

## **Agenda Item 5**

**Licensing & Enforcement Committee**

**29 September 2009**

**JT/IC/NM/DJ/JL**

**Committee Update -**

**Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing**

### **Summary**

The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters.

### **Recommendation**

**That the report be noted**

#### **a) Reasons for Recommendation**

To keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Team.

#### **b) Alternative Options**

Not Applicable

#### **c) Risk Considerations**

Failure to provide an efficient licensing service may result in complaints or legal challenges being made against the Licensing Authority.

#### **d) Policy and Budgetary Considerations**

None

#### **e) Date for Review of Decision**

Not Applicable

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## **1 Licensing Act 2003**

### **1.1 Licences Issued and Notices Given**

1.1.1 Within the Licensing Authority's district there are currently 656 (646)\* Licensed Premises. 592 (585) of those hold Premises Licences while the remaining 64 (62) benefit from Club Premises Certificates. In addition a total of 1,359 Personal Licences have been issued by the Authority.

1.1.2 Since the commencement of the Act in November 2005 a total of 2,639 (2,365)\* Temporary Event Notices have been given. 2,427 (2,174) of these were given for events where alcohol was to be sold while the remaining 212 (191) were for regulated entertainment or late night refreshment only. \* Note the numbers in brackets are the figures from the previous update report.

## 1.2 Premises Risk Ratings

- 1.2.1 The premises risk rating system which categorises each licensed premise within the district as Low, Medium or High Risk is now being used by the Licensing Team to target those premises listed as high risk on the system. The system currently has 105 high risk rated premises which the team will target with a visit to each of the listed premises by 31 March 2010. During these visits the officers will re-assess the risk rating of the premises and it is anticipated that the number of high risk rated premises will be significantly reduced. The reason for the probable reduction of high risk premises is that the initial assessments included verbal warnings for minor offences which elevated the premises into the high risk category. The majority of the verbal warnings were given in respect of the failure to display the Premises Licence Summary.

## 1.3 Enforcement

- 1.3.1 The pro-active educational partnership approach to enforcement with the aim of compliance through consent continues to be successful. And again it is pleasing to report that although there have been a number of complaints being received against licensed premises all have been resolved without the need for formal enforcement action.
- 1.3.2 Recently the Licensing Team received information that a Personal Licence Holder who was the appointed Designated Premises Licence Holder on two licensed premises within the district had had his personal licence suspended by a Magistrates Court outside our area. Confirmation was sought and then with the co-operation of the local police in both Budleigh Salterton and Honiton both premises were closed the same day. Both premises stayed closed until a qualified person was nominated as the Designated Premises Supervisor and transferred onto the premises licence. This is an excellent example of multi agency co-operation.

## 1.4 Hearings

- 1.4.1 The following hearings have been held since the last report to committee on 9 June 2009:

Number of hearings where no agreed position has been reached.	May 2009	1
	June 2009	2
	July 2009	0
Number of hearings held to approve an agreed position.	May 2009	2
	June 2009	5
	July 2009	0
Total number of days sub-committees have sat.	May 2009	2
	June 2009	2
	July 2009	0

- 1.4.2 On 11 May 2009 the Licensing Committee granted a Premises Licence to Courtlands House, Courtlands Lane, Exmouth following a contested hearing. Following the grant of this licence local residents who objected to the issuing of the licence lodged an appeal at the Central Devon Magistrates Court. As a result of the appeal a case Management Conference was held at the Central Devon Magistrates Court between both sides for a directions hearing on 15 July 2009. The appeal was withdrawn a few days later and a request for costs to recover some of the council's legal expenses remains unresolved at this time.

- 1.4.3 To date, the Council has received no applications to review existing licences. In addition there are no outstanding appeals to the Magistrates' Court against the decisions of this Council's licensing

sub committees. Council Officers continue to co-ordinate mediation meetings where Responsible Authorities have expressed their intention to seek a review. Since the last report to committee one "Pre Review Mediation" meeting has been held. This approach continues to be well received by all parties to the meetings and remains as standard practice in cases where responsible authorities are considering making an application for review of a premises licence.

- 1.4.4 The current practice of calling a hearing within a period as close to five working days after an agreed position has been reached continues. This has been well received by both the licensed trade and interested parties.

## 1.5 Temporary Event notices

- 1.5.1 These are a key part of the Act's operation, and enable individuals to carry on licensable activities without a premises licence provided they serve notice in the correct way on the licensing authority and the police. The police have only 48 hours in which to object, otherwise the event goes ahead. The number of notices served invariably increase during the summer months.

Temporary Event Notices given to the Licensing Authority.		
	May 2009	76
	June 2009	100
	July 2009	87

## 1.6 Variations, new licence applications, and changes of Designated Premises Supervisor

- 1.6.1 Applications for variation, transfer, new licences or change of designated premises supervisor continue to be received at a fairly constant rate.

