



Doncaster Council

Agenda

To all Members of the

LICENSING COMMITTEE

Notice is given that a Meeting of the above Committee is to be held as follows:

Venue: Council Chamber - Civic Office, Waterdale, Doncaster DN1 3BU

Date: Thursday, 17th June, 2021

Time: 10.00 am

Please Note: Due to current restrictions arising from the Covid-19 pandemic, there will be very limited capacity in the public gallery for observers of the meeting. If you would like to attend to observe in person, please contact Governance Services on 01302 737416/737462/736723/736712 to request a place, no later than **12.00 noon on Wednesday, 16th June, 2021**. Please note that the pre-booked places will be allocated on a 'first come, first served' basis and once pre-booked capacity has been reached there will be no further public admittance to the meeting. For those who are attending the meeting, please bring a face covering, unless you are exempt.

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**Damian Allen
Chief Executive**

Issued on: Wednesday, 9 June 2021

Governance Services Officer for this meeting

Andrea Hedges
01302 736716

**Doncaster Metropolitan Borough Council
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Items for Discussion:

Page No.

1. Apologies for absence
 2. To consider the extent, if any, to which the public and press are to be excluded from the meeting.
 3. Declarations of Interest, if any.
 4. Minutes of the Licensing Committee Meeting held on 25 January 2021. 1 - 4
- A. Reports where the public and press may not be excluded**
- For noting**
5. Licensing Act 2003, Gambling Act 2005 and General Licensing Update. 5 - 12
 6. Pavement Licence - Application Process, Conditions and Fee (Highways Act 1980). 13 - 38
 7. Terms of Reference, Procedures and Delegations 39 - 66

Members of the Licensing Committee

Chair – Councillor Dave Shaw

Vice-Chair – Councillor Linda Curran

Councillors Nick Allen, Duncan Anderson, Iris Beech, Bev Chapman, Martin Greenhalgh, John Healy, Charlie Hogarth, Barry Johnson, Emma Muddiman-Rawlins, David Nevett, Thomas Noon and Ian Pearson

Public Document Pack Agenda Item 4

DONCASTER METROPOLITAN BOROUGH COUNCIL

LICENSING COMMITTEE

MONDAY, 25TH JANUARY, 2021

AN EXTRAORDINARY MEETING of the LICENSING COMMITTEE was held as a VIRTUAL MEETING VIA MICROSOFT TEAMS on MONDAY, 25TH JANUARY, 2021, at 10.00 am.

PRESENT:

Chair - Councillor Ken Keegan
Vice-Chair - Councillor Iris Beech

Councillors Duncan Anderson, Steve Cox, Neil Gethin, John Gilliver, Martin Greenhalgh, Charlie Hogarth, David Nevett and Ian Pearson.

APOLOGIES:

Apologies for absence were received from Councillors Bev Chapman, Nikki McDonald and Frank Tyas.

4 Declarations of Interest, if any

In accordance with the Members' Code of Conduct, Councillor Steve Cox, declared that he was previously employed as a Taxi Driver some years ago.

5 Hackney Carriage & Private Hire Licensing Policy (Minute No. 3 - 10th December, 2020)

Further to the above Minute, the Committee considered a report, which was presented by the Licensing Officer, David Smith, which sought members approval to approve the proposed revisions to the Council's Hackney Carriage & Private Hire Licensing Policy with regards to setting out a timescale for the collection and consideration of information on the impact of mandatory CCTV, an emissions policy and an age policy for Doncaster licensed Hackney Carriage and Private Hire vehicles.

It was reported that Doncaster Council's Hackney Carriage & Private Hire Licensing Policy was first approved for adoption by Doncaster Council on the 19th January, 2012 and that the Council also resolved to delegate authority to the Licensing Committee, to determine future revisions to this Policy.

At its meeting on 10th December, 2020 the Licensing Committee agreed to adopt a revised Hackney Carriage and Private Hire Licensing Policy with effect from 1st April, 2021. However, during its consideration, the following issues were identified as potential areas for future inclusion within the Policy, but were not formally agreed:-

- the mandatory requirement for all Doncaster licensed vehicles to be fitted with CCTV;
- the introduction of an age limit of Doncaster licensed vehicles for both new and renewals; and

- Doncaster licensed vehicles be subject to an emissions limitation.

Members were informed that a plan to consider the impact and effect of these proposals must be agreed by the Committee before they could be considered for future inclusion within the Policy. A copy of the Policy and the amendments to the Policy, which was adopted on 10th December, 2020, were detailed at Appendix A and B of the report respectively.

In order for the Licensing Committee to lawfully consider any further revision of its Hackney Carriage & Private Hire Licensing Policy to include mandatory requirements for CCTV, age and emission limits for vehicles, it must be provided with relevant evidence to consider the likely costs and impact on both the trade and the general public, together with reasoned proposals. Therefore, if there was a proposal to introduce any or all of those proposals, a period of consultation would have to be undertaken with relevant stakeholders, before a final decision was taken by the Committee. Subsequently, it was proposed that Licensing Officers undertake the necessary research and present the information and draft proposals to the Committee prior to the 1st April, 2022 which would allow the Committee to be in a position to confirm whether it wished to consult on any of the proposals, before taking a final decision.

Following the presentation of the report, Members were afforded the opportunity to comment on the proposed revisions to the Policy.

RESOLVED that

- (1) a further report be submitted the Licensing Committee before the 1st April, 2022 to outline the likely cost and the impact on both the licensed trade and members of the public, and draft proposals on each of the following considerations:-
 - (i) A mandatory requirement for CCTV to be installed and operational in all Doncaster licensed Hackney Carriage and Private Hire licensed vehicles;
 - (ii) A Policy which limits the maximum emissions levels permitted for Doncaster licensed Hackney Carriage and Private Hire vehicles; and
 - (iii) A Policy which limits the maximum age at which a vehicle may be considered suitable to be granted a Doncaster Hackney Carriage or Private Hire vehicle licence.
- (2) the existing Doncaster Council's Hackney Carriage & Private Hire Licensing Policy, which was approved by the Licensing Committee on 10th December, 2020 take effect on 1st April, 2021 and will continue to recommend that Doncaster licensed vehicles:-
 - (i) Have CCTV installed to the specification included in the Policy;
 - (ii) Comply with Euro 6 emissions standards; and

- (iii) Are less than 5 years old when first licensed and not more than 10 years old when an existing licence is applied to be renewed.
- (3) compliance with these recommendations shall remain optional for licence holders unless and until the Licensing Committee receives a further report and, after consideration, determines to change this Policy and gives notice of the change and the date when it will take effect; and
- (4) Licensing Officers write to all existing Licence Holders to confirm that the Licensing Committee shall, before 1st April, 2022, consider a report on the cost and the impact of implementing the recommendations referred to (2) above, as mandatory requirements of the Policy.

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Doncaster Council

Report

To the Chair and Members of the

LICENSING COMMITTEE

Licensing Act 2003, Gambling Act 2005 and General Licensing Update

EXECUTIVE SUMMARY

1. The purpose of this report is to update Members on the activities of the Committee and Sub Committee in the previous year, issues relating to the Licensing Act 2003, the Gambling Act 2005, upcoming matters and any significant licensing enforcement actions.

RECOMMENDATIONS

2. It is recommended that Members note the matters referred to in points 2.1 to 2.4 below.
 - 2.1 For the period 1st April 2020 to 31st March 2021 the following committees were convened
 - Licensing Committee – 5 occasions
 - Licensing Sub-Committee - 8 occasions

A total of 8 applications / notices were determined by the Licensing Sub-Committee, 7 of which were applications made under the Licensing Act 2003 and 1 under the Gambling Act 2005.

- 2.2 Statistical details of all other licence applications (Licensing Act 2003 and Gambling Act 2005) determined by the Authority and a summary of significant licensing enforcement actions, for the period 1st April 2020 to 31st March 2021, are attached as Appendix A.
- 2.3 A revised statement of policy (Licensing Act 2003) came in to effect on 7 January 2021.
- 2.4 A revised Hackney Carriage & Private Hire Licensing Policy came in to effect on 1 April 2021. The revised policy moves the responsibility for determining the fit & proper status of applicants and licence holders, who do not meet the minimum standards of the policy, and any subsequent appeals, away from

officers and towards the members of the licensing committee.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. By noting the recommendations of this report, the Licensing Committee are kept aware of the latest developments and forthcoming issues thereby ensuring they continue to be best placed to make future licensing decisions.

