

Report to: Licensing and Enforcement Committee



Date of Meeting 14 April 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release None

Committee Update -

Licensing Act 2003, Gambling Act 2005, Taxis & General (Street Trading) 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.

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Portfolio(s) (check which apply):

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

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; [Click here to enter text on risk considerations relating to your report.](#)

Links to background information [Local Government \(Miscellaneous Provisions\) Act 1976](#)
[East Devon District Council/Constitution](#)
[Assessing fitness to drive: a guide for medical professionals/pdf](#)

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 The Home Office require a mandatory annual return for licensing statistics at the end of each financial year concerning all alcohol and late night licences that was postponed in 2020. Due to the current ongoing situation, the requirement has been cancelled this year and the Home Office will seek the next return in 2022. When completed, the return provides an accurate summary of licensing statistics for the previous year using a formula set by the Home Office for the number of licences administered by each authority.
- 1.1.3 At the last meeting of this committee, the Licensing Manager made reference to the increase in Licensing Act applications over the previous six months for which more details are now available. The number of (premises) licence applications received over the first three months of 2021 was over twice as many for the same periods in 2018 and 2019. **44** applications for the variation, transfer or new licensed premises were processed between 1st January to 31st March 2021 compared with **18** for the same period in 2018, **17** in 2019 and **23** applications during the first quarter of 2020.
- 1.1.4 The last three months of 2020 saw a 30% increase in premises licence applications compared with the same three months for 2018 and 2019. Applications of this type are the most complex and time consuming area of licensing work, requiring extensive work before, during and after the 28 day consultation period that can generate representations and objections. Each application requires two team members involved in reviewing applications, arranging consultations, checking notices and adverts, recording responses, engaging with applicants and authorities, mediating objections, preparing reports and issuing licences with plans.
- 1.1.5 In early March the Minister for Housing, Communities and Local Government, Robert Jenrick wrote to all Councils expressing that measures for reopening hospitality from 12th April should be without 'red tape' or 'bureaucracy' being necessary. Whilst the government has promoted a more pragmatic approach toward businesses, it is not always straightforward when granting contested licences (**Appendix A**).
- 1.1.6 The government roadmap to ease national lockdown in phases will allow hospitality businesses to reopen for outdoor consumption from 12th April. The Statutory Regulations underpinning England's roadmap out of the current lockdown has been published in the [Health Protection \(Coronavirus, Restrictions\) \(Steps\) \(England\) Regulations 2021](#), came into force on the 29th March 2021.

1.2 Hearings

- 1.2.1 The licensing team continues to offer mediation meetings when representations have been submitted against new licensing applications where appropriate, to ascertain whether objectors and applicants can reach an agreed position.
- 1.2.2 A Licensing sub-committee hearing occurred on 24th February for a new licensed business to consider representations and the licence was granted in accordance with the application.
- 1.2.3 Officers have since worked extensively with regard to a further application that will be subject to as Licensing sub-committee hearing planned on 21st April.
- 1.2.4 In 2016 the Licensing Manager provided briefings and guidance to town and parish councils concerning the procedures necessary when submitting representations to applications for licensed premises. Over the course of 2020/21, there has been further need to help informing councillors and the public on the same subject and a new guidance sheet has been prepared to be widely circulated in the weeks ahead (**Appendix B**).
- 1.2.5 When an application is made for the grant or the variation of a premises licence, any person may make a representation about the application. The draft guidance document applies to applications for premises that want to supply alcohol, provide entertainment such as live music or provide late night refreshment (food after 11pm).

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 Under the Gambling Act 2005, it is the responsibility of the Council to develop and publish a Statement of Gambling Policy which provides the framework for all decisions on applications and the way the Authority carries out its functions in relation to the legislation. Council adopted the current Policy on the 31 January 2019 being due for review and adoption again in January 2022 when the present policy will expire. The Licensing Authority is under a duty to have reviewed and published a fresh policy by that date and officers will provide a draft of the policy for consultation at the next meeting of this Committee.
- 2.1.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The bulletin for March can be viewed online at [LA Bulletin March 2021 \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk/la-bulletin-march-2021)

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 The forthcoming period will see a small number of Private Hire licence holders being required to renew their licences despite the previous requirement to renew each May ending in 2017. Following the Taxi renewal period concluding in November 2020, figures confirmed decreasing numbers of taxi licences over the last five years but with increasing Private Hire licences. The current number of all licences is detailed below and may change upon conclusion of the forthcoming Private Hire licence renewal period:

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 (April)	162	120	41	34	17

- 3.1.2 The licensing team has been receiving enquiries and applications from prospective Taxi and Private Hire drivers and there has been an increase in driver licences over the previous six months. The data will be refreshed to allow a further update when this committee next meets.
- 3.1.3 Despite the roadmap for easing lockdown, the impact of Coronavirus continues to challenge the Taxi and Private Hire trade nationally and locally. Until such time that the national picture is clearer with regard to the pandemic, the ongoing need for the Council's [Covid-19-emergency-taxi-policy](#) is considered necessary and will be reviewed further when this committee next meets.

