrorism Act 2014, which includes encouragement of terrorism, preparation and training for terrorism;
- An offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences), which includes kidnapping, false imprisonment and threats to kill.

4.15 Full details can be read online at:

- <http://www.legislation.gov.uk/ukpga/2017/3/part/7/enacted>

#### New duties for taxi and private hire drivers concerning disabled passengers

4.16 It has recently been announced that sections 165 and 167 of Equality Act 2010, are to be commenced from the 1<sup>st</sup> of April 2017.

4.17 This gives local authorities the ability to publish lists of 'designated vehicles'; taxis or private hire vehicles that wheelchair users can get in and out of safely and can travel in with reasonable comfort and safety, whether they are in their wheelchair or not.

4.18 Where local authorities publish lists of designated taxis and private hire vehicles, the drivers of such vehicles then automatically have certain legal duties:

- To carry the passenger while they are in their wheelchair and not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- to give the passenger such mobility assistance as is reasonably required, which includes helping them to get in and out of the vehicle and loading their luggage.

4.19 There is the ability to issue exemption certificates to those drivers who, for medical reasons, cannot perform the above mentioned duties.

4.20 A copy of the Department for Transport's statutory guidance in respect of the changes is included with this report as Appendix 3.

4.21 Officers intend to discuss the changes and put together firm proposals before any recommendations are made to members of the committee.

## **5 Links to Corporate Aims / Priorities**

5.1 The licensing service is committed to helping businesses and individuals to comply with all relevant legislation, in order to support new and existing businesses and enable cultural and leisure activities, thereby supporting the Council's growth agenda.

**6 Finance / Resource Implications**

6.1 No finance or resource implications identified.

**7 Legal Implications (if any)**

7.1 No legal implications identified.

**8 Environmental Impact Implications (if any)**

8.1 There are no specific environmental impact implications identified as a result of this report.

**9 Safeguarding and/or Community Safety Implications (if any)**

9.1 The four licensing objectives under the Licensing Act 2003 are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

With the addition of securing the welfare of animals, these are the main aims of the Licensing Service. The continued work of the service to achieve and promote these aims, further supports the role of the Council in ensuring community safety.

**10 Equality and Diversity Implications (if any)**

10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2 No equality and diversity implications were identified.

**11 Social Value Implications (if any)**

11.1 No social value implications have been identified.

**12 Partnership Implications (if any)**

12.1 No partnership implications were identified.

**13 Health and Wellbeing Implications (if any)**

13.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

**14 Asset Management Implications** (if any)

14.1 No asset management implications were identified.

**15 Consultation Implications** (if any)

15.1 No consultation implications were identified.

**16 Scrutiny Comments**

16.1 There are no scrutiny comments or recommendations.

**Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency :  Once only    Ad-hoc    Quarterly  
 Twice-yearly    Annually

