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Tuesday, 13 September 2022

To All Councillors:

As a Member or Substitute of the **Licensing & Appeals Committee**, please treat this as your summons to attend a meeting on **Wednesday, 21 September 2022 at 6.00 pm** in the **Council Chamber, Town Hall, Bank Road Matlock DE4 3NN**

Yours sincerely,

James McLaughlin
Director of Corporate and Customer Services

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AGENDA

1. APOLOGIES FOR ABSENCE

Please advise the Democratic Services Team on 01629 751133 or email committee@derbyshiredales.gov.uk of any apologies of absence.

2. APPROVAL OF MINUTES OF PREVIOUS MEETING (Pages 3 - 6)

30th June 2022

3. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council’s Code of Conduct.

Those interests are matters that relate to money or that which can be valued in money, affecting the Member, her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at the time.

4. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by email) **BY NO LATER THAN 12 NOON OF THE WORKING DAY PRECEDING THE MEETING**. As per Procedural Rule 14.4 at any one meeting no person may submit more than 3 questions and no more than 1 such question may be asked on behalf of one organisation.

5. BUSINESS AND PLANNING ACT 2020 (PAVEMENT LICENCE) (CORONAVIRUS) (AMENDMENT) REGULATIONS 2022 - EXTENSION TO TEMPORARY PAVEMENT LICENSING REGIME (Pages 7 - 12)

This report provides an update on information received from Government in respect of a further extension to the temporary pavement licensing regime. The report explains that on 27th July 2022 the Government introduced the Business and Planning Act 2020 (Pavement Licence) (Coronavirus) (Amendment) Regulations 2022 (“the 22 Regulations”), which includes provisions to extend the expiry date of the temporary pavement licensing regime to 30 September 2023.

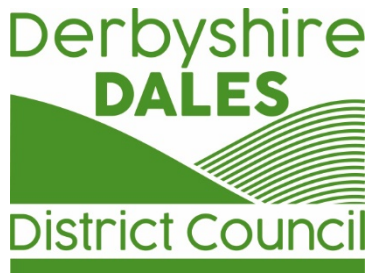
6. TAXIS AND PRIVATE HIRE VEHICLES (SAFEGUARDING AND ROAD SAFETY) ACT 2022 (Pages 13 - 16)

To provide the Committee with a summary of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, which received Royal Assent on 31 March 2022; and of the implications that this has already, and will have, for taxi licensing authorities in England.

Members of the Committee - Councillors Andrew Statham (Chair), Mark Wakeman (Vice-Chair), Graham Elliott, Janet Rose, Stuart Lees, Tom Donnelly, Dermot Murphy, Paul Cruise, Steve Wain, Jacqueline Allison, Neil Buttle, Dawn Greatorex and Colin Swindell

NOTE

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committee@derbyshiredales.gov.uk

Licensing & Appeals

Minutes of a Licensing & Appeals meeting held at 6.00 pm on Thursday, 30th June, 2022 in the Council Chamber, Town Hall, Matlock, DE4 3NN.

PRESENT Councillor Andrew Statham - In the Chair

Councillors: Neil Buttle, Stuart Lees, Janet Rose, Steve Wain and Mark Wakeman

Tim Braund (Director of Regulatory Services), Eileen Tierney (Licensing Manager), Lucy Harrison (Democratic Services Assistant) and Tommy Shaw (Democratic Services Team Leader)

Note:

"Opinions expressed or statements made by individual persons during the public participation part of a Council or committee meeting are not the opinions or statements of Derbyshire Dales District Council. These comments are made by individuals who have exercised the provisions of the Council's Constitution to address a specific meeting. The Council therefore accepts no liability for any defamatory remarks that are made during a meeting that are replicated on this document."

APOLOGIES

Apologies for absence were received from Councillor(s): Jacqueline Allison, Paul Cruise, Tom Donnelly, Graham Elliott, Dawn Greatorex, Dermot Murphy and Colin Swindell

39/22 - PUBLIC PARTICIPATION

There was no public participation.

