

**Report to:** **Licensing and Enforcement Committee**

**Date of Meeting:** 3<sup>rd</sup> September 2020

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Subject:** **Committee Update on Licensing Matters regarding- Licensing Act 2003, Gambling Act 2005, Taxis & General (Street Trading) Pavement Licensing (Business & Planning Act 2020)**

**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 and the new Business & Planning Act

**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 Holder:** Portfolio Holder Coast, Country and Environment

**Financial implications:** There are no financial implications.

**Legal implications:** There are no legal implications requiring comment.

**Equalities impact:** Low Impact

**Climate change:** Low Impact

**Risk:** Low Risk

[Click here to enter text on risk considerations relating to your report.](#)

**Links to background information:** [Previous Report to Licensing Committee February 2020](#)

**Link to [Council Plan](#):** Choose Priorities and delete what not appropriate.  
Outstanding Place and Environment  
Outstanding Economic Growth, Productivity, and Prosperity

## Report in full

### 1 Licensing Act 2003

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

- 1.1.1 This report informs the Committee of work undertaken by the licensing team and also with regard to any strategic or national updates for each category of work that the team oversees.
- 1.1.2 The previous update provided to this committee was in February 2020 before the impact of Coronavirus that has since adapted working procedures for licensing staff. New and emergency legislation was introduced by the government over the previous months and the Coronavirus Act 2020 introduced the need for licensed premises to close and gave enforcement powers to Environmental Health Teams and Trading Standards. That meant licensing staff were required to refer reports to those agencies rather than leading the response to any complaints or problems arising for licensed premises in East Devon. The usual visits and inspection regime undertaken by licensing staff has paused in line with risk assessments until such time that routine inspections can be conducted safely.

#### 1.2 The Impact of Coronavirus

- 1.2.1 The first weeks of the emergency saw the cancellation of many events across the district that would usually be licensed and then inspected at a later date (Devon County Show, Sidmouth Folk Festival to name just a few). Events that were booked on EDDC land were cancelled up to the end of July in line with government guidance. The early weeks of lockdown saw some licensing staff diverted to work with other council teams supporting high volume customer contact and back filling call handler posts with other services.
- 1.2.2 One of our customer commitments is “assisting clients to run their businesses effectively” and the licensing team has had far higher levels of contact with licence holders experiencing challenges to their businesses and livelihoods. The hospitality industry has been hit hard and so higher levels of contact and advice has been necessary, for example providing guidance to premises that have licences for off-sales to supply food deliveries in the communities.
- 1.2.3 People are still applying for their Personal Alcohol Licences too, being the accreditation to run and supervise licensed premises and the goal for many businesses was to hit the ground running when businesses could fully reopen again. Staff assisted colleagues in other teams to identify licence holders suitable for business rate relief that enabled emergency grants going out to the right businesses.
- 1.2.4 The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 required closure of any premises selling food or drink for consumption on the premises to close from 21<sup>st</sup> March. Many licensed businesses including public houses, hold licences for off-sales that still enabled food and alcohol to still be sold provided it wasn't consumed on (in) or adjacent to the business. This created anomalies and grey areas regarding definitions for adjacent land and for sale of alcohol into public areas and similar.
- 1.2.5 The licensing, hospitality trade has moved forward since being able to open for on-sales from Saturday, 4<sup>th</sup> July albeit with far more restrictions in line with Covid-19 risk assessments. Adherence to government guidance that changes regularly was a factor. Not all businesses have reopened for many reasons and licensing staff have had need to deal with insolvency matters, transferred licences, businesses that had furloughed staff and applications to vary the lay-out of external areas to allow businesses to continue operating during these times.

## **1.2 Hearings**

- 1.2.1 The licensing team continues to offer mediation meetings when representations have been made against new licensing applications to establish whether objectors and applicants can reach an agreed position. Mediation is often successful reducing the number of contested hearings that need to go before a Licensing Sub-committee.
- 1.2.2 The first virtual Licensing sub-committee was held on 29<sup>th</sup> July regarding a new premises licence for a business seeking to supply online alcohol sales. The Sub Committee fully considered the operating schedule put forward by the applicant and the likely impact of the application and after all due consideration the premises licence was granted.

## **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 it provides guidance to local authorities that have responsibility to oversee gaming and betting premises in each district. The Commission oversees national operators, all online betting and other functions.

### **2.2 Enforcement**

- 2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted has paused generally following the closure of licensed gambling premises during the period of lockdown. In the same manner as licensed sellers of alcohol, the gambling industry also experienced challenges to businesses.
- 2.2.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The last summer bulletin can be viewed online at <https://www.gamblingcommission.gov.uk/PDF/LA-BULLETIN-Summer-2020.pdf>
- 2.2.3 In April the requirement for licensing authorities to submit annual returns to the Gambling Commission in relation to the number of gambling licences together with the number of proactive inspections was postponed. The return has since been requested and to be submitted by 30<sup>th</sup> October and further details will be provided when this committee meets in November.