BACKGROUND

4. The Licensing Committee have historically requested that the Committee be furnished with details of the licensing decisions (Licensing Act 2003 and Gambling Act 2005), that are delegated outside the remit of the Committee and Sub-Committee, at least annually at the inaugural meeting. Statistical details of these decisions along with a summary of the significant enforcement actions taken by the Licensing service are attached at Appendix A. The figures are based on licence applications and enforcement actions that were received and completed respectively during the period 1st April 2020 to 31st March 2021. The figures relating to sub-committees refer to hearings that were convened during the above period but they may also include decisions on some applications that were received in the latter part of the previous year.

OPTIONS CONSIDERED

5. It is recommended that the Committee note the recommendations in section 2.

REASONS FOR RECOMMENDED OPTION

6. N/A

IMPACT ON THE COUNCIL'S KEY OUTCOMES

7. This effective operation of the Licensing Authority is a key part of the Council's statutory responsibility.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none">• Better access to good fulfilling work• Doncaster businesses are supported to flourish• Inward Investment	<p>It is recognised that licensed premises are, quite often, businesses and places of employment.</p> <p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p>	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with</p>

<ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>the overriding aim of protecting the public.</p>
<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better <p>Learning in Doncaster prepares young people for the world of work</p>	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public..</p>
<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public..</p>
<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public..</p>

RISKS AND ASSUMPTIONS

8. None

LEGAL IMPLICATIONS [Officer MC Churchman Date 5/5/21]

9. There are no specific legal implications associated with this report. All necessary steps are taken to ensure the Licensing Committee and sub Committee exercise their functions in accordance with that relevant Legislation.

FINANCIAL IMPLICATIONS [Officer RT Date 04/05/2021]

10. There are no specific financial implications associated with this report.

HUMAN RESOURCES IMPLICATIONS [Officer DK Date 05/05/2021]

11. There are no specific human resource implications to this type of report. There are no HR implications specific to the recommendations in the report, however, any emerging matters that impact on the workforce will require HR engagement at the appropriate time.

TECHNOLOGY IMPLICATIONS [Officer PW Date 05/05/21]

12. There are no specific technology implications in relation to this report. Digital Strategy & Solutions have delivered the required changes to support the revised Hackney Carriage & Private Hire Licensing Policy.

HEALTH IMPLICATIONS [Officer CT Date 5.5.21]

13. Public Health welcomes the report on licensing activity undertaken by the Committee and Sub Committee in the previous year and will continue to work closely with Licensing to ensure that health implications are considered as part of the decision making process of individual applications. Public Health is also assured by the enforcement action that has taken place to ensure that licensed activity is operating in accordance with relevant regulation.

EQUALITY IMPLICATIONS [Officer DDS Date 04/05/2021]

14. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

15. N/A

BACKGROUND PAPERS

16. Statement of Licensing Policy – Licensing Act 2003:
<https://www.doncaster.gov.uk/services/business-investment/statement-of-licensing-policy-licensing-act-2003>

17. Cumulative Impact Assessment 2020 – Licensing Act 2003:
<https://www.doncaster.gov.uk/services/business-investment/cumulative-impact-policy>
18. Home Office Guidance – Section 182, Licensing Act 2003:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf
19. Statement of Licensing Policy – Gambling Act 2005:
<https://www.doncaster.gov.uk/services/business-investment/the-gambling-act-2005>
20. Hackney Carriage & Private Hire Licensing Policy:
<https://www.doncaster.gov.uk/services/business-investment/doncaster-taxi-and-private-hire-licensing-policy>

REPORT AUTHOR & CONTRIBUTORS

David Smith, Licensing Officer
Tel: (01302) 862546
Email: david.smith@doncaster.gov.uk

Dan Swaine
Director of Economy and Environment

Part 1

Statistical Summary of licence applications (Licensing Act 2003) and notices received by the Authority for the period 1st April 2020 to 31st March 2021.

Application Type	Number of Applications
Personal Licence	118
Premises Licence (New)	67
Premises Licence (Transfer)	51
Premises Licence (Review)	2
Premises Licence (Variation)	18
Premises Licence (Minor Variations)	12
Premises Licence (Change of DPS)	114
Club Certificate (New)	0
Club Certificate (Variation)	1
Club Certificate (Minor Variation)	0
Standard Temporary Event Notice (TEN)	40
Late TEN	14
Total Number of Applications	437

Part 2

Statistical Summary of Premises Licence applications (Gambling Act 2005) received by the Authority for the period 1st April 2020 to 31st March 2021.

Application Type	Number of Applications
Premises Licence - Betting Non Track (New)	0
Club Gaming Permit	1
Club Machine Permit	11
Small Society Lotteries (New)	5
Bingo	1

Part 3

Statistical summary of the main licensing enforcement actions taken/commenced by Licensing during the period 1st April 2020 to 31st March 2021.

Enforcement Action Taken	Number of Actions
Licensed Taxi/Private Hire vehicle suspended from service	31
Licensed Taxi/Private Hire driver suspended	146
Taxi/Private Hire driver licences revoked	2
Taxi/Private Hire driver licence applications refused (new applications & applications to renew)	4
Premises Licence suspended (Licensing Act 2003)	3

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Doncaster Council

Report

Date: 17 June 2021

To the Chair and Members of the Licensing Committee

Pavement Licence – Application Process, Conditions and Fee (Highways Act 1980)

EXECUTIVE SUMMARY

1. To request that the members of the Licensing Committee note that following the change in responsibility for the processing and issuing of Pavement Licences, which has moved from the Town Centre team to the Licensing team, approval was sought and obtained to align the fee and conditions with the Temporary Pavement Licence which was introduced in the Business & Planning Act 2020. This was achieved by way of an 'urgent action in accordance with Council procedure rule 36'.

EXEMPT REPORT

2. There are no confidential issues.

RECOMMENDATIONS

3. It is recommended that the members of the Licensing Committee note that the approval by the Director of Economy & Environment, Chair of the Licensing Committee and Cabinet Member for Communities, Voluntary Sector and the Environment was received on 12 April 2021.
4. The fee has been set at £100.
5. The determination and granting of licences of this type has been delegated to the Assistant Director of Environment and Head of Service for Regulation and Enforcement.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

6. The aligning of conditions and fees for both the Pavement Licence under the Highways Act 1980 and the Temporary Pavement Licence under the Business and Planning Act 2020 means that whichever licence is applied for, both are subject to the same conditions to ensure consistency across the borough.

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BACKGROUND

7. Applications for a Pavement Licence under the Highways Act 1980 were previously the responsibility of the Town Centre team.
8. The Business & Planning Act 2020 introduced a fast-track application process to allow businesses to obtain permission to place tables and chairs on the highway for use by their customers. The responsibility for processing applications of this type was taken on by the Licensing team.
9. To ensure a consistent approach in considering applications for a Pavement Licence, it was determined that both schemes should be operated by a single team and that the Licensing department are best placed to do this as the majority of applications were expected to be from those businesses which are licensed by the department, to sell alcohol.
10. The SO36 Decision Record is attached as Appendix A.
11. The Decision Record regarding the Fee is attached as Appendix B.
12. The Conditions which will be applied to licences are attached as Appendix C.

OPTIONS CONSIDERED

13. N/A

REASONS FOR RECOMMENDED OPTION

14. N/A

IMPACT ON THE COUNCIL'S KEY OUTCOMES

- 15.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none">• Better access to good fulfilling work• Doncaster businesses are supported to flourish• Inward Investment	<p>It is recognised that hospitality premises are, businesses, places of employment and potential assets to the community.</p> <p>The Council, via the Assistant Director of Environment and Head of Service for Regulation and Enforcement, will have regard to this priority when making licensing decisions.</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p>	<p>It is recognised that hospitality premises are, businesses, places of employment and potential assets to the community.</p>

	<ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>The Council, via the Assistant Director of Environment and Head of Service for Regulation and Enforcement, will have regard to this priority when making licensing decisions.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	<p>None</p>
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>It is recognised that hospitality premises are, businesses, places of employment and potential assets to the community.</p> <p>The Council, via the Assistant Director of Environment and Head of Service for Regulation and Enforcement, will have regard to this priority when making licensing decisions.</p>
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>None</p>

RISKS AND ASSUMPTIONS

16. N/A

LEGAL IMPLICATIONS [Officer Initials NC Date 11/5/21]

17. Initial approval for the process was dealt with utilising the emergency provisions set out in the Constitution at Rule 36 of the Council Procedure Rules, which requires that the Committee be advised of details of the process approved at the first available meeting of the Committee.