3.2 Hearings

- 3.2.1 It hasn't been necessary no requirement for a meeting of the Licensing and Enforcement Sub-committee over the previous period for Taxi or Private Hire related matters.

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

- 3.3.1 Following a resolution by this Committee in late November 2020, letters were sent to local MPs Simon Jupp and Neil Parish, and to Grant Schapps, MP Secretary of State for Transport and to Rishi Sunak, MP Chancellor of the Exchequer detailing the financial challenges and limited funding made available to the Taxi and Private Hire industry. Responses were not provided and in accordance with the latest resolution by this Committee in February 2021, a further letter was drafted and sent to MPs Simon Jupp and Neil Parish (**Appendix C**).

3.4 The Statutory Taxi and Private Hire Standards

- 3.4.1 Members resolved to adopt key changes under the current Taxi and Private Hire policy to incorporate the new Statutory Standards in a phased approach over the course of this year. A detailed review will be conducted by officers for further policy changes under a second phase with regard to matters of Vehicle Emissions, CCTV in vehicles, National Refusals Register, Fees and Safeguarding Training although the operational demands over the first three months of 2021 have proved challenging as businesses seek to reopen. For that reason, it has not been possible to provide a more detailed report today for this meeting.
- 3.4.2 Officers collaborate with Devon Licensing Group colleagues and a meeting held on 26th March identified the need for a coordinated approach towards some options, for example with addressing fleet Vehicle Emissions Devonwide in the year ahead with work ongoing.
- 3.4.3 Officers also recently engaged with staff at Devon County Council's Transport Co-ordination Service which utilises the services of EDDC licensed vehicles for school transport. It is understood that a number of licensed drivers signed up for this work last year when highlighted by the licensing team as another alternative for work and there has been initial engagement between both Council's with regard to collaborating on Safeguarding Training of drivers in the future.
- 3.4.4 The proposal to undertake full consultation of the policy before adopting the changes by 31 March 2022 is achievable.

3.5 Pedicabs

- 3.5.1 An approach has been received regarding the feasibility for granting taxi licences in the future for Pedicab tricycles. A community based group has proposed options for greener travel using electric tricycles, also known as 'tuktuks' or 'rickshaws' which operate with one rider using an electric tricycle to transport 2 to 3 passengers on a small seat behind the rider. The option for this is not detailed in the current Taxi and Private Hire policy as specifications for licensing vehicles requires motor cars that should be able to carry a minimum of 4 and up to 8

passengers safely and therefore prevents officers from licensing 3 wheeled tricycles, being outside the policy.

