

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 20 February 2019

Public Document: Yes

Exemption: None



Agenda item: To be completed by Democratic Services.

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

Purpose of report: 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.

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: Steve Saunders, Licensing Manager

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

1.1.1 Over the previous period relating to this report officers have received and issued 205 alcohol licences relating to new and variations of licensed premises, personal alcohol licences and temporary event notices (TEN's) throughout the district.

1.1.2 Work undertaken by the licensing team during the previous quarter predominantly concerned applications and issuing licences in the run up to Christmas and the New Year festive period.

1.1.3 On 5 November 2018 officers attended the annual Ottery St Mary Tar Barrel event to check the various temporary event notices issued for alcohol sellers and late night refreshment food stalls. A total of 24 checks were made and all were found to be in order. The checks occurred with a member of the police licensing team and the planning arrangements made with the organisers works effectively each year.

1.1.4 On 22 January 2019 officers attended the de-brief meeting for the Tar Barrels event and it was agreed by all authorities that the event was well organised. The event was co-ordinated under the EDDC Safety Advisory Group (SAG) arrangements to plan safely managed events.

1.2 Hearings

1.2.1 The licensing authority continues to offer mediation when representations have been made against new licensing applications to clarify whether an agreed position can be reached between objectors and applicants. Mediation meetings are often successful and can reduce the number of contested hearings before the licensing sub-committee.

1.2.2 On 19 December 2018 a Licensing and Enforcement Sub-committee hearing occurred to consider an application to vary an existing premises licence for a licensed restaurant with regard to replacement of a front window and installation of a small fixed bar. The hearing followed a mediation meeting managed at the premises earlier that month. Whilst the applicant was prepared to compromise on some aspects it was not possible to reach an agreed position with one objector. The Sub-committee took the decision for the licensable activities to remain unchanged whilst imposing conditions that were relevant to the new window and regarding when doors and windows should be closed.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

2.1.1 The licensing team has continued its work to ensure gaming machine permit notifications are submitted on the occasions when licensees leave and take over a premises licence.

2.1.2 Following approval by this committee the Council's revised Gambling Policy was successfully published in January 2019 for review in 2022.

2.2 Enforcement

2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected. Officers assess compliance and suitability of gaming machines sited in public houses and to date it has not been necessary to take enforcement action.

2.2.2 The Gambling Commission provides guidance and support to licensing authorities and their staff attend licensing forums. A regular bulleting is circulated by the commission regarding changes in gambling legislation, national trends and any enforcement action taken. The last bulletin was circulated in November 2018 and can be viewed online going to <https://www.gamblingcommission.gov.uk/PDF/LA-bulletin/Licensing-authority-bulletin-November-2018.pdf>

3 Taxis

3.1 Applications Received and Licences Issued

3.1.1 Although the previous period saw some taxi licence holders retiring or leaving the trade during the autumn renewal period, this has been balanced by a recent increase in new driver applications over the previous three months.

3.1.2 Reports to this committee have highlighted the increase in officer time completing new processes and online checks (Knowledge tests, MOT's, vehicle excise, DVLA driving licences) and although some online processes reduce the amount of paperwork that applicants need to provide it has increased the time spent by officers. Further possible change concerns recent notice issued by DEFRA to all licensing authorities of a duty to provide information on licensed Vehicles (taxis and private hire) for a new central database being introduced under the Air Quality Regulations 2019. DEFRA reported that regulations

will come into force on 1 April or shortly afterwards requiring all licensing authorities to submit details via a central portal on a minimum weekly basis about vehicles that have been licensed, including the registration numbers, start and expiry date of vehicle licences, whether licensed as a taxi or Private Hire and the name of the licensing authority. The database will form part of the infrastructure that government is developing to support the introduction of charging Clean Air Zones by some local authorities from 2020 to ensure compliance with statutory nitrogen dioxide limits. When introduced the work in providing details will add to the processing that officers already undertake.

- 3.1.3 The current taxi policy has a requirement to review all licensed vehicles upon reaching 14 years from date of manufacture and currently there are two licensed hackney taxis that have been subject of an extra review, both being considered suitable for renewal. There are two further licensed taxis having reached 12 years of age and both will be subject of an enhanced review in 2020 (unless replaced by the owners before that time).

3.2 Enforcement

- 3.2.1 The licensing team continues to carry out inspections of hackney carriage vehicles whilst parked on East Devon taxi ranks ensuring that vehicles comply with legislation and meet required safety standards. Officers also inspect new vehicles when submitted by applicants to be licensed. The number of checks undertaken each quarter can fluctuate due to other competing demands such as annual licence renewals.

