



## Public Document Pack

North Devon Council  
Brynsworthy Environment Centre  
Barnstaple  
North Devon EX31 3NP

K. Miles  
Chief Executive.

### **LICENSING AND COMMUNITY SAFETY COMMITTEE**

A meeting of the Licensing and Community Safety Committee will be held in the Barum Room - Brynsworthy on **TUESDAY, 14TH NOVEMBER, 2023 at 10.00 am.**

**(NOTE: A location plan for the Brynsworthy Environment Centre is attached to the agenda front pages. For meetings held at Brynsworthy only, you can join the meeting virtually via Microsoft Teams. There are also limited spaces to attend the meeting in person. Please check the Council's website for the latest information regarding the arrangements that are in place and the requirement to book a place 2 working days prior to the meeting. Taking part in meetings (northdevon.gov.uk)**

Members of the Licensing and Community Safety Committee Councillor York (Chair)

Councillors Biederman, Cann, Denton, Haworth-Booth, Hunt, Jusef, Lethaby, Maskell, Milton, Norman, Quinn, Renshaw, Whitehead and Williams

### **AGENDA**

1. Apologies for Absence
2. To approve as a correct record the minutes of the meeting held on 12 September 2023 (Pages 5 - 8)  
(Attached)
3. Items brought forward which in the opinion of the Chair should be considered by the meeting as a matter of urgency
4. Declarations of Interests
5. To agree the agenda between Part 'A' and Part 'B' (Confidential Restricted Information)

### **PART 'A'**

6. **Functions and Structure of Community Safety in North Devon**  
Community Safety Partnership Officer to report.
7. **Licensing and Community Safety Sub-Committees** (Pages 9 - 14)

To consider the minutes of the following meeting (attached):

(a) Licensing and Community Safety Sub-Committee A: 25 August 2023.

**PART 'B' (CONFIDENTIAL RESTRICTED INFORMATION)**

Nil.

**If you have any enquiries about this agenda, please contact Corporate and  
Community Services, telephone 01271 388253**

6.11.23



## **North Devon Council protocol on recording/filming at Council meetings**

The Council is committed to openness and transparency in its decision-making. Recording is permitted at Council meetings that are open to the public. Members of the public that attend meetings must be aware that these meetings are open to the public and so therefore both individuals and the Council itself have the right to record the meeting. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chair of the meeting will make sure any request not to be filmed is respected.

The rules that the Council will apply are:

1. The recording must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. The Council will put signs up at any meeting where we know recording is taking place.
2. The Chair of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
3. We will ask for recording to stop if the meeting goes into 'part B' where the public is excluded for confidentiality reasons. In such a case, the person recording should leave the room ensuring all recording equipment is switched off.
4. Any member of the public has the right not to be filmed. We ensure that agendas for, and signage at, Council meetings make it clear that recording can take place – anyone not wishing to be filmed must advise the Chair at the earliest opportunity to allow them to be directed to an area in the room where they will not be caught on camera. Subject to paragraphs 1, 2 and 3 above, audio recordings shall be permitted at all times during public meetings.
5. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.

### **Notes for guidance:**

Please contact either our Corporate and Community Services team or our Communications team in advance of the meeting you wish to record at so we can make all the necessary arrangements for you on the day.

For more information contact the Corporate and Community Services team on **01271 388253** or email [memberservices@northdevon.gov.uk](mailto:memberservices@northdevon.gov.uk) or the Communications Team on **01271 388278**, email [communications@northdevon.gov.uk](mailto:communications@northdevon.gov.uk).

North Devon Council offices at Brynsworthy, the full address is:  
Brynsworthy Environment Centre (BEC), Roundswell,  
Barnstaple, Devon, EX31 3NP.

Sat Nav postcode is EX31 3NS.

At the Roundswell roundabout take the exit onto the B3232, after about ½ mile take the first right, BEC is about ½ a mile on the right.

Drive into the site, visitors parking is in front of the main building on the left hand side.

On arrival at the main entrance, please dial 8253 for Corporate and Community Services.

All public meetings held at Brynsworthy Environment Centre are held on the ground floor and are accessible through the main entrance to the building or via a ramp located adjacent to the main entrance



## **NORTH DEVON COUNCIL**

Minutes of a meeting of Licensing and Community Safety Committee held in the Barum Room - Brynsworthy on Tuesday, 12th September 2023 at 10.00 am

PRESENT: Members:

Councillor York (Chair)

Councillors Biederman, Cann, Denton, Haworth-Booth, Hunt, Jusef, Maskell, Milton, Norman, Quinn, Renshaw and Williams

Officers:

Chartered Legal Executive and Public Protection Manager

Also Present in person:

Councillor C. Leaver

### **12. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Whitehead.

### **13. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 4 JULY 2023 (ATTACHED)**

RESOLVED that the minutes of the meeting held on 4 July 2023 (circulated previously) be approved as a correct record and signed by the Chair subject to the correction of the website referred to by the Chair being <https://www.safeplaces.org.uk>

### **14. DECLARATIONS OF INTERESTS**

There were no declarations of interest announced.