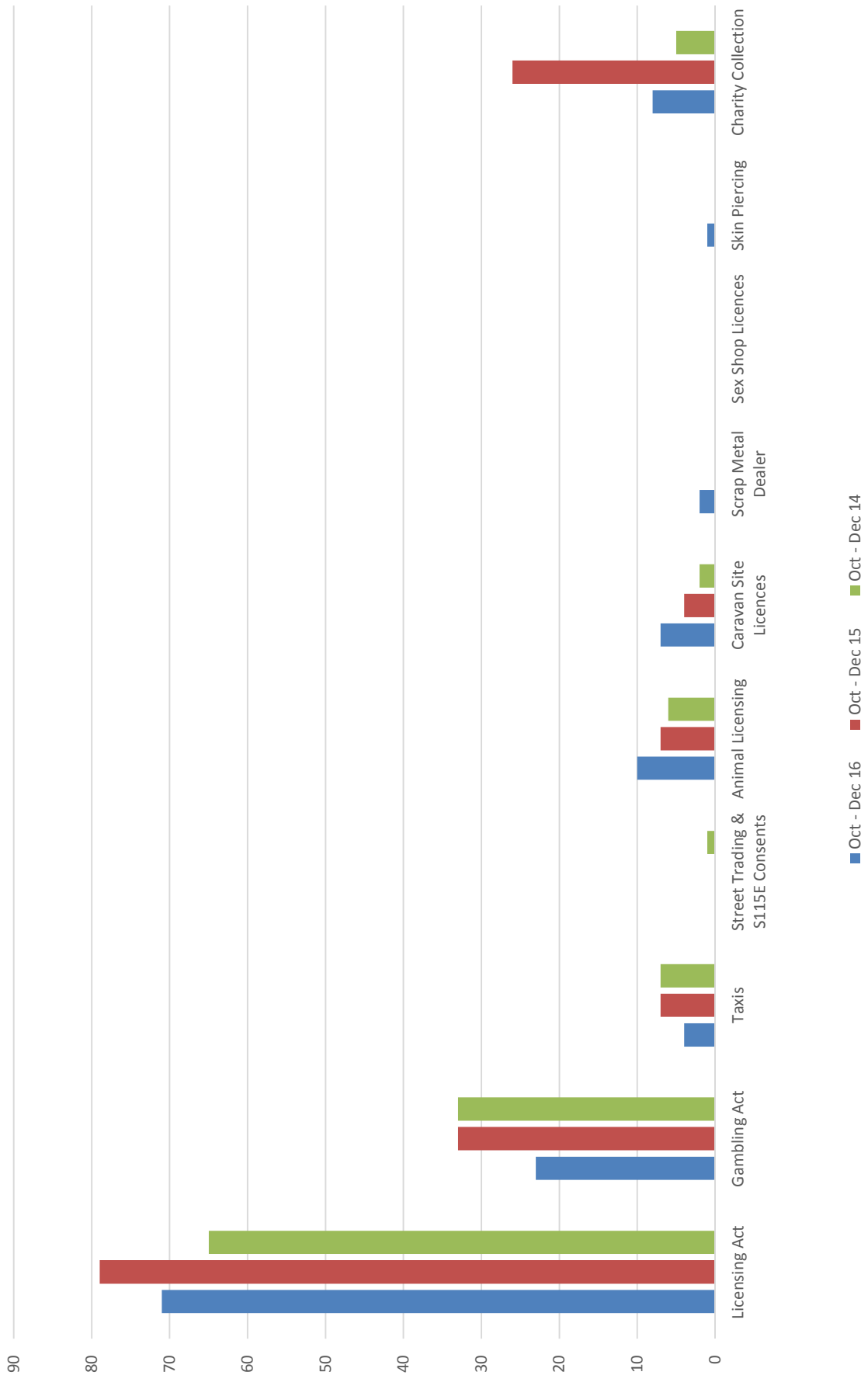
**List of Appendices**

Appendix 1	Applications received, notices given, service requests and complaints
Appendix 2	Licences issued and notices given
Appendix 3	Department for Transport statutory guidance: Access For Wheelchair Users To Taxis and Private Hire Vehicles

**Contact Officers**

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Direct Dial	01823 256343
Email	j.rendell@tauntondeane.gov.uk

Applications Received & Notices Given







**Licences Issued and Notices Given**

These figures show the number of licences in force at 27th February 2017 and the number

Licensing Act 2003 Premises Licences	272
Licensing Act 2003 Club Premises Certificates	22
Licensing Act 2003 Personal Licences	813
Licensing Act 2003 Temporary Event Notices	2626
Gambling Act 2005 Club Machine Permit	8
Gambling Act 2005 Licensed Premises Gaming Machine Permits	3
Gambling Act 2005 Occasional Use Notices	23
Gambling Act 2005 Premises Licences (Adult Gaming Centre)	6
Gambling Act 2005 Prize Gaming Permits	1
Gambling Act 2005 Society Lotteries (since 01/09/2007)	47
Gambling Act 2005 Temporary Use Notices	0
Gambling Act 2005 Unlicensed Family Entertainment Centres	11
Gambling Act 2005 Notification of 2 or less Gaming Machines	33
Hackney Carriages	31
Private Hire Vehicles	16
Hackney Carriage & Private Hire Drivers	61
Private Hire Operators	18
Street Trading Consents	7
Zoo Licences	2
Pet Shop Licences	1
Dog Breeding Licence	0
Animal Boarding Licence	11
Riding Establishment Licences	7
Dangerous Wild Animal Licences	0
Caravan Site Licences	33
Scrap Metal Dealer licence	2
Sex Shop Licences	0
Skin Piercing Registrations	23
Street Collection Permits	474
House to House Collection Permit	356





Department  
for Transport

# Access for wheelchair users to Taxis and Private Hire Vehicles

## Statutory Guidance

**Moving Britain Ahead**

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

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# Ministerial Foreword



This Government is committed to ensuring that transport works for everyone, including disabled people. Since joining the Department for Transport in 2015, and taking on Ministerial responsibility for transport accessibility, I have made it my mission to challenge the status quo and encourage innovative thinking to improve access to transport across the modes.

I know however, that despite the real improvements which have taken place in recent years, some disabled passengers still face discrimination when attempting to travel. I am clear that this is unacceptable.

Owners of assistance dogs are already protected by provisions in the Equality Act 2010 which make it unlawful to refuse or charge them extra. I want similar protections to apply to wheelchair users, which is why I am delighted that we have commenced the remaining parts of sections 165 and 167 of the Equality Act 2010, making it a criminal offence for drivers of designated taxi and private hire vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra. I hope that in so doing we will send a clear signal to the minority of drivers who think it acceptable to discriminate on grounds of disability that such behaviour will not be tolerated – and, more importantly, to enable wheelchair users to travel with confidence.

A handwritten signature in blue ink that reads "Andrew Jones". The signature is written in a cursive, flowing style.

**Andrew Jones MP,  
Parliamentary Under Secretary of State, Department for Transport**

# 1. Introduction

## Status of guidance

- 1.1 This guidance document has been issued in order to assist local licensing authorities (LAs) in the implementation of legal provisions intended to assist passengers in wheelchairs in their use of designated taxi and private hire vehicle (PHV) services. It provides advice on designating vehicles as being wheelchair accessible so that the new protections can apply, communicating with drivers regarding their new responsibilities and handling requests from drivers for exemptions from the requirements.
- 1.2 This is a statutory guidance document, issued under section 167(6) of the Equality Act 2010 and constitutes the Secretary of State's formal guidance to LAs in England, Wales and Scotland on the application of sections 165 to 167 of the Equality Act 2010. LAs must have regard to this guidance document.

## 2. Putting the law into practice

### Background

- 2.1 We have commenced sections 165 and 167 of the [Equality Act 2010](#) (“the Act”), in so far as they were not already in force. Section 167 of the Act provides LAs with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.
- 2.2 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act, which is already in force. This allows LAs to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.
- 2.3 On 15<sup>th</sup> September 2010, the Department for Transport issued guidance on the Act which stated, in relation to section 167, *“although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates”*.
- 2.4 We therefore recognise that many LAs have already implemented some of these provisions, including publishing lists of wheelchair accessible vehicles and exempting drivers. Therefore, there are likely to be a range of approaches being used in practice by LAs across England, Wales and Scotland.