40/22 - APPROVAL OF MINUTES OF PREVIOUS MEETING

It was moved by Councillor Stuart Lees, Seconded by Councillor Mark Wakeman and

RESOLVED

That the minutes of the meeting of the Licensing and Appeals Committee held on 13 January 2022 be approved as a correct record.

Voting

5 For
0 Against
1 Abstentions

The Chairman declared the motion **CARRIED**.

41/22 - INTERESTS

There were no declarations of interest.

42/22 - TAXI AND PRIVATE HIRE LICENSING PROPOSED INCREASE TO THE TABLE OF MAXIMUM FARES FOR TAXIS

The Licensing Manager introduced a report which provided Members with information regarding the review of the Council's table of maximum Taxi Fares, as requested by the Hackney Carriage (Taxi) trade. Members were asked to consider a proposed table of revised fares agreed with the Trade, for advertisement to the public, as the procedure required.

Members were advised of the legal powers held by the authority to review and set fares for hackney carriages (taxis that can be hailed in the street or hired at a taxi rank). They were also informed of further requests from several of the licensed taxi drivers for a review to increase the table of maximum fares they could charge their passengers.

This had been discussed at a previous meeting of this Committee and it had been resolved that discussions would take place with the trade to agree a revised table of maximum fares which would then be advertised for comment. Since this decision, the agreed discussions had taken place with several alternative proposals considered by Officers and circulated to the licensed drivers to determine a preferred option for the updated maximum fares, as presented to Members in the report.

It was moved by Councillor Stuart Lees, Seconded by Councillor Steve Wain and

RESOLVED (Unanimously)

1. That the action taken in agreeing a revised table of maximum fares for publication and advertisement be confirmed.
2. That the proposed table of maximum taxi fares be approved and a date for implementation of the new tariff, be agreed.
3. That the table of maximum taxi fares be reviewed every 3 years, starting in 2024/2025.

The Chairman declared the motion **CARRIED**.

43/22 - TAXI AND PRIVATE HIRE LICENSING ANNUAL UPDATE REPORT

The Licensing Manager introduced a report which provided the Committee with a brief summary of the work relating specifically to taxi and private hire licensing, undertaken by

the Licensing Team during the last financial year. Particular attention was drawn to actions taken following the implementation of the Council’s revised Taxi and Private Hire Licensing Policy, which came into effect on 1st May 2018, when mandatory requirements relating to safeguarding awareness training and annual subscriptions to the Disclosure and Barring Service criminal record check update service were introduced.

The Director of Regulatory Services informed Members that the reported figures for 2021/22, as included in section 3.2 of the report, should be revised as in the table below:

Taxi Licences	2019/20 Actual £	2020/21 Actual £	2021/22 Actual £	2022/23 Budget £
Direct Costs	41,906	39,368	28,279	31,210
Support Services	14,248	13,385	9,615	10,611
Income	-48,280	-43,001	-65,229	-48,077
Net Expenditure / (Income)	7,874	9,752	-27,335	-6,256

It was moved by Councillor Mark Wakeman, Seconded by Councillor Stuart Lees and

RESOLVED (Unanimously)

1. That the update report on taxi licensing related matters be noted; and future reports are submitted annually to the first meeting of this Committee in the civic year.
2. That a progress report be submitted to the next meeting, on the implementation of the requirements of the Department for Transport’s (DfT’s) National Taxi and Private Hire Vehicle Licensing Standards.

The Chairman declared the motion **CARRIED**.

44/22 - LICENSING ACT 2003 AND GAMBLING ACT 2005 ANNUAL UPDATE

The Licensing Manager introduced a report which provided the Committee with a summary of the work relating specifically to the Licensing Act 2003 and the Gambling Act 2005, undertaken by the Licensing Team during the last financial year, and the previous two financial-year periods, to allow comparisons to be made. The report also informed Members of the details of compliance and enforcement work carried out in partnership with other statutory authorities, which contributes to the Licensing Service Plan Actions.

