

Report to Licensing and Enforcement Committee:

Date of Meeting 21 July 2021

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 and the Committee recommended to Council to approve the additional budget (of £40,545) to enable recruitment of the additional posts as identified in the report.

Reason for recommendation:

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 and Emergency response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Tourism, Sport, Leisure & Culture
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

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: Low Risk; Click here to enter text on risk considerations relating to your report.

Links to background information Click here to enter links to background information; appendices online; and previous reports. These must link to an electronic document. Do not include any confidential or exempt information.

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. It covers the period after the cancelled meeting of this Committee on 14 April 2021.
- 1.1.2 An increase in Licensing Act applications was reported to this Committee in February, with more details provided for the last meeting scheduled in April. The number of (premises) licence applications in the first three months of 2021 was over twice as that for the same period 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.
- 1.1.3 The increase continued over the first six months of 2021 with **70** licences in comparison to **38** for the same period in 2020. There were **44** in 2019 and **38** for the same period in 2018. Applications for variation, transfer and for new licences continue to be submitted as businesses reopen and recover from the pandemic.
- 1.1.4 Temporary Event Notices (TENs) received from event organisers has continued in recent months for outdoor events being planned for the remainder of the summer. Devon County Show usually occurs in this district each May and took place instead in early July with almost 30 traders being licensed under TENs by the team.
- 1.1.5 Licensing Act applications area complex and time consuming area of work that require extensive engagement before, during and after the 28 day consultation with applicants and with those submitting representations. The work involves reviewing applications, consulting on those accepted, checking notices and adverts, recording responses, engaging with authorities, mediation, and preparation of Committee reports and finally issuing licences. Premises applications and Temporary Event Notices require acceptance or rejection within 24 hours of receipt, including web updates and consultation commencing and the increase of both continues to impact on the Licensing Team given the statutory timescales.
- 1.1.6 The government roadmap to ease national lockdown in phases to allow hospitality businesses to reopen fully without restriction was extended from 21st June 2021 for four weeks. Step 4 is expected to begin on Monday 19th July if the government's tests for easing Covid restrictions have been met and to be confirmed on 12th July after reviewing the latest data.
- 1.1.7 It remains a statutory obligation under Sec. 55A the Licensing Act for authorities to collect the annual fees payable by licensed premises on the anniversary of each licence being issued. The amount payable is based on the rateable value of each business with no dispensation given by the government although financial support in the form of grants was provided. The

Act is prescriptive in that a premises licence must be suspended for failure to pay the annual fee and suspension cannot be lifted until payment is made. A licensee would commit an offence if he/she carried on licensable activities from the premises otherwise.

1.2 Hearings

- 1.2.1 The licensing team continues to offer mediation if appropriate when representations have been received for new licensing applications, to ascertain whether objectors and applicants can reach an agreed position.
- 1.2.2 Licensing sub-committee hearings have occurred on:
 - 21st April for a new premises licence in Exmouth,
 - 19th May and for two new premises licences for businesses in Exmouth and Sandygate
 - 16th June for the variation of a licensed premises in Budleigh Salterton and
 - 7th July for a new premises licence for a business in Exmouth
- 1.2.3 Officers completed work with regard to a Licensing sub-committee hearing scheduled for 28th July for which the applicant then withdrew the application.
- 1.2.4 A national online licensing forum indicates that over twice the number of hearings are occurring nationwide with applications that may have previously been unopposed now receiving representations. That trend is expected to continue as businesses bounce back with new and revised business models. An increase in camping 'glamping' events is evident too with landowners taking the opportunity to licence outdoor music and bars for campers.
- 1.2.5 The procedures for Licensing Act and Planning hearings differ considerably and it can be frustrating for the public and for Members that unless a written representation is submitted, there is no right to attend or to address a Licensing sub-committee. Revised guidance to help inform Councillors and the public was provided for the previously scheduled meeting of this Committee and this has recently been circulated to assist (**Appendix A**).

