

Report to: Licensing and Enforcement Committee



Date of Meeting 13 April 2022

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

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)

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 legislative, strategic or national updates for each area of licensing work covering the quarter to the end of March. Applications received over the previous period include those for newly licensed businesses, those from businesses varying existing licences and those for outdoor festival events being arranged this year.
- 1.1.2 At the time of preparing this report, 15 premises licence applications were under consultation, 8 being new licences that include 4 festival events. Communication with event organisers indicates that further applications are anticipated for new festivals being planned in 2022.
- 1.1.3 The Act is a permissive regime. This means that licences must be granted if they have been made in accordance with statutory requirements and in the absence of any relevant representations or objections.

1.2 Hearings

- 1.2.1 Licensing hearings are convened when a sub-committee is required to consider a contested application, which must be held within timescales set out in regulations. Officers will arrange mediation, if appropriate, when representations are received for applications. One contested licence application over the previous period requires a licensing sub-committee hearing that takes place on 27th April for a new premises licence proposed in Budleigh Salterton.

1.3 Surveys and Consultations

- 1.3.1 The period up to the end of each financial year usually results in a number of mandatory returns being requested of Licensing Authorities. The Home Office (Licensing and Policing Data Analysis) has required statistical data for the financial year 2021/22 to the end of March.
- 1.3.2 Being a mandatory requirement, the dataset regarding all relevant Alcohol and Late Night Refreshment licences is due to be finalised by 25 April being for local government to submit to central government. This collection was not scheduled for 2019 and was then cancelled due to the pandemic for years 2019/20 and 2020/21.
- 1.3.3 When the last survey was last completed in 2018, there were 212,800 premises licences in England and Wales, comprising of a broad spectrum including off-licences, supermarkets and cafes as well as the pubs, bars and clubs that typically make up the night time economy. Statistics should be forthcoming at the next meeting of this Committee detailing the licences that are administered in the district.

1.4 Application Procedures

- 1.4.1 Every licensing authority must be able to accept electronic applications to comply with the EU Provision of Services Regulations 1990. Where applications arrive online, the Licensing Authority is responsible for sharing them with responsible authorities in a timely manner as set out in regulations. Postal applications are rarely received because applicants themselves must distribute their application to all responsible authorities with all attachments and plans.
- 1.4.2 The online platform for submitting applications has been provided by the GOV.UK Licensing Service for over ten years, replacing an earlier option introduced in 2009. It is now reported that the online service may end next year, requiring other alternative processes to be

considered by Licensing Authorities. Officers will keep this matter under close review and national organisations including the Institute of Licensing (IoL) and the LGA are working together to identify existing need and alternative systems. The preferred software provided by Strata for other applications to all three councils is the 'Firmstep' solution, which may require programming and testing should access to GOV.UK cease.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 New or variation licence applications under the Gambling Act are generally infrequent and over the previous period, the licensing team granted the variation of an Adult Gaming Centre (AGC) licence following receipt of an application. Those operating an AGC must hold a gaming machines operating licence issued by the Gambling Commission as well as a premises licence issued by the local Licensing Authority. The application concerned some internal changes to the division of a licensed AGC in Exmouth as clear demarcation should be in place to prevent anyone under 18 years from entering.
- 2.1.2 Officers usually undertake Gambling Act inspections upon receipt of such applications to assess the changes and did so on this occasion. It provides an opportunity to inspect the licensed premises along with viewing staff training records, policies, relevant logs and local area risk assessments to assess the overall management and control by licensees.
- 2.1.3 Officers have also engaged in Gambling Act inspections at a licensed betting office that holds a gambling premises licence by incorporating the same principles in 2.1.2.
- 2.1.4 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 [March LA Bulletin \(mailchi.mp\)](mailto:March LA Bulletin)
- 2.1.5 Government proposals to reform the Gambling Act 2005 is still due to be published along with a White Paper that was due last year. When the contents are revealed, all changes will be reported to this Committee.

2.2 Surveys and Consultations

- 2.2.1 In a similar manner to providing returns for alcohol related licences, authorities are also required to submit annual returns to the Gambling Commission regarding licences administered, details of proactive inspections and enforcement work. This year's annual return covers the period April 2021 to 31 March 2022 with the data being required before 30 September. The statistics will be forthcoming at the next meeting of this Committee outlining the volume of gambling licences that are administered.

