

Report to: Licensing and Enforcement Committee



Date of Meeting 15 November 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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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: Phillippa Norsworthy, 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

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** N/A

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 July 2023 to November 2023.
- 1.1.2 In August the Government announced plans to extend the automatic off-sales entitlement provision introduced via the Business and Planning Act 2020, until 31st March 2025. The so called 'fast-track' pavement licence provisions were also extended until 30th September 2024, with the Government stating that they intend to look into permanent provisions via the Levelling Up Bill.
- 1.1.2 The period July 2023 to October 2023 saw a slight drop in application numbers when compared to the past two reporting periods which saw significant numbers of applications submitted for festivals and events in East Devon. At the time of preparing this report, 14 (as of 20<sup>th</sup> October) premises applications were being processed, being for new licences, festivals and existing businesses transferring or varying existing licences. In addition, the team continue to receive a high number of Temporary Event Notices, with 237 (as of 20th October, an average of 2.9 applications per working day) applications being received within the same period. The number of Temporary Event Notices in particular are considered by the Licensing Team to have remained at a relatively high volume throughout 2023. The Team continue to actively liaise with event organisers both informally and through the East Devon Safety Advisors Group which co-ordinates regulatory feedback about programmed larger events.

#### 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 Licensing sub-committee hearings occurred on 19<sup>th</sup> July for a new premises licence for Azura Tapas and Cocktails in Axminster for which the licence was granted subject to additional licence conditions.

### 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 can be found here: [September LA Bulletin \(campaign-archive.com\)](https://www.campaign-archive.com)
- 2.1.2 As discussed at the last meeting, on 27<sup>th</sup> April the Government published it's White Paper "Gambling Reform for the Digital Age" ([High stakes: gambling reform for the digital age - GOV.UK \(www.gov.uk\)](https://www.gov.uk)), which whilst principally focusing on online gambling also outlined a

number of potentially significant reforms aimed at premises based gambling which is regulated by Licensing Authorities, including the following:

- plans strengthen licensing laws to prevent children from playing slot machines with cash prizes in pubs;
- a commitment to increasing the minimum age to play Category D slot machines to 18 years old (currently no minimum age);
- Possible changes to allow premises based gambling by debit card as opposed to cash only currently;
- Possible changes to gaming machine percentages in licenced bingo premises to allow for more than the current 20% maximum category B machines (limit currently 20% for category B machines whilst Category C and D machines make up the remaining 80% of entitlement);

2.1.3 As previously discussed, the changes outlined in the White Paper are subject to several public consultations. As agreed with the Chair/ Vice Chair responses to the following consultation documents were drafted and circulated to the Committee members for comment by the Licensing Manager prior to submission:

- Consultation on proposals for a maximum stake limit for online slots games ([A maximum stake limit for online slots games in Great Britain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/a-maximum-stake-limit-for-online-slots-games-in-great-britain)).
- Measures relating to the land-based gambling sector ([Measures relating to the land-based gambling sector - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/measures-relating-to-the-land-based-gambling-sector)).
- consultation on proposed changes to Licence Conditions and Codes of Practice (LCCP), Remote Gambling and Software Technical Standards (RTS), and arrangements for Regulatory Panels ([Summer 2023 consultation on proposed changes to Licence Conditions and Codes of Practice \(LCCP\), Remote Gambling and Software Technical Standards \(RTS\), and arrangements for Regulatory Panels - The Gambling Commission - Citizen Space](https://www.gamblingcommission.gov.uk/consultations/summer-2023-consultation-on-proposed-changes-to-licence-conditions-and-codes-of-practice-lccp-remote-gambling-and-software-technical-standards-rts-and-arrangements-for-regulatory-panels))

### 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 only a small variation in taxi and private hire licences for this licensing authority throughout 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
2023 (July)	157	130	49	40	22
2023 (as of 20 <sup>th</sup> Oct)	155	133	49	42	24

3.1.2 Officers continue to use the NR3 Register of Revocations, Refusals and Suspensions to check all new applications and applications for renewal. Officers have now also uploaded the required details of those individuals who have been revoked or refused a licence in East Devon, or had their licence suspended. The Government announced on 26<sup>th</sup> April that it is now mandatory for local authorities in England to use the NR3 register (East Devon District Council have been using the register since April 2022).

### **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 Six complaints of significance have been reported and investigated by officers over the previous period, one remaining under investigation currently. Three complaints were in relation to Hackney carriage vehicles displaying licence plates in their rear windows as opposed to being properly mounted/ displayed on the back of the vehicle. All three of these complaints were resolved following Officer intervention.