## **3 Taxis**

### **3.1 Applications Received and Licences Issued**

- 3.1.1 The Taxi and Private Hire Driver trade was also significantly challenged as a result of the Coronavirus lockdown. The licensing team continued managing renewals for existing taxi and private hire licence holders and although it was positive to see licence holders renewing for the year ahead, the full number that will cease working in the industry will not be clear until the forthcoming taxi renewal period ends on 31<sup>st</sup> October.
- 3.1.2 A previous requirement for all taxi licence holders to renew their licences annually by 31<sup>st</sup> October was removed in 2017, although a large proportion still expire annually on that date. This presents significant work for officers receiving, quality assuring and issuing over 200 licences in a short period and this autumn, the renewal process will be completed remotely as the council offices remain closed and without officers being able to meet applicants. Officers have started engaging with licence holders by email to provide clear communication throughout this month that will allow applicants to renew their licences in good time.

### **3.1 The Impact of Coronavirus on the Taxi and Private Hire trade**

- 3.1.1 A number of drivers and businesses continued to provide essential transport for vulnerable members of the community whilst the trade that was usually available from shoppers at taxi ranks to holiday makers being taken to airport ceased from March to July.
- 3.1.2 Difficulties for the taxi trade maintaining work along with keeping licences up to date by obtaining MOT tests, etc had to be addressed quickly. The government issued advice in certain aspects and officers had cause to amend the existing taxi policy to ease issues regarding MOT deadlines, driver medicals and getting DBS checks done. The support of members taking that forward was very much appreciated with a separate report regarding the Covid-19 policy
- 3.1.3 Recent developments involved officers engaging with the taxi trade to support properly manufactured Perspex shields in cars. These offer better protection for drivers and passengers against Covid-19 and whilst not mandating use or installation, there is a growing need nationally and in the district to consider appropriate screen guard equipment.
- 3.1.4 Officers are aware of the severe financial difficulties experienced by the taxi and private hire trade as a result of the pandemic and from April to July, all proprietors had little or no business as a result of the downturn in use by the public. That situation has been widely reported nationally and the licensing team, with support of the Chair of this committee explored options of possible funding that could be available to the local taxi trade. Contact with other council services with regard to the availability of grants, loans or other support that local authorities could provide confirmed there was no revenue allocated centrally by government for local authorities to distribute to the taxi and private hire industry.
- 3.1.5 The taxi industry was not an eligible business that qualified for all phases of the Local Authority Discretionary Grant funding, for which the criteria was set by central government regarding businesses that did qualify. Whilst more than 3,600 local businesses in East Devon applied for Schemes 1 and 2 receiving more than £42m in grants, along with a further 230 East Devon businesses that received over £2m in grants through scheme 3, the discretionary grant fund did provide the basis of any financial assistance to the taxi industry.
- 3.1.6 Officers also circulated details to all taxi and private hire licence holders regarding the Self-Employed Income Support Scheme to highlight government payments to self-employed workers adversely affected by Coronavirus for the taxable grant that worth 80 per cent of their average monthly profits over the last three years.
- 3.1.7 In daily contact with members of the trade, officers learnt that many employers took the opportunity provided by the furlough scheme to alleviate financial hardship or to SORN licensed vehicles whilst not in use.
- 3.1.8 The October renewal period usually sees a small number of licence holders retiring and deciding not to renew their licences each year. Full details and figures will be available from the November to confirm the number of licences the licensing authority administers.

### **3.2 Enforcement**

- 3.2.1 There have been no complaints received over the previous periods which is attributed to the low level of work being undertaken by the trade.

### **3.3 Hearings**

- 3.3.1 It has not been necessary to hold a Licensing Sub-committee meeting over the previous period regarding taxis although a request to licence a vehicle that was slightly older than the four year old limit was approved using the Senior Officer Urgent Decision process during the

period when all Council meetings were postponed under the Coronavirus Act 2020. That course of action was approved by the Licensing Chair and the Leader of the Council.

### **3.4 Fares Review for Hackney Carriages (Taxis)**

3.4.1 Members had approved an increase to the Hackney Carriage Fare Tariff and resolved that Tariff 1 be increased on the first half mile by £0.50 to £3.50 along with the vehicle soiling/cleaning charge being increased from £50 to £80. This followed a lengthy period of deliberation and consultation with the taxi trade with the proposal being widely supported by the Exmouth Taxi Association but with less support for a low increase elsewhere.

3.4.2 The resolution to proceed has now been completed and is subject of a separate report to members today to conclude the increase in the fares that taxis can charge.

### **3.5 Wellbeing Initiative for Taxi and Private Hire Drivers**

3.5.1 The approval of this committee in February to move forward with promoting healthier life style options for the wellbeing of licensed taxi and private hire drivers progressed with a publicity campaign in February that was very well received. A number of radio and media interviews were completed by Councillor Jarvis and the interest and publicity that generated was very positive. BBC radio and television presenters actively reported on the initiative and there were also interviews with drivers at the side of the taxi rank in Exmouth.