FINANCIAL IMPLICATIONS [RT __ Date _17/05/21_]

18. The fee charged will cover the cost of administering the scheme, any subsequent enforcement action and is based on government recommendations.
19. The Council's Financial Procedure Rules state that "Any new fees and charges proposed within the financial year or any changes to existing fees and charges will be approved by the CFO in consultation with the relevant Portfolio Holder, subject to key decision rules and reported to Cabinet in the quarterly monitoring report." The Council's Chief Financial Officer (CFO) was supportive of the introduction of the new fee and consulted with the relevant portfolio holder.

HUMAN RESOURCES IMPLICATIONS [Officer Initials DK Date 11/05/2021]

20. There are no direct HR implications to this report.

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 11/05/21]

21. There are no technology implications in relation to this report.

HEALTH IMPLICATIONS [Officer Initials CT Date 11/05/2021]

22. There are no direct health implications arising from this report. Decision makers will want to consider the health impacts of individual licences including ensuring sufficient access for pedestrians and wheelchair users.

EQUALITY IMPLICATIONS [Officer Initials DDS Date 10/05/2021]

23. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. The approved conditions seek to meet this obligation. In addition, any activities arising from this report will need to be the subject of separate 'due regard' assessments.
24. Any businesses which apply for a temporary pavement licence will also need to have regard to their own duties under the Equality Act 2010, such

as their duty under s.29 of the Act not to discriminate in providing their service.

CONSULTATION

25. The decision was approved by Dan Swaine: Director of Economy & Environment, Cllr Ken Keegan: Chair of the Licensing Committee and Cllr Chris McGuinness: Cabinet Member for Communities, Voluntary Sector and the Environment.
26. The decision was copied to the Chief Executive, the Governance Services Team and is now being reported to the next ordinary meeting of the Licensing Committee.

BACKGROUND PAPERS

27. Appendix A, B & C.

REPORT AUTHOR & CONTRIBUTORS

David Smith:	Licensing Officer
Telephone:	01302 862546
Email:	david.smith@doncaster.gov.uk

Dan Swaine
Director of Economy and Environment

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Doncaster Council

DONCASTER METROPOLITAN BOROUGH COUNCIL

URGENT ACTION IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 36

Subject Matter

Approval sought to align the delegations, conditions and processes of Temporary Pavement Licence Applications and applications made under the Highways Act 1980 including the setting of the same fee structure.

Decision

To approve the alignment of Temporary Pavement Licence Application under the Business and Planning Act 2020 Process and the Highways Act 1980 Alfresco licence application process for the Doncaster borough. Set the same fee and conditions including the delegation of determinations and granting of licences to the Assistant Director of Environment and Head of Service for Regulation and Enforcement.

Reason for Urgency

The Highways Act 1980 Alfresco scheme has been in place for some time and has some fifty licences issued within the Town centre. The licence conditions have not been reviewed for some time and are somewhat inconsistent with the new licences being issued under the Business and Planning Bill 2020. It is imperative that both these licence regimes align so there is consistency when conditioning licences and that fee structure and delegations align. The authority is obligated to consider applications made to both licence types immediately. The authority need to ensure that those who already have Highways Act licences are conditioned consistently and both regimes and the delegations aligned. As the COVID business restrictions are being eased across the country a number of licensed establishments are wishing to use outdoor space to expand their business offer. It is therefore imperative that this review is put in place as soon as possible and therefore it would be detrimental to business to wait to take this change through the typical governance process

Background Information

As a local authority, Doncaster Council has a responsibility to encourage a return to economic vitality following the Covid19 pandemic. One of the Government recommendations to achieve this task is through the licensing of the public highway to allow hospitality businesses to extend their capacity limits and to increase social distancing possibilities for patrons.

A temporary pavement licence has been created to allow this activity. The Council is able to charge a fee of up to £100 for a licence that will be valid until September 2021 (the government are proposing to extend this to September 2022), and this was approved through a SO36 application in September. However there is already an existing regime within the Highways Act 1980 alfresco licences, these licences conditions have not been reviewed for some time and do not align with temporary licence measures put in place by the government. It is proposed that we align both schemes licence conditions so that all existing licences can be moved across to the new conditions. This will mean when the temporary scheme is phased out in September 2021 (which may be extended to September 2022), all licences will have the same conditions right across the borough instead of a two tier scheme that we have in place now. The only difference will be the consultation periods as these are set by the legislation.

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The proposed conditions are included in Appendix 1 for the 'Pavement Licence Doncaster Borough'. However, the Council is currently reviewing the operation of the scheme over the next five weeks which may necessitate some amendments to the conditions.

The Application process consists of the completion of an application form and payment of the fee. The Application is then subject to statutory consultation which is achieved by the Applicant displaying a notice at the premises and the Council publishing the Application on its website. This needs to be in place for 7 days under the Business and Planning Act or 28 days under the Highways Act 1980 scheme. The Council then has 7 or 28 days (depending under which scheme the application is made under) to consider any representations made to the Application. The Council must then determine whether or not to grant the licence and if granted any conditions to be imposed taking into account the outcome of the consultation process, the national conditions from the Secretary of State and the ongoing review of the scheme (or any other future revisions). It is proposed this process is delegated to the Assistant Director of Environment and Head of Service for Regulation and Enforcement.

It should be noted that this is intended to cover all applications throughout the borough, excluding the area in the town centre covered by a Public Spaces Protection Order (PSPO) that prohibits being in possession of an open vessel of alcohol. Applicants who want their patrons to be able to drink alcohol in the designated area will still be able to have tables and chairs on the highway but the application will need to be under the existing regime already in place as this type of licence is not impacted by a PSPO

The proposed conditions for are included in appendix 2 Highways Act 1980 alfresco Pavement Licence

This regime will have to be used where a licence is required in PSPO area and will have the same conditions as the licence at appendix 1 but will have a different consultation period set by the legislation of 28 days with the Assistant Director of Environment and Head of Service for Regulation and Enforcement to make the decision

Legal Implications

The Business and Planning Act 2020 introduced a new Scheme to allow businesses to extend their trading area through the use of temporary pavement licences on the highway. Doncaster Council has ensured it has a process to deal with these applications. However a similar licence can be applied for under the Highways Act 1980 and this is the only licence that will allow those in a PSPO area to utilise the outside space to consume alcohol. Without these two schemes being aligned the authority will have a two tiered approach to alfresco licencing and without the appropriate delegations in place could be open to legal challenge.

Financial Implications

It has been estimated that 80-100 licences will be issued under the new scheme. This would generate £8,000-£10,000 for the Council as well as helping restart the local economy. The service will need to ensure systems and procedures are in place to collect the additional income and allocate it to the correct service budget. It is envisaged that fee charged will cover the cost of administering the scheme, any subsequent enforcement action and is based on government recommendations.

The Council's Financial Procedure Rules state that "Any new fees and charges proposed within the financial year or any changes to existing fees and charges will be approved by the CFO in consultation with the

relevant Portfolio Holder, subject to key decision rules and reported to Cabinet in the quarterly monitoring report." The Council's Chief Financial Officer (CFO) is supportive of the introduction of the new fee and has consulted the relevant portfolio holder and an ODR to support the decision is in place

Equality Implications

Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. The suggested conditions seek to meet

this obligation. In addition, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

Any businesses which apply for a temporary pavement licence will also need to have regard to their own duties under the Equality Act 2010, such as their duty under s.29 of the Act not to discriminate in providing their service.

Other Implications (if any)

Not applicable

Options considered and reasons for the decision

Two options have been considered

1. Align both the conditions of the Temporary pavement licence scheme under the business and planning act 2020 valid throughout the borough but excluding areas covered by a public spaces protection order with conflicting prohibitions with the Highways Act alfresco pavement licence scheme including appropriate delegations and fee structure This is the recommended option
2. Do nothing, this is not recommended.

Background Papers

Appendix 1 - 'BPA Pavement Licence Conditions'
Appendix 2 - Highways Act Alfresco Licence Conditions

Signed

Director of Economy & Environment

Date ...9th April 2021.....

I have been consulted in respect of the above decision.

Signed K. Keegan (via email).....

Chair of the Licensing Committee

Date 17th March 2021

Signed ...

Cabinet Member for Communities, Voluntary Sector and the Environment

Date 12 April 2021

Declaration of Interest YES/NO

If YES please give details below:

This decision will be copied to the Chief Executive, the Governance Services Team and reported to the next ordinary meeting of the Licensing Committee.

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APPENDIX 2

OFFICER DECISION RECORD 2 FORM

This form should be used to record Officer Decisions which have a financial impact (income/expenditure) between £25k - £100k.

Decision Reference No: EE21 0189

BOX 1.