- 3.2.2 Following the festive break officers received two complaints of taxis overcharging customers for journeys during the period. Each allegation has been investigated by officers comparing the fare tariff costs against the route and fee that customers were required to pay. Whilst fares increase considerably under tariff 3 for bank holidays, calculations for one journey identified a slight overcharge for which the proprietor has been formally warned. The second allegation is still under review at this time to establish whether the charged fare was correct.

3.3 Hearings

- 3.3.1 A meeting of the Licensing and Enforcement Sub-committee occurred on 9 January to determine whether a new applicant for a hackney driver licence met the criteria as being fit and proper to hold a licence with regard to past character and medical issues. The matter has been adjourned to allow further details to be gathered by the applicant and to be submitted for a further hearing by the Sub-committee.

3.4 Taxi Licensing Processes

- 3.4.1 Members will recall at the previous meeting that the introduction of a National Register regarding taxi driver revocations and refusals is being implemented by the Local Government Association formalising information sharing between licensing authorities concerning applicants that are revoked or refused a licence. Further progress has not been forthcoming and further updates will be provided when available during 2019.

- 3.4.2 Previous reports to this committee have highlighted the increasing time that is spent by officers completing new processes and online checks. Over the last year or so this has involved conducting knowledge tests and right to work checks of new applicants, reviewing vehicles prior to reaching 14 years, vehicle write-off history checks, online MOT's, vehicle excise and DVLA driving licences checks. Although some online processes reduce the paperwork that applicants need to provide it has increased time being spent by officers.

- 3.4.3 In addition to those processes already being completed, advance notice has been issued by DEFRA to all licensing authorities of a forthcoming duty to provide information on licensed taxis and private hire vehicles. Under the Air Quality Regulations 2019, it is proposed that regulations will come into force on 1 April requiring all licensing authorities to provide details on a minimum weekly basis about vehicles that have been licensed including as a minimum, the Registration Number, start and expiry date of the vehicle licence and whether the vehicle is a taxi or Private Hire. A new database will form part of the infrastructure that government

is developing to support the introduction of charging Clean Air Zones by some local authorities from 2020 to ensure compliance with statutory nitrogen dioxide limits. The new requirement will further add to processing work that officers undertake in the future

3.5 Fares Review for Hackney Carriages

- 3.5.1 At the previous meeting of this committee members were informed that the ballot was open following requests by some sections of the taxi trade to review the fares that can be charged by taxis. Each hackney carriage proprietor was balloted for a five week period from 5th November to 7th December 2018 asking the question of whether a fare review was necessary. The ballot included the Devon authority comparison. Subsequent responses were two to one in favour of a fare increase with 66% answering yes to raise fares. The outcome was acknowledged in writing to all who responded detailing the outcome will be reported to this committee. A comprehensive update on the proposed tariff increase will be discussed at the next meeting of Officers, Councillors and the trade members in early April.
- 3.5.2 Now that the taxi trade has given a clear indication of a wish to review the current fare tariff officers will move forward with the arrangements. However the implication of setting a new fare tariff prior to Brexit occurring on 29th March is a considered risk. Fuel prices may increase and whether significantly or considerably for any period of time, it will be necessary to initially assess the impact and any changes after 29th March.
- 3.5.3 Experience has shown that consultation and communication with the taxi trade is key to delivering a successful change of the fare tariff. For this reason the proposed timescales are considered possible by the end of the main renewal period in October through delivery of the following timeline:
- a) Officers are required to calculate a draft increase of the fare tariff following ballot,
 - b) The impact of Brexit concerning fuel prices after 29th March will need assessing,
 - c) Communicate the progress and timeline at the next meeting between Councillors, Officers and the taxi trade in early April 2019 (date to be confirmed shortly),
 - d) Dates in summer months will be identified with local taxi meter installers to recalibrate all hackney meters at Camperdown Terrace, Exmouth (in conjunction with officer availability)
 - e) Officers to produce the revised tariff (a) to the Licensing and Enforcement Committee when it meets next seeking approval to proceed with the necessary legal adverts showing the fare prices and if approved, to proceed with newspaper advert,
 - f) Any objections that may be received should reported back to the Committee for consideration and a decision whether to proceed to adopting a new tariff (or otherwise),
 - g) Subject to (e) and (f) maintaining communication with the taxi trade by confirming dates to attend Camperdown Terrace to have the meters changed and identifying any licence holders who may need alternative dates (meter changes at the cost of each proprietor),
 - h) To introduce the new fare tariff and recalibrate all taxi meters by 31st October.