### Transitional arrangements

- 2.5 We want to ensure that the commencement of sections 165 and 167 of the Act has a positive impact for passengers in wheelchairs, ensures they are better informed about the accessibility of designated taxis and PHVs in their area, and confident of receiving the assistance they need to travel safely.
- 2.6 But we recognise that LAs will need time to put in place the necessary procedures to exempt drivers with certain medical conditions from providing assistance where there is good reason to do so, and to make drivers aware of these new requirements. In addition, LAs will need to ensure that their new procedures comply with this guidance, and that exemption notices are issued in accordance with Government regulations. This will ensure that we get a consistent approach and the best outcomes for passengers in wheelchairs.
- 2.7 As such, we would encourage LAs to put in place sensible and manageable transition procedures to ensure smooth and effective implementation of this new law. LAs should only publish lists of wheelchair accessible vehicles for the purposes of



section 165 of the Act when they are confident that those procedures have been put in place, drivers and owners notified of the new requirements and given time to apply for exemptions where appropriate. We would expect these arrangements to take no more than a maximum of six months to put in place, following the commencement of these provisions, but this will of course be dependent on individual circumstances.

- 2.8 A flowchart setting out the sorts of processes that a LA could follow is set out below. This is an indicative illustration, and it will be down to each LA to determine the actions they need to take to ensure this new law is implemented effectively in their area.



## 3. Vehicles

### Overview

- 3.1 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.2 Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.

### Vehicles that can be designated

- 3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.
- 3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- 3.5 This means that to be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair"<sup>1</sup> to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 3.6 Taking this approach allows the provisions of section 165 of the Act apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.
- 3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. Paragraph 3.10 of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journeys.

<sup>1</sup> As defined in Schedule 1 of the [Public Service Vehicle Accessibility Regulations 2000](#)

## Preparing and publishing lists of designated vehicles

- 3.8 We want to ensure that passengers in wheelchairs have the information they need to make informed travel choices, and also that drivers and vehicle owners are clear about the duties and responsibilities placed on them.
- 3.9 Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'.
- 3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator. Where possible it would also be helpful to include information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated.
- 3.11 However, we recognise that some passengers in wheelchairs may prefer to transfer from their wheelchair into the vehicle and stow their wheelchair in the boot. Although the legal requirement for drivers to provide assistance does not extend to the drivers of vehicles that cannot accommodate a passenger seated in their wheelchair, we want to ensure that these passengers are provided with as much information as possible about the accessibility of the taxi and PHV fleet in their area.
- 3.12 We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance. Authorities may however wish to use existing licensing powers to require such drivers to provide assistance, and impose licensing sanctions where this does not occur.

## Appeals

- 3.13 Section 172 of the Act enables vehicle owners to appeal against the decision of a LA to include their vehicles on the designated list. That appeal should be made to the Magistrate's Court, or in Scotland the sheriff, and must be made within 28 days of the vehicle in question being included on the LA's published list.

## 4. Drivers

### Driver responsibilities

- 4.1 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.
- 4.2 The duties are:
- to carry the passenger while in the wheelchair;
  - not to make any additional charge for doing so;
  - if the passenger chooses to sit in a passenger seat to carry the wheelchair;
  - to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - to give the passenger such mobility assistance as is reasonably required.
- 4.3 The Act then goes on to define mobility assistance as assistance:
- To enable the passenger to get into or out of the vehicle;
  - If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
  - To load the passenger's luggage into or out of the vehicle;
  - If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 4.4 Once the duties are commenced, it will be an offence for the driver (unless exempt) of a taxi or PHV which is on the licensing authority's designated list to fail to comply with them. We encourage LAs to provide drivers of taxis and PHVs who are not exempt from the duties with clear guidance on their duties with respect to the carriage of passengers in wheelchairs, either as part of existing driver-facing guidance, or as supplementary communication. The Disabled Persons Transport Advisory Committee's Disability Equality and Awareness Training Framework for Transport Staff<sup>2</sup> may provide a useful resource.
- 4.5 Although each situation will be different, we take the view that reasonable mobility assistance will be subject to other applicable law, including health and safety legislation. However, we would always expect drivers to provide assistance such as folding manual wheelchairs and placing them in the luggage compartment, installing the boarding ramp, or securing a wheelchair within the passenger compartment.
- 4.6 Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance could also include pushing a manual wheelchair or

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<sup>2</sup>

<http://webarchive.nationalarchives.gov.uk/20080804135759/http://www.dptac.gov.uk/education/stafftraining/pdf/trainingframework-nontabular.pdf>

light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.

- 4.7 It is our view that the requirement not to charge a wheelchair user extra means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment. We recommend that licensing authority rules for drivers are updated to make clear when a meter can and cannot be left running.

