

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 16 October 2019

Public Document: Yes

Exemption: None



Agenda item: 7

Subject: **Committee Update -
Licensing Act 2003, Gambling Act 2005, Taxis & General (Street Trading) Licensing**

Purpose of report: 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.

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

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:
Appendix A – Response to Taxi Fares Consultation

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

1.1.1 This report is to inform the committee concerning work undertaken by the licensing team between the months of July to October 2019 for each category that the team oversees. Officers deal with licence applications for new and for varying existing licensed premises, personal alcohol licences and Temporary Event Notices (TEN's) across the district.

1.1.2 This district receives more TENs than other Devon authorities due to higher numbers of outdoor events happening in East Devon and during summer months work increases considerably for the licensing team with officers conducting compliance visits to many outdoor festivals including Sidmouth Folk Week, Beautiful Days and other large outdoor events.

- 1.1.3 Officers also undertake compliance visits to licensed premises where the supervisors change and in response to complaints or problems being reported. During the previous period officers engaged in a matter relating to reported noise control problems at a licensed premises that is alleged to have an impact on a neighbouring business which is still under review.
- 1.1.4 Visits can take place with partner agencies and during September police and EDDC licensing officers attended a number of licensed premises in Ottery St Mary in preparation and planning ahead of the town's Tar Barrel event on 5th November. A number of premises extend their hour by submitting TENs along with other traders who attend the event selling alcohol from stalls and locations throughout the town.

1.2 Hearings

- 1.2.1 The licensing team continues to offer mediation meetings when representations have been made against new licensing applications to ascertain whether objectors and applicants can reach an agreed position. Mediation is often successful and reduces the number of contested hearings that need to go before a licensing sub-committee.
- 1.2.2 Workload challenges were compounded as a result of one event organiser submitting applications for three time limited premises in quick succession for outdoor events planned in different locations. The first two applications resulted in representations being received from the police and Environmental Health officers that were subsequently withdrawn at a very late stage after agreement was reached between the authorities and the applicant.
- 1.2.3 The last application submitted by the applicant concerned the event being soonest to occur which generated representations from the responsible authorities and also from 37 local residents. Mediation occurred and as objections were not withdrawn it was necessary for the application to be considered by members at a licensing sub-committee on 28 August. The licence was granted with conditions regarding concerns of local residents. Officers attended the event during the first evening and found it to be managed and controlled appropriately.
- 1.2.4 Licensing officers' work effectively with event organisers in the planning phases and recommend that licence applications should be submitted at least three to six months before the date of an event. The very late submissions outlined in this section have to be avoided in the future and the Licensing Manager will be writing to the applicant in the weeks ahead to highlight the risks to events through late submission.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The Gambling Commission is the regulatory authority nationally and provides guidance to local authorities that have responsibility to oversee gaming and betting premises in each district. The commission oversees national operators, online betting and other functions.
- 2.1.2 Over the previous period applications have been received for renewal of two club gaming machine permits, these being permits that were issued for the maximum ten year period as well as new applications regarding a family entertainment centre in the east of the district. Officers conducted compliance visits to each premises ensuring that gaming machines are properly sited within the terms of each permit (see also 2.2.1)

2.2 Enforcement

- 2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected.

- 2.2.2 Changes at the Gambling Commission have seen the withdrawal of the Commission's regional officer from undertaking compliance work with officers in the region. This was a positive working arrangement and although licensing officers are suitably trained and knowledgeable regarding gambling legislation, the opportunity for staff from both organisations to undertake joint inspections had been effective in maintaining compliance.
- 2.2.3 It was reported at the last meeting that officers had completed the statutory annual return in May that all authorities submit to the Commission incorporating details of premises inspections and enforcement work undertaken. This authority recognises the importance of such work and earlier this month the statistics were circulated by the Commission. The report details in the executive summary that of the 380 authorities, there were 105 that hadn't conducted any inspection visits to gambling premises. Page 12 of the report provides a map of England and Wales by illustrating the number of inspections as a percentage of total premises per authority. East Devon completed an inspection rate of 50% - 74% for gambling. The full report is available online at www.gamblingcommission.gov.uk/survey-statistics
- 2.2.4 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest summer bulletin can be viewed online at www.gamblingcommission.gov.uk/PDF/LA-BULLETIN-SUMMER-2019.pdf
- 2.2.5 The bulletin also reported the intention of bookmaker William Hill to close 700 betting offices nationally at some point in the future. The company has four offices across East District although it has not revealed further details at this stage. This follows changes in May 2019 when stakes on gaming machines in betting offices were reduced by £100 to £2 for Fixed Odds Betting Terminals (FOBT's).