3.6 Safeguarding Awareness Training

- 3.6.1 Officers have continued to prepare plans to introduce safeguarding awareness briefings for hackney and private hire drivers (new and existing licence holders) in line with protecting safeguarding children and vulnerable adults in society. An additional report has been prepared seeking approval to revise the taxi policy to make attendance at Safeguarding Awareness briefings mandatory.
- 3.6.2 The training provider who delivers safeguarding awareness sessions for other Devon authorities has proposed dates to deliver sessions later this year throughout 2019. Dates will be communicated at the next meeting between Councillors, Officers and the taxi trade in early April 2019 together and by writing to all licence holders. It remains the aim to provide funded awareness sessions free to licence holders in the first year in advance of costs being charged and included within later fee reviews.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. Since the Council introduced the street trading policy in October 2017, there have been 185 street trading consents granted by the licensing team, the majority since April 2018 and most being for short term events where organisers applied using block booking arrangements.
- 4.1.2 The trend continues with ten percent of applications granted being for commercial food vendors (pizza, fish and chips vans and similar) with 18 consents granted across the district to business traders operating weekly and continually throughout the year. Experience over the previous 15 months has identified that short term events that require a block booking generally involve 20 to 50 traders attending and event organisers are applying far in advance.
- 4.1.3 During the late months of 2018 officers saw an increase in applications from commercial food sellers seeking to trade in Cranbrook and further consultations have occurred. Cranbrook Town Council has continued to provide its response to applications and whilst not fully objecting to applications, the council highlights the status as one of ten NHS Healthy New Town demonstrator sites along with signing up to a regional Public Health initiative.

4.2 Enforcement

- 4.2.1. The Council has a Regulatory Enforcement and Prosecution Policy and officers provide guidance to new applicants as the first step in securing compliance. It was previously reported that officers had undertaken visits to locations where an unlicensed trader had been operating. The trader had ceased trading and the information provided allowed submission of a street trading application leading to grant of a street trading consent.

4.3 Street Trading Policy Review

- 4.3.1. At the last Licensing and Enforcement Committee members raised a need to consider further review of the street trading policy exploring options to re-introduce fees for commercial street traders. Amendments to the current street trading policy are addressed under a separate report to this committee today.

5. Consultations and Partnership Working

5.1 Officers attend Licensees meeting

- 5.1.1 Officers attend Licensees meeting within the East Devon area whenever possible as these meetings should be supported and are a useful forum for the exchange of ideas, information and keeping up to date with issues within each area. Attendance by council, local police and also police licensing staff is keenly sought by the licensing trade to discuss local crime and disorder issues. Officers have attended licensees meetings over the previous period in Exmouth, Sidmouth and Axminster.

5.2 Meetings between officers and the police licensing team

- 5.2.1 Officers attend licensing liaison meetings on a regular basis with the police licensing team to exchange information and discuss licensing issues in East Devon. This exchange of information is useful when specific problems or incidents involving licensed premises require joint investigation. Officers from both authorities have completed joint visits to licensed premises over the previous period, including premises in Ottery St Mary and Exmouth.

5.3 Safety Advisory Group (SAG) Meetings

- 5.3.1 Licensing Officers have attended meetings of this Council's Safety Advisory Group (SAG) in October and January along with other sub-group meetings taking place to consider advanced planning for event applications. The SAG operates as a multi-agency partnership meeting to provide advice and guidance to event organisers when planning events. Meetings are now arranged quarterly with core members from each Responsible Authority attending.
- 5.3.2 This committee was informed of the debrief meeting of the SAG for Sidmouth Folk Week on 9th October. Although the meeting concerned safety planning arrangements by folk week organisers there followed extended discussions regarding other locations where activities take place in the town including matters relating to the traders licensed by the Council on Sidmouth seafront. Representatives from the fire service specified a need for trader gazebos to be of a fire resistant material in the future together with being of a more sturdy structure for reasons of public safety at the event in 2019.
- 5.3.3 As a result, officers arranged a meeting on 7th November with other services from the Council and representatives from the police and Town Council attending. This was a constructive meeting with proposals for all to work more closely when considering folk week arrangements this year. Feedback regarding the general untidy appearance of the trading gazebos licensed by the Council on Sidmouth seafront was received from parties attending along with the need for more uniformity and a higher level of tidiness. Representatives attending proposed a condition that all stalls/gazebos be of the same white colour as a minimum standard in addition to meeting fire resistant standards this year. A further option by the folk week organisers to take responsibility for all seafront trading pitches was also discussed by incorporating all seafront trading into the overall management of other areas of the town organised by Sidmouth Folk Week. This option has not been followed up by the organisers since and a written proposal including costings has not been forthcoming for this year's event.
- 5.3.4 Officers are presently planning the process to allow online applications to begin during April and have contacted previous traders granted a consent to inform them of the safety and uniformity requirements for gazebos used on Sidmouth seafront at folk week this year.

6. Licensing Team update

- 6.1 Since the last meeting of this committee in November, the licensing officer role vacated as a result of retirement has been filled through recruitment of Licensing Support Officer, Lucy Maxwell being successful in her application. Interviews for the subsequent vacant post occurred in early February and an update will be provided to the committee at the next meeting.