## Applying for and issuing exemptions

- 4.8 Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows LAs to grant exemptions from the duties to individual drivers. These provisions are contained in section 166, and were commenced on 1<sup>st</sup> October 2010.
- 4.9 Section 166 allows LAs to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties. Since October 2010, taxi and PHV drivers who drive wheelchair accessible taxis or PHVs have therefore been able to apply for exemptions. If they do not do so already, LAs should put in place a system for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt.
- 4.10 We suggest that authorities produce application forms which can be submitted by applicants along with evidence supporting their claim. We understand that some licensing authorities have already put in place procedures for accessing and exempting drivers, and as an absolute minimum, we think that the evidence provided should be in the form of a letter or report from a general practitioner.
- 4.11 However, the Government's view is that decisions on exemptions will be fairer and more objective if medical assessments are undertaken by professionals who have been specifically trained and who are independent of the applicant. We would recommend that independent medical assessors are used where a long-term exemption is to be issued, and that LAs use assessors who hold appropriate professional qualifications and who are not open to bias because of a personal or commercial connection to the applicant. LAs may already have arrangements with such assessors, for example in relation to the Blue Badge Scheme.
- 4.12 If the exemption application is successful then the LA should issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle. As section 166 has been in force since 2010, many LAs will already have processes in place for issuing exemption certificates, and as such we do not intend to prescribe the form that those certificates should take. We are however keen to ensure that passengers in wheelchairs are able to clearly discern whether or not a driver has been exempted from the duties to provide assistance, and as such will prescribe the form of and manner of exhibiting a notice of exemption.
- 4.13 If the exemption application is unsuccessful we recommend that the applicant is informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.

## Demonstrating exemptions

- 4.14 In addition to the exemption certificate, exempt drivers need to be issued with a notice of exemption for display in their vehicle.
- 4.15 The Department will soon make regulations which will prescribe the form of and manner of exhibiting a notice of exemption. Where a driver has been exempted from the duties under section 165 of the Act, they must display an exemption notice in the vehicle they are driving in the form and manner prescribed by the regulations. If the notice is not displayed then the driver could be prosecuted if they do not comply with the duties under section 165 of the Act.
- 4.16 The Department aims to distribute copies of the notice of exemption to LAs, but they are of course free to produce their own in accordance with the regulations.
- 4.17 Only one exemption notice should be displayed in a vehicle at any one time.

## Appeals

- 4.18 Section 172 of the Act enables drivers to appeal against the decision of a LA not to issue an exemption certificate. That appeal should be made to the Magistrate's Court, or a sheriff in Scotland, and must be made within 28 days beginning with the date of the refusal.
- 4.19 LAs may choose to establish their own appeal process in addition to the statutory process but this would need to be undertaken rapidly in order to allow any formal appeal to the Magistrate's Court to be made within the 28 day period.

## 5. Enforcement

### Licensing measures and prosecution

- 5.1 It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list of the LA that licensed them, and the LA has not provided them with an exemption certificate, regardless of where the journey starts or ends.
- 5.2 The Government expects LAs to take tough action where drivers breach their duties under section 165 of the Act.
- 5.3 LAs have wide-ranging powers to determine the rules by which taxis and private hire vehicles within their respective areas may operate. We recommend that they use these powers to ensure that drivers who discriminate against disabled passengers are held accountable.
- 5.4 If a driver receives a conviction for breaching their duties under section 165 of the Act, it would be appropriate for the authority to review whether or not they remained a fit and proper person to hold a taxi or PHV drivers' licence. The Government's presumption is that a driver who wilfully failed to comply with section 165 would be unlikely to remain a "fit and proper person".
- 5.5 Authorities might also apply conditions which enable them to investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed.





## West Somerset Council

### **Minutes of the Licensing Sub-Committee Hearing for a Temporary Event Notice Application for The Queens Hall, Warren Road, Minehead, held on 14 December 2016 at 12:00pm in the Council Chamber, West Somerset House, Killick Way, Williton, TA4 4QA.**

**Present:** Councillor Aldridge (Chairman)  
Councillors Lillis and Thomas

**Officers:** Leigh-Ann Fumagalli (Licensing Officer), Lesley Dolan (SHAPE Legal Services) Marcus Prouse (Democratic Service Officer - Scrutiny) and Clare Rendell (Democratic Service Officer).

**Applicant:** Claire Sturman

**Interested Parties:** Nicola Cooper (Responsible Authority – Avon and Somerset Constabulary)

**Other:** None

(The meeting commenced at 12.20pm)

The Chairman introduced himself and his fellow Sub-Committee Members and Officers then explained their roles. As well as acknowledging the documents he explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced her previously circulated report. An application had been received from **Claire Sturman** for a Temporary Event Notice (TEN) to be granted for **The Queens Hall, Warren Road, Minehead**.

The Applicant was seeking authorisation of licensable activities in connection with a 'New Year's Eve Party' during times that were not currently authorised by the existing Premise Licence. Following the application being received, the Licensing Department had duly notified Environmental Health and Avon and Somerset Constabulary. Following the notification, objection notices had been received from both parties.

The current opening hours of the premises as per the licence were seven days per week 9:00am until 11:00pm. On the TEN application, the applicant was proposing to hold a New Year's Eve event during the night and had requested an extension to the opening hours until 2:00am on 1 January 2017 to include DJ's throughout the evening.

The application also requested the sale by retail of alcohol and provision for regulated entertainment and late night refreshment.

Detailed in the Officer's report were the options open to the Sub-Committee. This was considered necessary for the promotion of the licensing objectives identified within the Licensing Act 2003 either to:-

1. Allow the TEN to stand, enabling the relevant licensable activities to take place;
2. Allow the TEN to stand, enabling the relevant licensable activities to take place but subject to the imposition of one or more of the conditions contained within the existing Premise Licence;
3. Issue a counter notice, thereby preventing licensable activities to take place.

The Chairman stated that he was surprised that Environmental Health were unable to have an officer present at the meeting, as this meant that they could not be asked for any clarification on their report. This could prejudice the objection.

