

Date of Meeting 17 February 2021

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Exemption applied: None

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Committee Update on Licensing Matters

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 and the new Business & Planning Act

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 (ssaunders@eastdevon.gov.uk)

Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

There are no finance implications.

Legal implications:

There are no legal implications requiring comment.

Equalities impact Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Climate change Low Impact

Risk: Choose a risk level; Low

Links to background information

Previous report to Licensing Committee 18 November 2021

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Report in full

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

- 1.1.1 This report informs the Committee of work undertaken by the licensing team and also with regard to any strategic or national updates for each area of work that the team oversees.
- 1.1.2 From 5th November the country moved in to a four week lock down that ordered the closure of non-essential businesses including licensed pubs, restaurants and cafes. Restrictions prohibited consumption of food or drink, in or adjacent to a business and with food and non-alcoholic drink sold for take away from a premises up to 10pm.
- 1.1.3 From 2nd December, new national tier restrictions meant that pubs could only remain open where alcohol was served as part of a table meal presenting new challenges around interpretation. That was particularly for traditional drinks led (wet) pubs that wanted to remain open with consideration of what was a 'substantial meal' together with how long alcohol could be served with a substantial table meal.
- 1.1.4 On 20 December 2020, the All Tiers Regulations came into force, the Christmas period was reduced to 1 day for gatherings before all of England then moved to Tier 4 on 6th January 2021, with what has been described as the third national lockdown. Hospitality businesses including licensed premises are now required to close. Selling food and non-alcoholic drinks for takeaway between the hours of 05:00 and 23:00 is permitted. Alcohol can be provided through pre-ordered delivery by suitably licensed businesses.
- 1.1.5 Applications for various licences continue to be received by the licensing team with Personal Alcohol Licences submitted to allow supervision of licensed premises, changes for premises supervisors and also for newly licensed businesses.
- 1.1.6 Despite still being in lockdown, enquiries are being received by the licensing team with regard to businesses seeking to sell alcohol on beach fronts and outdoor locations by submitting temporary event notices or time limited premises licences later this year. Options include pop-up bars, horseboxes and similar proposals that previously would have traded at outdoor festivals. Most proposals would be closely situated near established businesses that have faced challenges in surviving during the pandemic. The Licensing Act does not allow consideration of local 'need' or commercial demand of such businesses during an application process although the cumulative impact can be something taken into account. The Council's Street Trading policy does have regard to such factors particularly where there is a conflict with businesses selling similar goods (**see 4.2**).
- 1.1.7 Members of this Committee will be aware that the Council's Statement of Licensing policy was revised last month for the next five years. Section 5 (Environmental Factors) refers to the need to mitigate the detrimental impact on East Devon's exceptional coastline as a WHS and AONB. Prime areas for trading have always existed but could become quickly overprescribed and therefore an appropriate assessment of need and suitability before any trading in prime locations should be a consideration.

1.2 Hearings

- 1.2.1 There were no contested sub-committee hearings for licensed premises over the previous period although a contested application will be considered on Wednesday, 24th February.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The national restrictions introduced in England from 6th January 2021 also required closure of gambling premises including betting shops and amusement and arcades. During the previous period, a further licensing betting premises licence was surrendered and the office, based in Exmouth, has closed.
- 2.1.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest bulletin was produced in December and can be viewed online at <https://www.gamblingcommission.gov.uk/PDF/LA-bulletin/LA-BULLETIN-December-2020.pdf>
- 2.1.3 The national update from the Commission relating to the mandatory annual return submitted by licensing authorities has not been published yet to allow details to be shared at this Committee. The deadline for submission has passed and although not all licensing authorities have completed the mandatory return, this authority did so within the timescales.
- 2.1.4 The previous report to this Committee outlined that the Commission had removed posts of South West regional compliance officer and a local authority partnership officer that were key to effective working with licensing authorities. The Commission has since updated authorities that contact options with compliance managers has ceased and for any gambling related requests from licensing teams to be emailed to a Commission mailbox. The important function of conducting compliance inspections and regulatory work for licensed gambling premises clearly falls now to local authority licensing officers from this point.

