

NORTH DEVON COUNCIL

Minutes of a meeting of Licensing and Community Safety Committee held in the Barum Room - Brynsworthy on Tuesday, 19th March, 2024 at 10.00 am

PRESENT: Members:

Councillor York (Chair)

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

Officers:

Legal Advisor, Public Protection Manager, Community Protection Officer and Anti Social Behaviour Officer

22. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Hunt.

23. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 14 NOVEMBER 2023

RESOLVED that the minutes of the meeting held on 14 November 2023 (circulated previously) be approved as a correct record and signed by the Chair.

24. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIR SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY

There were no items, which in the opinion of the Chair, should be considered as a matter of urgency.

25. DECLARATIONS OF INTERESTS

There were no declarations of interest announced.

26. COMMUNITY SAFETY UPDATES

The Committee received an update on the Community Safety Partnership activities.

The Community Safety Partnership Officer, Tim Birtwisle, introduced the Anti-Social Behaviour Officer, Kate Morne, who gave an outline of the work she carried out. Her role involved in the main, the escalation of the Anti-Social Behaviour (ASB) process within North Devon. This meant the issuing of formal warnings, notices, issuing of fines, injunctions and possible criminal action. The Police provided daily reports on the activities of street attached persons along with any tenant disputes. In relation to tenancy disputes she worked on behalf of North Devon Homes and other Housing

Associations. To help people addressing their underlying issues she worked with the outreach team.

Her work led her to liaise closely with the Council's legal team and over the last year 34 warning letters with attached conditions had been issued. Fourteen Community Protection Notices some of which related to street drinking in Barnstaple and Ilfracombe had been issued.

The Street Marshals provided vital information to her and helped tackle issues of complaints made around aggressive street begging. The Public Safety Protection Order in place around Barnstaple gave the powers to confiscate alcohol from those drinking on the streets.

Working with young people to help them avoid getting involved in ASB.

In response to questions, the ASB Officer gave the following replies:

- The introduction of Street Marshals happened during the Covid pandemic to help with social distancing and had been very successful. Funding to continue the service was being investigated.
- The Street marshals were deployed to Ilfracombe two days a week, but not the same two days each week.
- Any welfare concerns should be reported to the Police either via 999 if immediate danger to life or via the non-emergency contact 111.
- During the summer holidays, the start time for the Street marshals could be later so they could finish later.
- Areas of concern where ASB was taking place at present were known to the team.

The Chair thanked Kate Morne for her update and all the work her and the team do.

The Community Safety Sergeant with the Police, Kevin Connar, then presented an update on the issue of Hate crime and diversity.

He gave the Committee the following information:

- The priority of addressing the topic of diversity and hate crimes was adopted by the CSP in January 2024.
- The topic of hate crime was affecting a larger number of people in communities.
- The first quarter of the year shows that the CSP were on track and the practices adopted by this CSP was being looked at as a model of best practice and replicated and adopted by other CSP's in Devon.
- Four strands were identified that it was felt would deliver on the impact and influence we wanted it to have.
- The first action of the Partnership was to seek opportunities to increase the diversity representing the community within its own membership.
- The second action was to create events and activities throughout the year where the issues of hate crime and diversity could be highlighted as being priority issues.

- The third action was dedicated to the creation of a designated third party reporting mechanism. Currently there is a deficit in this area with barriers stopping people from reporting crimes such as language barriers, lack of confidence in reporting crime due to previous experiences.
- The fourth action was around creating a 'How to Report' hate crime campaign via online or traditional media methods.
- A meeting was held between the Police and CSP representatives and the CEO and the Operations Manager of Sunrise Diversity to pitch to them what the CSP wanted to achieve.
- It was agreed at that meeting that the process had to be treated in a linear manner so in order to facilitate steps 2, 3 and 4 step one had to be completed first, to create meaningful collaboration officers would meet with the Sunrise and Diversity ESOL teachers (ESOL = English for Speakers of Other Languages) to build confidence between the Police and people with language barriers.
- The Safer Devon Partnership had incorporated the four action points and would be creating a plan to fulfil those action points.

The Community Safety Officer, Tim Birtwisle, then updated the Committee on the work of the Community Safety Partnership as follows:

- The Serious Violence Duty placed a requirement on Safer Devon Partners to work together to 'prevent and reduce serious violence'.
- The strategy, informed by the needs assessment 'Devon Preventing Serious Violence Strategy 2024-29' was published on the Safer Devon website: [About Safer Devon - Safer Devon](#)
- The Serious Violence Duty was introduced through the Police, Crime Sentencing and Courts Act 2022 enacting a number of measures across the policing and criminal justice system.
- Funding received from the District Council would help sessions be delivered to schools.
- Interventions tackling the issues of violence in young people would be delivered in schools.
- The sessions would be focussed around building healthy relationships addressing issues such as misogyny and toxic sexist language.
- The delivery of these sessions would take place in 10 schools across Devon delivered to children aged 10-16 and it was hoped the outcome would set these young people onto the path of being critical thinkers.