Applications for the grant of a Premises Licence.		
	May 2009	8
	June 2009	7
	July 2009	1
Applications for the variation of a Premises Licence.		
	May 2009	1
	June 2009	2
	July 2009	1
Applications for the transfer a Premises Licence.		
	May 2009	1
	June 2009	0
	July 2009	4
Applications for a change of Designated Premises Supervisor.		
	May 2009	0
	June 2009	9
	July 2009	10

- 1.6.2 Licensing Officers continue to offer advice and guidance to applicants and liaise regularly with partner agencies to ensure the best possible service is provided by the Licensing Authority.

## 1.7 Personal licences

1.7.1 Applications relating to Personal licences are still being received at a steady rate.

Personal Licences issued.	May 2009	6
	June 2009	10
	July 2009	13
Applications for change of name or address.	May 2009	0
	June 2009	0
	July 2009	0

## 2 Gambling Act 2005

### 2.1 Licences Issued and Notices Given

2.1.1 Within the Licensing Authority's area there are now 15 (16)\* Premises licensed under the Gambling Act. The reduction of one licence relates to the surrender of one of the adult gaming centre premises (AGC) licences for Exmouth Leisure (AGC1), Queens Drive, Exmouth. There is now only one AGC premises licence for this site. We also have 173 (169) Small Society Lotteries registered.

\* Note the numbers in brackets are the figures from the previous update report.

### 2.2 Premises Inspections and Risk Ratings

2.2.1 The Licensing Authority is required to inspect premises licensed under the Gambling Act in accordance with the advice given by the Gambling Commission. To meet the Authority's obligations in this matter the scheme of inspection, report and risk assessment is still under development in consultation with the Gambling Commission and Partner Agencies.

### 2.3 Enforcement

2.3.1 Currently the Authority's role remains one of education and guidance with licence and permit holders to achieve compliance with the Gambling Act 2005. To date no formal enforcement action has been required and it is anticipated that as with the Licensing Act close working with partner agencies will prove most beneficial.

### 2.4 Hearings

2.4.1 Since the last update report there has been no requirement for any hearing relating to applications made under the Gambling Act. As is the case with the Licensing Act 2003 if there are no representations made against an application and in all other respects the application is properly made then there is no requirement for a hearing.

### 2.5 Applications & Notifications received

Applications for a Permit.	May 2009	0
	June 2009	2
	July 2009	0

Applications for a Licence.	May 2009	0
	June 2009	0
	July 2009	0
Notifications of Intent to have Gaming Machines.	May 2009	1
	June 2009	4
	July 2009	5

## **2.6 Increase in gaming machines stake and prize limits**

- 2.6.1. In recent months a number of changes in stakes and prizes relating to a variety of machines took effect. The one significant change involving gaming machines authorised by this licensing authority is that from 11 June Category C machine stakes increased to £1 and the maximum prize to £70.
- 2.6.2 At the same time the Government announced a new voluntary funding arrangement for the research, education and treatment of problem gambling. The Responsibility in Gambling Trust will continue to raise funds from the gambling industry and the new body The Responsible Gambling Fund will distribute the money. This will now put an end to the introduction of a statutory levy although the power still remains for the Government to consult again if they feel the new voluntary funding arrangement is not a success.

## **2.7 Gambling Act Licensing Policy Consultation**

- 2.7.1 All licensing authorities are required to prepare and publish, every three years, a statement of the principles that they propose to apply when exercising their functions under the Gambling Act 2005. In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. We are now coming towards the end of our first three year period and our Policy needs to be formally reviewed. The current statement expires on 31 January 2010.
- 2.7.2 A more detailed report on this subject will be included within the agenda for the meeting on the 29 September 2009.
- 2.7.3 The results of this consultation exercise will be reported for consideration by this Committee at your next meeting on the 24 November 2009. It will then go to full Council on 9 December 2009 for final approval.

## **3 Taxis**

### **3.1 Licences Issued and Notices Given**

- 3.1.1 Within the Licensing Authority's district there is currently a fleet of 222 (220)\* licensed Vehicles, 188 (177) of which are Hackney Carriages and 34 (43) are Private Hire Vehicles. There are 249 (242) licensed Hackney Carriage Drivers and 55 (73) Licensed Private Hire Drivers. There are also 17 (23) licensed Private Hire Operators.

\* Note the numbers in brackets are the figures from the previous update report.

### **3.2 Enforcement**

- 3.2.1 The Licensing Team has continued the education based enforcement and monitoring approach to the Hackney Carriage and Private Hire drivers and vehicles as we have used with the Licensing Act. Again close liaison is maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality are maintained.