2.2 Review of the Gambling Act 2005 (Terms of Reference and call for evidence)

- 2.2.1 The Act 2005 is the basis for all regulation of gambling in the UK with Local Authority licensing overseeing licensed gambling premises and the Gambling Commission having responsibility for operators (those who run premises) and for online, remote, internet betting. The Culture Secretary (DCMS) has launched a wide ranging review to assess whether the balance of regulation is right and being in the digital age fifteen years after inception of the Act, there are online opportunities to gamble almost anywhere and at any time. With concern that too many people are still experiencing significant harm, the review will look at whether the regulatory framework is effective and whether further protections are needed. Preventing exploitation of vulnerable people, individuals, families and communities from the effects of gambling-related harm remains a priority.
- 2.2.2 A previous review in 2016 of Gaming Machines and Social Responsibility Measures led to legislation cutting the maximum stake on Fixed Odds Betting Terminals (FOBT's) to £2, machines predominantly located in licensed betting premises. In the last 18 months the Commission tightened rules on the age and identity checks operators must do before allowing someone to gamble online and such reviews highlight the need for responses.
- 2.2.3 To provide a coordinated response under 2.2.1, the Institute of Licensing (IoL) are undertaking a survey that will close on Friday 19th March and it is proposed that the Licensing Manager will provide a response. The IoL will then formulate its national response before the deadline of 31st March 2021. The call for evidence [can be viewed online](#).

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 The impact of Coronavirus continues to challenge the Taxi and Private Hire trade nationally and locally. Current restrictions see the continued need for licensed taxis and private hire vehicles undertaking vaccinations trips and medical appointments although educational transport work which many licensed drivers gain employment from, has paused.
- 3.1.2 Despite the current working challenges, licensing officers have continued receiving new Private Hire driver applications and ongoing renewals for licensed drivers and vehicles. Officers must adhere to the test of 'fit and proper' whenever considering new and renewal driver applications and it has been necessary for officers to develop innovative procedures by utilising online payment methods, revising existing forms and contact methods whilst working remotely to engage efficiently with applicants and licence holders. Innovation has included a direct approach to having vehicle plates printed by the plate supplier and them sending out to the licensee which streamlined the process that was completed by an officer.
- 3.1.3 Licensing officers completed process mapping of taxi and Private Hire applications in January 2020 and the licensing team await roll out of an online application process being delivered by Strata. Applicants and licensees would be able to upload all documents and fees using the Firmstep process which the larger companies have been seeking from some years.
- 3.1.4 The resurgence of the virus through the winter further reduced custom available to the trade with national guidance requiring the public to stay at home. The ongoing need for the Council's [Covid-19-emergency-taxi-policy](#) continues and although garages and MOT test stations have remained open during this period of lockdown, it is evident that the GP medical appointments at doctor surgeries needed by drivers to update their medical assessments have been limited. Officers have been innovative by utilising online medical checks that other Devon licensing authorities are also implementing. The DVLA has not amended the Group 2 medical standards or frequency of medicals for drivers as a result of the outbreak of Covid-19 and so to ensure that medical fitness of drivers can still be suitably assessed, it is possible to signpost drivers to medicals carried out by a nationwide company called D4 Drivers.
- 3.1.5 The existing medical assessment form incorporates the D4Drivers information and when an applicant or existing driver cannot obtain an appointment at their own surgery, drivers can book online with D4Drivers at <https://d4drivers.uk/> with appointments taking place in Exeter. Drivers still need to obtain a 'Medical Summary' from their own GP Practice to take with them to their D4Drivers appointment. The cost of medicals is lower than most doctor surgeries and this process allows driver to maintain their assessment as being medically fit and proper to retain or be granted a licence during these challenging times.

3.2 The Impact of Coronavirus on the Taxi and Private Hire trade

- 3.2.1 At its previous meeting, this Committee resolved to lobby ministers for a specific package of financial help for taxi and private hire drivers through not previously falling in any categories for government aid. The resolution was passed that the Chair and Vice Chair, with the Licensing Manager would write to the local MPs and Secretary of State requesting that government support be provided. This course of action was reinforced by Cabinet at the meeting in November with the emphasis on funding being considered under the Additional Restrictions Grant (ARG).
- 3.2.2 In late November, the letters produced at **Appendix A** were sent to local MP Simon Jupp and Neil Parish, to Grant Schapps, MP Secretary of State for Transport and to Rishi Sunak, MP Chancellor of the Exchequer. Responses have not been received to date.
- 3.2.3 With regard to the financial support considered under the ARG, the Council's Economic Development Manager confirmed those applying were awarded £934 under the grant. At the end of January, officers were able to respond positively to a national request submitted by the National Taxi and Private Hire monthly magazine (PHTM) which asked for details of Councils which have, or have not provided grants, for inclusion in the February edition.

3.3 Enforcement

- 3.3.1 The licensing team records and investigates complaints received from the public which is recognised as an effective procedure by the Department of Transport. There have been no complaints received over the previous period regarding taxi or private hire licence holders.