In response to questions, the Community Safety Officer gave the following answers:

- It would not be officers delivering the sessions in schools but youth workers.
- FearFree had been commissioned to deliver the sessions in schools.

A request was made for a report to be written to form part of the agenda pack as made it easier to read these CSP updates.

RESOLVED that the Committee members would bring the item of how to learn about issues faced by diverse groups in the community and the engagement with more diverse members of the community to a future meeting.

27. GENERAL LICENSING ACTIVITIES UPDATE

The Committee received an update from the Public Protection Manager.

The Public Protection Manager gave updates in areas arising from January 2023 onwards and outlined areas of work for future planning within the Licensing team as follows.

Staffing

Welcome to new member of staff Charles Northcott, joining the Council just over six months ago. Mr Northcott worked formerly with the Police and has a wealth of experience; he was a great addition to the Licensing Team.

Animal licensing

Warrant and Associated Caution

A warrant was applied for and executed in January 2024 in respect of animal welfare concerns at a licensed breeder for alternative activity. A Simple Caution was issued to the alleged offender based on the circumstances that presented.

Prosecution

A second successful prosecution for the Council regarding an unlicensed dog breeder that followed once an inspection was undertaken in December 2022.

In a significant development for animal welfare, Mr Gosling of Whitemoor Equestrian Centre, East Anstey, Devon EX16 9JS, faced legal consequences for unlicensed dog breeding. The hearing took place on Friday 1 March 2024 at Barnstaple Magistrates Court.

Between September 19, 2023, and September 28, 2023, Mr. Gosling was found responsible for breeding dogs without the required licence and selling animals as pets in the course of a business without proper authorisation contrary to the Animal Welfare Act 2006 and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

Despite being unable to attend the hearing, Mr. Gosling submitted a guilty plea reply form, confirming his acknowledgement of the charges.

During the hearing, magistrates received statements from North Devon Council's Licensing Officer, which detailed evidence of the offences. In attendance the Licensing Officer highlighted the unlawful activities and answered questions from the bench. The Officer confirmed the licence application requirements. Details about the state of the buildings at Mr. Gosling's property and the new Defra requirements were also presented.

In Mr. Gosling's absence, magistrates found him guilty on all counts. The verdict included fines for each offence, a victim surcharge, and prosecution costs, totalling £10,059.76.

Animals (Penalty Notices) Act 2022

New legislation from January 2024 introduced penalty notices for animal licensing offences. A penalty notice under the act gave an individual or corporate body the

opportunity to avoid prosecution for a criminal offence by paying a fee. The payment of a penalty notice did not require an admission of guilt and would not result in a criminal record. They were intended to add to and complement the current suite of enforcement and regulatory options, and support early redirection through behaviour change, to promote compliance with animal health and welfare rules.

The notices were not designed for serious offences or for minor breaches where advice and guidance in the first instance would be sufficient in rectifying the issue.

A penalty notice should relate to a single offence. If, after a penalty notice had been issued, an individual continued or repeated the offending conduct; Councils may issue a further penalty notice.

There was no limit on the number of penalty notices that an individual could receive in any given period. Where an individual had already received one or more penalty notices for any offence in the last 3 years, Councils would consider whether to adopt a different enforcement approach, such as prosecution.

Raising revenue was not an objective of enforcement. Councils must pay sums received from penalty notices into the Consolidated Fund, the Government's general bank account. Councils may deduct the costs of investigating the offence and issuing the penalty notice.

The maximum penalty notice amount would be whichever was the lower of £5,000 or the maximum fine the offender could be liable to pay if convicted for the same offence. Fine levels must be determined in accordance with the guidance and perceived culpability and harm factors.

The offender must pay the penalty notice within the period of 28 days beginning with the date on which the penalty notice was issued.

In general, a prosecution of a summary offence in the magistrate's court must be brought within 6 months of the date of the offence. The 28-day period (the period starting on the date, the penalty notice was issued) was not included in the 6-month prosecution time limit.

There was an intention to bring these notices into the Animal Licensing Policy, this was an area on the horizon for a future meeting.

Conference

The Licensing and Community Safety Chair and Public Protection Manager attended the Local Government Association (LGA) annual conference on the 6 February 2024.

Taxi and Private Hire

On the horizon:

In February 2022, the Government launched its Levelling Up White Paper. Levelling up was a moral, social and economic programme for the whole of government. The Levelling Up White Paper sets out how we will spread opportunity more equally across the UK.

The paper included plans to explore more devolution of transport powers and responsibilities in England. The White Paper included reference to potential devolution of transport powers and responsibilities including control of taxi and private hire licensing to combined and upper tier authorities.