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 Procedural changes made in 2017 allows applicants for taxi licences to apply throughout the year whereas previously all taxi licences were renewed at the end of October and all private hire at the end of May. The revised process is more effective for officers and applicants although the majority of taxi licences still expire on 31 October. The previous procedure presents significant work for the licensing team by receiving, quality assuring and issuing over 200 driver and vehicle renewals in a short period from early September.
- 3.1.2 The October renewal period usually sees a small number of licence holders retiring and deciding not to renew their licences and over 10% of the total number of licensed taxi drivers retired in 2018. The renewals will not be completed until the end of this month and so a more detailed summary of licences issued will be available at the next meeting of this committee.
- 3.1.3 The uptake of new driver applications over the year has been low with six new hackney driver licences and four private hire driver licences issued since 1st January 2019.

3.2 Enforcement

- 3.2.1 Officers conduct inspections of taxi vehicles whilst parked on East Devon taxi ranks ensuring that vehicles comply with legislation and meet required safety standards and by inspecting new vehicles when determining applications.
- 3.2.2 One complaint was investigated by officers regarding general behaviour of a taxi driver with other road users resulting in a written warning being administered to the licence holder.

3.3 Hearings

- 3.3.1 A Licensing and Enforcement Sub-committee meeting was held on 18 September to consider a new private hire vehicle application for a zero emission vehicle. Being a hybrid electric vehicle without an internal combustion engine it fell outside the criteria set in the Taxi Policy

for the minimum requirement of a 1000cc engine. The continuing requirement that all vehicles meet a minimum engine capacity requirement currently bars electrically powered vehicles with ultra-low or zero carbon emissions from being licensed by officers. The Council acknowledges that low emission hybrids and electric vehicles can have a positive impact on the environment and the licence was granted on this occasion. The step taken by licensing the first zero emission private hire vehicle in the district supports the delivery of greener policies being highlighted by the chair and vice chair of this committee in local press releases.

3.3.2 A separate report is provided today to allow the current policy to be revised.

3.4 Taxi Licensing Processes

3.4.1 New regulations came into force regarding taxi vehicle emissions under the Air Quality (Taxis and Private Hire Vehicles Database) Regulations 2019 this year making it a legal requirement for licensing authorities to provide information on licensed vehicle emissions. This progressed over the summer when the need for authorities to enter into a Memorandum of Understanding with Defra was completed and more details of the phased approach to collecting the data from licensing authorities is awaited.

3.4.2 The new Council at East Devon identified climate change as a priority and has reflected this with the need for delivering greener policies. Members have suggested the Taxi Policy should consider a commitment to implement changes to increase the uptake of Ultra-Low and Zero emission vehicles. Major cities such as London, Leeds, Manchester, Cambridge, Oxford and Birmingham have started work to encourage the move to Ultra-Low and Zero emission vehicles as part of Air Quality Action Plans in those cities and some have obtained central funding or have developed a package of loans or grants for eligible vehicle owners to replace petrol and diesel vehicles with Low Emission Vehicles. Funding challenges exist for rural districts where funding is limited or isn't available where the availability of licensed taxis may already be limited across large geographic areas.

