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**North East
Derbyshire**
District Council

Our Ref:

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Date: 9 October 2019

To: **Members of the General Licensing Committee**

Please attend a meeting of the General Licensing Committee to be held on **Thursday, 17 October 2019 at 1.00 pm in the Council Chamber**, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield.

Yours sincerely

A handwritten signature in black ink that reads "Sarah Steuberg".

Joint Head of Corporate Governance and Monitoring Officer

Members of the Committee

Conservative Group	Labour Group	Liberal Democrat Group
Councillor Pat Antcliff Councillor Patricia Bone Councillor Michelle Emmens Councillor Carol Huckerby Councillor Heather Liggett Councillor Michael Roe Councillor Richard Welton Councillor Philip Wright	Councillor Ann Holmes Councillor Pat Kerry Councillor Stephen Pickering Councillor Tracy Reader Councillor Lee Stone	Councillor Pam Windley

For further information about this meeting please contact: Alan Maher

AGENDA

1 Apologies for Absence

2 Declarations of Interest

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

3 Minutes of Last Meeting (Pages 3 - 5)

To approve as a correct record and the Chair to sign the Minutes of the meeting of the General Licensing Committee held on 20 June 2019.

4 Reports of the Environmental Health Manager (Pages 6 - 16)

(a) Report No LTL/09/19-20/DC/KR – Part II of The Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of The Policing and Crime Act 2009 within the District of North East Derbyshire

(b) Report No LTL/10/19-20/KR - Determining Fitness of Hackney Carriage & Private Hire Vehicle Drivers and Private Hire Operators

5 Matters of Urgency

To consider any other matter which the Chair of the Committee is of the opinion should be considered as a matter of urgency.



North East
Derbyshire
District Council

*We speak
your language*

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

*Hablamos su
idioma*

Slovak

*Rozprávame Vaším
jazykom*

Chinese

我们会说你的语言

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this agenda in
large print

or another
format
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us on

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217753**

If you require an adjustment to enable you to participate in or access the meeting please contact the Governance Team at least 72 hours before the meeting starts.

GENERAL LICENSING COMMITTEE
MINUTES OF MEETING HELD ON 20 JUNE 2019

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GENERAL LICENSING COMMITTEE

MINUTES OF MEETING HELD ON 20 JUNE 2019

Present:

Councillor R Welton	Chair
Councillor P Antcliff	Councillor S Pickering
“ P Bone	“ T Reader
“ M Emmens	“ P Wright
“ P Kerry	

Also Present:

Kevin Shillitto – Principal Solicitor
Jade Lewis – Governance Officer

70 Apologies for Absence

Apologies for absence were received from Councillors H Liggett and C Huckerby.

71 Declarations of Interest

Members were requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

No interests were declared at this meeting.

72 Minutes of Last Meeting

RESOLVED – That the Minutes of the last meeting of the General Licensing Committee held on 21 March 2019 be approved as a correct record and signed by the Chair.

73 General Licensing Sub-Committee 2019/20

The Committee considered a report from the Monitoring Officer that outlined the membership of the scheduled General Licensing Sub Committee meetings for the 2019 /20 Municipal year.

Members heard that the Council had agreed to new governance arrangements for discharging it's licensing responsibilities, and that the General Licensing Committee formed part of those arrangements.

The Committee discussed possible diary clashes, and the requirement to inform the Governance Team if a Member was unable to attend the meeting.

RESOLVED

- (1) That the membership of the scheduled General Licensing Sub Committee meetings for the 2019-20 Municipal year be approved.
- (2) That the schedule of General Licensing Sub Committee meetings that are subject to change be noted.

74 Urgent Business

There were no items of urgency to be discussed at this meeting.

GenLicMins 0620

North East Derbyshire District Council

General Licencing Committee

17 October 2019

Part II of The Local Government (Miscellaneous Provisions) Act 1982 as Amended by Section 27 of The Policing and Crime Act 2009 within the District of North East Derbyshire

Report No LTL/09/19-20/DC/KR of the Licensing Team Leader

This report is public

Purpose of the Report

- To set out the required stages of the legal process to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') and section 27 of the Policing and Crime Act 2009, in order that the licensing authority is able to regulate sex establishments in the North East Derbyshire District.

1 Report Details

- 1.1 Licensing of sex cinemas, sex shops and sexual entertainment venues is governed by Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009 ("the 2009 Act").
- 1.2 All Councils which wish to have the power to licence such establishments are required to adopt Schedule 3 of the 1982 Act and section 27 of the 2009 Act. There is no evidence that North East Derbyshire District Council adopted either the 1982 or the relevant section of the 2009 Act.
- 1.3 It is proposed that, in line with many other District Councils, this District Council formally adopts the legislation and thereafter a draft sex establishment policy would be put before the licensing committee and a period of consultation would follow.
- 1.4 Whilst at the current time there may be no known sex establishments within the District, the Council would be unable to regulate any such establishments in the future unless it adopted the relevant legislation. The formal adoption of the legislation and a policy would mean the Council had powers immediately at its disposal to adequately and fairly address the issue should the need arise.
- 1.5 The 2009 Act amended the 1982 Act to give greater rights to local people to oppose an application for a sex establishment licence. In addition a local

authority can refuse a licence because there is already an appropriate number of sex establishments in an area and/or that a sex establishment would 'conflict' with the character of the area or other premises nearby e.g. schools, places of worship etc. A policy would be able to set out these numbers, and provide further clarity to applicants and local residents alike.