On page 179, the White Paper stated:

“The UK Government will also explore devolving more transport powers and responsibilities in England ... The UK Government will also explore transferring control of taxi and private hire vehicle licensing to both combined authorities and upper-tier authorities. Taxis and private hire vehicles are a key part of local transport systems, so this would allow LTAs to fully integrate these modes into their Local Transport Plans.”

This followed the recommendation in the Task and Finish Group report that the Government should emulate the model of licensing, which currently existed in London in large urban areas as well as considering the consolidation of non-metropolitan licensing areas.

The Government would be exploring this with stakeholders and consult on it in due course to fully explore the implications. The Department for Transport (DfT) were to engage with the sector about the Levelling Up White Paper commitment to explore transferring taxi and private hire vehicle licensing to both combined authorities and upper-tier authorities.

At the conference, there was a presentation from the Department for Transport, which outlined work to be undertaken in 2024 as follows:

- To publish guidance on Information Sharing between the Police and Taxi and Private Hire Vehicle (PHV) Licensing Authorities.

- Commitment in the Autumn 2024 Statement to consult on the impacts of the Uber v Sefton [2023] High Court Ruling on the VAT treatment of PHV's.
- Publish a Call for Evidence on Taxi/PHV accessibility, to understand the barriers faced by disabled people and options for addressing them. Conclusions intended to inform future policy.

Work undertaken by the Licensing Team of significant note since January 2023 included:

- Revocation of taxi/private hire driver - February 2024: a driver had 9 points and a previous final warning for a racially aggravated event.
- Revocation of taxi/private hire driver - August 2023: a driver with a number of complaints concerning driving and conduct.
- Revocation of taxi/private hire driver – June 2023: drugs offence.
- Two driver applications went to sub-committee for grant of licence – granted.
- Six hackney carriage/private hire driver suspensions on medical grounds.
- Six hackney carriage/private hire vehicle suspensions for a variety of reasons. One for bald tyres which was evidenced by Licensing Officers on enforcement evening before Christmas.
- Officers now had embedded the process outlined in the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022.
- NR3S was being used, which required the Council to record suspensions, revocations, and refusal to grant or renewal of a licence.

Licensing Act 2003

- Review of the Woodpecker Bar and Kitchen, Ilfracombe - August 2023.
- Revocation of a Personal Licence holder due to relevant offence – August 2023.
- Licensing and Community Safety Sub-Committee early 2023 for Premises licence variation to Handglider's field event , Woolacombe (Wavelength Media Spring Classic). Event not to be held going forward.
- Sandleigh Tea Rooms, Croyde 2023, was finally mediated but considerable work undertaken by Licensing Officers.
- Sandy Cove Hotel, Berrynarbor variation – hearing currently scheduled for 25 March 2024.

Legislative changes:

- Off-sales extension to March 2025
- Certain maximum limits for Temporary Event Notices were extended for 2022 and 2023 but from 1 January 2024 these limits reverted back to their original maximums which were for any calendar year, no more than 15 TENs per premises and the maximum aggregate number of days that those TENs could cover was 21.

Gambling Act Statement of Licensing Principles

The Gambling Act 2005 Review White Paper was published April 2023. There was a requirement to review the Council's Statement of Licensing Principles and to consider the implementation of a no casino policy.

Proposed timeline:

- 9 April 2024 – Proposed review to go to the Licensing and Community Safety Committee
- If approved a consultation on the proposed changes would run for 6 weeks
- 10 September 2024 – A report highlighting findings and final proposed changes to go to the Licensing and Community Safety Committee
- 4 November 2024 – A report to go to the Strategy and Resources Committee seeking approval of recommendations from the Licensing and Community Safety Committee
- 20 November 2024 – Report with recommendations from Strategy and Resources Committee to Full Council
- 2 December 2024 – The revised Policy would be published on the North Devon Council website
- 3 January 2025 – The new policy would become effective

Pavement Licensing

The Government introduced pavement licences under the Business and Planning Act 2020 (the 2020 Act) as an emergency measure to permit hospitality businesses to operate on street with minimal bureaucracy. This regime would last until 30 September 2024.

For a maximum £100 application fee, a licence could be sought to place pavement furniture on the highway. The application process involved a one-week consultation period. The application had to be determined within two weeks of the application date, failing which the application was deemed granted. Local authorities could grant applications up to a period of 12 months and had the discretion to grant pavement licences for shorter periods of no less than three months.

The Levelling up and Regeneration Act 2023 (the 2023 Act) modified the 2020 Act in respect of fees; application process; licence duration and enforcement.

The relevant section of the 2023 Act was yet to be implemented. Regulations to that effect were expected before autumn 2024. A new fee schedule and enforcement policy pertaining to this area would be required once Government had set an implementation date.