DIRECTORATE: Economy & Environment **DATE:** 14/03/21

Contact Name: Nasir Dad

Tel. No.:

Subject Matter: Temporary Pavement Licence Applications

BOX 2

DECISION TAKEN: Approval sought to align the fee structure for Temporary Pavement Licence Applications under Business and Planning Bill 2020 and applications made under the Highways Act 1980 to £100 per year.

BOX 3**REASON FOR DECISION AND ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:**

As a local authority, Doncaster Council has a responsibility to encourage a return to economic vitality following the Covid19 pandemic. One of the Government recommendations to achieve this task is through the licensing of the public highway to allow hospitality businesses to extend their capacity limits and to increase social distancing possibilities for patrons.

The Business and Planning Act 2020 introduced a new Scheme to allow businesses to extend their trading area through the use of temporary pavement licences on the highway. Doncaster Council has ensured it has a process to deal with these applications. However a similar licence can be applied for under the Highways Act 1980 and this is the only licence that will allow those in a PSPO area to utilise the outside space to consume alcohol.

The new scheme has had a fee limit set at £100 per year by the government. The authority has reviewed the existing highways scheme and is aligning the conditions of both schemes through an SO36 approval, however there is an anomaly in the fee structure published at this time and we are seeking approval to set this fee at £100 per year for the Highways Act scheme.

BOX 4**BACKGROUND PAPERS****YES**

Appendix 1 - 'BPA Pavement Licence Conditions'

Appendix 2 - Highways Act Alfresco Licence Conditions

Appendix 3 – SO 36 proposed approval

BOX 5**INFORMATION NOT FOR PUBLICATION:**

It is in the public's interest to be aware of this decision record under the Freedom of Information Act 2000, therefore this decision will be Published in full, redacting only signatures.

Name: A J Rowbotham Signature: A J Rowbotham_ Date 15th March 2021

Signature of FOI Lead Officer for service area where ODR originates

BOX 6**AUTHORISATION:**

Name: Dan Swaine Signature:  Date: 15/03/21
Director of Economy & Environment

Does this decision require authorisation by the Chief Financial Officer or other Officer?

YES/NO

If yes please authorise below:

Name: Signature: Date:
Chief Executive/Director/Assistant Director/Head of

Consultation with Relevant Member(s)

Name: _____ Signature: _____ Date: _____

Designation _____

(e.g. Mayor, Cabinet Member or Committee Chair/Vice-Chair)

Declaration of Interest YES/NO
If YES please give details below:

PLEASE NOTE THIS FORM WILL BE PUBLISHED ON THE COUNCIL'S WEBSITE IN FULL UNLESS IT CONTAINS EXEMPT OR CONFIDENTIAL INFORMATION

Once completed a PDF copy of this form along with any relevant background papers should be forwarded to Governance Services at Democratic.Services@doncaster.gov.uk who will arrange publication.

It is the responsibility of the decision taker to clearly identify any information that is confidential or exempt and should be redacted before publication.

ALFRESCO PAVEMENT LICENCE CONDITIONS

In accordance with the Highway Act 1980

Each application will be treated on its own merits. Doncaster Metropolitan Borough Council (the Council) reserves the right to refuse applications or to apply such conditions as it thinks fit. Applicants should be aware that it will be necessary to display a notice of application for 28 days starting on the day after the application is served on the Council.

1. Sole Purpose of the Licence:

An Alfresco Pavement Licence permits the business to use furniture placed on the highway ("the permitted area") to sell or serve food or drink and/or allow it to be used by people for consumption of food and drink supplied from, or in connection with the use of the premises.

2. Production of the Licence on Demand:

The Alfresco Pavement Licence shall be displayed in the window of the premises to which it relates. Any failure to do so may result in an Authorised Officer requiring the removal of the items from the highway.

3. Site Constraints:

Any street furniture placed within the permitted area of the Alfresco Pavement Licence shall not obscure sight lines for any highway user, interfere with neighbouring properties, interfere with drainage, or, conflict with dropped crossings, etc. The maximum sizing of the area is detailed in the image on the licence.

4. Defining the temporary Pavement Licence Area:

The Council (or its Agent) may, if necessary, discreetly mark on the highway the extent of the temporary Pavement Licence area to ensure its accurate location. The licence holder must not place any items outside of the permitted area.

5. Street Furniture:

The Alfresco Pavement Licence permits only the following items to be placed on the permitted area of the highway:

- Counters or stalls for selling or serving of food or drink
- Tables, counters, or shelves on which food and drink can be placed.
- Chairs, benches or other forms of seating
- Umbrellas, barriers, heaters, and other articles used in connection with the outdoor consumption of food or drink.

The furniture must be removable and removed from the public highway at the end of the permitted hours. The specification of all furniture must be approved by the Council or its Agent.

6. Barriers:

A barrier approximately 1.0m high and incorporating a tapping rail not more than 150mm above the ground must be provided to guide persons safely around the Alfresco Pavement licence area. Barriers must not be permanently fixed to the ground within the public highway. Barriers must be designed to resist collapse or movement (e.g. by being blown over or accidentally stumbled into). The specification of barriers must be approved by the Council or its Agent. The barriers & seating should be arranged so as to prevent chairs or personal affects (e.g. shopping) escaping the area of the licence and encroaching into the walked highway.

7. Emergency Exits:

All emergency exits and routes from buildings must be kept clear.

8. Hours of operation:

As detailed on the Alfresco pavement licence.

9. Removal of Furniture:

All street furniture and all barriers must be removed from the highway at the end of the permitted hours and shall not be stored within the highway.

10. Other Licences/Permissions:

If granted, the licence only grants permission for those set out in section 5. Other activities may require additional licences or permissions.

11. Obstruction/Danger/Nuisance on the Highway:

The Licence Holder shall not cause any obstruction or danger to people using the highway. The Licence Holder is responsible for the conduct of people within the area of the temporary Pavement Licence, allowing rowdy or unruly behaviour may lead to the revocation of the licence.

12. Noise/Nuisance Control:

Noise, disturbance, smells or litter on or emanating from the use of the permitted area which causes a nuisance to the owners or occupiers of any adjacent premises, or to members of the public is not acceptable.

13. Surface of the Highway:

The Licence Holder shall not undertake any alterations to the highway surface.

14. Cleansing of the Area:

The Licence Holder will ensure that the area permitted by way of the Alfresco Pavement Licence is maintained in a clean and tidy condition and they shall take all necessary precautions to prevent the highway from becoming littered as a result of their trading activities.

15. Liability Insurance / Indemnity:

The Licence Holder is required to indemnify the Council and its agents against all losses and claims for injuries (including death, illness and disease) or damage to any person or property whatsoever, and, against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising directly or indirectly out of the granting of this Licence. To this end, the applicant must obtain and maintain third party public liability insurance which offers indemnity to principle. The level of cover must be to a minimum value of £5,000,000 for any one incident. Evidence of valid insurance for the temporary pavement licence area must be made available when demanded by a duly authorised officer or agent of the Council. The Licence Holder will be required to produce proof of valid insurance to the Council, or its agent, on an annual basis.

16. Consumption of Alcohol:

The Alfresco Pavement Licence does not give, or imply any permission to supply intoxicating liquor in the street, such consumption must not take place beyond the perimeter of the designated area of the Premises Licence (if such a licence applies to the Alfresco pavement licence). The appropriate alcohol licence must be in place.

17. Advertising:

Advertising alcoholic or smoking products, or their manufacturers, will not be permitted on barriers or furniture associated with the Pavement Licence. Logos / legends on barriers etc. may only relate to the premises or business and will require the prior approval of the Council, or its Agent. No advertising shall be displayed that may cause offence or alarm to any person.

18. Suspension of Permission:

If so requested with reasonable notice, the Council reserves the right to suspend or modify the licence for the purposes of public safety or maintaining the highway. Additionally if so requested in an emergency by a Police Officer, Fire Brigade Officer, Ambulance Attendant or Statutory Undertaker, or by the Highway Authority for the purpose of maintaining the highway, the Licence Holder shall remove the permitted street furniture from the highway

19. Transfer of permission

The Licence is not a transferable asset which might be sold with a change in ownership of the premises.

20. Enforcement:

If a condition imposed on a licence (either by the local authority) or nationally is breached the local authority may issue a notice requiring the breach to be remedied and the authority can take action to recover any costs incurred in serving such a notice from the licence holder. The authority may remove permission if a licence is breached in the following circumstances:

- For breach of condition, (whether or not a remediation notice has been issued)
- Where there are risks to public health or safety – for example by contravening Government guidance and legislation.
- the highway is being obstructed (other than by anything permitted by the licence);
- there is anti-social behaviour or public nuisance associated with the use of the permitted area – for example, the use is increasing the amount of noise generated late at night and/or litter is not being cleaned up;
- It comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed;
- The applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
- The local authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. It is good practice for local authorities to give reasons where these powers are used.
- These circumstances are non-exhaustive

21. Access along the highway (National Condition):

Clear route of uninhibited access along the public highway must be maintained at all times.