The Applicant agreed with the Chairman's observation as this addressed her concerns.

The Responsible Authority did not ask any questions following the Licensing Officer's report.

The Legal Representative on behalf of the Council asked for confirmation that the TEN application had only been sent to Environmental Health and the Police and that no other Responsible Authorities were required to receive it.

The Licensing Officer responded:- TEN applications were only required to be sent to Environmental Health and the Police. They were only required to send it to other Responsible Authorities when it was a Premise License application.

The Legal Representative also made a general comment with reference to the application. Under the licensing regime, an applicant could serve a TEN application and unless a Counter Notice was served following the hearing, the event could still go ahead.

The Sub-Committee did not ask any questions following the Licensing Officer's report.

The Responsible Authority (Avon and Somerset Constabulary) presented their case to the Sub-Committee. The following comments and points were presented in relation to the written objection:-

- Concerns were raised on Condition (15) on this licence relating to the CCTV on the premises. The system installed at the Queens Hall had been audited by a qualified CCTV auditor from Avon and Somerset Constabulary in June and again in October 2016. Outstanding improvements following the two audits were still required to be met as part of an action plan by 15 November 2016 and remained outstanding to date. Further checks had been made on 15 November and two of the cameras still did not meet the requirements and the dates on the images were incorrect.
- The above mentioned action plan was put in place as a last resort to assist Ms Sturman in the management of her premises and compliance with her licence conditions. Avon and Somerset Constabulary re-visited the premises on 15 November 2016 with John Rendell, the Licensing Manager and John Unwin from Devon and Somerset Fire and Rescue Service. During this visit they found the following outstanding issues and breaches of the licence conditions:-
  - Outstanding training for all bar staff, relating to condition 9 of the licence;
  - The above mentioned CCTV, relating to condition 15 of the licence;
  - The full noise management plan had not been provided
  - The fire risk assessment had still to be agreed, relating to condition 5 of the licence.
- A number of areas of outstanding and ongoing concern had also been highlighted to support Ms Sturman in managing the premises effectively, promoting the licensing objectives and also to evident due diligence:-
  - Requirement to keep a Door Supervisor Register, relating to condition 1(a) of the licence.
  - Requirement to fully train bar staff on commencement of their employment, relating to condition 9 of the licence.
  - Insurance policies had been shown but were unclear if there was adequate cover for all activities taking place on the premises, relating to condition 6 of the action plan.
  - No significant progress had been made on works prescribed in the Fire Notices served on the premises.

- Due to Ms Sturman being unable to comply with the action plan and conditions already in place, it was collectively agreed with the Fire Officer, Environmental Health Officer and Taunton Deane Licensing Authority that all efforts of help towards compliance had been exhausted and there was no other option than to submit a review of the licence. An application was subsequently submitted by the Licensing Manager on 5 December 2016.
- In the interests of preventing crime and disorder, keeping the public safe, preventing public nuisance and protecting children from harm, Officers had recommended the Licensing Sub-Committee to refuse this application for extension to hours whilst there was a pending review.
- A similar TEN application had been submitted by the applicant in August 2016 for a different event but following a sub-committee, the Licensing Officer was asked to issue a Counter Notice, thereby preventing licensable activities from taking place

The Licensing Authority did not ask any questions of the Responsible Authority following the presentation of their case.

The Applicant did not ask any questions of the Responsible Authority following the presentation of their case as they would respond during their presentation.

The following questions and statements were raised by the Sub-Committee of the Responsible Authority (Responses are shown in italics):-

- Could any percentages be provided for what works had and had not be complied with, as it was difficult to make a decision without knowing what work had been undertaken.  
*It was difficult to give percentages as it was not based on the amount of work that had been undertaken. The items that had not, were what the Police considered to be the most important conditions on the licence so they could not be quantified in percentages.*
- Concern was raised again about the Fire Service not having any representation at the hearing.  
*Legislation did not allow the Fire Service to submit any representation on a TEN application.*
- Have the Police had any complaints registered about noise and anti-social behaviour?  
*No. Environmental Health would have dealt with any complaints about noise. The Police were aware of noise complaints being registered, as Environmental Health had been present at other meetings about the Queens Hall and had discussed the complaints.*
- Why were the door safe records seized by the Police?  
*For evidence if a review were to take place.*
- As long as the records were kept in the correct manner, they did not have to be kept in a folder, they could be in any formal register format?  
*They were not kept in a professional register, - loose leaf pages were not deemed to be a professional manner.*
- With reference to the insurance certificate, where were the areas that did not iterate the risk to the property and did not state clearly the public liability cover?  
*A copy of the schedule had been seen and it stated that only two Door Safe staff were working at the premises at any time and it was not a policy document. Discussions with the door safe staff had confirmed they were not insured. Further enquiries needed to be made as it was unlikely they would be covered by public liability. The Council was trying to work in partnership to resolve this.*
- When discussing the CCTV, were there only the two cameras that were unsatisfactory? Were all the other cameras on the premises satisfactory?  
*As stated camera 1 and 10 were not up to standards. There was no hard drive. The date could be rectified but after being audited and checked again they were still in breach of this. The applicant needed to employ someone to correct them and get the cameras set up to the Police and West Somerset Council standards.*

- Were the recordings checked?  
*The CCTV officer requested recordings, but the CD was broken in the post and some more images had been sent via email, but these were still not satisfactory.*

After the Sub-Committee's questions, the Applicant asked the following:-

- When were the Fire Notices issued and when was the expiry date?  
*The Police were not here to represent the Fire Service but it was believed that the deadlines were in January and March. The Fire Officer had confirmed that the Police had different legislation that overrode the enforcement and there was an issue with the licence objectives being undermined. The licence was granted in May and still no accurate plan had been submitted.*

The Legal Representative of the Sub-Committee did not ask any questions of the Responsible Authority following the presentation of their case.