The application fee for an existing licensee seeking to renew their consent could be set up to a maximum value of £350. For new applications (including applications from previous licensees whose licences had expired), the application fee could be set up to a maximum value of £500. Officers expected most Local Authorities to apply the maximum fee levels to ensure the costs of processing applications were recovered in full. The application consultation period would be 14 calendar days. Determination of the application must occur after the consultation period had ended and within 28 days of the application date. Under the new provisions, a pavement licence could be granted for a maximum period of two years. There was no minimum licence duration. The Council had discretion to set a standard pavement licence

length (up to two years) and could grant pavement licences of differing durations depending on the circumstances.

The 2023 Act gave Local Authorities new enforcement powers including the ability to remove licensed pavement furniture from the highway, following a notification process. Officers would develop a Council policy around the application of these powers in due course.

The Council may not grant a person any other licence to do anything, which is capable of being authorised by a pavement licence. This means it will no longer be possible to apply for a licence to place tables and chairs on the highway under the Highways Act 1980.

New Software system

The Council received notification that its current licensing software would no longer be supported, and thus the Council has had to make a decision in terms of the procurement of a new system.

The Council had now acquired new software for licensing, this new system would improve the customer journey, and automate a number of areas creating efficiency. There was a project plan in place for its delivery.

Martyn's Law

Otherwise known by its official title Terrorism (Protection of Premises) Bill was currently in its consultation phase, public consultation closed 18 March 2024.

The Bill would impose requirements in relation to certain premises and events to increase their preparedness for, and protection from, a terrorist attack by requiring them to take proportionate steps, depending on the size and nature of the activities that took place at the premises. This would apply to those responsible for qualifying public premises and qualifying public events, wholly or mainly used for a listed purpose, such as the provision of entertainment and leisure facilities to the public.

The proposals set out different requirements for:

- Standard tier premises, which would have a capacity of 100-799 individuals.
- Enhanced tier premises and qualifying public events, both of which had a capacity of 800 individuals or more.

This consultation focused on the requirements proposed in relation to standard duty premises, which were referred to as the "standard tier".

The updated requirements for smaller businesses, set out in the consultation, were centred on outcomes rather than processes. For example, it would remove the requirement to complete any specific terrorism training. Instead, those responsible for these premises would be asked to put in place procedures such as evacuation and lock-ins in the event of an attack.

The new 'reasonably practicable' approach was better suited to the wide range of organisations that would be within the scope of standard tier because they would assess and implement procedures that were suitable to their individual circumstances.

A Martyn's Law regulator would be established to monitor compliance and advise premises within scope of the legislation. Premises within standard tier would be required to notify the regulator that they were within the scope of this legislation.

Licensing scheme for non-surgical cosmetic procedures in England

Procedures such as Botox and dermal fillers had surged in popularity in recent years. The level of regulatory oversight varied depending on where procedures were performed, and who provided them. There was an intention to regulate going forward to ensure public safety by ensuring that the regulatory framework allowed consumers to make informed and safe choices when undergoing procedures which had the potential to cause serious injury or harm.

A consultation on this industry and associated regulation attracted 12,000 responses and Government would be publishing the results in the Spring of 2024, which would contain more details. It appeared that any regime introduced might be a local authority led licensing regime, based on risk. The Local Government Association (LGA) responded to the first Government consultation highlighting points around capacity, funding, training and the need to take a comprehensive approach.

The Health and Care Act 2022 included powers for the Secretary of State for Health and Social Care to introduce regulations for a cosmetics licensing scheme in England. The regulations created under these powers would include two separate licences.

The powers prohibited people in England from:

- Carrying out specified cosmetic procedures in the course of business unless they held a personal licence, and; using or allowing the use of a premises for the provision of these procedures unless they had a premises licence; and
- The Act also specified the high-level categories of cosmetic procedure, which would be covered by the licensing scheme. For example 'the injection of a substance'.

The Chair also attended the Local Government Association (LGA) Annual Licensing Conference and gave the Committee the following updates:

- Training tips for Sub-Committee members could be found using the following link to the LGA website:
- [Licensing committee: councillor tip sheets hub | Local Government Association](#)
- The presentations given at the conference were available to view on the LGA website and the following link will take you to the presentations that are available to view:
- [LGA Annual Licensing Conference, 6 February 2024 | Local Government Association](#)

28. LICENSING AND COMMUNITY SAFETY SUB-COMMITTEES

RESOLVED that the minutes of the Licensing and Community Safety Sub-Committee B held on 23 November 2023 (circulated previously) and the minutes of the Licensing and Community Safety Sub-Committee C held on 23 February 2024 (circulated previously) be approved as correct records of those meetings and signed by the respective Chairs.

Chair

The meeting ended at 12.00 pm

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