Clear route of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended footway widths and distances required for access by mobility impaired or visually impaired people as set out in Section 3.1 of inclusive Mobility:

<https://www.gov.uk/government/publications/inclusive-mobility> which states:

A clear width of 2000mm allows two wheelchairs to pass one another comfortably.

This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. The absolute minimum, where there is an obstacle, should be 1000mm clear space. The maximum length of restricted width should be 6 metres (see also Section 8.3). If there are local restrictions or obstacles causing this sort of reduction in width they should be grouped in a logical and regular pattern to assist visually impaired people.)

22. Seating for non-smokers (National Condition):

The licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012 which can be viewed here.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2M distance between non-smoking and smoking areas, wherever possible. Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006

23. Unpublished Local Conditions:

The Council may impose additional reasonable conditions whether or not they are published after the grant of a temporary pavement licence. All relevant licence holders will be notified of any such additional conditions. There is an expectation these will be supported by a clear justification for the need of a condition which is in addition to any published local conditions. Conditions might, for example, limit the maximum number of chairs and tables, or type of furniture, time and days of operation with justification for this.

24. Unpublished National Conditions (Applicable to all temporary pavement licenses)

The secretary of state publishes conditions in exercise of his powers under the Highways Act 1980

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**BUSINESS AND PLANNING ACT 2020
TEMPORARY PAVEMENT LICENCE STANDARD CONDITIONS**

Each application will be treated on its own merits. Doncaster Metropolitan Borough Council (the Council) reserves the right to refuse applications or to apply such conditions as it thinks fit. Applicants should be aware that it will be necessary to display a notice of application for 7 days starting on the day after the application is served on the Council.

1. Sole Purpose of the Licence:

A temporary Pavement Licence permits the business to use furniture placed on the highway (“the permitted area”) to sell or serve food or drink and/or allow it to be used by people for consumption of food and drink supplied from, or in connection with the use of the premises.

2. Production of the Licence on Demand:

The temporary Pavement Licence shall be displayed in the window of the premises to which it relates. Any failure to do so may result in an Authorised Officer requiring the removal of the items from the highway.

3. Site Constraints:

Any street furniture placed within the permitted area of the temporary Pavement Licence shall not obscure sight lines for any highway user, interfere with neighbouring properties, interfere with drainage, or, conflict with dropped crossings, etc. The maximum sizing of the area is detailed in the image on the licence.

4. Defining the temporary Pavement Licence Area:

The Council (or its Agent) may, if necessary, discreetly mark on the highway the extent of the temporary Pavement Licence area to ensure its accurate location. The licence holder must not place any items outside of the permitted area.

5. Street Furniture:

The temporary Pavement Licence permits only the following items to be placed on the permitted area of the highway:

- Counters or stalls for selling or serving food or drink
- Tables, counters, or shelves on which food and drink can be placed.
- Chairs, benches or other forms of seating,;
- Umbrellas, barriers, heaters, and other articles used in connection with the outdoor consumption of food or drink

The furniture must be removable and removed from the public highway at the end of the permitted hours. The specification of all furniture must be approved by the Council or its Agent.

6. Barriers:

A barrier approximately 1.0m high and incorporating a tapping rail not more than 150mm above the ground must be provided to guide persons safely around the temporary Pavement licenced area. Barriers must not be permanently fixed to the ground within the public highway. Barriers must be designed to resist collapse or movement (e.g. by being blown over or accidentally stumbled into). The specification of barriers must be approved by the Council or its Agent. The barriers & seating should be arranged so as to prevent chairs or personal affects (e.g. shopping) escaping the area of the licence and encroaching into the walked highway.

7. Emergency Exits:

All emergency exits and routes from buildings must be kept clear.

8. Hours of operation:

As stated on the temporary Pavement Licence.

9. Removal of Furniture:

All street furniture and all barriers must be removed from the highway at the end of the permitted hours and shall not be stored within the highway.

10. Other Licences/Permissions:

If granted, the licence only grants permission for those set out in section 5. Other activities may require additional licences or permissions.

11. Obstruction/Danger/Nuisance on the Highway:

The Licence Holder shall not cause any obstruction or danger to people using the highway. The Licence Holder is responsible for the conduct of people within the area of the temporary Pavement Licence, allowing rowdy or unruly behaviour may lead to the revocation of the licence.

12. Noise/Nuisance Control:

Noise, disturbance, smells or litter on or emanating from the use of the permitted area which cause a nuisance to the owners or occupiers of any adjacent premises, or to members of the public are not acceptable.

13. Surface of the Highway:

The Licence Holder shall not undertake any alterations to the highway surface.

14. Cleansing of the Area:

The Licence Holder will ensure that the area permitted by way of the temporary Pavement Licence is maintained in a clean and tidy condition and they shall take all

necessary precautions to prevent the highway from becoming littered as a result of their trading activities.

15. Liability Insurance / Indemnity:

The Licence Holder is required to indemnify the Council and its agents against all losses and claims for injuries (including death, illness and disease) or damage to any person or property whatsoever, and, against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising directly or indirectly out of the granting of this Licence. To this end, the applicant must obtain and maintain third party public liability insurance which offers indemnity to principle. The level of cover must be to a minimum value of £5,000,000 for any one incident. Evidence of valid insurance for the temporary pavement licence area must be made available when demanded by a duly authorised officer or agent of the Council. The Licence Holder will be required to produce proof of valid insurance to the Council, or its agent, on an annual basis.

16. Consumption of Alcohol:

The Temporary Pavement Licence does not give, or imply any permission to supply intoxicating liquor in the street, such consumption must not take place beyond the perimeter of the designated area of the Premises Licence (if such a licence applies to the temporary pavement licence). The appropriate alcohol licence must be in place.

17. Advertising:

Advertising alcoholic or smoking products, or their manufacturers, will not be permitted on barriers or furniture associated with the Pavement Licence. Logos / legends on barriers etc. may only relate to the premises or business and will require the prior approval of the Council, or its Agent. No advertising shall be displayed that may cause offence or alarm to any person.

18. Suspension of Permission:

If so requested with reasonable notice, the Council reserves the right to suspend or modify the licence for the purposes of public safety or maintaining the highway. Additionally if so requested in an emergency by a Police Officer, Fire Brigade Officer, Ambulance Attendant or Statutory Undertaker, or by the Highway Authority for the purpose of maintaining the highway, the Licence Holder shall remove the permitted street furniture from the highway.

19. Transfer of permission

The Licence is not a transferable asset which might be sold with a change in ownership of the premises.

20. Enforcement:

If a condition imposed on a licence (either by the local authority) or nationally is breached the local authority may issue a notice requiring the breach to be remedied

and the authority can take action to recover any costs incurred in serving such a notice from the licence holder. The authority may revoke a licence in the following circumstances:

- For breach of condition, (whether or not a remediation notice has been issued)
- Where there are risks to public health or safety — for example by contravening Government guidance and legislation.
- the highway is being obstructed (other than by anything permitted by the licence);
- there is anti-social behaviour or public nuisance associated with the use of the permitted area – for example, the use is increasing the amount of noise generated late at night and/or litter is not being cleaned up;
- It comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed;
- The applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
- The local authority may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. It is good practice for local authorities to give reasons where these powers are used.
- These circumstances are non-exhaustive

21. Access along the highway (National Condition):

Clear route of uninhibited access along the public highway must be maintained at all times.

Clear route of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended footway widths and distances required for access by mobility impaired or visually impaired people as set out in Section 3.1 of inclusive Mobility:

<https://www.gov.uk/government/publications/inclusive-mobility> which states:

A clear width of 2000mm allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. The absolute minimum, where there is an obstacle, should be 1000mm clear space. The maximum length of restricted width should be 6 metres (see also Section 8.3). If there are local restrictions or obstacles causing this sort of reduction in width they should be grouped in a logical and regular pattern to assist visually impaired people.)

22. Seating for non-smokers (National Condition):

The licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012 which can be viewed [here](#).
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2M distance between non-smoking and smoking areas, wherever possible. Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006

23. Unpublished Conditions: local conditions

The Council may impose additional reasonable conditions whether or not they are published after the grant of a temporary pavement licence. All relevant licence holders will be notified of any such additional conditions. There is an expectation these will be supported by a clear justification for the need of a condition which is in addition to any published local conditions. Conditions might, for example, limit the maximum number of chairs and tables, or type of furniture, time and days of operation with justification for this.