It was moved by Councillor Steve Wain, Seconded by Councillor Neil Buttle and

RESOLVED (Unanimously)

1. That the Licensing Team continues to work with other Responsible Authorities, where possible, when carrying out the following number of planned compliance/enforcement visits in the District by 31 March 2023: 20 licensing awareness visits to premises licensed for alcohol sales, gambling or scrap metal;

2. That the Licensing Team continues to contribute to the work of the Community Safety Partnership's VAL (Violence Alcohol and Licensing) Group, and supports initiatives promoted by the Institute of Licensing and the Gambling Commission.

The Chairman declared the motion **CARRIED**.

Meeting Closed: 6.58 pm

Chairman



OPEN REPORT LICENSING AND APPEALS COMMITTEE

Licensing and Appeals Committee – 21 September 2022

Business and Planning Act 2020 (Pavement Licence) (Coronavirus) (Amendment) Regulations 2022 - Extension to Temporary Pavement Licensing Regime

Report of Director of Regulatory Services

Report Author and Contact Details

Eileen Tierney, Licensing Manager
01629 761374 or eileen.tierney@derbyshiredales.gov.uk

Wards Affected

District wide

Report Summary

This report provides an update on information received from Government in respect of a further extension to the temporary pavement licensing regime.

The temporary licensing regime was first introduced in September 2020, with the implementation of the Business and Planning Act 2020 (“the Act”). The aim of the provision was to assist food and drink businesses to re-open and be able to operate viably during the pandemic, before the lock-down periods were fully relaxed.

The report explains that on 27th July 2022 the Government introduced the Business and Planning Act 2020 (Pavement Licence) (Coronavirus) (Amendment) Regulations 2022 (“the 22 Regulations”), which includes provisions to extend the expiry date of the temporary pavement licensing regime to 30 September 2023.

Recommendations

1. That the report be noted, and the extension to the temporary pavement licence regime is implemented, with applications for pavement licences to expire on or before 30 September 2023 being invited from food and drink businesses.
2. That the Committee recommends that the Governance and Resources Committee considers an application fee for a pavement licence, as part of the Council’s annual fees setting report, later this year.

List of Appendices

None

Background Papers

Ministry of Housing, Communities & Local Government (MHCLG) Guidance on Pavement Licences 26 July 2022

Business and Planning Act 2020 (Pavement Licence) (Coronavirus) (Amendment) Regulations 2022

Report to Council Meeting – 2 July 2020 (Minute Number 385/19)

Report to Licensing and Appeals Committee – 30 June 2021

Remittance Advice (18 January 2022) - and email (31 August 2022) from the Department for Levelling Up, Housing and Communities

Consideration of report by Council or other committee

Governance and Resources Committee - to consider a proposal, as part of the annual fee setting process, to introduce an application fee for pavement licences with effect from 1 April 2023.

Council Approval Required

No

Exempt from Press or Public

No

Business and Planning Act 2020 (Pavement Licence) (Coronavirus) (Amendment) Regulations 2022 – Interim extension to the Temporary Pavement Licensing Regime

1. Background

- 1.1. Members of the Committee may recall that The Business and Planning Act 2020 (“the Act”) was introduced in 2020 to support various business sectors through the pandemic, including the hospitality industry.
- 1.2. The Act included a number of temporary relaxations to other pieces of legislation, eg: the Licensing Act 2003, to allow off-sales of alcohol to those businesses only licensed to sell alcohol for consumption on licensed premises, and to increase the number of Temporary Event Notices (TENs) that could be given in respect of the same premises during the calendar years 2022 and 2023. The Act temporarily removed the need to obtain planning permission to allow the use of temporary structures in beer gardens and car parks. eg gazebos and marquees etc .
- 1.3. The Act made provision for the introduction of a Temporary Pavement Licensing regime. The temporary provisions enabled a business operating from premises that are used as public houses, wine bars or other drinking establishments, or other use for the sale of food or drink for consumption on or off the premises, to place removable furniture such as stalls, tables and chairs on the highway outside their premises.
- 1.4. Proprietors of such businesses could apply to their Local Authority (district, borough or city council) for a licence to use an outside space that was part of, or adjacent to their premises. The aim being to allow businesses to re-open safely, and to support them through the economic recovery as the coronavirus lockdown restrictions were eased in the summer of 2020, and again in 2021.
- 1.5. In July 2021, the Government extended the power to licensing authorities, to continue to determine applications for temporary pavement licences, until 30 September 2022.