### **15. REVIEW OF LICENSING ACT 2003 POLICY**

The Committee considered a Review of Licensing Act 2003 Policy report (circulated previously) by the Public Protection Manager.

The Public Protection Manager highlighted the following:

- A public consultation had run for 6 weeks and the responses of this could be seen at Appendix B of the report.

- Organisations such as Georgeham Parish Council, Witheridge Parish Council, Croyde Area Residents Association (CARA) and the North Devon Coast Areas of Outstanding Natural Beauty (AONB) responded.
- Further to the comments received, amendments had been made to the draft policy.
- Since undertaking, the consultation there had been an update to the Section 182 guidance in August 2023. The Home Office had amended the guidance in line with recommendations made in relation to the Manchester Arena Inquiry, largely to support licensing authorities and applicants when considering the provision of health care and counter terrorism measures at venues.
- A new section 4.5, had been added to the policy as a result of the Section 182 updates and could be found at paragraph 4.7 of the report.
- Amendments included the addition of a new comments box in the Licensing Act 2003 representation form and the addition of the following paragraphs:
  - 3.4.1 Public nuisance was given a statutory meaning in many pieces of legislation. It was however, not narrowly defined in the 2003 Act and retained its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect was prejudicial to health.
  - 3.4.4 Measures to control light pollution would also require careful thought. Bright lighting outside premises, which is considered appropriate to prevent crime and disorder, may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities would need to balance these issues.
- There was no proposal to amend references within the policy to specific initiatives targeted at the prevention of violence against women and girls (VAWG) following an allegation of gender bias.
- The Public Protection Manager read out comments received from the Police with this regard, which would then be added to the report to Strategy and Resources.
- During the consultation exercise over 600 letters had been sent to current premises licence holders, and over 2,500 personal licence holders. A high proportion of letters to personal licence holders had been returned with the notice 'Addressee has gone away' which was problematic as this licence no longer requires renewal. This highlighted the need for contact details to be kept up to date and the need for the Government to make up-to-date contact details mandatory.

RESOLVED that:

- (a) The consultation responses on the draft revised Licensing Act 2003 Statement of Licensing Policy, as found at Appendix B of the agenda, be noted;
- (b) The new amendments made by the Home Office to the Section 182 guidance issued pursuant to the Licensing Act 2003 in August 2023 be noted;

- (c) The following addition to the policy be made:
- (l) The creation of an annexe pertaining to the qualifications required to be held by counter-signatories when validating an applicant's photo identification evidence.
- (d) The tracked changes document highlighting the proposed amendments to the current policy, as found at Appendix A, be approved; and
- (e) The addition of a letter drafted by the Public Protection Manager with collaboration from the Chair being sent to the Home Office in relation to a request for the consideration of requirement for contact details to be kept up-to-date being made mandatory.

RECOMMENDED that Strategy and Resources approve the revised Licensing Act 2003 Statement of Licensing Policy, to in turn be approved by Full Council at its meeting in November 2023.

**16. APPOINTMENT OF MEMBERS TO THE CRIME AND DISORDER COMMITTEE**

The Chair invited Councillor C Leaver to address the committee in her capacity as representative of North Devon Council on the outside body for the Community Safety Partnership (CSP).

Councillor C Leaver advised the Committee of the following:

- The CSP was a statutory partnership between North Devon Council and Torrington District Council and agencies such as Devon and Cornwall Police, Devon and Somerset Fire and Rescue Service, Devon County Council tackling issues such as anti-social behaviour and domestic abuse.
- The partners work closely together with the aim to reduce crime and deliver the safety priorities.
- An annual report detailing the work carried out over the previous year was brought to committee once a year and members had the opportunity to scrutinise and ask questions of the Chair, currently .
- Cllr Leaver explained that the Community Safety Partnership had come to a slight hiatus in that the former Torrington District Council, Community Safety Partnership Officer, had moved on and so the meetings needed to be resurrected into a formal regular arrangement again. A liaison from the Licensing and Community Safety Committee should be supported, and that Tim Birtwistle could supply updates which would be useful.