- 3.5.2 Officers have received similar queries in the past, usually from individuals wishing to transport tourists over short distances along the districts seafronts during summer periods. The approach by other Licensing Authorities varies with some adapting taxi policies to accommodate 3 wheeled tricycles, whereas as others, including Transport for London (TfL) declining to licence tricycles on safety grounds. The approach by this Council in previous years by specifying 4 wheel, 4 door cars under the DVLA vehicle classification 'M1' may have been a similar consideration and whilst fully accepting the benefits of greener forms of travel, the issue of public safety remains paramount. There are also legislative barriers with the legal need, licensed taxis can only operate from designated taxi ranks, being a requirement should Pedicabs be deemed suitable, along with fitting a calibrated fare meter and operating in the manner that taxi conditions require. This arrangement could not be considered for Private Hire licensing as it is an offence for any licensed Private Hire Vehicle to pick up passengers by being hailed and all passengers must book in advance.
- 3.5.3 The proposal if considered worthy for revising existing policy would require consultation with existing stakeholders, the public and current licence holders that have invested in motor vehicles. The consultation proposed under Section 3.4 is not likely to occur for the Taxi and Private Hire policy to incorporate the new Statutory Standards until all necessary amendments are properly presented and detailed, that being likely when this Committee meets in November.
- 3.5.4 The purpose today is to highlight the initiative being proposed and to reiterate that this Council has previously amended its policy to accommodate four wheeled cars powered under electric and zero emission propulsion. Contact has been made with Devon Licensing Group colleagues that confirmed that currently there are no Pedicabs licensed in Devon currently.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. At the last meeting of this committee, the Licensing Manager referred to the increase in enquiries and applications received from prospective food traders seeking to operate across the district. Officers retain details of each query and the status of applications and it has been possible to identify that three times more enquiries were received during the first quarter of this year than during the last six months of 2020.
- 4.1.2 In addition and whilst numbers are low, there has been an increase of over 50% more trading consents granted between January and March 2021 than over the last six months of 2020. Currently there are 22 Street Trading Consents in being across the district on public areas with a further 8 that trade under a policy exemption through being on privately owned land that the public can access. Over the previous period, prospective traders have increasingly sought permission to operate from EDDC car parks for which approval is required in advance from Property and Estates.
- 4.1.3 In usual times there are two general types of trading arrangements occurring in the district, the pandemic has paused those under (a) and with all interest currently under (b) being;
- (a) Short term multiple trading at festivals, community and charitable events, often promoted or requested by parish and town councils (usually lasting for a day or weekend), and
 - (b) Commercial mobile trading businesses for repeated, long term trading in single or rotational locations trading throughout the year (static/mobile food sellers).
- 4.1.4 Event organisers considering outdoor festivals this year still remain cautious and currently look towards June onwards for such events being potentially possible.

4.2 Adherence to Street Trading Policy

4.2.1. The growing availability of suitably regulated food sellers continues to be beneficial to the public using their services. The licensing application process remains free of any charge when applying, this being the subject of a previous report to this Committee last year. A further update to allow this Committee to consider options on charging fees to recover the costs for officer time will be prepared.

4.3 Street Trading during Sidmouth Folk Week

4.3.1. In 2008 this Committee approved the designation of Sidmouth Esplanade as a consent street for the purpose of street trading allowing the council to provide trading pitches along the Esplanade solely during the annual Sidmouth Folk Week event and for no other time.

4.3.2. Officers from a number of services including Licensing, Environmental Health, and Street Scene engage in the planning arrangements and the event falls under Safety Advisory Group (SAG) meetings.

4.3.3 The seafront trading during Sidmouth Folk Week has been administered by EDDC since 2008 and although the event did not occur last year, a review of trading allocation had commenced which may involve the organisers of Folk Week in the future. The successful approach over the last thirteen years required protracted involvement of numerous officers and given the growing demands upon EDDC services, the review is still necessary.

4.3.4 Applications are eagerly taken up with the process usually opening each April. Sidmouth Folk Week organisers have obtained the necessary licences for venues that sell alcohol and provide entertainment and the timing of seafront trading applications has been paused for review of the national situation in May.

5.1 Pavement Licences

5.1.1 A review of the temporary Pavement Licence arrangement administered by EDDC was completed by this Committee in February with applications from businesses that wish to place tables and chairs on highways still only possible to the end of September 2021. The government has expressed wishes to extend the option into 2022 requiring an act of parliament in June to approve that. The present responsibility lasts until September 2021.

5.1.2 Businesses still have the full and permanent Pavement Licence option by applying to Devon County Council which still affords businesses the option to seek a licence for 12 months.

5.1.3 At the time of preparing this report, the Licensing Team has received two further applications being under consultation. It is important to understand that the temporary licences provided by district councils do not allow for furniture and items that cannot be removed overnight and the course for businesses seeking to leave items outside is through the Devon County Council licence.

5.1.4 District councils are required to consult highways at Devon County Council when receiving and consulting upon applications for a temporary Pavement Licence. In circumstances where the highways department objects an application, there is absolutely no right to grant or issue the licence contrary to the landowners refusal.

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

next proposed meeting is to be held on 15 April. The size and potential for outdoor events taking place in 2021 remains unclear currently.

7.2 Safety Advisory Group (SAG) Meetings

7.2.1 Officers attend meetings of this council's Safety Advisory Group (SAG) including a meeting in the spring and in June considering advanced planning for outdoor events. The SAG operates as a multi-agency, non-statutory group that meets providing guidance to event organisers. Meetings are arranged quarterly and core members from each responsible authority attend to support safely organised events.

Financial implications:

There are no finance implications

Legal implications:

There are no legal implications requiring comment.