2. Key Issues

- 2.1 At the end of July this year the Government confirmed that the Pavement Licensing regime has been given an interim extension until 30 September 2023, under the provisions of the Business and Planning Act 2020 (Pavement Licence) (Coronavirus) (Amendment) Regulations 2022.

- 2.2 The extension has been introduced, pending a decision regarding whether the responsibility will become a permanent one for the district, borough and city councils.
- 2.3 In Derbyshire, the responsibility for pavement café licensing was Derbyshire County Council's, pre-August 2020. This was because the means to obtain a licence to place furniture such as tables and chairs on the highway is a permanent measure set out in Part 7A of the Highways Act 1980.
- 2.4 The process set out in the Highways Act involves a minimum consultation period of 28 days and does not specify an amount of time for local authorities to reach a decision on applications; the Explanatory Memorandum part of the new Regulations suggests that on average this approval time was 42 days (based on a sample of local authorities researched).
- 2.5 There is no statutory cap on fees when making an application for a licence under the 1980 Highways Act. In some cases, application fees charged pre-COVID have exceeded £300.
- 2.6 The temporary pavement licence provisions were introduced in "the Act" to create a temporary faster, cheaper, and more streamlined regime. Under the temporary provisions the application fees for applying for a licence can be set by the local authority but must not exceed £100.
- 2.7 The fast-track process means that applications are subject to a 7-day consultation period, and then a further 7-day determination period during which the local authority is expected to either grant a licence or reject the application. A licence is automatically deemed granted if the authority does not make a decision on the application before the end of the determination period. These provisions were introduced as a temporary measure in response to coronavirus, and due to expire on 30 September 2022.
- 2.8 Since September 2020 the District Council has received and processed 25 applications for pavement licences. 21 businesses were granted licences, 3 applications were refused and 1 application was withdrawn.
- 2.9 In addition to the 25 pavement licence applications processed, the Licensing Team received 11 applications from businesses wishing to provide seating and tables for their customers on areas of land owned by the District Council. These included land such as Ashbourne Market Place and Scarthin Parade in Cromford. These applications were processed in the same way as the fast-track pavement licences, but were issued as Sitting-Out Licences by the Council's Estates Manager.
- 2.10 It is recognised that there are a number of premises that have not yet applied for a licence and have been operating a pavement café for some year's pre-2020 without a pavement café licence which the County Council were responsible for administering. These businesses will be invited to make an application.
- 2.11 Taking into account the number of premises that have not yet obtained or applied for a Pavement licence, it is expected that there could be 50-60 across the Derbyshire Dales that will require processing, monitoring and enforcing during the next 12 months.

- 2.12 The District Council resolved in 2020, not to charge an application fee for this licence, as the expectation was that the licensing regime was temporary until September 2022.
- 2.13 In January 2022, a new burdens grant of £4,123:00 was received from the Department for Levelling Up, Housing and Communities. This first payment included a one-off set-up cost associated with implementing the new process and roughly the costs for running the temporary scheme during the first year.
- 2.14 At the end of August 2022, a Section 31 grant payment of £2,419:00 was received for year 2. This payment is intended to absorb the approximate costs for continuing to operate the temporary pavement licensing regime, of processing, monitoring and enforcement not covered by any application fees charged.
- 2.15 As we move into the third year of providing the service, and aim to licence all premises that have not yet applied for or obtained a licence, this could introduce resource implications, if an application fee is not charged and the grant payment received does not cover the cost of the service.
- 2.16 The Committee may wish to recommend that a fee is proposed for consideration in the annual fees and charges report to the Governance and Resources Committee, as part of the annual fee setting process.
- 2.17 Licensing Policy

In 2020, the licensing regime temporary and a generic application procedure was prescribed in the Business and Planning Act and guidance that accompanied it. It was not considered necessary to introduce a formal policy at that time.