3.5.2 Engagement with Leisure East Devon (LED) provided an opportunity for licence holders to arrange corporate membership at gyms across the district with a number of licensed drivers expressing their support going forward. It was unfortunate that the impact of Coronavirus in March subsequently saw the closure of gyms and sporting venues that have only recently been able to reopen in a limited capacity.

3.5.3 As an initiative that commenced through this committee to promote healthy, wellbeing options, it was regarded positively and it may be beneficial to consider options and links between the councils Taxi Policy and the EDDC Public Health Strategic Plan in the future.

### **3.6 Taxi Ranks**

3.6.1 Further to a report to this committee in February regarding relocating a taxi rank in Seaton, officers have completed the final stage of circulating public notices without any representations being received. Due to the level of reports today, officers will provide a further report to this committee when in next meets in November to conclude this matter.

3.6.2 The Licensing Manager has recently engaged with senior staff from Devon County Council Highways on the subject of taxi ranks across the district and further work will be jointly undertaken before providing updates for this committee on the subject of taxi ranks.

## **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 level of street trading reduced over the previous periods although the availability of suitably licensed and regulated food sellers during Coronavirus restrictions is known to have been beneficial to the public.

4.1.3 The uptake in new mobile businesses that are planning to offer food and drink on the roads and highways is expected to be one of the few growth areas following the pandemic and it is anticipated that people changing employment or jobs in the future may actively make arrangements to move in to this form of business.

## **4.2 Street Trading Policy and Review of Application Fees**

4.2.1. 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. Officers present a detailed structure to allow full consideration for charging fees going forward and a consultation had been prepared to the point that Coronavirus restrictions commencing. Officers will report further on this matter at a later meeting to this committee.

### 5.1 Pavement Licences

5.1.1 It was reported at an extraordinary meeting of this committee in July that the responsibility for issuing short term Pavement Licences would pass to district councils in August. Officers have been extensively involved in preparing an IT solution allowing applicants to apply online and that work with colleagues from Strata delivered an application process last month.

5.1.2 The procedures are now in place to allow business to apply for a short term Pavement Licence to the district council whilst those businesses with an existing licence still have the option to renew with Devon County Council or to apply anew to the licensing team.

5.1.3 Despite the high profile and level of awareness of the new licences, there have been two applications from businesses seeking a Pavement Licence from this council. Whilst the numbers are initially lower than expected, Devon County Council had already commenced its streamlined application process from June. It is known that a number of existing licences are expected to be applied for or renewed this autumn through the district council.

## 6. Consultation and Partnership Working

### 6.1. Safety Advisory Group (SAG) Meetings

6.1.2 Quarterly meetings of this council's Safety Advisory Group (SAG) occur to consider advanced planning for outdoor events although the number of events has reduced significantly. The SAG operates as a multi-agency, non-statutory group that meets providing guidance to event organisers and the officers attend to support safely organised events that are licensed in the district. Recent meetings occurred remotely and are chaired by senior managers from Environmental Health.

### 6.2 Meeting between Members, Taxi Proprietors and Officers

6.2.1 The council previously held two meetings annually with taxi proprietors, licensing officers and members and it was agreed last year that one meeting should be arranged in the future as officers also attend meetings of the Exmouth Taxi Trade Association.

6.2.2 Councillor Jarvis and the Licensing Manager attended the last meeting of the Exmouth Taxi Association on 3<sup>rd</sup> February. It was a positive meeting with attendance of drivers from beyond Exmouth, although further meetings have not occurred due to the Coronavirus situation.

6.2.3 The minutes of the previous taxi proprietors meeting held in November 2019 are available via this link <https://eastdevon.gov.uk/media/3720780/minutes-6112019.pdf>

6.2.4 The present Coronavirus restrictions by holding remote meetings and only those that are essential, requires postponement of the next taxi proprietors meeting that would usually occur

this autumn. Potential changes to the taxi policy arising from the Statutory Standards for taxi and private hire licences (also subject of a separate report today) would be appropriate for this committee to consider first at its next meeting in November. A new date can then be considered for the taxi proprietors meeting that will allow for consultation over any changes.

## 7. Member Training

- 7.1 Initial training was provided for Licensing and Enforcement Committee members last year when delivered by leading expert, Phillip Kolvin QC who attended locations in the south west.
- 7.2 The training is necessary to provide sufficient understanding for members to attend and to determine contested applications at licensing sub-committee hearings.
- 7.3 Officers have eagerly sought new dates for remote training sessions for members still requiring training to be delivered via Zoom by the Institute of Licensing. Due to the high level of take-up nationally, a date in August was fully booked within 24 hours and so further dates are now being arranged in September and October.
- 7.4 An additional briefing with regard to gambling related matters is also under consideration with potential dates awaited.