1.3 Draft Legislation to Increase Temporary Event Notice limits and Extend Off-Sales

- 1.3.1 New regulations that are due to apply to England and Wales will extend provisions in the Business and Planning Act 2020 to allow sales of alcohol for consumption off the premises to licensed premises that did not have that permission for a further year (to 30 September 2022) and to increase the allowance for Temporary Event Notices. On Tuesday 8th June 2021 the Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021 were laid in Parliament.
- 1.3.2 This will amend the limits prescribed in the Licensing Act 2003 to increase the allowance for TENs from 15 to 20, and increase the maximum number of days on which temporary events may be held from 21 to 26, in the calendar years 2022 and 2023. The regulations have to be debated in both Houses of Parliament, that could change and they will be made in September and a further update will be provided at the next meeting of this Committee in November.

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. An additional report is provided today seeking approval of this Committee to begin consultation of the new draft of the policy.

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 [May LA Bulletin \(campaign-archive.com\)](http://May LA Bulletin (campaign-archive.com))

2.1.3 Local Licensing Authorities are not involved in licensing or authorising of online gambling and betting that is dealt with by the Gambling Commission along with regulating the National Lottery. The Gambling Commission recently circulated its [strategy for the next three years](#).

3 Taxis

3.1 Applications Received and Licences Issued

3.1.1 The current number of all licences to July is detailed below and details will be updated for forthcoming meetings to identify changes in the number of all licences granted:

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 (June)	159	126	41	34	17

3.1.2 Despite the roadmap for easing lockdown, the impact of Coronavirus has challenged the Taxi and Private Hire trade nationally and locally. The ongoing need for the Council's [Covid-19-emergency-taxi-policy](#) is still considered necessary until the end of this year and is the subject of a further report today.

3.2 Hearings

3.2.1 There has been no requirement for a meeting of the Licensing and Enforcement Subcommittee 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 resolution by this Committee in 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 challenges from limited funding made available to the Taxi and Private Hire industry. Responses were not received and further letters were sent in February in accordance with the resolution of this Committee.

3.3.2 Responses were subsequently received from MPs Simon Jupp and Neil Parish and are provided at **Appendix B**.

3.3.3 The Licensing Team has provided assistance recently to the Council's Economic Development Team by circulating details of the last and final round of financial support available up to June under the ARG.

3.4 The Statutory Taxi and Private Hire Standards

3.4.1 The review and consultation of the existing Taxi and Private Hire Policy by 31 March 2022 remains a priority to consider adopting key changes necessary from the new Statutory Standards. It is proposed that officers will review potential policy changes with regard to matters of Vehicle Emissions, CCTV in vehicles, National Refusals Register, Fees and Safeguarding Training with a more detailed report at the next meeting of this Committee.

3.4.2 Officers continue to collaborate with Devon Licensing Group colleagues and ongoing meetings continue to identify shared and coordinated approaches with regard to policies.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

4.1.1. At previous meetings of this Committee, the increase in enquiries and applications from prospective food traders was highlighted and still continues.

4.1.2 Currently there are 28 Street Trading Consents in being across the district on public areas with a further 7 application under a consultation. Some event organisers considering outdoor festivals this year remain cautious and look towards the end of this month with the prospect of planning events over the remainder of the summer months.

4.2 Street Trading during Sidmouth Folk Week

4.2.1. The Sidmouth Folk Week event takes place from 30th July to 6th August and previously 60 sea front trading pitches were managed by the Licensing Team under a process operating since 2008. More recent, robust licensing conditions included sturdier, fire resistant trading gazebos being required by traders with positive feedback from the general public and town council with regard to management of the stalls in 2019.

4.2.2 The event was cancelled in 2020 and the Folk Week organisers have scaled down this year's event having fewer locations across the town in response to the continuing situation.

4.2.3 Allocation of the EDDC seafront trading pitches has been reduced to 19 pitches allocated after 20 were offered to traders. Control of the pitches has passed to the Streetscene Events Team for the first time and the smaller, covid compliant trading area will allow the Events Team to assess and develop options for the seafront pitches next year.

5.1 Pavement Licences

5.1.1 The Business and Planning Act 2020 introduced a faster process to allow businesses selling food/drink to apply to the Local Authority for placing tables and chairs on a highway adjacent to their premises – a “temporary Pavement Licence”. The long-stop expiry date for the Act was 30 September 2021.