The following comments and points were presented by the Applicant in relation to their written application:-

- Regarding the objection from Environmental Health, there was nobody present to be able to clarify any of their comments.
- When they had first applied for their licence, she asked if there would be any problems submitting the occasional TEN application and was told by Environmental Health that they had no issues with this. They have had informal discussions prior to submitting this application and had received positive feedback.
- The Applicant had approached both neighbours about the TEN application for New Year's Eve. One neighbour did not have any issues with this especially as it was for New Year's Eve, but did mention it was not something they would want to happen every weekend. The other neighbour had a well-documented history of harassment and she had used official lines of complaint to continue the harassment.
- This harassment was evident by the lack of noise complaints made against other venues. On raft race weekend, they could clearly hear the music at the Queens Hall from the Ship Aground Inn, but not one single noise complaint was raised. Equally the noise produced from Butlins on adult weekends had been measured from outside the Queens Hall and on one weekend it was 65 decibels and no complaint was raised. It was well documented that the noise produced from Butlins on adult weekends could be heard as far away as North Hill.
- The Applicant had a petition with 250 signatures to support the Queens Hall being used as a late night venue for live and recorded music. It was built in 1914 as an entertainment and music hall and had been there longer than any resident in Minehead and they would like to use the building for what it was intended for.
- Regarding the objections from the Police, firstly they were operating from two different licences. The licence issued on 18 May 2016 was not the same as the one the Police were referring to.
- The Applicant had a hard copy of the licence issued on 18 May 2016 and an email was sent on 18 November 2016 from the Licensing Manager, admitting an administrative error had occurred and some of the conditions had been incorrectly worded and there were a number of omissions on the licence issued on 18 May.
- These errors were discovered by Licensing on 7 July 2016, however, no notification had been received nor an amended copy of her licence. The Applicant thought that such a huge clerical error would have been corrected by sending an amended licence by recorded mail or followed up with an email or telephone call. She thought that such an error would have been noticed by the Licensing Manager before she made him aware on 18 November.

- Condition 15 relating to the CCTV was completely out of sync and on the Applicant's copy states 'All drinks were to be served in toughened/polycarbonated glasses'.
- However, with regard to the CCTV, all improvements requested by the Police in their email dated 18 October 2016 had been duly done. This included relocating cameras, additional signage, increasing the hard drive and setting up a log book. The Police had attended the premises on 6 October 2016 and had taken a memory stick of images to analyse. They had notified the Applicant on 18 October that the images could not be read on their system, so they asked for a CD of the images. This was delivered and followed up by an email and a telephone call to check these had been received. The CCTV officer had confirmed that he needed two cameras to be refocused. He also stated that camera 10 was not a vital camera and so they made the decision to remove this camera. Another CD was posted but this had been broken in the post and so the images were sent via email.
- The Applicant has gone to great lengths to ensure that their system was compliant but had been held up by lengthy and unnecessary delays on behalf of the Police and the postal service.
- On the original licence issued on 18 May 2016, the bar staff training condition did not appear. Evidence that all bar staff had to be trained on underage drinking and drunk and disorderly behaviour had been provided. The only training that was lacking was on glass collecting and bar dispersal training. Most were trained on these but the majority of staff were only part time, so this made training difficult, as they only had 4 weeks to compile their training record.
- The Management Plan was only available in a digital version only.
- Fire risk assessments had been completed and submitted on 20 October 2016. They were then contacted by the Fire Officer on 11 November 2016, giving them 4 days' notice prior to the meeting, to advise that one wall needed amending on the assessment so he could not sign off on the plan. The Applicant had until 5 January 2017 to complete the work on the Fire Notice.
- The Door Safe register was present when the Police visited the premises, however, it was not in the format that the Police would like and they had removed the pieces of paper from the file for further inspection. They had now implemented a new Door Safe register, which they had brought along for the hearing.
- The Applicant had brought along her insurance policy which was shown to the Police on 15 November 2016. They were only asked to show a certificate for public and employers liability insurance. The Police had contacted the insurance company several times chasing details of the policy.
- No significant progress had been made on the Fire Notices and yet a full inspection had not been carried out yet.
- The full review was not asked for until after this TEN application was submitted and the Applicant had taken advice from the Licensing Officer and was told this would be dealt with as a separate matter.
- The Applicant did not feel that they were in breach of their conditions, due to the following:-
  - The training condition was not on the original licence and an amended licence had not been provided.
  - They had done everything in their power to make sure their CCTV was compliant.
  - They had never had an incident of crime and disorder since opening and had asked for crime statistics to be provided to show otherwise. Local Police had even said they had used them as an example of best practice.
- The Applicant felt that the rejection of the TEN would be punitive and set them at a disadvantage to all the other premises in the area.
- The Applicant had made a number of amendments to their TEN application, including limiting the numbers to 250, which was almost half their capacity.

- The last TEN submitted was rejected by the Police as they had not provided a management plan three months prior to the event. This was no longer a requirement for the applicant. It was evident that the licence was so confusing that even the Police did not understand it.
- The Applicant hoped that the Sub-Committee would support them in their application.