3.4 Hearings

- 3.4.1 There has been no need to hold a Licensing Sub-committee over the previous period.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. This council adopted policy in 2017 for the current street trading regime whereby most of the district is designated to allow street trading upon prior application and with consent.
- 4.1.2 Although the level of street trading over the previous year has ceased at festivals and outdoor events, the uptake by new mobile businesses seeking to trade in various locations across the district continues remains one of the few growth areas during the pandemic.
- 4.1.3 The availability of suitably licensed and regulated food sellers continues to be beneficial to the public using their services although the licensing arrangement remains free of any charge when applying. That may be an added reason for the increasing enquiries officers are receiving. Food sellers based in other south west districts and counties where fees are being charged to trade in the streets of Cornwall, Somerset and South Devon have sought information with a view to applying to trade in East Devon this year. The matter of suitably set application fees was the subject of a previous report to this Committee last year and it is the intention of the Licensing Manager to provide an update in April to allow this Committee to consider options on charging fees to recover the costs for officer time.

4.2 Adherence to Street Trading Policy

- 4.2.1 There are various locations across East Devon where street trading could be easily and quickly oversubscribed, notably on the many seafronts and more recently in Cranbrook. During the implementation of the Street Trading policy, Licensing Councillors and Officers worked collectively following a series of consultations to ensure that the balance of trading remains appropriate and measured. That was recently evident with the working arrangement agreed between Cranbrook Town Council and this Council, given the desirability for trading in unsuitable areas of the town. Accepting that street trading allows a vibrant means of complimenting events together with offering choice for the public, there remains potential for commercial trading businesses (static/mobile food/alcohol sellers) that wish to trade in close proximity to existing outlets and selling similar goods that can impact established businesses.
- 4.2.2 The clear financial challenges to the hospitality industry for nearly a year have been offset to a degree through grants and some funding during long periods of closure, although some indications suggest that up to 50% of businesses may not survive. Increasing numbers of street vendors wishing to set up with lower start-up costs by trading on seafronts, in prime areas and in close proximity to other businesses should be a consideration.
- 4.2.3 The Council's Street Trading policy has regard to new applications that 'conflict with other like trading outlets' and the presence of like trading outlets and goods may not lead to consent being granted where clear conflict exists.

5.1 Pavement Licences

- 5.1.1 Applications from businesses wishing to place tables and chairs on highways stopped over the winter after the streamlined application arrangements were introduced by the government. It is anticipated that businesses will begin to apply for licences in the spring with the issuing responsibility for district councils lasting until September 2021. A review of this arrangement is due and a separate report to this Committee has been provided today.

6. Consultation and Partnership Working

6.1. Safety Advisory Group (SAG) Meetings

- 6.1.2 Quarterly meetings of this council's Safety Advisory Group (SAG) consider advanced planning for outdoor events although the number of events has reduced significantly. The proposed meeting to be held in January was postponed to later in February. The size and potential for outdoor events taking place in late 2021 remains uncertain.

6.2 Institute of Licensing (South West IoL Region) Meeting – 21 January 2021

- 6.2.1 Officers attended the online regional meeting last month with updates provided on a number of relevant licensing subjects. Leads in their specialist area included an assessment from a festival licensing consultant who outlined the impact of the pandemic continuing in to 2021. Jim Button, lead for taxi and private hire matters, updated attendees with an assessment of the Statutory Standards. His proposal for Licensing Authorities to take sufficient time in the year ahead to fully review existing taxi policies is the approach this Committee has adopted. Emphasis that the standards aren't set in law and need to be adopted in taxi policies was reinforced. A presentation was also given with regard to the impact of Brexit on licensing matters and with regard to existing legislation and procedures.

7 Licensing Team update

- 7.1 Previous reports to this Committee highlighted anticipated impact from new areas of work on resourcing in the Licensing Team and the arrival of new pavement licences this spring as businesses emerge from lockdown, together with increased procedural work for the new national taxi standards has received support for additional staffing.
- 7.2 Capability for new areas of work is challenged currently due to staff cover being reduced by a third in the licensing team and although additional support is in place to cover maternity leave, extra staff to address new work in 2021 is still necessary and being progressed.
- 7.3 Staff in the licensing team also have responsibility for burial and memorial requests for the cemeteries managed by the council, with the manager and one of the support officers overseeing that work in addition to their licensing responsibilities. Policies regarding burials and cemeteries are not reported to the Licensing and Enforcement Committee.