5.1.2 This is the subject of a further report today as new measures will extend the 2020 Act to 30 September 2022.

6. Licensing Team update

6.1 The licensing team is presently at the budgeted allocation of staff numbers along with casual temporary staff employed to cover for one staff member on maternity leave and another post that recently changed by undertaking reduced weekly hours.

- 6.2 The requirement to manage more procedural work checking Taxi and Private Hire licences with increased frequency of DBS vetting still exists which had formed part of the bid to recruit an additional administrator with the work currently being absorbed within the team.
- 6.3 The Licensing Team consists of:
Manager post (Full Time),
3 Licensing Officer posts (2 Full Time and 1 Part Time)
4 Licensing Support Officer posts (3 Part Time working 22 weekly hours and 1 FT). The diverse work involves team members having differing responsibilities for taxis, licensed premises (alcohol), gambling, street trading, charitable collections and pavement licences.
- 6.4 The Manager and two Licensing Support Officers also oversee burial and memorial requests in the three cemeteries managed by the Council.
- 6.5 Increasing volume of applications reported in Sec 1.1 includes the requirement to meet statutory timescales when issuing licences as numbers increase along with the challenge of more contested applications that lead to licensing hearings. With Step 4 for easing all restrictions from 19th July and with licensed businesses and event organisers submitting more applications than previously, the significant risk to the Licensing Team exists for meeting demand despite all best efforts and by prioritising work and deadlines.
- 6.6 Government plans detailed in Section 1.3 of this report will further increase opportunities for the number of Temporary Event Notice in the years 2022 and 2023 (see point 1.3).
- 6.7 The Licensing Manager provides this update with the approval of the Strategic Lead for Governance and Licensing, to address those risks by moving forward to recruit an additional Licensing Officer (scale 6) post. With the clear demand and increasing Licensing Act applications and subsequent hearings, it is considered necessary to recruit a Full Time (37 hour week) Licensing Officer. This recruitment will ensure that the Licensing Team can continue to meet its statutory obligations in each area of licensing work as demand increases.
- 6.8 In addition, with the requirement to meet and address increased administrative and vetting work (sec 6.2), it is further proposed to seek recruitment of a Licensing Support Officer (scale 5) post of 25 hours weekly. Administration by receiving and consulting upon applications, including the anticipated increase of Temporary Event Notices in year 2022/23 is the shared responsibility of Licensing Support Officers also undertaking all web page updates, having responsibilities for IT systems including application software and the licensing database.
- 6.9 Both posts sought are partly budgeted and with recruitment not requiring full FTE costs. Previous funding approved and budgeted for a Scale 4 administrator didn't proceed to recruitment and will not do so, allowing that funding to be utilised (under 6.8) with £20,272 still required. With regard to the Scale 6 post, 40% funding already exists in the budget as a result of recent employee changes leaving £20,273 outside budget, with the additional requirement in terms of both posts being £40,545. It is expected that the additional costs will be met from increased fee income through the increased volume of work along with the outcome of the fee(s) review to be carried out later in the year.
- 6.10 Presently ongoing IT projects and software developments projects have been paused, including implementation of a new licensing database. The benefits to applicants and to the public by delivering these processes require licensing staff to work closely with Strata in programming delivery on a daily basis, with the need to increase the current administrative staffing to achieve daily tasks and supporting IT projects over 2021 and 2022.

7. Training Update for Members

- 7.1 The importance of Licensing Councillors receiving suitable guidance in matters relating to hearings is important and ensures availability of suitably trained Members for Licensing Sub-Committee hearings. Further training opportunities have been provided by the Institute of

Licensing for Councillors who may require training with dates available on 10th August and 13th October. The training will be delivered virtually through Zoom and attendance will benefit the pool of trained Councillors that can sit on hearings through a greater understanding of;

Taxis and private hire vehicles - a basic overview

Licensing Act 2003 - a basic overview

General Principles concerning Councillor conduct

Hearings for Licensing Act 2003, Taxis and Private Hire

Decision making, Appeals and Conditions

Financial implications:

Ref Point 6.7, proposed recruitment Grade 5 Licensing Support Officer 0.7 FTE including on-costs £20,272 outside of budget. Proposed recruitment for Licensing Officer Grade 6 1 FTE, already included within budget 0.40 FTE additional costs outside of budget including on-costs £20,273

Legal implications:

There are no specific legal implications requiring comment