

Report to: Licensing and Enforcement Committee



Date of Meeting 15 March 2023

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 strategic or national updates for each area of licensing work covering the period from December 2022 to March 2023. New applications are being received although the Institute of Licensing has reported that businesses continue to struggle with the combination of high energy, labour, food and drink costs.
- 1.1.2 The first months of 2023 saw applications submitted for upcoming festival events occurring across the district this year. At the time of preparing this report, 25 premises applications were being processed, being for new licences, festivals and existing businesses transferring or varying existing licences. Ongoing communication with event organisers indicates a number of applications are still anticipated for festivals being planned in the summer months.

1.2 Hearings

- 1.2.1 Licensing officers arrange mediation if appropriate when representations are received for applications and there was one contested application over the previous period.
- 1.2.2 A Licensing sub-committee hearing occurred on 7th March for a new premises licence for an off-licence business in Exmouth, for which the outcome is not known at the time of preparing this report.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The Gambling Commission circulates a regular bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest bulletin has not been circulated by the Commission at time of preparing this report, the previous bulletin can be viewed online at [December LA Bulletin \(campaign-archive.com\)](https://www.campaign-archive.com).
- 2.1.2 Government proposals to reform the Gambling Act 2005 (the Act) are still awaited after the Dept for Digital, Culture, Media & Sport (DCMS) launched a review of the Act in 2020.

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 latest figures show small variation in taxi and private hire licences for this licensing authority going in to year 2023:

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	153	135	52	40	22
2023 (March)	147	130	50	37	21

- 3.1.2 Officers have previously reported an increase in mandatory checks to assess applications against the 'fit and proper' test under requirements introduced by HMRC and the DoT last year. Officers now complete checks of the National Revocation (NR3) register too.
- 3.1.3 Driver criminality checks that were previously necessary every three years now require Disclosure and Barring Service (DBS) checks every six months and the council's taxi policy was revised in accordance with the national statutory standards. The need for drivers renewing their DBS certificates was also compounded when temporary adjustments to right to work checks introduced in 2020 ended in the late stage of 2022. At the same time, Home Office guidance to Licensing Authorities made it a requirement to check the DBS identity in person with the original documents for all taxi and private hire licence holders and applicants. These changes have imposed increased checking by officers at both council offices along with the impact on individuals renewing licences being reported back to staff.
- 3.1.4 The process to complete a full enhanced DBS check requires drivers to complete the online application form, to pay the fee and to visit the office with three original valid ID documents enabling officers to approve identification and to countersign and submit each DBS application. Applicants are then taking up the option to register with the DBS update service which then negates need to check all documents on the checks being made every six months.

3.2 Enforcement

- 3.2.1 The licensing team records and investigates complaints received from the public and reported by other drivers which is recognised as an effective procedure by the DoT..
- 3.2.2 Three complaints of significance have been reported and investigated by officers over the previous period, one remaining under investigation currently. In December a complaint was received from a passenger in Exmouth regarding inappropriate conversation by an unidentified taxi driver. Officers followed up all possible enquiries with the complainant and have been unable to identify the driver or vehicle involved.
- 3.2.3 In January a further complaint was reported by passengers collected from an Exmouth taxi rank regarding the manner of driving and behaviour of the driver when passengers remonstrated. Further investigation followed which has not identified the taxi involved.
- 3.2.4 There was considerable speculation on social following the matter reported under 3.2.2 and the Chair of this committee helpfully provided informative updates to anyone seeking to report that incident or other incidents in the future.
- 3.2.5 The EDDC Communications team also circulated information for the press and the public to highlight awareness. Officers have prepared information on the licensing web pages to inform the public when [Catching a taxi safely - East Devon](#).
- 3.2.6 Officers are also in the final stages of testing and introducing an online reporting tool that will shortly allow incidents to be reported online in addition to contacting by telephone or email.
- 3.2.7 It is important to recognise that the vast majority of East Devon's licensed drivers continue to operate with the level of professionalism required and those who continue to maintain high standards do not wish for incidents of this type to occur.

3.3 Hearings

3.3.1 During the previous period it was necessary to convene a Licensing sub-committee hearing for private hire related application for a vehicle to be licensed outside the Council's Taxi and Private Hire policy for vehicle age. The application was given all due consideration and was granted as being considered an exceptional vehicle being suitable for licensing.

3.4 Proposed Policy changes

3.4.1 Officers have reported the need to revise the council's Taxi and Private Hire policy this year with that work already being undertaken to prepare a draft policy that will be reported at a future meeting of this Committee.

3.4.2 The Committee will be aware of various changes and implemented nationally by the Government and DoT regarding vehicle licensing. The changes will be included in the revised Councils Taxi and PH policy due to be reviewed and it will then be necessary to consult fully with the licensees, with all authorities and the general public.

3.5 Meeting between Councillors, Taxi Proprietors and Officers

3.5.1 Previous meetings took place at the council offices and the forum has provided helpful communication with the taxi trade on key subjects. The forthcoming review of the Taxi and Private Hire Policy and the need for consultation will be an appropriate time to arrange a meeting later this year. With the Council's elections being due in May and with the timeframe to draft the Taxi and Private Hire Policy, officers will consider the next meeting for a date to be fixed.

3.6 National Revocation database (NR3).

3.6.1 Officers have previously reported on this authority signing up to the National Revocation licensing database (NR3). Checks of the database are completed for new driver applicants and those renewing driver licences.

3.6.2 In February a check revealed a driver currently licensed with this authority had been entered on to the database by another licensing authority. Officers followed up with checking the circumstances with the other authority establishing that it was a historic and procedural matter that does not call in to question the fitness of the driver to continue holding a licence here in East Devon.

3.7 Taxi Tariffs Fares

3.7.1 Officers previously reported on the delivery of a new fare tariff which this Committee has approved and now in being. Taxi proprietors have been notifying officers over the previous period after updating vehicle meters and adopting the new fares tariff that is in place.

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 and a further report today refers to reviewing the policy.

5.1 Temporary Pavement Licences (Business & Planning Act 2020)

- 5.1.1 The extension that allows business to apply to the Licensing Authority to place tables and chair on public highways has been extended for a further year until 30 September 2023 which means there are still 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.
- 5.1.2 There are information gaps regarding the timing of the transition and need for new guidance when the law changes this year. Devon County Council administers 26 [Current Pavement Licences](#) for businesses across East Devon issued under the 1980 powers. There are 3 Pavement Licences administered by this authority currently.
- 5.1.3 Officers will continue to keep developments under review and will update this Committee due to the likelihood of implementing new policy, fees and procedures later this year.

6. Councillor Training and Elections

- 6.1. 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 since been offered by the Institute of Licensing for Councillors up to last year being delivered and attended virtually through Zoom. Further training opportunities will be identified and considered to support the pool of trained Councillors that can sit on hearings following the forthcoming local elections.
- 6.4 The [Licensing Act 2003 Councillor's handbook \(England and Wales\)](#) is also an informative briefing that was updated last year.
- 6.5 The licensing manager wishes to thank the Chair, Vice Chair and Members of this Committee for their engagement in the field of licensing and for all the support provided to the licensing team.

Financial implications:

There are no finance implications

Legal implications:

There are no legal implications requiring comment