The Government has indicated that this responsibility may become a permanent one for the District Council, and if so, consideration could be given to developing a formal policy. Whilst a Policy is not set in stone and can be deviated from with good reason, it is a starting point, and advises would-be applicants, existing licence-holders and the general public how applications for pavement licences are determined.

3. Options Considered and Recommended Proposal

- It is a legal requirement under the regulations that the temporary licensing regime is extended to the end of September 2023, it is therefore recommended that the extension to the temporary pavement licence regime is implemented, with applications for pavement licences to expire on or before 30 September 2023 being invited from food and drink businesses.
- The Council waived the application fee during 2020-21 and 2021-22, and the new burdens grant will have off-set some of the costs of setting up the system. However, as the number of applications expected during the next 12 months is likely to be significantly more than during the previous 2-year period, it is recommended that charging the maximum application fee of £100 permitted by Government, should be considered with effect from 1 April 2023.

4. Timetable for Implementation

- The process for dealing with applications for pavement licences has been on-going since August 2020.
- The introduction of an application fee for pavement licences from 1 April 2023, would need to be considered by the Governance and Resources Committee as part of the annual fee setting process, which takes place at the end of the year.

5. Policy Implications

5.1 The legislation/regulations do not require councils to adopt a formal policy at the current time.

6. Financial and Resource Implications

6.1 The licensing service should set fees on a full cost recovery basis. A detailed cost recovery exercise has not been carried out, but the cost of processing a licence would be more than £100.

6.2 The Council has received new burden and section 31 grants from the Department for Levelling Up, Housing and Communities, and will not be reimbursed for any costs if an application fee is not set. Any shortfall in the cost of providing the service will need to be met/subsidised by the Council.

6.3 Therefore the financial risk has been assessed as low.

7. Legal Advice and Implications

7.1 This report provides an update on information received from Government in respect of a further extension to the temporary pavement licensing regime.

7.2 There are 2 recommendations in this report one is for noting and the second is recommending a further report to be brought before Members in due course.

7.3 Therefore the legal risk in connection to this report has been assessed as low.

8. Equalities Implications

8.1 None directly applicable to this decision.

9. Climate Change Implications

9.1 There are no direct climate change implications arising directly from this report.

10. Risk Management

10.1 The District Council has a statutory responsibility to continue to implement the pavement licensing regime.

Report Authorisation

Approvals obtained from:-

	Named Officer	Date
Chief Executive	Paul Wilson	
Director of Resources/ S.151 Officer (or Financial Services Manager)	Alison Wood	
Monitoring Officer (or Legal Services Manager)	James McLaughlin	



**OPEN
LICENSING AND APPEALS COMMITTEE**

Licensing and Appeals Committee – 21 September 2022

Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

Report of Director of Regulatory Services

Report Author and Contact Details

Eileen Tierney, Licensing Manager
01629 761374 or eileen.tierney@derbyshiredales.gov.uk

Wards Affected

District Wide

Report Summary

To provide the Committee with a summary of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, which received Royal Assent on 31 March 2022; and of the implications that this have already, and will have, for taxi licensing authorities in England.

Recommendations

1. That the report be noted.
2. That a process is put in place:
 - to ensure prompt reporting of safeguarding or road safety concerns about drivers licensed by other authorities, to the licensing authority that issued the driver's licence.
 - to comply with the legal timescales in "the Act", and any existing obligations under data protection legislation.
3. That any existing system the Licensing Team has in place for inputting data on to a centralised national database, (to record refusals, suspensions and revocations, is reviewed in line with the mandatory requirements of the Regulations to be made by the Secretary of State for Transport.