3.4.3 It is accepted there is a present need to revise the Taxi Policy to address licensing of hybrid electric vehicles outside the current criteria below 1000cc. The option for discounted licence fees for Ultra Low Emission Vehicles would need careful consideration as discounted fees would not be possible from the licensing budget. If financial support is to be a consideration it would be necessary to identify suitable regional transport budgets with opportunities to consider taxi and private hire arrangements in Devon wide initiatives such as Devon Low-carbon Energy & Transport Technology Innovator (DELETTI) programme.

3.4.4 Feedback from taxi and private hire proprietors indicates the slow take up of Ultra Low and Zero Emission Vehicles is largely based upon current purchasing costs in comparison to those of petrol, diesel and hybrid engine vehicles that are cheaper to obtain. However by granting a licence to the first zero emission vehicle in the district and promoting this development it is hoped that other potential applicants come forward with similar vehicles.

3.4.5 It is proposed that a further report be prepared the Licensing Manager for the members to consider short term incentives in support of reducing emissions within the district for licensed hackney carriage and private hire vehicles. This may include restrictions on higher emission vehicles and potential options in the current Taxi Policy could include;

- a) Relaxing the 4 years age restriction for all new Ultra Low and Zero Emission Vehicles,
- b) Reduce the current upper age limit from 14 years for licensed higher emission vehicles,
- c) Consider new mileage restrictions when licensing petrol, diesel and hybrid engine vehicles,
- d) Extend the upper age limit for licensing Ultra Low and Zero Emission Vehicles,
- e) Remove twice yearly inspection requirement for Ultra Low and Zero Emission Vehicles.

3.5 Fares Review for Hackney Carriages

- 3.5.1 Members have considered the report at the previous meeting regarding a proposed increase to the Hackney Carriage Fare Tariff and it was resolved that the Tariff 1 be increased on the first half mile by £0.50 to £3.50 and also that the vehicle soiling/cleaning charge be increased from £50 to £80. This follows a lengthy period of deliberation and consultation with the taxi trade with the proposal being widely supported by the Exmouth Taxi Association.
- 3.5.2 As explained in the previous report and since the resolution to proceed, the relevant legislation requires that before any alteration to the tariff table can take effect a public notice explaining the changes must be placed in a local newspaper. The public then have 14 days to make comment on the proposals. If no adverse comment/objection is received the approved changes can take effect and it is planned that this could come into use by the end of the year with this being the next course of action by officers.
- 3.5.3 If adverse comment/objection is received on the next process then the matter must be returned to allow this Committee to consider the representation(s).
- 3.5.4 The Licensing Manager would bring to the attention to this committee a further written response of a taxi proprietor who did not take the opportunity to respond during the last consultation on the subject of fare increases under **Appendix A**. The proprietor supports the need for an increase of fares but would highlight the need for increases to all Tariffs including Tariff 2 (evening/weekend fares) or Tariff 3 (bank holiday fares). The proprietor accepts that the deadline to submit this during the consultation was not adhered to but wishes to bring to the attention of the members the financial challenges faced by those in the trade that operate vehicles and employ drivers.
- 3.5.5 The written submission also referred to the possibility of siting a further taxi rank in Honiton High Street in a new location in addition to the existing rank. This may have been raised following the current consultation that was generated for relocating a taxi rank in Seaton. Given the two responses subject of a separate report on that subject it would be more appropriate if the Licensing Manager addresses a separate report on taxi rank availability and any associated problems by bringing back an update to this committee next year.
- 3.5.6 With regard to the previous meeting and the subject of producing detailed figures of the number of taxi drivers and vehicles throughout East Devon, any figures would currently be subject to deviation and change because of the high number of licence renewals occurring this month. To ensure clearer data the Licensing Manager will produce this at the next meeting of this committee.