1.6 The procedure for formal adoption of the provisions is set out in full in section 2 of Part II the 1982 Act. The Act can be viewed online at <http://www.legislation.gov.uk/ukpga/1982/30/contents> and a copy can be made available on request to the Legal Services team.

1.7 There are two stages which must be followed:

(1) The Council must pass a resolution under Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 to adopt Schedule 3 of the Act and s.27 of the Policing and Crime Act 2009 and specify the day the provisions are to come into effect.

(Appropriate wording for the Adoption Resolution is set out in Annexe 1).

(2) After Resolution but prior to it **coming into force** the Council is required to publish, for two consecutive weeks, in a local newspaper circulating in our area, a notice that they have passed a resolution, the first publication not being later than 28 days before the date specified in the resolution for the coming into force of the Council's powers.

(The proposed wording of the notice is shown in Annexe 2).

2 Conclusions and Reasons for Recommendation

2.1 It is recommended that the Council adopts the 1982 Act as amended by the 2009 Act in order that the Council could regulate sex establishments. The Licencing Team Leader's view in this regard is supported by the Legal Services team. The power to regulate such establishments is consistent with the Council's general aims to strengthen community cohesion and civic pride within the District whilst seeking to lower crime, fear of crime and anti-social behaviour in the district.

3 Consultation and Equality Impact

3.1 Following Resolution, in accordance with best practice guidance and in the interests of transparency, public consultation should be undertaken on a draft policy.

4 Alternative Options and Reasons for Rejection

4.1 If the relevant legislation is not adopted, the Council will continue to have no licencing regime in relation sex establishments, no controls of the same and in the event of complaints or incidents relating to them, there is a risk that the Council's reputation for protecting the interests of its residents could be called

into question, particularly given that the majority of authorities have adopted the relevant legislation.

5 Implications

5.1 Finance and Risk Implications

5.1.1 The cost implication relating to the publication of statutory notices can be met from the existing licensing budget.

5.2 Legal Implications including Data Protection

5.2.1 Having a formal resolution to adopt the Act, and evidence of the notice is essential to ensure that we have complied with the requirements for Adoption of the Act and to enable enforcement action.

5.3 Human Resources Implications

5.3.1 None.

6 Recommendations

6.1 That Members of the Licensing Committee approve that:

1. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, 'Control of Sex Establishments' shall apply to the district of North East Derbyshire.
2. This matter be referred to Full Council on 1 November 2019 to pass a resolution under Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 to adopt Schedule 3 of the Act as amended by section 27 of the Policing and Crime Act to come into force on 5 December 2019.
3. The General Licensing Sub Committee be given responsibility to determine applications for Sex Establishments including sexual entertainment venues, sex shops and sex cinemas) under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) where representations have been received and not withdrawn.
4. A draft policy on sex establishments shall be prepared for consultation within the district to clarify the Council's policy on:
 - i. "relevant locality" and "appropriate number";
 - ii. conditions under which sex establishments must operate; and
 - iii. an appropriate fee for applications.
5. The draft policy shall be submitted to a future Licensing Committee for Members' approval for a full 6 week consultation period.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>Has the relevant Portfolio Holder been informed</p>	Yes
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
1.	Appropriate wording for the Adoption Resolution is set out in Annexe 1.
2.	Appropriate wording for the press notice is set out in Annexe 2.
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
Home Office Sexual Entertainment Venues Guidance for England and Wales 2010	
Report Author	Contact Number
Debs Cartwright, Solicitor (Contentious Team)	01246 2422428

Appendix 1

ADOPTION RESOLUTION

RESOLVED

- (1) The provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act and section 27 of the Policing and Crime Act 2009 are to apply to the whole area of the Council on and after the appointed day;
- (2) The appointed day for the purposes of this resolution shall be the of 2019 (being not before 28 days after publication of the first notice that this Council has passed this resolution in a local newspaper circulating in this Council's area);
- (3) [All powers, duties and provisions in the Council Constitution relating to Part II of the Local Government (Miscellaneous Provisions) Act 1982 shall apply on and after the appointed day.]