List of Appendices

None

Background Papers

Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

Statutory Guidance Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

Consideration of report by Council or other committee

No

Council Approval Required

No

Exempt from Press or Public

No

Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

1. Background

- 1.1 From 31 May 2022, if any licensing authority in England receives information relating to safeguarding or road safety concerns about a taxi or PHV (Private Hire Vehicle) driver licensed by another authority and operating in its area, it must share that information with the authority that issued the driver's licence.
- 1.2 Any licensing authority provided with such information by another authority must consider whether to suspend or revoke the driver's licence and inform the authority that shared the information of its decision.

2. Key Issues

- 2.1 Local Authorities are responsible for licensing taxi (hackney carriage) and private hire drivers, and are therefore responsible as part of that process for ensuring members of the public are safe when travelling in licensed vehicles.
- 2.2 From 31 May 2022 the Act requires that where a Licensing Authority receives information relating to safeguarding concerns about a taxi or private hire vehicle driver licensed by another authority, they must share the information with the issuing authority.
- 2.3 The Act will also require licensing authorities to search a national licensing database of driver revocations and refusal for entries relating to new applicants before determining applications for driver licences. Further guidance and regulations are expected in relation to the mandatory use of a national database.
- 2.4 The Act provides the Secretary of State for Transport the power to provide or designate the database. The requirement that licensing authorities use the database will commence following regulations made by the Secretary of State for Transport.

3. Options Considered and Recommended Proposal

- 3.1 The legislation requires that from 31 May 2022 where a Licensing Authority receives information relating to safeguarding concerns about a taxi or private hire vehicle driver licensed by another authority, they must share the information with the issuing authority.

- 3.2 It is therefore recommended that a process is put in place:
- to ensure prompt reporting of safeguarding or road safety concerns about drivers licensed by other authorities, to the licensing authority that issued the driver's licence.
 - to comply with the legal timescales in "the act", and any existing obligations under data protection legislation.
- 3.3 The Council is in the process of subscribing to the National Register for Refusals and Revocations (NR3) which is recommended in the DfT's Statutory Taxi and Private Hire Vehicle Standards. It is expected that this will be the national database designated by the Secretary of State. As part of our process of making the application a GDPR risk assessment is being carried out.

That the system the Licensing Team has in place for inputting data on to a centralised national database, (to record refusals, suspensions and revocations, is reviewed in line with the mandatory requirements of the Regulations when made by the Secretary of State for Transport.

4. Consultation

- 4.1 N/A

5. Timetable for Implementation

- 5.1 As soon as is practicable.

6. Policy Implications

- 6.1 The Council's Taxi and Private Hire Licensing Policy will require revising to include information in respect of the information sharing process with other authorities and the national database of refusals and revocations.

7. Financial and Resource Implications

- 7.1 The fee for subscribing to the National Register for Refusals and Revocations (NR3), is contained in the current budget provision.
- 7.2 There are no other financial implications arising directly from this report, therefore the financial risk has been assessed as low.

8. Legal Advice and Implications

- 8.1 This report is to provide the Committee with a summary of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, which received Royal Assent on 31 March 2022; and of the implications that this have already, and will have, for taxi licensing authorities in England.
- 8.2 There are 3 recommendations in connection to this report, one is for noting, the second is to ensure that a process is put in place to adhere to timescales and the third also relates to process.

8.3 As long as there is compliance to the act, the Legal Risk at this time has been assessed as low.

9. Equalities Implications

9.1 There are no direct equalities implications. The review of Derbyshire Dales Taxi and Private Hire Licensing Policy will be subject to a comprehensive Equalities Impact Assessment.

10. Climate Change Implications

10.1 There are no direct climate change implications arising directly from this report.

11. Risk Management

11.1 The District Council has a statutory responsibility to undertake the duties outlined in the report.

Report Authorisation

Approvals obtained from:-

	Named Officer	Date
Chief Executive		
Director of Resources/ S.151 Officer (or Financial Services Manager)		
Monitoring Officer (or Legal Services Manager)		