The following questions were asked by the Responsible Authority of the Applicant following presentation of their report: (Responses are shown in italics):-

- The Responsible Authority felt that they had given many hours and support to assist the Applicant to be able to meet the conditions of the licence.
- Can the Applicant confirm that they met on the 11 October 2016 at West Somerset House and signed and agreed an action plan?  
*Yes.*
- At that time, the applicant was informed that a TEN application for New Year's Eve would not be considered until all the conditions on the action plan had been met?  
*I advised the Police I would not sign the action plan and would still be submitting a TEN application for New Year's Eve.*
- The Police and Applicant disagreed on this point and as the Licensing Manager was not present to confirm what was discussed at the meeting held on the 11 October, no further comments could be made.
- The Devon and Somerset Fire Officer was due to have a meeting with the Applicant about the Fire Risk Assessment to be on 23 November 2016. Did this meeting go ahead?  
*No the meeting did not go ahead as the Officer could not attend. I corresponded via email and phone.*
- What has happened since to get the Fire Risk Assessment signed off?  
*This was a private matter between myself and the Fire Officer.*
- What progress had been made on the Fire Notices with regard to public safety?  
*I am still working on the fire risk assessment and I have until 5 January 2017 to do so.*

The following questions were asked by the Sub-Committee of the Applicant following presentation of their report: (Responses are shown in italics):-

- Did the Applicant point out the discrepancies on the licence to the Licensing Manager?  
*Yes on 16 November 2016 as this was when I was made aware of the discrepancies.*
- Could the Applicant indicate what the response was from the Licensing Manager?  
*The Licensing Manager emailed: 'We had at long last solved the mystery. The copy of the licence I had been working from and which had been referenced in the action plan, was the true version of the licence as granted by the Licencing Committee. Unfortunately, the copy of the licence you were sent subsequently to the hearing, to which you refer, had a number of omissions and incorrectly worded conditions due to a clerical error, for which again I apologise for.'*
- Had this now been rectified?  
*An electronic version of the Premises Licence was attached to the email sent by the Licensing Manager. I had yet to receive a hard copy of the licence.*
- With regard to the CCTV, you state that you were compliant. However, an issue had been brought up about the breach of one of the images. Had this been rectified on the camera by the front door?  
*I did not state that I was compliant. I stated that I had done everything in my power to be compliant. The camera was attached to the right hand side of the building that looked underneath the balcony and viewed the street. Wherever they had placed the camera at the front of the building, at some point during the day it was affected by the sunlight or the streetlights.*

- Was the camera used to view the smoking area?  
*It viewed the street at the front of the premises.*
- Did your insurance cover certificate detail all the clauses that were covered or was it a broad statement of cover?  
*The certificate that I was asked for and showed, stated both public and employer liability insurance. The policy document had not been brought to the hearing, but could a copy could be forwarded to the Police, as it did state what constituted as an employee and what did not. I had called my insurance company and had checked if Door Staff were covered and they had said 'yes' as were any contractors working at the premises.*
- Did the paperwork state on it that it was a certificate of insurance?  
*Yes. This would be shown to the Sub-Committee prior to a decision being made.*
- Could the panel look at the original licence and other emails and paperwork?  
*Yes.*

The Responsible Authority asked the following:-

- When the door staff were working at the premises, did this mean that the applicant was employing them?  
*No I did not say that. I was confirming that they were covered by my insurance as an employee.*
- This is what was causing the confusion. When the door staff were working, who was supervising them?  
*They were self-employed door staff.*
- They did not have any insurance which concerned the Police.  
*Could the Police show the legislation that showed that door staff had a legal requirement to have insurance?*

A member of the Sub-Committee interjected at this point to confirm this was an area that needed clarifying and there were several definitions used in both criminal and civil law and it would not be easily answered today.

The Applicant asked a further question of the Responsible Authority:

- Could I have some clarification on how many other premises in the Minehead area had been asked to show their employers liability insurance? As my door staff worked in at least four other venues in the town and nobody else had been asked this question.  
*I cannot answer this as I cannot discuss other premises.*

To which the Responsible Authority responded:-

- Did the Queens Hall have a SIA licence?  
*No, as I did not employ the door staff.*

The following questions were asked by the Sub-Committee of the Licensing Officer:-

- Could the Licensing Officer clarify that the Applicant did not have an up to date copy of her licence?  
*An up to date copy was sent out on 8 July 2016 but unfortunately I could not say whether the Applicant received it or not. This was then followed up with an electronic version in November.*
- Was the Licensing Officer able to provide evidence that the licence was sent out in the post?

*No as I do not send out documents using registered mail and do not keep proof of postage due to the amount of paperwork the department send out. All paperwork was sent out using second class general post.*

The Applicant asked:-

- When the licence was sent out, was a follow up email sent to check that it had been received?  
*No because it had been discussed at the meeting held on 13 June 2016 that an amended licence would be sent out so there was no need to check this.*

A member of the Sub-Committee asked:-

- Could the Applicant confirm they had received an electronic version of their licence?  
*Yes it was received it on 18 November 2016.*

The Licensing Officer advised the Sub-Committee that all decision notices had a list of the conditions stated on them and this was issued after the hearing held on 18 May 2016 to determine the granting of the licence. This was sent to the Applicant, and it was sent to all parties involved. The Premises Licence was then sent out on 23 May 2016 and unfortunately there were some administrative errors when transferring the information across to the licence. This was discussed at the meeting held on 30 June 2016 with the Applicant and the Police, where the conditions of the licence were raised. This was why the Licensing Officer did not follow up and check that the Applicant had the correct version of the licence.

