

Report to: Licensing and Enforcement Committee



Date of Meeting 23 February 2022

Document classification: Part A Public Document

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## 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: Steve Saunders, Licensing Manager (Governance and Licensing)

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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**

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 November 2021 to February 2022. Applications continue to be received as businesses emerge from the pandemic with further increases in the number of premises licences issued when compared to the same period of 2020/21.
- 1.1.2 Previously, the early months of each year historically saw lower numbers of applications received with volume increasing as each year progressed. However at the time of preparing this report, 14 premises applications were under consultation, 8 being new licences, including 3 festival events and the variation of a licence for a festival planned this year. Communication with event organisers indicates that a number of applications are still anticipated for new festivals being planned across the district this year.

#### 1.2 Hearings

- 1.2.1 Licensing officers arrange mediation if appropriate when representations are received for applications and there were two contested applications over the previous period.
- 1.2.2 Licensing sub-committee hearings have occurred on:
  - 24<sup>th</sup> November for a new premises licence for an off-licence business in Exmouth,
  - 9<sup>th</sup> February for a time limited premises licences for an outdoor festival planned at Westpoint, Clyst St Mary in June.

### 2 Gambling Act 2005

#### 2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The Licensing Authority adopted and published its updated Gambling Act Licensing Policy from 31 January 2022. The Gambling Commission also published its helpful information with [Guidance for Councillors](#) about the statutory requirement to review statements of policy on gambling. These policies need to be reviewed every 3 years.
- 2.1.2 The Gambling Commission circulates a regular bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest bulletin can be viewed online at [December LA Bulletin \(campaign-archive.com\)](#)
- 2.1.3 Government proposals to reform the Gambling Act 2005 (the Act) are reportedly unlikely to be published until May. The Dept for Digital, Culture, Media & Sport (DCMS) launched a review of the Act in 2020 with DCMS still due to publish its conclusions, including any proposals for change. A White Paper was due last year, the contents are yet to be revealed, with specific measures like the completion of affordability checks or the introduction of limits on losses, stakes, and deposits being considered. Any new primary legislation is unlikely to come into force before 2023 at the earliest on potential reforms, the Act being the basis for regulating all forms of gambling in the UK.

### 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 small but continued growth in licences received and granted continues and contradicts national statistics for England and Wales. The latest figures show some increase in taxi and private hire licences for this licensing authority going in to year 2022:

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
<b>2022</b> (Feb)	<b>156</b>	<b>134</b>	<b>47</b>	<b>37</b>	<b>19</b>

3.1.2 In 2020, officers completed mapping of the five taxi and private hire application processes as a starting point to introduce online application processes. Business Change Requests (BCRs) were subsequently submitted to Strata for the programming work which is anticipated to start imminently. Benefits for officers and applicants when the online platform is implemented will be through online submission of applications, documents and fees using Firmstep. Until then, applicants continue to apply by post or email. The online process was previously requested by larger operators to assist with their renewals for numerous drivers and licences.

3.1.3 Processes and checks to assess applications against the 'fit and proper' test are due to increase from April with mandatory checks being introduced by HMRC and the DoT. New checks will shortly be required for officers to check tax codes and by checking the National Revocation (NR3) register from April. The changes have required work by officers to implement them and further details are provided today.

### 3.2 Enforcement

3.2.1 The licensing team records and investigates complaints received from the public which is recognised as an effective procedure by the DoT. One complaint was received over the previous period regarding matters relating to failing to display an external taxi plate which has been addressed through words of advice. Officers always follow up with contact and review on these occasions and any repeated course of behaviour can lead to enforcement.

### 3.3 Hearings

3.3.1 It has not been necessary to convene a Licensing sub-committee hearing for taxi or private hire related matters over the previous period.

### 3.4 Implementation of Tax Conditionality and Tax Checks

3.4.1 Officers have circulated details to existing licensees in the district following announcement of the new requirement for tax checks to be completed when renewing driver licences from April. The government legislated in the Finance Act 2021 to apply tax conditionality to licence

applications for taxi and private hire drivers, private hire vehicle operators and scrap metal dealers with effect from 4 April 2022.

- 3.4.2 The importance of licensees understanding the need to provide a tax code is clear as licensees who do not provide the necessary tax code cannot have their licence renewal progressed. Officers intend to prepare and circulate further reminders in the weeks ahead referring licensees to the [Tax Check Factsheet](#) to understand what is required. Information will also be provided on the licensing web pages.

### **3.5 National Revocation database (NR3).**

- 3.5.1 Officers have previously reported on the work necessary for this authority to sign up to the National Revocation licensing database (NR3) and Council Leaders were contacted last year with an expectation for all authorities to sign up. That approach is now being mandated under The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill currently progressing through the House of Lords.

- 3.5.2 A further report today is provided to inform the progress over the previous period to implement the NR3 database.

### **3.6 Taxi Tariffs Fares**

- 3.6.1 A further report today refers to the progress and options following the recent request from taxi proprietors seeking an increase to the fares tariff.