RESOLVED that:

- (a) Crime and Disorder Sub-Committee, comprised of all the Licensing and Community Safety Members be appointed; and
- (b) An item be placed on a future Licensing and Community Safety Committee agenda in relation to Community Safety Partnership updates, as and when required.

# Agenda Item 2

Licensing and Community Safety Committee - 12 September 2023

Chair

The meeting ended at 10.40 am

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.



## **NORTH DEVON COUNCIL**

Minutes of a meeting of Licensing and Community Safety Sub Committee A held at Barum Room - Brynsworthy on Friday, 25th August, 2023 at 10.00 am

PRESENT: Members:

Councillors:

Councillors Cann, Haworth-Booth and Norman

Officers:

Chartered Legal Executive, Licensing Officer, Licensing Officer and Licensing Case Officer

### **28. APPOINTMENT OF CHAIR**

The Corporate and Community Services Officer requested nominations for Chair.

RESOLVED that Councillor Cann be appointed Chair.

### **29. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **30. DECLARATIONS OF INTEREST**

There were no declarations of interest announced.

### **31. EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS**

RECOMMENDED:

- (a) That under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item as it involves the likely disclosure of exempt information as defined in Paragraph 2 of Part 1 of Schedule 12A of the Act (as amended from time to time), namely information which is likely to reveal the identity of an individual.
- (b) That all documents and reports relating to the item be confirmed as 2 "Not for Publication".

### **32. DISCIPLINARY HEARING OF A HACKNEY CARRIAGE AND PRIVATE HIRE LICENSED DRIVER – (REF NB006/23)**

The Chair introduced the Committee Members and those present.

The Licensing Officer addressed the Committee and advised of the following:

- The licence was originally issued 30<sup>th</sup> May 2017. It had been considered at Committee due to the applicant then having disclosed 14 previous offences. It was noted at the time that the licence had been granted in part due to the support of the applicant's employer but that if any problems arose it would be re-considered by Committee.
- There had been nine separate complaints.
- The appendices included a transcript of an interview under caution of 9<sup>th</sup> February 2023 when the licence holder was interviewed to discuss complaints made against him.

The Chartered Legal Executive (from now on referred to as the Legal Advisor) summarised the process to those present.

In response to the question 'Did he have any further questions?' the licence-holder shook his head.

In response to the question 'Was he recording the hearing?' the licence-holder shook his head.

The licence-holder addressed the Committee and advised of the following:

- When his licence was originally granted in May 2017 it had not been an employer who had supported him; it had been a friend.
- That his past issues had been caused by women and that in the past 15 years he had been celibate and turned his life around.
- He had bought the vehicle to use as a taxi in 2017/18. All the offences had been in relation to that vehicle. He concluded it was a marked car and that it was the car itself causing the problems.
- He stated that the car had been scrapped in August (2022).
- Since August 2022 he drove for a company which provided him with a vehicle.
- Since August 2022 there had been only one complaint (when he had refused to take a fare). He stated that the complainant had lied in their statement of the event and confirmed he had felt he had a right to refuse a fare.
- He stated he did not have a face book account – so that the evidence provided (in appendices h and i) were not made by him

In response to questions from the committee, once the face book posts were read to him, the licence-holder confirmed that he did have seven face book accounts although one was in his name (but not the account from which the post was made) and six additional ones with fake profiles. He stated these were 'catfish' accounts.

The Licence Holder indicated that it had not been him who had posted the post which was appended within the evidence supplied to the committee and further in response to closer questioning on this Facebook post contended it had been created

by a friend not him even though the post appears to be directly as a result of the incident in question.

During further questions from the committee, the licence holder disputed the circumstances of the complaints made against him within the appendices.

The Licensing Officer presented the Committee with dash-cam footage relating to a complaint contained within the report.

In response to questions relating to one of the complaints where it was alleged the licence holder had made inappropriate hand gestures to the complainant, the licence holder stated that he had been turning on his dash-cam at the time (which was positioned next to his rear view mirror) and not making hand gestures. The Licence Holder demonstrated to the committee how he used his middle finger to operate the dash-cam and denied gesticulating as set out in the evidence to the committee.

The Licence holder confirmed he had no witnesses present to address the Committee.

In response to a question from the Chair, the licence holder stated he was a safe driver and not one complaint was from a customer being driven by him at the time, and that in his defence, eight of the complaints were in the one vehicle (he no longer had) and only one was since his licence was renewed last year.

The Licensing Officer addressed the Committee and summed-up the report.

The Licence Holder angrily stormed out of the hearing.