The Legal Representative to the Sub-Committee asked:-

- Could the Licensing Officer confirm when the conditions were sent out following the hearing?  
*On the 18 May 2016.*

### **Closing Statements**

The Licensing Authority made a brief closing statement to the Members of the Sub-Committee:

- The Licensing Officer understood that there was some confusion on the licence conditions granted which had been discussed with her Manager, but she did not intend to go into detail as this was a summation.
- The evidence was as presented and she had nothing further to say on this occasion.

The Responsible Authority made a brief closing statement to the Members of the Sub-committee:

- The Police clarified that the correct licence was issued back in June after a meeting that had been held with the Applicant and Licensing Officer.
- There had been many meetings with the Applicant and other agencies where they had copies of the correct licence and had run through the licence in great detail.
- This was included on the last TEN application back in the summer and there had been a hearing and the conditions were discussed and an action plan was set which was specific on the conditions included.
- The Police could not reiterate enough that the Applicant had the correct copy of her licence and all agencies could confirm this.
- The Applicant had confirmed she did not have a SIA licence so therefore should not have been employing self-employed door staff.



- The CCTV was not compliant to their standards. The Applicant needed to recruit an engineer to bring the cameras up to standard.
- With reference to the Door Safe and training issues, the Police were not sure if these were up to date as the deadline for the action plan was 15 November 2016.
- All agencies had given up a lot of time to work with the Applicant to assist her in meeting the conditions of her licence.

The Chairman wanted to clarify whether at the previous TEN application hearing, there had been any confusion over the licence conditions raised?

The Licensing Officer was not present, however, she confirmed that a copy of the licence was included in the appendix of the hearing agenda.

The Legal Representative confirmed she was present at the hearing and could confirm these issues were not raised and she had her minutes as evidence of this.

The Applicant made a brief closing statement to the Members of the Sub-Committee:-

- The Applicant had never received her amended paper licence. The Licensing Manager was not aware of the error until the Applicant advised him in November. This should have been picked up by the department before this time.
- According to the Police statement on SIA licences, the Applicant had suggested that this meant every designated premises supervisor would have to have a SIA licence to employ door staff, which was not the case.
- Camera 10 was only removed due to the advice received by the CCTV Officer. He had advised this was not a vital camera, but the Applicant would reinstate the camera to comply with the Police request.
- The Applicant had all her paperwork present for the Sub-Committee to use for evidence.
- The rejection of the TEN would place the Queens Hall at a disadvantage to every other premises in the area due to it being one of the busiest nights of the year for licensed premises, New Year's Eve. If the premises had to close at 11.00pm, this would effectively mean it would be closed all night.

The Licensing Officer asked to clarify some of the confusion raised on the conditions. The Applicant had signed an action plan which detailed at least one of the conditions that the Applicant said was missing from her licence.

The Applicant responded by saying she had no reason to question the action plan. She had said she did not agree with all the aspects of the action plan when she signed it and had since sent it off to her solicitor for advice and it was then that they had pointed out that the conditions did not match.

The Chairman asked for confirmation that the original licence and action plan were sent to the Applicant's solicitors and it was them who had spotted the mistakes as the conditions on the action plan did not match the licence document. And it was at this point that the Licensing Officer was notified.

The Licensing Officer confirmed that the conditions were issued after the hearing in May 2015 as part of the Decision Notice. Then the incorrect conditions were issued with the licence document. Then a corrected version was sent out which the Applicant stated they had not received.

The Legal Representative clarified the dates that the conditions had been issued to the Applicant.

The Chairman wanted to clarify that the issue with the conditions was only one part of the consideration to grant the TEN application to enable a line to be drawn to close the matter.

The Sub-Committee Members retired at 2.00pm.

The Sub-Committee Members returned at 3.00pm

### **The Sub-Committee Decision**

The Legal Representative of the Sub-Committee read out the following decision.

This was the decision of the Licensing Sub-Committee sitting at West Somerset House on 14 December 2016.

They had considered a TEN application for a one off national event on New Year's Eve.

The Police had received no complaints on their Inn Keeper system resulting in the operation of the premises.

The Environmental Health Officer who had lodged a representation to the TEN was not present so therefore it was not possible to elicit more information about the complaints received or the investigations that were currently being carried out under the Environmental Act for statutory nuisance. Both of these matters were reported in the representation inconclusively.

There were conflicting accounts about the conditions attached to the licence.

The Sub-Committee had been advised that an application for a review of the Premises Licence had been made and would be considered by the Licensing Sub-Committee in the New Year.

This Sub-Committee considered that this would be the appropriate venue forum to consider the long term operation of the premises and consider the conformity of the conditions.

All parties would have the opportunity to express their views and concerns at that time.

The Sub-Committee was mindful that the premises had been long established as a place of live entertainment e.g. a music hall.

They had carefully considered everything the Police Representative had drawn to their attention today and expected those matters to be included in the forthcoming review.

They recognised the Applicant's frustration over the administrative errors made by the Licensing Authority for which she had received an apology. However, she was encouraged to continue to work with the Police and Licensing Authority.

On the basis of all the foregoing matters it was the view of the Licensing Sub-Committee that on this occasion for this one-off event the licensed activities as stated on the TEN should go ahead.

That was the decision of this Licensing Sub-Committee.

There was a right of appeal against this decision. Any appeal must be lodged with the Magistrates' Court within 21 days following notification of the decision, but no later than 5 working days before the TEN took effect.

The Chairman declared the meeting closed.

(The meeting closed at 3.05pm)