3.6 Wellbeing Initiative for Taxi and Private Hire Drivers

- 3.6.1 The annual reduction in the number of licensed taxi drivers over the last three years is evident as reported to this committee being attributed to a number of drivers retiring each year. Taxi proprietors and employers have commented upon difficulties when recruiting new drivers being borne out by six new drivers being licensed in East Devon since January 2019. There is a requirement for licensed drivers to maintain a higher level of medical fitness than general drivers undergoing medical assessments upon first being licensed and upon key anniversary ages to ensure they are fit to carry the public.
- 3.6.2 Activities and strategies that can support the continued wellbeing of licensed taxi drivers are being considered necessary and engagement by the Licensing Manager with management of Leisure East Devon (LED) has identified an opportunity to arrange corporate membership at gyms across the district for licensed drivers. This is currently work in process requiring contact with the taxi trade to identify drivers who may be interested in taking this forward.

- 3.6.3 Officers also met with the Council's Public Health Project Officer to consider other promotions and opportunities and an offer has been made by One Small Step, the Devon County commissioned health & wellbeing service with an interest in offering a wellbeing pop-up promotions. There may be opportunities to pilot this at a busier taxi ranks or at meetings with the taxi trade and work is being considered to take this forward. Other initiatives such as promoting the Stoptober Campaign that encourages smokers to quit will be considered.
- 3.6.4 The next liaison meeting for the taxi trade, members and officer is proposed for Wednesday, 6th November which will provide an opportunity to further communicate the wellbeing options to those attending.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. This council adopted the Local Government (Miscellaneous Provisions) Act 1982 provisions with effect from 1982 that provided legislation for local authorities to control street trading and in October 2017, the council introduced the current street trading regime by designating most of the district where street trading can be conducted with prior consent.
- 4.1.2 The uptake of street trading has been high for events occurring in villages and towns throughout each year. 362 street trading consents have been granted since October 2017 with 128 consents issued this year. Feedback from applicants and event organisers resulted in a revised application form over the last period to further reduce form filling.

4.2 Enforcement

- 4.2.1. The Council has a Regulatory Enforcement and Prosecution Policy and officers provide guidance and support to new applicants in the first instance for securing compliance. During previous periods licensing officers provided a written warning to an unlicensed food trader who had been identified as operating in the district. This work was undertaken in conjunction with colleagues from Environmental Health ensuring close working arrangements.

4.3 Street Trading during Sidmouth Folk Week

- 4.3.1. The Sidmouth Folk Week event took place taking place between 2nd and 9th August and all 60 sea front pitches managed by the licensing team were allocated under the process that has operated since 2008. Officer's work extended hours with a presence in the town from 7am over all eight days. The final day of the event was subject of a regional weather warning for high winds and heavy rain and in line with many other events taking place it was necessary to require trading to cease a day early.
- 4.3.2 This year saw additional licensing conditions which included sturdier, fire resistant trading gazebos used by traders and being of a corporate white colour. The feedback received from the general public and town council was very positive with regard to the management of the stalls. Enforcement work undertaken by officer's supports safety of the public on the seafront, working with Environmental Health teams regarding amplified music in the Market Square and enforcing street trading laws by engaging with pedlars and unlicensed traders in the town.
- 4.3.3 The Council's move to offices in Honiton has increased the time officers are engaged in the event. The time spent by the licensing team each year from March through to August and the overall commitment involving members of the team is considerable as officers are engaged in trader applications from March through to the summer. This level of involvement through to attending the event impacts upon other areas of licensing work and it is now timely to consider the future approach given increasing demands on the licensing team by reviewing whether the current process remains cost effective and the best use of Council resources.

4.3.4 An option that is at an early stage would be for the organisers of Sidmouth Folk week to have responsibility for trading on The Esplanade which would be similar arrangement to the trading in Blackmore Gardens Peacock Lawn and referred to as The Craft Village. Although the organisers of Sidmouth Folk Week have expressed an interest, further discussions are required. An alternative is to postpone trading arrangements for the sea front pitches in 2020 and officers will progress the options and provide an update to members at the next meeting.

4.4 Street Trading Policy and Review of Application Fees

4.4.1. At the last meeting of this committee members confirmed a need for officers to progress the review to re-introduce application charges for commercial street trading consents. This would be considered on “Open for Business” guidance from LGA on locally set licence fees with fees that are charged for administering and processing licences along with subsequent compliance arrangements.