### **3.7 Coronavirus Regulations for Face Coverings**

- 3.7.1 Coronavirus regulations changed from 27 January when relaxation of Plan B rules came into effect with face coverings and Covid passes being no longer legally required in England. The guidance urging people to wear a face covering in crowded and enclosed spaces still remains however, with updates provided for [taxis and private hire operators Coronavirus \(COVID-19\)](#)

- 3.7.2 In December officers organised delivery of face masks for licensees across the district following an announcement from the Government of an excess supply nationally. The licensing team organised deliveries through key contacts who volunteered to receive and distribute them. Officers are thankful to the following companies that agreed to take the stock allowing drivers to collect free face masks when needed; Peak Travel Services, Sparky's Taxis, Millstream Taxis, Stamps Coaches, Axminster Taxis, AJs Taxis, and Exmouth Taxi Drivers Association.

### **3.8 Taxi and Private Hire Vehicle Policy**

- 3.8.1 The last full revision of this Council's Taxi and Private Hire policy occurred in 2017 with the next full review being necessary this year. The policy raised standards, brought consistency and guides applicants and decision makers. Officers continue with the ongoing work to revise the policy for Members to fully consider at a future meeting of this Committee. The expectation on licensing authorities to implement measures outlined in the Statutory Taxi and Private Hire Vehicle Standards has previously been reported and progress made to date has included increasing the frequency of DBS vetting checks along with implementation of the NR3 register which is subject of a further report today.

## **4. General Licensing – Street Trading Consents**

## **4.1 Applications Received Street Trading Consents Issued**

- 4.1.1. This council adopted policy in 2018 for the current street trading regime whereby most of the district is designated to allow street trading upon prior application and with consent. Currently there are 25 Street Trading Consents in being across the district on public areas with a further 10 applications under consultation.
- 4.1.2 The interest for street trading across the district continues with new mobile businesses being a growth area along with a number of festivals seeking consent for new and existing outdoor events taking place this year.
- 4.1.3 Sidmouth Town Council engaged with officers over the previous period regarding future options concerning the Street Trading prohibition that still exists in certain locations of the town. When this Committee designated the majority of streets in East Devon in 2017 as 'Consent Street's, the previously prohibited location of The Ham Recreation Field was designated as a Consent location for trading at the request of the Town Council. Otherwise, all previously prohibited locations in the town have remained at the request of the Town Council and the Chamber of Commerce. The Ham Recreation field has since hosted popular food and music events now falling within street trading requirements and the Town Council has commenced a review regarding the suitability of retaining the prohibited streets.
- 4.1.4 Should the Town Council confirm the desire to change the current designation, this Committee would need to approve the necessary consultation and then consider any responses prior to its consideration for changing the designation.

## **5. Temporary Pavement Licences**

- 5.1. Take up by businesses applying to place tables and chair on highways has remained very low since the Business and Planning Act provided procedures for District Councils to receive applications for Pavement Licences. The temporary arrangements operate alongside the procedures that the County Council has held the responsibility for many years by issuing [Current Pavement Licences - Roads and transport \(devon.gov.uk\)](https://www.devon.gov.uk)
- 5.1. The licensing authority received and granted one temporary Pavement Licence over the previous period for a business in Exmouth.
- 5.1. The temporary process is currently in place until September 2022 although DLUHC are now working up policy proposals for that to become a permanent regime and feedback was provided by officers under a short consultation that closed on 11th February. The Government has committed through the [Build Back Better High Streets Strategy](#) to make the temporary measures permanent, subject to Parliamentary approval.
- 5.1. The temporary regime has a streamlined consultation process aimed at supporting the hospitality sector with the period of consultation managed by District Councils being 5 working days. This short period places regulatory consultees and Town Councils under pressure when considering responses, whereas the County Council consultation period lasts for 28 days. The temporary regime has an application fee of £100 whilst the County Council process requires an initial application fee of £212 with subsequent annual renewals costing £90.10. Until the findings of the consultation and review are published, it is not known how the temporary arrangement will develop and if it does become permanent, how it will co-exist with the procedures that are already established and operated by the County Council.
- 5.1. It is not procedurally possible to grant a temporary licence contrary to a refusal by the highways authority. Permission to place tables and chairs on land owned by EDDC does not fall within this process and is managed by other Services under Sitting Out Consents or Lease agreements.

## **6. Councillor Training**

- 6.1. Initial training was provided for Licensing and Enforcement Committee Members in 2019 delivered by leading expert, Phillip Kolvin QC who attended locations in the South West.
- 6.2. 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.
- 6.3. Training opportunities have been offered by the Institute of Licensing for Councillors over the previous year with a further event planned on 16<sup>th</sup> March 2022 being delivered virtually through Zoom. Attendance benefits 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
- 6.4. The [Licensing Act 2003 Councillor's handbook \(England and Wales\)](#) is also an informative briefing that was updated last year. The LGA recently announced that it is also expecting to offer training opportunities for Licensing Councillors later this year.

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**Financial implications:**

There are no finance implications

**Legal implications:**

There are no legal implications requiring comment