3.2.3 Further complaints involved alleged dangerous driving (not substantiated- claimed to be defensive driving by the Licenced Driver), an allegation that a licenced vehicle struck a child whilst reversing (Police investigation ongoing, allegation denied by Licenced Driver), and a complaint regarding an alleged un-licenced taxi in Sidmouth (investigation ongoing).

3.2.4 Officers have also inspected some 25 vehicles by prior arrangement, and have undertaken unannounced inspections at taxi ranks on four occasions since the last meeting.

3.2.5 In addition to the above complaints, since July Licensing Officers have suspended one Driver for having expired licence checks (medical, DBS, DVLA licence check permission), and one vehicle licence (all for expired checks such as MOT, vehicle tax Etc). In both cases numerous reminders were issued prior to the check dates expiring.

### **3.3 Hearings**

3.3.1 Licensing sub-committee hearings for taxi related matters occurred on

Wednesday 19<sup>th</sup> July for a determination as to whether a Licenced Driver remains fit and proper to hold a licence (expired medical check- licence suspended with immediate effect).

Wednesday 25<sup>th</sup> October for a determination as to whether a Licenced Driver remains fit and proper to hold a licence (disqualification from driving for totting up points, and failure to disclose the disqualification to the Licensing Authority).

### **3.4 Taxi and Private Hire Policy changes**

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

3.4.2 Following discussions between Officers and the Chair/ Vice Chair, it was decided that the policy amendments would be divided into two sections. Firstly the policy amendments required to fully align the Policy with the Taxi and Private Hire Statutory Standards, and secondly further East Devon specific policy amendments. The draft policy containing the changes to update the Policy in-line with the Taxi and Private Hire Statutory Standards was presented and approved by this Committee at the meeting on 19<sup>th</sup> July. Following approval

by Full Council these changes have now been communicated to the taxi trade via a taxi newsletter and at a recent taxi trade meeting.

### **3.5 Meeting between Councillors, Taxi Proprietors and Officers**

3.5.2 Officers remain in regular contact with the East Devon Taxi Association (formerly the Exmouth Taxi Association), and continue to offer support through sharing information to all licenced drivers over email. Officers have also committed to regularly attending the Associations meetings, the last of which being on 27<sup>th</sup> June. The role of Officers at these meetings is primarily to answer questions from the Trade and to provide updates on any regulatory or policy changes.

### **3.6 Taxi Tariffs Fares**

3.7.1 The Taxi Fare table effective from 22<sup>nd</sup> December 2022 remains valid, with no current requests for further review. Officers continue to check Hackney Carriage vehicle meters for accuracy and to ensure they are running the current tariff. Anecdotally a number of Licenced drivers have verbally raised the need to revise the tariff upwards again in response to rises in the cost of living, so this is likely to need consideration again in the near future.

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

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

4.1.1. This council adopted the policy in May 2023 for the current street trading regime and the re-introduction of application fees

4.1.2 At the time of writing there are 25 Street trading consents in operation, a reduction of 1 since the last report due to the ongoing development works in Cranbrook Town Centre. Three of the traders previously sited along Tillhouse Road and Court Royal have subsequently relocated to private property elsewhere in Cranbrook on this basis (outside of street trading consent regime). The Licensing Team are grateful for the support of the Vice Chair and Cranbrook Town Council in assisting the traders with finding an alternative trading location during the development works.

### **5.1 Temporary Pavement Licences (Business & Planning Act 2020)**

5.1.1 The legislation that allows business to apply to the Licensing Authority to place tables and chair on public highways has now been amended to extend the provision until 30<sup>th</sup> September 2024, which means there remains two separate regimes that businesses can apply for a pavement licence under, 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 Devon County Council administers (check on DCC website) 22 Current Pavement Licences for businesses across East Devon issued under the 1980 powers. There are currently 4 Pavement Licences administered by this authority.

5.1.3 Officers will continue to keep developments under review and will update this Committee accordingly as and when more permanent arrangements for Pavement Licensing are put forward by the Government.

## **6. Councillor Training and Elections**

- 6.1 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.
  - 6.2 Further to the training session provided by the Institute of Licensing for Councillors, subsequent catch up training for those not able to attend the IOL training session has been undertaken in-house by the Licensing Manager. The dates of the catch-up training were 18<sup>th</sup> July (principally focusing on the Licensing Act 2003, but also including the Gambling Act 2005, SEV Licensing, scrap metal Licensing, and Animal activity licensing), and also 25<sup>th</sup> July (Taxi and private hire licensing).
  - 6.3 The [Licensing Act 2003 Councillor's handbook \(England and Wales\)](#) is also an informative briefing that was updated last year.
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**Financial implications:**

“There are no finance implications”

**Legal implications:**

“There are no legal implications requiring comment”