- 3.2.2 Officers continue to plan and carryout enforcement operations within the district with the police and other partner agencies. Details of two recent operations follow below.
- 3.2.3 Exeter Airport - On Friday 12 June 2009 a multi agency operation took place at Exeter Airport to check that taxis and private hire vehicles were being operated legally.
- 3.2.4 Licensing officers from East Devon District Council together with their counterparts from Exeter City Council as well as officers from Customs and Excise, Department for Work and Pensions and the Devon and Cornwall Constabulary took part in the operation with positive results.
- 3.2.5 Over 30 vehicles were checked and inspected by the team at the airport from various taxi and private hire businesses throughout the southwest. These were mainly from the Exeter and East Devon area but also included vehicles from Newton Abbot, Sherborne, Torbay, Plymouth and Penzance.
- 3.2.6 All the vehicles with the exception of one were found to be operating lawfully with only two incidents relating to a minor breach of local conditions. No action was taken at the scene, but drivers were given advice.
- 3.2.7 One vehicle operating from outside of the district was found to be unlicensed. As a result the driver was given strong advice, and the passengers he had come to collect were taken home by a properly licensed East Devon taxi at the expense of the unlicensed operator. Details of the unlicensed operator have been passed to Plymouth City Council who are continuing enquiries.
- 3.2.8 Exmouth - On 2 July 2009 a multi agency operation took place at Camperdown Terrace Exmouth to check that taxis and private hire vehicles were being operated lawfully. These checks were in conjunction with a proms night for Exmouth College students taking place at the Exmouth Pavilions. Care was taken to minimise disruption to the evening with the vehicles being allowed to drop of their passengers at the venue before they were directed to the Council's Camperdown Terrace depot for the relevant checks.
- 3.2.9 Licensing officers from East Devon District Council as well as officers from the Vehicle and Operators Services Agency (VOSA), the Department of Work and Pensions, the Council's Revenues and Benefits Fraud Team and the Devon and Cornwall Constabulary took part in the operation again with very positive results.
- 3.2.10 The checks were aimed at the stretched limousine/novelty car industry which carry passengers for hire or reward, and should either be licensed by a local authority (for passengers up to 8 seats) or the Traffic Commissioners (for vehicles with 8 seats or more).
- 3.2.11 A total of 11 vehicles were inspected of various makes, including stretch limousines. Four were given immediate prohibitions and one stretch limousine was seized by the police and impounded. Investigations are on going into the use of two separate stretch limousines, from another authority area, both under 8 seats. Neither vehicle was licensed for the use they were being put. There were no detected offences by operators based in East Devon.

### 3.3 Hearings

- 3.3.1 There have been no hearings relating to Hackney Carriage and Private Hire licensing since the last report to committee on 9 June 2009.

Number of hearings held.		
	May 2009	0
	June 2009	0
	July 2009	0

### 3.4 Applications received

Applications for a Hackney Carriage Licence. (including transfers & vehicle changes)	May 2009	3
	June 2009	6
	July 2009	6
Applications for a Hackney Carriage Drivers Licence.	May 2009	1
	June 2009	3
	July 2009	2
Applications for a Private Hire Vehicle Licence.	May 2009	19
	June 2009	14
	July 2009	0
Applications for a Private Hire Vehicle Drivers Licence.	May 2009	37
	June 2009	12
	July 2009	0
Applications for a Private Hire Operators Licence.	May 2009	13
	June 2009	2
	July 2009	0

- 3.4.1 May is always a busy month as all Private Hire licences issued by the Council expire on the 31 May and the applications for renewal of these licences need to be processed before they expire. The next very busy period is late September and October as all the Hackney Carriage licences expire on the 31 October.

### 3.5 Taxi Rank Update

- 3.5.1 Seaton Taxi Ranks – In February 2005 following a very detailed consultation involving staff from the County Council the District Council's General Licensing Sub Committee agreed to the siting of 6 taxi spaces in Seaton in the following locations:

- (a) Fore Street 2 spaces.
- (b) Eyrecourt Road 2 spaces.
- (c) Queen Street 1 space just outside the existing loading bay.
- (d) Queen Street 1 space just above the HSBC bank to operate from 2100 hours to 0300 hours, Monday to Saturday only

- 3.5.2 As has been previously reported to Members there has been considerable delay in implementing these ranks in Seaton as the Council is in the hands of the Highways Authority (Devon County Council) to prepare the necessary traffic order and to mark out the ranks. Numerous attempts have been made by this Council to expedite the situation with little success. We have been regularly informed by Paul Wilson for the County Council that the legal work to prepare the traffic order was in hand and that work to have the ranks marked

out would start within a number of months. However on 2 September 2009 Mr Paul Wilson was again contacted by the licensing team in relation to the ranks at Seaton and yet again stated that the traffic order was still with the Solicitors to make the traffic order and he again stated that he hoped that all would be in place within a 3 month period.

