

Report to: Licensing and Enforcement Committee



Date of Meeting 19 July 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing

Report summary:

The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005, Taxi legislation and General Licensing including Street Trading and Pavement Licences

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That the report be noted

Reason for recommendation:

To keep the Council's statutory committee up to date with current arrangements relating to the Licensing Service

Officer: Lee Staples, Licensing Manager (Governance and Licensing)

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information N/A

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

- 1.1.1 This report informs the Committee with regard to any strategic or national updates for each area of licensing work covering the period from April 2022 to June 2023. A significant number of new applications are being received although the Institute of Licensing has reported that businesses continue to struggle with the combination of high energy, labour, food and drink costs.
- 1.1.2 The period March 2023 to June 2023 saw a significant number of applications submitted for festivals and events in East Devon. At the time of preparing this report, 15 (as of 4th July) premises applications were being processed, being for new licences, festivals and existing businesses transferring or varying existing licences. In addition, the team continue to receive a very high number of Temporary Event Notices, with 287 (as of 4th July, an average of 3.2 applications per day) applications being received within the same period. The number of Temporary Event Notices in particular are considered by the Licensing Team to have been at a high volume. The Team continue to actively liaise with event organisers both informally and through the East Devon Safety Advisors Group which co-ordinates regulatory feedback about programmed larger events.

1.2 Hearings

- 1.2.1 Licensing Officers arrange mediation if appropriate when representations are received for applications and there were eight contested applications over the previous period.
- 1.2.2 Licensing sub-committee hearings occurred on
- 24th April for a new time-limited premises licence for Sidmouth Folk Festival in Sidmouth for which the licence was granted as applied for, and also for a variation to the Licence of a Public House in Exton to allow an exterior bar, which was also granted with an additional condition that at least two members of staff be designated to the outside area when the bar is in use.
- 22nd May for a new time-limited premises licence for a hotel in Lypstone to cover a one-day event for which the licence was granted with additional conditions put forward by the applicant (including a noise management plan condition agreed between the applicant and Environmental Health prior to the hearing), and a new time-limited premises licence for an alcohol trailer in Exmouth for which the licence was granted as applied for.
- 21st June for a new premises licence for Budleigh Cricket Club for which the licence was granted with additional conditions including noise monitoring provisions, and a reduced timing for outdoor music (as offered by the applicant). In addition, for a variation to the Licence of a Service Station at Kilmington-Cross, which was also granted with the additional licence conditions put forward by the applicant as agreed with the Police.
- 12th July for a new premises licence for Combe Farm Shop (decision following hearing not known at time of writing).
- 19th July for a new time-limited premises licence for Festival on the Hills, Honiton Showground (decision following hearing not known at time of writing).

1.2.3 The volume of hearings in a period containing elections and subsequent Member training, has placed significant pressure on both Licensing Officers, as well as Democratic Services, Legal Services, and Members. The Licensing Team would like to place on record its thanks for the invaluable support it has received during this period.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

2.1.1 The Gambling Commission circulates a regular bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest bulletin can be found here: [June LA Bulletin \(campaign-archive.com\)](http://campaign-archive.com)

2.1.2 On 27th April the Government published it's White Paper "Gambling Reform for the Digital Age" ([High stakes: gambling reform for the digital age - GOV.UK \(www.gov.uk\)](http://www.gov.uk)). The majority of the proposed reforms are focused on online gambling which is regulated by the Gambling Commission, in particular amendment to the maximum stakes for online gaming to better align it with premises based gambling, potential changes to age-limits and controls, and increased checks on possible problem gamblers. Notably the Government have not put forward any plans for the banning of gambling products sponsoring sports. In addition, of particular relevance to Local Authority Licensing Teams were the following proposals:

- plans strengthen licensing laws to prevent children from playing slot machines with cash prizes in pubs;
- a commitment to increasing the minimum age to play Category D slot machines to 18 years old (currently no minimum age);
- Possible changes to allow premises based gambling by debit card as opposed to cash only currently;
- Possible changes to gaming machine percentages in licenced bingo premises to allow for more than the current 20% maximum category B machines (limit currently 20% for category B machines whilst Category C and D machines make up the remaining 80% of entitlement);

3 Taxis

3.1 Applications Received and Licences Issued

3.1.1 Officers continue working effectively by issuing licences upon receipt of fees and all relevant documentation. The latest figures show small variation in taxi and private hire licences for this licensing authority going in to year 2023:

Year	Taxi Driver Licences	Taxi Vehicle Licences	Private Hire Drivers	Private Hire Vehicles	Private Hire Operators
2016	206	170	22	18	15
2017	195	165	26	20	13
2018	179	161	30	24	16
2019	162	148	37	31	20
2020	155	126	40	32	18
2021	156	129	41	37	19
2022	153	135	52	40	22
2023 (March)	147	130	50	37	21
2023 (July)	157	130	49	40	22

3.1.2 Officers have now been using the NR3 Register of Revocations, Refusals and Suspensions since April 2022 to check all new applications and applications for renewal. Officers have now also uploaded the required details of those individuals who have been revoked or refused a licence in East Devon, and details of those previously suspended will be added in the near future. The Government announced on 26th April that it is now mandatory for local authorities in England to use the NR3 register.