24. Unpublished National Conditions (Applicable to all alfresco pavement licenses)

The Secretary of State publishes conditions in exercise of his powers under Clause 5(8) of the Business & Planning Act 2002

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Doncaster Council

Report

Date: 17 June 2020

To the Chair and Members of the LICENSING COMMITTEE

TERMS OF REFERENCE, PROCEDURES AND DELEGATIONS

EXECUTIVE SUMMARY

1. The purpose of this report is for the Licensing Committee to note the Terms of Reference for the discharge of licensing functions, to agree the procedure for hearings, to agree the delegation of functions, to agree the appointment of Members to the Licensing Sub-Committee and to agree the procedure for dealing with appeals.

RECOMMENDATIONS

2. a) It is recommended that Members note:
 - (i) The Terms of Reference for the Licensing Committee as detailed in Appendix A to this report.
 - (ii) The Terms of Reference for the Licensing Sub-Committees as detailed in Appendix A.
- b) It is recommended that Members agree:
 - (i) The procedures set out in Appendices B1 and B2 continue to be the procedures for Licensing Committee and Sub-Committee hearings held under the Licensing Act 2003 and the Gambling Act 2005 respectively.
 - (ii) The council's taxi licensing policy was recently amended to involve members in determining taxi applications where applicants fall below the minimum standards set out in the policy, a role which was previously undertaken by officers. The procedure is set out in the policy as shown at Appendix B3.
 - (iii) The delegation of functions set out in Appendix C1, C2 and C3.
 - (iv) The appointment of Members to the Licensing Sub-Committee as set out in Appendix D.
 - (v) The procedure for dealing with settling appeals after the Sub Committee hearing but before the appeal hearing in the Magistrates' Court is decided

as set out in Appendix E.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. Doncaster Council as the licensing authority is required to establish a licensing committee and sub-committee(s) in order to discharge its duties under the Licensing Act 2003 and the Gambling Act 2005. The establishment of defined terms of reference, clear procedures and delegations allows the Council to make licensing decisions.

BACKGROUND

4. The licensing sub-committee terms of reference have been amended. The changes reflect the wider remit of the Licensing sub-committee, particularly in considering non Licensing Act 2003 matters such as sexual entertainment venues and taxi driver/operator licences. A copy of the Terms of Reference is set out in the Appendix A to this report for the Committee to note.
5. The Licensing Act 2003 and the Gambling Act 2005 enables the Licensing Committee to determine its own procedure and those of its Sub-Committees subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 respectively. The procedures are set out in Appendix B1 and B2 of this report and are unchanged.
6. The Councils Hackney Carriage and Private Hire Licensing Policy which was approved by this committee in January 2021 sets out the procedure for determining applications and reviews in relation to the licensing of private hire and hackney carriage drivers, operators and vehicles. The procedure is set out at Appendix B3.
7. The Licensing Act 2003 provides that the functions of the Council as the Licensing Authority shall be carried out by its Licensing Committee, with the exception of the Statement of Licensing Policy. The Licensing Committee may delegate those functions to Sub-Committees or, where permitted, to officers. The delegation of functions are set out in Appendix C1 of this report.
8. The Gambling Act 2005 provides that all decisions relating to premises licences are, with the exception of those listed below, delegated to the Licensing Committee that has been established under the Licensing Act 2003. The Licensing Committee may delegate those functions to the Sub-Committee or, where permitted, to officers. Details of these delegations are set out in Appendix C2 of this report.
Exceptions:
 - A resolution not to issue casino licences (Full Council decision only)
 - Functions in relation to the Statement of Policy (Full Council decision)
 - Setting of fees (Full Council)
9. The Councils Hackney Carriage and Private Hire Licensing Policy details that the functions of the Council as the Licensing Authority shall be carried out by its Licensing Committee, except where those functions have been delegated to officers. These delegations are set out in Appendix C3.
10. The appointment of the Licensing Sub-Committee and Member make-up process, as

set out in Appendix D, is unchanged with the minimum number of Members required to be quorate being 3.

11. For hearings held to consider matters relating to the Licensing Act 2003 or the Gambling Act 2005, where more than 3 Members attend those additional Members would be able to choose from the following options:
 - Stay and take part in the meeting and determine the outcome with the rest of the Sub-Committee Members;
 - Sit in the public area as an observer; or
 - Leave the meeting if they so wished.
12. Hearings held to consider Hackney Carriage / Private Hire matters are not public meetings and only parties to the hearing may attend.
13. In the case of an appeal against a Sub-Committee decision there is no reason why mediation or other discussions should not be held between the Licensing Authority and the appellant, once an appeal has been lodged, to either settle the matter entirely or to resolve those issues that can be resolved or indeed to identify issues in dispute. The procedure for dealing with settling appeals after the Sub Committee hearing but before the appeal hearing in the Magistrates' Court is set out in Appendix E. The procedure remains unchanged from the version agreed on 14th June 2018.

OPTIONS CONSIDERED

14. No other option was considered.

REASONS FOR RECOMMENDED OPTION

15. The Committee must note the Terms of Reference, may adopt its own Procedures, may establish one or more sub-committees and may determine the delegation of functions.
16. The principles behind the delegation of functions are published in Doncaster Council's respective Licensing Policies. It is recognised that many of the decisions and functions will be purely administrative in nature and it is therefore the policy of Doncaster Council that functions, so far as possible, should be delegated in the interests of speed, efficiency and cost effectiveness. *(Section 13 of the Council's Statement of Licensing Policy – Licensing Act 2003, Section 3 of the Council's Statement of Licensing Policy – Gambling Act 2005 and Appendix 19 of the Council's Hackney Carriage & Private Hire Licensing Policy)*

IMPACT ON THE COUNCIL'S KEY OUTCOMES

- 17.

	Outcomes	Implications
	Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;	Functions are delegated in the interests of speed, efficiency and cost effectiveness wherever possible. This ensures that licensing decisions can be made in

	<ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	a timely manner.
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better <p>Learning in Doncaster prepares young people for the world of work</p>	
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	None
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible 	

	<p>workforce</p> <ul style="list-style-type: none"> • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	
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RISKS AND ASSUMPTIONS

18. It is a requirement of the Licensing Authority, under the Licensing Act 2003 and the Gambling Act 2005, to adopt Terms of Reference, the procedure for hearings and approve the delegation of functions.

LEGAL IMPLICATIONS

MC Churchman

Date 20/5/21

19. Sections 101 and 102 of the Local Government Act 1972 empower the Council to arrange for the discharge of any of its functions by a Committee or Sub-Committee. Whilst these sections do not apply to the Licensing Committee or Licensing Sub-Committees the Council has chosen to utilise the format as set out in these provisions to ensure the good governance of the committee. The Council is obliged by law to appoint a Licensing Committee under the Licensing Act 2003 and Gambling Act 2005. Further secondary Regulations determine the requirements of a licensing hearing and the process to follow. Any additional procedures the Licensing Committee chooses to recommend and the Council agrees must comply with these regulations. Therefore, care must be taken to ensure the procedure agreed and delegations comply with the relevant statutes.

FINANCIAL IMPLICATIONS [RT __ Date _18/05/21_]

20. There are no specific financial implications associated with this report. The costs associated with applications and their determinations are generally met from fees paid to the Council by applicants for Authorisations/Licences under the relevant licensing enactments and there are no further financial considerations.

HUMAN RESOURCES IMPLICATIONS [Officer DK Date 18/05/2021]

21. There are no human resource implications to this type of report.

TECHNOLOGY IMPLICATIONS [Officer PW Date 18/05/21]

22. There are no technology implications to this report.

HEALTH IMPLICATIONS [Officer CT__ Date 19.5.21 __]

23. Public Health supports the adoption of the updated terms of reference. It is essential to have up to have these in place to enable a shared understanding of the procedures and delegation of functions. Public Health also agrees to the appointment of Members to the Licensing Sub-Committee and the procedure for dealing with appeals. Clearly defining these ensures that the various committees are functioning in a way that ensures that licensed activity is carried out according to the law thus protecting our residents from unlawful activity.