4.4.2 Initial details for taking the review forward were set out in the last report to this committee however competing demands and work load challenges over the previous period have prevented a detailed report from being prepared for the members today (see 5.1.1). This remains a priority for officers to present a detailed structure that will allow further consideration for charging fees when this committee next meets.

5.1 Change of Licensing Database

5.1.1 Since March 2019 the licensing team has been extensively involved in an IT project to replace the current licensing database in use since 2005. As part of the Council’s transformation project to deliver improved efficient IT systems, two officers are engaging in work to migrate data from the current Lalpac system to the Uniform database. This requires a commitment of two days a week working with staff from Strata in line with project timescales.

5.1.2 East Devon will be the last of the three councils engaged in tripartite arrangements with Strata Service Solutions, Teignbridge having changed first and with Exeter City licensing being next to migrate systems ahead of East Devon. The commitment for the Licensing Manager and an officer will increase beyond two days per week this autumn going into the latter stages of the project which involves testing and extracting all data to be transferred over.

5.1.3 The benefits of adopting the Uniform licensing system will offer many improvements on the existing system, not least the means to engage more efficiently with applicants and with licence holders together with shared database access with other Council teams and services.

6. Consultation and Partnership Working

6.1. Officers attend Licensees meetings in the East Devon area whenever possible as these meetings should be supported and are a useful forum for the exchange of ideas, information and keeping up to date with issues. Attendance by council, local police and also police licensing staff is keenly sought by the licensing trade to discuss local crime and disorder matters. Officers have attended licensees meetings over the previous period where associations exist in Exmouth, Sidmouth and Axminster.

6.2 Safety Advisory Group (SAG) Meetings

6.2.1 Officers attend meetings of this council’s Safety Advisory Group (SAG) including a meeting planned later in October to consider advanced planning for outdoor events. The SAG operates as a multi-agency, non-statutory group that meets providing guidance to event organisers. Meetings are arranged quarterly and core members from each responsible authority attend to support safely organised events.

6.3 Meeting between Members, Taxi Proprietors and Officers

- 6.3.1 The council holds two meetings with members of the taxi trade and the Licensing and Enforcement Committee every year with both officers and councillors attending in April and November. The Licensing Committee's Chairman and Vice Chairman normally attend these meetings and all members are welcome. The last meeting took place on 11 April 2019 at the council offices and provides a forum for regular communication allowing the taxi trade to discuss relevant topics, changes in policy and to exchange views. The next meeting is provisionally arranged for 11.30am on 6 November here at Blackdown House.
- 6.3.2 On 2 September 2019 officers attended a meeting of the Exmouth Taxi Association. The association is the only association of taxi drivers across East Devon which has supported its members regarding assaults upon taxi drivers over the summer. An initiative to highlight unacceptable behaviour towards taxi drivers was promoted under a partnership involving members, officers and the trade entitled "No Excuse for Abuse". This has been largely successful and although one further assault occurred on a driver in July, the response by the police was immediate with an offender being arrested, charged and convicted.
- 6.3.3 The spate of assaults and abuse directed towards the taxi driver in Exmouth earlier this year prompted queries regarding the use of CCTV in licensed taxis as an aid to increase driver safety. The subject of taxi CCTV was subject of a government consultation with all authorities in springtime and a report on the findings and way forward is still awaited. It would be prudent for this authority and all others to establish any recommendations when the government reports the details before committing further at this time.

6.4 Meeting with Sidmouth Town Council

- 6.4.1 On 18 September 2019 the Licensing Manager attended a meeting of Sidmouth Town Council Tourism and Economy Committee at the invitation of the Chair of the committee to engage in a Question and Answer session concerning street trading in Sidmouth. As a result of previous consultations to the change in designation in 2017, Sidmouth Town Council opted to retain the prohibition on street trading within town centre streets and whilst the meeting was constructive, it was resolved that street trading would be a future consideration without changes currently.