Appendix 2

ADOPTION RESOLUTION

RESOLVED

- (4) The provisions of Part II of the Local Government (Miscellaneous Provisions) Act are to apply to the whole area of the Council on and after the appointed day;
- (5) The appointed day for the purposes of this resolution shall be the of
2019 (being not before 28 days after publication of the first notice that this Council has passed this resolution in a local newspaper circulating in this Council's area);
- (6)** [All powers, duties and provisions in the Council Constitution relating to Part II of the Local Government (Miscellaneous Provisions) Act 1982 shall apply on and after the appointed day.]

North East Derbyshire District Council

General Licensing Committee

17 October 2019

Determining Fitness of Hackney Carriage & Private Hire Vehicle Drivers and Private Hire Operators

Report No LTL/10/19-20/KR of the Licensing Team Leader

This report is public

Purpose of the Report

- To consider a revised procedure for dealing with applications for hackney carriage & private hire driver licences and private hire operator licences when the application has historical convictions.

1 Report Details

- 1.1 Appendix A of the Council's Taxi Licensing Policy for Hackney Carriage and Private Hire Drivers (September 2018) at paragraph 5 states:

Where an officer is not satisfied, on the information before them, that the applicant should be granted a licence, the matter must be referred to the Licensing Sub-Committee for a decision. The applicant will be advised of the date, time and venue of the Sub-Committee at which the application will be considered and invited to attend, accompanied by a representative if desired.

- 1.2 Previously where an applicant did not meet the Council's Taxi Licensing Policy the application has automatically been referred to the Licensing Sub-Committee for determination and Officers have not used their delegated powers fully.
- 1.3 Since the introduction of the revised policy in September 2018 it has become apparent that a small number of applicants may fall outside the policy in respect of historical convictions which are so old as to no longer be relevant or the type of conviction(s) are ones that would not be relevant to the fitness of the driver.
- 1.4 Submitting applications of this type to the Sub-Committee has increased the workload of both officers and the committee and on occasions has significantly delayed driver applications and has caused the applicant a significant level of stress and/or financial hardship.

1.5 Revised Procedure

Where an applicant has recent convictions or convictions of concern their application will be automatically referred to the Licensing Sub-Committee for determination.

- 1.6 In cases where an applicant has historical convictions that may no longer be relevant the Licensing Team Leader or Environmental Health Manager will, in consultation with the Chair or Vice-Chair of Licensing and a Council Solicitor, make a decision as to whether or not the age, severity and type of convictions raise concerns in respect of the applicant's character. Where there are no public safety concerns and no issues of concern with the person's character. The Officer will determine the person is fit and proper and grant the licence under delegated powers and will retain a written record of the decision.
- 1.7 Where there are concerns about the applicant's character the Officer (having consulted with the Chair or Vice-Chair of Licensing and a Council Solicitor) will decline to use their delegated powers and the application will be referred to the Licensing Sub-Committee for determination.
- 1.8 To assist a decision record sheet and basic flow chart are provided at appendix A.

2 Conclusions and Reasons for Recommendation

- 2.1 This is a minor change to the manner by which officers currently use their delegated powers will reduce the burden on the Licensing Sub-committee and Officers. It should also reduce delays in granting licences in these circumstances, together with reducing financial hardship and/or stress for the applicant.
- 2.2 Introducing this minor change to the procedure should not have any impact on public safety.

3 Consultation and Equality Impact

- 3.1 No consultation is required in respect of this proposed change and there is no requirement for an Equality Impact assessment.

4 Alternative Options and Reasons for Rejection

- 4.1 Should the Licensing Committee reject the request to amend the proposed procedure then the reasons for that rejection must be recorded and a decision notice issued.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 There are no risk implications associated with the proposed minor procedure change in respect of Officer Delegations.
- 5.1.2 Amending the procedure should reduce the burden on the Licensing Sub-committee and Officers.

5.2 Legal Implications including Data Protection

- 5.2.1 None.

5.3 Human Resources Implications

- 5.3.1 None.

6 Recommendations

- 6.1 That Members consider the revised procedure for Officer Delegations and approve the minor change.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies</p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>Has the relevant Portfolio Holder been informed</p>	Yes
<p>District Wards Affected</p>	All
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
1	Delegated decision record sheet and flow chart.
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
Taxi Licensing Policy – Hackney Carriage and Private Hire Drivers	
Report Author	Contact Number
Kevin Rowland, Licensing Team Leader	Ext 7879

Delegated Decision Record Sheet

Applicant's Name:		
Applicant's Address:		
Application Reference Number:		
Licensing Authority*:	BDC	NEDDC
Type of Application*:	Driver	Operator
Is the application*:	New	Renewal
Matters for consideration:		
Consultee 1- Chair or Vice Chair:		
Name:	Signature:	
Recommendation:	Fit	Refer to Committee
Consultee 2 - Legal Officer (position):		
Name:	Signature:	
Recommendation*:	Fit	Refer to Committee
Officer Position:		
Name:	Signature:	
Officer decision*:	Fit	Refer to Committee
Officer comments:		
Decision Date:		

** Delete as appropriate*

Procedure Note – September 2019