EQUALITY IMPLICATIONS [Officer DDS Date 20/05/21]

24. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

25. Consultation has taken place between Democratic Services, Legal Services and the Licensing Department.

BACKGROUND PAPERS

- 26.
- Report to Annual Council, Terms of Reference Report.
 - Licensing Act 2003
 - Gambling Act 2005
 - Licensing Act 2003 (Hearings) Regulations 2005
 - Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007
 - Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 – April 2018
 - Gambling Commission Guidance to licensing authorities 5th edition.
 - Doncaster Council's Statement of Licensing Policy (2021) – Licensing Act 2003
 - Doncaster Council's Statement of Licensing Policy (2019) – Gambling Act 2005
 - Doncaster Council's Hackney Carriage & Private Hire Licensing Policy (2021)

REPORT AUTHOR & CONTRIBUTORS

David Smith, Licensing Officer
Tel: (01302) 862546
Email: david.smith@doncaster.gov.uk

Dan Swaine
Director of Economy and Environment

LICENSING COMMITTEE

This Committee is a Committee of the Council constituted:

- (1) In relation to its functions under the Licensing Act 2003, under Section 6 of that Act.
- (2) In relation to its functions under the Gambling Act 2005.
- (3) In relation to its other functions, under Sections 101 and 102 of the Local Government Act 1972.

Terms of Reference

FOR RECOMMENDATION TO COUNCIL:-

1. In respect of the relevant prescribed period to consider the adoption of the Statement of Licensing Policy.
2. During the relevant prescribed period to keep the Statement of Licensing Policy under review, and to recommend any revisions to it.

FOR RECOMMENDATION TO THE EXECUTIVE AND THEN TO COUNCIL:-

1. In respect of the relevant prescribed period to advise on the preparation, content and implementation of the Statement of Gambling Policy.
2. During the relevant prescribed period to keep the Statement of Gambling Policy under review, and to recommend any revisions to it.

DELEGATED MATTERS:-

1. To discharge the functions of the Council which are licensing functions within the meaning of the Licensing Act 2003.
2. To discharge the functions of the Local Authority as set out in the Gambling Act 2005.
3. The appointment of Licensing Sub-Committees under Section 10 of the Licensing Act 2003.
4. To determine Policies that are relevant to the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions unless the policy must be determined by Full Council.
5. To exercise the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions except where the function has been delegated to Officers of the Council

LICENSING SUB-COMMITTEES

These Sub-Committees are Sub-Committees of the Licensing Committee appointed by that Committee and constituted:

- (1) Pursuant to section 10 of the Licensing Act 2003, in relation to their functions under the Licensing Act 2003,
- (2) In relation to their functions under the Gambling Act 2005.
- (3) In relation to their functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009
- (4) In relation to the other licensing and registration functions as set out in Part 3 of the council's constitution

Terms of Reference

1. To determine applications under the Licensing Act 2003, where relevant representations are received.
2. To determine applications under the Gambling Act 2005, where relevant representations are received.
3. To determine applications under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009
4. To determine applications and reviews in relation to the licensing of private hire and hackney carriage drivers, operators and vehicles except where those functions have been delegated to officers under the Council's Hackney Carriage and Private Hire Licensing Policy
5. To determine all other applications and reviews in relation to the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions, except where those functions have been delegated to officers

DONCASTER METROPOLITAN BOROUGH COUNCIL**LICENSING ACT 2003**
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**1. Meaning of Expressions used in this Document**

<i>“the Act”</i>	- Licensing Act 2003
<i>“the Regulations” or any particular reference to a “Regulation”</i>	- The Licensing Act 2003 (Hearings) Regulations 2005
<i>“the Authority”</i>	- Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
<i>“the Committee”</i>	- the Sub-Committee of the Authority’s Licensing Committee constituted under the Act to determine the matter before it
<i>“the Chair”</i>	- the member of the Committee appointed to act as Chairperson of the Committee
<i>“the Applicant”</i>	- the party making the application e.g. the licence/certificate holder or prospective holder, or the party seeking a review
<i>“responsible authorities”</i>	- the public or other bodies described in the Act as “responsible authorities” and who have made representations
<i>“party”</i>	- means person(s) to whom notice of hearing is to be given (including their representatives) and “party” and “parties” shall be construed accordingly

2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party’s representative is legally or otherwise professionally qualified.
- (b) The hearing shall take place in public, unless the Authority decides to exclude the public from all or part of the hearing because it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of

the hearing taking place in public. A party and any person assisting or representing a party, may be treated as a member of the public.

- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner, and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.
- (e) The Authority has the power to consider adjournments and an extension of time limits provided for within the Regulations on the basis it is in the public interest to do so. When a request for an adjournment or an extension of time is received the request is referred to the Chair for agreement provided the request can be accommodated in the statutory time frame. If this is not possible the matter shall be determined by the Committee at the prelisted hearing.

3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority shall adjourn the hearing to a specified date if it considers it in the public interest to do so, but it shall otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any

application that any party wishes to make to vary the following order of addresses.

- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee any information that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority" (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or

- (ii) the question that one party wishes to put to the other is non contentious and is for the purpose of clarification only.

5. The Committee's Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in the presence of the note taker and legal adviser only, unless an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate. All persons required to vacate the room during the deliberations shall be required to take all their personal belongings out of the room except as may be directed by the Committee.
- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing or otherwise where the Committee is unable to announce its determination.
- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including any appeal or judicial review).

DONCASTER METROPOLITAN BOROUGH COUNCIL
HEARING PROCEDURE

Gambling Act 2005

The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)
(Premises Licences and Provisional Statements) (England and Wales) Regulations
2007

1. Meaning of Expressions used in this Document

<i>"the Act"</i>	- Gambling Act 2005
<i>"the Regulations" or any particular reference to a "Regulation"</i>	- the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007
<i>"the Authority"</i>	- Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
<i>"the Committee"</i>	- the Sub-Committee of the Authority's Licensing Committee constituted under the Act to determine the matter before it
<i>"the Chair"</i>	- the member of the Committee appointed to act as Chairperson of the Committee
<i>"the Applicant"</i>	- the party making the application e.g. the licence holder or prospective holder, or the party seeking a review
<i>"Responsible Authorities"</i>	- the public or other bodies described in the Act as "responsible authorities" and who have made representations
<i>"party"</i>	- means person(s) to whom notice of hearing is to be given (including their representatives) and "party" and "parties" shall be construed accordingly

2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.

In conducting a hearing the relevant committee must ensure that each party is given the opportunity to—

- i. address the relevant committee on any matter that is relevant to the application or review, or any representations made on the application or review;
 - ii. call witnesses to give evidence on any matter that is relevant to the application or review, or any representations made on the application or review;
 - iii. provide further information on, or explanation of, any matter on which the relevant committee has indicated that it will want further clarification.
- (b) The hearing shall take place in public, unless the committee direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to—
- (a) any unfairness to a party that is likely to result from a hearing in public; and
 - (b) the need to protect as far as possible, the commercial or other legitimate interests of a party. A party and any person assisting or representing a party may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.
- (e) The Authority has the power to consider adjournments and an extension of time limits provided for within the Regulations on the basis it is in the public interest to do so. When a request for an adjournment or an extension of time is received the request is referred to the Chair for agreement provided the request can be accommodated in the statutory time frame. If this is not possible the matter shall be determined by the Committee at the prelisted hearing.

3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority may adjourn the hearing to a specified date if it considers it in the public interest to do so, but it may otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee any information that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a “responsible authority” (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non-contentious and is for the purpose of clarification only.

5. The Committee’s Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in the presence of the note taker and legal adviser only, unless an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 8(2), to enable the Committee to deliberate. All persons required to vacate the room during the deliberations shall be required to take all their

personal belongings out of the room except as may be directed by the Committee.

- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing, or otherwise where the Committee is unable to announce its determination, notification will be given to all parties within five days.
- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including any appeal or judicial review).

Doncaster Metropolitan Borough Council Taxi Licensing Committee Hearing

Town Police Clauses Act 1847
Local Government (Miscellaneous Provisions) Act 1976

Reasons for a Committee Hearing

A Committee hearing may be required for;

- New applicants who do not meet the minimum standards required for the grant of a licence without further investigation.
- Existing licence holders whose actions have fallen below the standards of the Councils policy.

Attendance, Assistance and Representation

The applicant/licence holder who is the subject of the Committee hearing will be sent a notice of the time, date and location of the hearing.

The applicant/licence holder shall also be sent a report outlining the reasons for the Committee hearing.

The applicant/licence holder should complete the form 'Notice of actions following receipt of notice of Committee hearing' and give the notice to the Licensing Committee not later than five (5) working days before the day (or the first day) on which the Committee hearing is to be held.

The subject should attend the Committee hearing at the appointed time and may be assisted or represented by any person whether or not that person is legally qualified.

Hearings may be held in person or remotely.

Committee Members

The Committee will consist of a minimum of three elected members of the Licensing Committee.