3.2 Enforcement

3.2.1 The licensing team records and investigates complaints received from the public and reported by other drivers which is recognised as an effective procedure by the DoT.

3.2.2 Five complaints of significance have been reported and investigated by officers over the previous period, one remaining under investigation currently. Two complaints were in relation to Hackney carriage vehicles not displaying a roof light, something which Officers will be checking at unannounced taxi rank checks in July. Both complaints were resolved following contact from a Licensing Officer.

3.2.3 Further complaints involved alleged dangerous driving (not substantiated), poor conduct towards a Licensing Officer (written warning given), and alleged overcharging (investigation ongoing).

3.2.5 In addition to the above complaints, since April Licensing Officers have suspended one Driver for having expired licence checks (medical, DBS, DVLA licence check permission), and six vehicle licences (all for expired checks such as MOT, insurance Etc). In all cases numerous reminders were issued prior to the check dates expiring.

3.3 Hearings

3.3.1 Licensing sub-committee hearings for taxi related matters occurred on

Thursday 6th April for a determination as to whether a Licenced Driver remained fit and proper to hold a licence. The Committee determined that the driver remained fit and proper to hold a licence subject to a final written warning regarding future conduct.

Wednesday 19th July for a determination as to whether a Licenced Driver remains fit and proper to hold a licence (decision following hearing not known at time of writing).

3.4 Proposed Policy changes

3.4.1 Officers have reported the need to revise the council's Taxi and Private Hire policy this year with that work already being undertaken to prepare a draft policy that will be reported at a future meeting of this Committee.

3.4.2 Following discussions between Officers and the Chair/ Vice Chair, it has been decided that the policy amendments will be divided into two sections. Firstly the policy amendments required to fully align the Policy with the Taxi and Private Hire Statutory Standards, and secondly further East Devon specific policy amendments. The draft policy containing the further changes to update the Policy in-line with the Taxi and Private Hire Statutory Standards is subject of a further report to this Committee today.

3.5 Meeting between Councillors, Taxi Proprietors and Officers

3.5.1 Previous meetings took place at the council offices and the forum has provided helpful communication with the taxi trade on key subjects. The forthcoming review of the Taxi and Private Hire Policy and the need for consultation will be an appropriate time to arrange a meeting later this year. With the Council's elections being due in May and with the timeframe

to draft the Taxi and Private Hire Policy, Officers will consider the next meeting for a date to be fixed.

- 3.5.2 Officers have also met with the East Devon Taxi Association (formerly the Exmouth Taxi Association), and have offered support through sharing information to all licenced drivers over email, and also attended the East Devon Taxi Association meeting on 27th June to answer questions from the trade and outline proposed policy amendments to align with the Statutory Standards.

3.6 Taxi Tariffs Fares

- 3.7.1 Officers previously reported on the delivery of a new fare tariff which this Committee has approved and now in being. Taxi proprietors have been notifying officers over the previous period after updating vehicle meters and adopting the new fares tariff that is in place.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. This council adopted the policy in May 2023 for the current street trading regime and the re-introduction of application fees
- 4.1.2 At the time of writing there are 26 Street trading consents in operation, a reduction of 1 since the last report as the development works in Cranbrook Town Centre have necessitated several traders to move trading location onto private property and outside of the scope of the street trading consent regime.

5.1 Temporary Pavement Licences (Business & Planning Act 2020)

- 5.1.1 The extension that allows business to apply to the Licensing Authority to place tables and chair on public highways has been proposed by the Government to be extended for a further year to 30th September 2024, which means there are currently still two regimes that businesses can apply for, being the temporary ‘fast track’ arrangements that District Councils administer since 2020, alongside the continuing regime for pavement licences the County Council has held the responsibility for many years.
- 5.1.2 Devon County Council administers (check on DCC website) 24 [Current Pavement Licences](#) for businesses across East Devon issued under the 1980 powers. There are 8 Pavement Licences administered by this authority currently.
- 5.1.3 Officers will continue to keep developments under review and will update this Committee accordingly as and when more permanent arrangements for Pavement Licensing are put forward by the Government.

6. Councillor Training and Elections

- 6.1 Training is mandatory to provide sufficient understanding for Members to determine contested applications at licensing sub-committee hearings and to withstand any challenges upon appeal.
- 6.2 Training opportunities have since been offered by the Institute of Licensing for Councillors up to last year being delivered and attended virtually through Zoom. Further training opportunities will be identified and considered to support the pool of trained Councillors that can sit on hearings following the forthcoming local elections.

- 6.3 The [Licensing Act 2003 Councillor's handbook \(England and Wales\)](#) is also an informative briefing that was updated last year.
- 6.4 New dates have been provided by Officers to support the Members of this Committee for their engagement in the field of licensing. In particular, Professor Roy Light delivered the Institute of Licensing's New Member training programme on-site on 31st May. Some 16 members attended, and Officers were very grateful to those that attended.
- 6.5 Further dates for Catch-up Licensing Training for those that were unable to attend on 31st May have been arranged for Tuesday 11th, 18th, and 25th July via Microsoft Teams (6pm to 7pm approx.).
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Financial implications:

"There are no finance implications"

Legal implications:

"There are no legal implications requiring comment"