- 3.5.3 It is understood that owing to the passage of time since the original approval of the location of these ranks in Seaton there is some controversy about the location of the proposed rank in Eyrecourt Road. This is despite full consultation on the issue in 2005. It is understood that Paul Wilson is still dealing with this issue and a report is awaited from him. In the meantime the Licensing Manager has requested that the introduction of the other approved ranks be expedited.
- 3.5.4 Honiton Taxi Rank – As reported in the last update report over the past ten years there have been a number of attempts by the District Council to identify a location for additional taxi spaces in Honiton. Unfortunately local resistance, much from some local businesses, has thwarted previous attempts. The town currently has only one rank accommodating only two vehicles at a time. This is far fewer spaces than other comparable sized towns would normally host. As a result, the distribution of ranks in the town is non-existent. Because there are insufficient spaces on the rank to accommodate all the taxis needed to service Honiton many taxis are forced to double park in the High Street, park in ordinary parking spaces or even to park on double yellow lines.
- 3.5.5 It was reported at your last meeting that the Licensing Service had carried out informal consultation in the Honiton area on a proposal put forward by the Highway Authority to locate an additional rank accommodating two taxis on the north side of the High Street approximately three-car lengths west of the High Street/Silver Street junction. This met with very strong local opposition.
- 3.5.6 Following the rejection of the proposal referred to in the last paragraph another solution has been identified with the help of the Town Council, market traders and Devon County Highways. The area proposed for the new rank is in the High Street near the Manor House and the Baptist Church. This rank if approved would create 7 new spaces. The intention is that the existing 2 hackney carriage rank, on the other side of the road would revert to normal parking, and be available for use for market stalls on market days. A consultation exercise has been completed and a report outlining the proposal is included within the agenda for the meeting on the 29 September 2009.
- 3.5.7 Exmouth - The Exmouth regeneration scheme consultation continues and there has been a meeting involving the local Exmouth Taxi Association and the Highway Authority to identify the best sites new taxi ranks within the new scheme as the Strand taxi rank will no longer be available. It is hoped that an agreement will be reached very soon which will give the taxi trade at least as many taxi rank spaces as they are giving up. However the spaces will be in various locations around the town centre and not in one block as they are now in the Strand. This consultation is ongoing, mainly, at this stage with Devon County Council, as the Highway Authority. As soon as there is agreement, the procedure to create the ranks under the Local Government (Misc. Provisions) Act 1976 will commence via a report to this Committee.

#### **4. Street Trading**

##### 4.1 Sidmouth

A total of sixty (60) street trading pitches were made available on the Esplanade during this year's Folk Festival. Once again a multi departmental team was used throughout the week that facilitated a successful and well received operation.

- 4.2 The new layout for the pitches on the Esplanade eased the pressure between performers and traders that had been

experienced during last year's festival. Some minor positional changes will be made before next year but it is not anticipated that the numbers will be changed.

#### 4.3 Seaton

On 18 June 2009 the Senior Licensing Officer attended a meeting chaired by Seaton Town Council to discuss the interim measures agreed by this Committee at its meeting on 9 June 2009. Also at the meeting were representatives of local charities. A report on this matter is included within the agenda for this meeting.

#### 4.4 **Enforcement**

- 4.4.1 In June complaints of a 'burger van' operating close to one of the nightclubs in Exmouth town centre were received through Environmental Health. Licensing Officers undertook a late night enforcement visit and secured the immediate cessation of the unauthorised trading and after providing the operator with suitable advice ensured that he left the area permanently.

### 5. **Consultations and Partnership Working**

#### 5.1 **Meeting between Members, Taxi Proprietors and Officers**

- 5.1.1 The next liaison meeting has been re-arranged for Monday 26 October 2009 at 1400 hours in the Council Chamber. The Committee's Chairman and Vice Chairman normally attend these meetings.

### 6 **Member Training & Development**

- 6.1 A training day for members of the Licensing and Enforcement Committee was held at the Council Offices in Sidmouth on Tuesday 14 July 2009. The event was facilitated by Jayne Foxley on behalf of the Public Health Legal Information Unit. A total of ten East Devon District Council members attended the day. On the 29 September attendance certificates will be distributed to those members who attended the day.

### 7. **Customer Service Excellence (Chartermark)**

- 7.1 As reported at the Committee's last meeting the Licensing Service has applied to be assessed for the Customer Service Excellence Standard formerly Chartermark. This is a government standard "which tests in great depth those areas that research has indicated are a priority for customers, with particular focus on delivery, timeliness, information, professionalism and staff attitude. Over the last few months we have been preparing our portfolio of evidence. Our final assessment has now been planned for 29 October 2009.

#### **Legal Implications**

There are no legal implications contained within the report.

#### **Financial Implications**

Street Trading income has increased from £6,400 in 2008 / 2009 to £7,500 to date in 2009 / 2010

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Licensing and Enforcement Committee  
29 September 2009

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