Also present at the hearing will be an officer of the Licensing department who will present the case to the Committee. This officer is not part of the Committee and is not involved in the decision making process.

Representations and Supporting Information

At the hearing you shall be entitled to —

- Give further information in support of your application (where applicable)
- Give a response to any of the questions raised by the Committee.
- Give a response or make comment on any items contained within the hearing report or raised at the hearing.

- Give a response to any of the reasons why the hearing is being held.

Failure to Attend the Committee Hearing

If you have informed the authority that you are unable to attend the hearing. The Committee may -

- With the agreement of all Committee members, rearrange the hearing to a later date of which you will be notified.
- Proceed with the hearing in your absence.

If you fail to attend and have not previously notified the authority. The Committee may –

- Proceed with the hearing in your absence.
- With the agreement of all Committee members, rearrange the hearing to a later date of which you will be notified.

If you fail to attend a hearing where you have previously advised you would be in attendance. The Committee may –

- Proceed with the hearing in your absence.
- With the agreement of all Committee members, rearrange the hearing to a later date of which you will be notified.

Where the Committee agrees to rearrange a hearing as a result of the above and sends notification of the new date on which the hearing will take place - the hearing will proceed on the date specified on the notice regardless of your attendance.

Procedure at the Committee Hearing

At the beginning of the hearing, the authority shall explain the reasons for the Committee hearing and the procedure which will be followed.

All persons present at the hearing will introduce themselves. Any persons in attendance who have not been invited by the Committee, shall be required to explain their reason for attendance and their suitability to remain part of the hearing will be subject to the approval of the Committee members.

The Committee hearing shall take the form of a discussion led by the chair of the Committee. You will be given the opportunity to respond to any questions raised and to provide further detail on any matters arising which are relevant to the hearing.

The Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may —

- Refuse to permit that person to return, or
- Permit him to return only on such conditions as the Committee may specify.

Closing Statement and Deliberations

Once the Committee has concluded their questions, you will be invited to make a closing statement. This is your opportunity to address the Committee and raise any relevant points in support of your suitability to hold a licence.

At the conclusion of the hearing, the meeting will close and you will be invited to leave.

The Committee will enter into deliberations. You will not be required to wait for the deliberations to conclude as the Committee may need to conduct further checks and reconvene at a later date.

Decisions and Appeals

When making a decision the Committee will take into account the representations made at the hearing, the Councils Hackney Carriage & Private Hire Licensing Policy and, where a licence is already held, all relevant licence conditions and code of conduct.

Where an applicant/licence holder has been convicted of a criminal offence, the Council cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)]

The Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 provides that all convictions, irrespective of age, remain "live" for the purposes of a Hackney Carriage or Private Hire driver's licence, these occupations being added to the exemptions list from that time.

Licensing authorities have a duty to ensure that any person to whom they grant a Hackney Carriage or Private Hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

Licensing authorities have to make difficult decisions but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the Committee members are only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

- a) that he has since the grant of the licence—
 - I. been convicted of an offence involving dishonesty, indecency or violence; or
 - II. been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;

- aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- b) any other reasonable cause

Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. Guidance for licensing authorities to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or Private Hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

A failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Where the Committee are unable to reach a unanimous decision, a majority decision will be accepted.

The Committee will endeavour to inform you of the decision within 7 working days or, where they are unable to make the decision within 7 working days; they will inform you within 7 working days of when a decision is likely to be made.

A decision notice will be sent to you in writing.

Where the decision of the Committee is to suspend / revoke / refuse a licence, the notice will also include a statement explaining your right to appeal that decision to the Magistrates Court within 21 days.

Deviation for Serious Offences

In circumstances where it is in the interest of public safety to take immediate action against an existing licence holder due to the serious nature of the incident which questions the suitability for the continuation of a licence, it may be necessary for the Council to deviate from this policy.

Committee Hearings will be convened urgently and may consist of less than 3 elected members. Notice of the hearing may be given by telephone and the determination will be made at the first hearing even if the licence holder does not attend.

Where an immediate risk to the public is identified. The Head of Service, Licensing Manager and Licensing Officer have delegated powers to authorise the revocation of a licence with immediate effect without the need for a hearing. In these circumstances the officer taking the decision will engage with the Chair / Vice Chair of the Licensing Committee to advise them of the reasons for the deviation at, or as soon as reasonably practicable, after authorising the revocation.

Any deviation from this policy will not remove the licence holders right to appeal the decision to a Magistrates Court.

Referrals

Any decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, shall be referred to the Disclosure & Barring Service (DBS).

Information may also be disclosed to South Yorkshire Police Disclosure Unit.

Where a licence is refused or revoked, an entry will be recorded on the National Register of Revocations and Refusals (NR3) database.

Delegation of Functions – Licensing Act 2003

Matters to be dealt with	Sub Committee	Officers
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Application for personal licence	If a police or Home Office objection	If no objection made
Application for personal licence with unspent convictions (coming to light after grant).	If a police or Home Office objection	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police or Home Office objection	All other cases
Applications for interim authorities	If a police or Home Office objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc.		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases
Suspension of premises licences and club premises certificates for non-payment of annual fees		All cases
Revoke or suspend personal licence	All cases	Required actions before the final decision is made.

Delegation of Functions - Gambling Act 2005

Matters to be dealt with	Sub-Committee	Officers
Application for premises licences	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a provisional statement	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence	All cases	
Application for club gaming /club machine permits	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits	All cases	
Applications for other permits		All cases
Cancellation of licensed premises gaming machine permits		All cases
Consideration of temporary use notice		All cases
Decision to give a counter notice to a temporary use notice	All cases	

**Delegation of Functions - Town Police Clauses Act 1847 and Local Government
(Miscellaneous Provisions) Act 1976**

Hackney Carriage & Private Hire Licensing Policy

Approval of revisions to the Hackney Carriage & Private Hire Licensing Policy is delegated to the Licensing Committee.

Determination of New Applications and Renewals (where minimum standards are met)

Where an application meets or exceeds all of the required minimum standards, the decision to grant or renew a licence is delegated to authorised officers.

Determination of New Applications and Renewals (which do not meet the minimum standards)

Where an application falls below the required minimum standards, the decision to grant or refuse a New or Renewal application is delegated to the Licensing Committee.

Suspension of Licence (where certain conditions are not met)

Where the licence holder has failed to provide required documents or failed to allow for continuing checks of their suitability to hold a licence in accordance with conditions of licence (e.g. vehicle insurance, criminal record checks, medicals etc.), the suspension of licence is delegated to authorised officers.

Suspension or Revocation of Licence (Conduct)

In cases where consideration is given to the suspension or revocation of a licence, these decisions are delegated to the Licensing Committee.

Immediate Revocation of Licence (Public Safety)

Where information is received which, in the opinion of the Council, requires consideration for the immediate revocation of a licence, determination is delegated to the Head of Service, Licensing Manager or Licensing Officer.

LICENSING COMMITTEE

Chair: Cllr 1, Vice-Chair: Cllr 2

Members: Cllr 3, Cllr 4, Cllr 5, Cllr 6, Cllr 7, Cllr 8, Cllr 9, Cllr 10, Cllr 11, Cllr 12, Cllr 13, Cllr 14

LICENSING SUB-COMMITTEES
(Appointed under the Licensing Act 2003, section 10)

In the event of there being a Hearing required under the Licensing Act 2003, the Gambling Act 2005 or other relevant statutory provision then the Chair of the Licensing Committee shall be asked to Chair the Sub-Committee and all other Members shall be asked if they can attend. 3 Members shall be enough to be quorate but 4 Members shall be asked to attend to ensure the Hearing can go ahead in the event of Member illness or other incapacity.

Please note:

1. There is no need for the Sub-Committee to be balanced politically or for Members to be barred from taking part in the Hearing when the event or premises etc. is in their Ward,
2. If the Chair is unavailable the Vice Chair will be asked to Chair the Sub-Committee. If neither is available a chair shall be appointed at the Hearing.

The procedure for dealing with settling appeals after the Sub Committee hearing but before the appeal hearing in the Magistrates' Court is decided.

Licensing Officers are authorised to conduct discussions with an appellant or other party to appeal. However, no agreement is to be made with an appellant reflecting a departure from a decision made by the licensing authority or licensing subcommittee without the approval of either the chair of the licensing committee or the chair of the relevant licensing subcommittee that made the decision subject to the appeal.

Where possible, and in any event where either the licensing officer or the chair of the licensing committee or the chair of the relevant licensing sub-committee considers it appropriate, responsible authorities and other persons who made relevant representations, together with any other responsible authority and other members of the relevant sub-committee are to be consulted as to the proposed departure from the original decision.