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 New applications for drivers, vehicles and operators continue to be received in and processed along with licence renewals. Latest figures for the end of March confirmed the ongoing growth in taxi and private hire licences in East Devon.

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
2022 (To April)	158	135	49	37	19

3.1.2 Officers have continued the work reported previously for testing online taxi application processes being implemented by Strata using 'Firmstep'. Progress has been positive and the online processes will further assist applicants upon going live later this year.

3.1.3 Work has also continued with the mandatory checks being required from this month that requires officers to check HMRC tax codes provided those renewing their licences. Use of the National Revocation (NR3) register to check new applicants also commences from April.

3.2 Enforcement

3.2.1 The licensing team records and investigates complaints that are received from the public which is recognised as an effective procedure by the DoT. There were no complaints received over the previous period.

3.3 Hearings

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

3.4 Surveys and Consultations

3.4.1 The Department for Transport's Taxi and PHV Survey will be issued online by DoT shortly for all Licensing Authorities to submit statistical responses for the year ending 31 March 2022. The data informs the national picture and will be forthcoming at the next meeting of this Committee detailing the volume of taxi and Private Hire licences administered (see 3.1.1).

3.5 Taxi Tariffs Fares

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

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

4.1.1. Currently there are 28 Street Trading Consents granted across the district on public areas with a further new and renewal applications under consultation.

4.1.2 Interest for street trading across the district continues with new and existing mobile businesses continuing to seek consent to trade in public places.

4.1.3 Collaboration with Sidmouth Town Council continued regarding continuing suitability of prohibited streets for Street Trading in the town. The Town Council has expressed its desire to remove that designation, previously being requested by the town when implementing the policy in 2017. The Street Trading policy is due for review in 2022/23 and it is proposed to provide a report at the next meeting of this Committee with a timeline and proposals for change that will require public consultation.

5. Temporary Pavement Licences

- 5.1. Take up by businesses applying to the Licensing Authority to place tables and chairs on public highways has remained low since 2020 when the temporary powers were passed to District Councils. There are two regimes that businesses can apply for, being the temporary 'fast track' arrangements that District Councils administer since 2020, alongside the continuing regime for pavement licences the County Council has held the responsibility for many years.
- 5.2. Devon County Council has granted 26 pavement licences, many being on annual renewal. EDDC licensing authority has granted 2 pavement licences, for businesses located in Exmouth. The temporary regime offered by District Councils requires an application fee of £100, with the County Council service charging an application fee of £212, subsequent renewals annually costing £90.10. Devon County Council licences can be viewed at [Current Pavement Licences - Roads and transport \(devon.gov.uk\)](https://www.devon.gov.uk/council/council-services/roads-and-transport/current-pavement-licences)
- 5.3. The temporary regime administered by District Councils remains in place until 30 September 2022 although the Government has outlined its commitment to make the measures permanent. As legislation has not yet extended power for District Councils to grant pavement licences beyond September 2022, it means if a licence is deemed granted, it will not be valid beyond that date.
- 5.4. Key points to consider still for the temporary regime are that it is not procedurally possible for the Licensing Authority to grant a pavement licence:
 - a) Contrary to any refusal submitted by the Highways authority when consulted,
 - b) For any location that does not fall under the definition of being a highway or,
 - c) On land owned by EDDC or on any other privately owned land.
- 5.5. Permission to place tables and chairs on land owned by EDDC does not fall within this licensing process, instead being managed by other Services under 'Sitting Out Consents' or through contract lease agreements.

6. Councillor Training

- 6.1. Initial training was provided for Licensing and Enforcement Committee Councillors in 2019 and through subsequent virtual training events.
- 6.2. Training is mandatory to provide sufficient understanding when determining contested applications at licensing sub-committee hearings.
- 6.3. Councillors who have received training were provided with a link for refresher training following the last meeting using the tools offered by Cornerstone Barristers. It will be appropriate to complete the refresher training this year and to inform Democratic Services upon completion of the refresher training.
- 6.4. Further training opportunities are now available and being offered by the Institute of Licensing with events planned via Zoom on 8th June and 14th July 2022. These dates fall appropriately at this point of the year and follow Annual Council taking place next month.

Financial implications:

There are no financial implications

Legal implications:

There are no legal implications requiring comment