RESOLVED that it being 11:05 a.m. the meeting be adjourned in order to see if the Licence Holder would like to return to the hearing, following a request by the Licensing Officer.

The Licence holder re-entered the hearing

RESOLVED, that it being 11:08 a.m. the meeting be reconvened.

The Legal Advisor advised the licence holder of the importance of him being present for the remainder of the hearing.

The licence holder got angry and accused the licensing officer of intimidation. He then shouted and pointed at the Committee. The Licence Holder was requested to stop raising his voice, pointing his finger and behaving in a threatening manner in front of the committee and was reminded of expected appropriate behaviours. The Licence Holder had indicated to the Licensing Officer that he should stop looking at him when the Legal Advisor intervened the Licence Holder had to be requested to refrain from such behaviour again and allow the Licensing Officer to continue.

In response to accusation from the licence holder, the Chair confirmed both sides would be heard and considered before a decision was reached.

The Licensing Officer advised that the level of complaints received about the licence holder was unprecedented and that in his time in the field he had never received that number about one driver. He also confirmed that in response to an earlier comment from the licence holder; the fact that complaints were made at times when customers may not have been present in the vehicle was not relevant under the Licensing Act. To argue it was on a domestic basis was irrelevant and no less serious.

The Licensing Officer presented the Committee with further dash-cam footage relating to a complaints contained within the report.

The Licence holder addressed the Committee to summarise his defence.

RESOLVED that everyone be excluded from the meeting with the exception of the Members, Solicitor, and Corporate and Community Services Officer in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that everyone be re-admitted to the meeting.

The Chair requested that the Corporate and Community Services Officer read the proposed decision, which was voted on, and agreed.

RESOLVED that the recommendation of the Committee is that of 'Revocation of both the hackney driver's licence and private hire driver's licence'.

This is with consideration of the following:

1. Pursuant to Section 61 (2B) it appears that the interests of public safety require the suspension to have immediate effect.
2. The demonstration of lack of control and managing anger as follows:
  - a. Storming out of the hearing
  - b. Raising of voice to Committee
  - c. Accusing officers of intimidation
  - d. Gesticulation to committee members
  - e. Anger towards officers in review hearing by being verbally aggressive
  - f. Interrupting officers when speakingAll of these points bring the committee to the conclusion that the licence holder would fail the fit and proper person requirements under 5.12 of the Statutory Taxi and Private Hire Vehicle Standards, published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017, and the inability to manage his anger is of serious concern.
3. Having regard to paragraph 4.29 (of the report) the high volume of complaints regarding the driving standards identify problems during the periods of the licences, for example;
  - a. Patterns of behaviour as complained of as 'brake checking' or 'bumper testing'

- b. The demonstration of erratic and unpredictable driving is indicative of characteristics that raise doubts over the suitability to hold a licence.
  - c. The gesturing and complaints indicating an aggressive driving style again represent a pattern of unacceptable driving behaviours.
4. The failure to accept the fare in November 2022 raised concerns as to the primary and over-riding objective to protect the public. The description of a 'nonce and paedophile' as referred to in the evidence is unacceptable. The importance of ensuring that the licensing regime protects the vulnerable should not be under-estimated (3.2 of the Statutory Taxi and Private Hire Vehicle Standards published July 2020).

The licence holder left the meeting (at 12:51) prior to the recommendation being voted upon).

### **33. ADJOURNMENT OF MEETING**

RESOLVED that it being 12:54 p.m. the meeting be adjourned for a comfort break and reconvene at 13:00 p.m.

RESOLVED, that it being 13:00 p.m. the meeting be reconvened.

### **34. RELEVANT OFFENCE COMMITTED BY PERSONAL LICENCE HOLDER- (REF NB0005/23)**

The Licensing Officer addressed the Committee and advised of the following:

- The Authority had been advised by HM Courts and Tribunal Service, Manchester Crown Court, that the licence holder had been convicted of a crime and was sentenced, on the 28<sup>th</sup> April 2023, to a total of five years' imprisonment.
- The offences were relevant under to Licensing Act.
- The licence holder had been written to at HMP Doncaster where he was currently being held. No response had been received.

The Chair requested that the Corporate and Community Services Officer read the proposed decision, which was voted on, and agreed.

RESOLVED that the recommendation of the Committee is that of 'Revocation of the personal licence with immediate effect. This is with consideration of the following:

1. Pursuant to Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976 it appears that the interests of public safety require the suspension to have immediate effect, and

# Agenda Item 7

Licensing and Community Safety Sub Committee A - 25 August 2023

2. The licence holder had committed a relevant offence under the Licensing Act 2003

Chair

The meeting ended at 1.09 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.