



**OPEN
LICENSING AND APPEALS COMMITTEE**

Licensing and Appeals Committee – 5 December 2023

LICENSING ACT 2003 AND GAMBLING ACT 2005 - ANNUAL UPDATE

Report of Director of Regulatory Services

Report Author and Contact Details

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Wards Affected

District Wide

Report Summary

This report provides a summary of the work relating specifically to the Licensing Act 2003 and the Gambling Act 2005, undertaken by the Licensing Team during the last financial year, and the previous two financial-year periods, to allow comparisons to be made.

The Committee is provided with details of compliance and enforcement work carried out in partnership with other statutory authorities, which contributes to the Licensing Service Plan Actions.

Recommendations

- 1) That the Licensing Team continues to work with other Responsible Authorities, where possible, when carrying out 20+ licensing awareness or compliance/enforcement visits to premises licensed for alcohol sales, gambling or scrap metal planned visits in the District by 31 March 2024.
- 2) That the Licensing Team continues to contribute to the work of the Community Safety Partnership's VAL (Violence Alcohol and Licensing) Group, and supports initiatives promoted by the Institute of Licensing and the Gambling Commission.

List of Appendices

None.

Background Papers

Licensing Software M3/ASSURE records. (2005 to present day)

Consideration of report by Council or other committee

No.

Council Approval Required

No.

Exempt from Press or Public

No

LICENSING ACT 2003 AND GAMBLING ACT 2005 - ANNUAL UPDATE

1. The Licensing Act 2003 ("the Act")

- 1.1 The Licensing Act 2003 established a single integrated scheme for licensing premises which are used for the sale or supply of alcohol, and/or to provide regulated entertainment and/or to provide late night refreshment.
- 1.2 Each year the District Council (in its role as the Licensing Authority) maintains in the region of 550 premises licences and club premises certificates; 1,300 personal licences; and on average (each calendar year) acknowledges 500 to 600 temporary event notices (TENs).

All of these authorisations permit one or more of the licensable activities under the provisions of the Licensing Act 2003.

- 1.3 Each year a number of new premises licences are granted and a small number are surrendered, as businesses close down or move premises. New licences are granted and existing licences varied for a number of reasons, which include the start-up of new businesses, a rise in the number of one-off events. eg: small music festivals, micro-breweries, themed/luxury bed and breakfast establishments, community shops in separate areas of existing licensed premises etc.
- 1.4 Whilst in 2020-21 we saw a reduction in the number of new licences being granted and an increase in the number of licences surrendered; due mainly to the Covid Pandemic, the numbers of licences being applied for subsequently have shown a gradual increase.
- 1.5 Annual Progress Reports

The first annual progress report was presented to this Committee in 2007, providing information about the numbers of alcohol, entertainment and late-night refreshment licence applications determined with effect from November 2005. Since 2007 an annual progress report has been submitted for the Committee's consideration.

- 1.6 The report is usually considered at the first meeting of each new civic year, and although it is being reported to a later meeting this year, the information supplied will only cover the period up until 31 March 2023.
- 1.7 Some entertainment that was regulated back in 2005 no longer needs licensing. For example the Live Music Act 2012 exempted the Licensing Act 2003 requirement for a licence for the provision of facilities for music, dancing, entertainment or anything similar, and amended the need for a licence for live and recorded music, dancing, the performance of plays and the exhibition of films during specific times, namely between the hours of 8am and 11pm; and at particular types of premises; usually in community premises or at those that are already licensed for the sale of alcohol.
- 1.8 This means that some alcohol licensed premises that require licensing for the sale of alcohol can provide some types of regulated entertainment between the hours of 8am and 11pm without the activity being included on the premises licence.

1.9 Licence applications made under the Licensing Act 2003 during the last 4 years:

Application Type	Number of Applications Processed			
	2019/20	2020/21	2021/22	2022/23
New Premises Licences/Club Premises Certificates (CPCs)	15	15	21	19
Transfers of Premises Licences/Club Premises Certificates	39	16	17	19
Variations (full)	8	2	5	6
Minor Variations	9	5	3	5
Variation of (DPS)	89	38	57	56
Removal of DPS Condition	0	0	0	0
New Personal Licences	61	39	35	23
Temporary Event Notices (TENs)	468	64	336	496
LATE Temporary Event Notices	169	27	113	118
Surrendered Premises Licences	8	3	2	9

1.10 Applications for Minor Variation to Premises Licences

In October 2009, the Minor Variation application process was introduced into the Licensing Act 2003. This allowed proprietors/operators to make small changes to their premises licences, as long as the proposed changes would not undermine the licensing objectives specified in the legislation.

Examples of permitted changes under this process include:

- Minor changes to the structure or layout of premises;
- Small adjustments to licensing hours;
- Conditions: removal of out-of-date, irrelevant or unenforceable conditions; or the volunteering of additional/revised conditions;
- Licensable activities: adding certain licensable activities.

1.11 When this procedure was introduced, the Government recommended that the decision making for Minor Variation applications should be delegated to officer level. There is also no provision for hearings to be held to determine these applications. If relevant objections are received the applications are refused.

The Director of Regulatory Services and the Licensing Manager are both delegated to determine applications for Minor Variations.

1.12 The Minor Variation applications determined by Officers under delegated powers between 1st April 2021 and 31st March 2022 and 1st April 2022 and 31st March 2023 were as follows:

2022 – 2023	Premises	Minor Variation
17/03/2023	The Co-Operative Food, Station Road, Darley Dale, Derbyshire, DE4 2EQ.	Change of internal layout.
23/11/2022	Grouse Inn, Dale Road North, Darley Dale, Derbyshire, DE4 2FT.	Update the Premises Plan to reflect changes to internal layout.
26/10/2022	The Co-Operative Food, Market Street, Bakewell, Derbyshire, DE45 1DS.	Variation to incorporate the cafe area and minor changes to the checkout and retail layout as shown in plan no 21-011-w19 dated August 2022.
15/09/2022	Youngs of Youlgrave, Stores And Post Office, Church Street, Youlgrave, Derbyshire, DE45 1UR.	Update the Premises Plan to reflect changes to internal layout.
04/08/2022	Peakender Festival, The Showground, Agricultural Way, Bakewell, Derbyshire.	To alter the wording in respect of the Premises Plan. Plan to be supplied each year with the Event Safety Management Plan.
09/11/2021	The Cavendish Arms, Derby Road, Doveridge, Derbyshire, DE6 5JR.	Remove condition (c) under the Prevention of Children From Harm obj & replace with "Accompanied children to leave the premises by 9.00 or, if after this time, at the conclusion of a seated meal when the bill has been paid.
26/8/2021	George Hotel, Main Road, Hathersage, Derbyshire, S32 1BB.	layout to the ground floor of the premises, drawing number 4558-07-01 Revision C
07/04/2021	The Red Lion, Rutland Square, Bakewell, Derbyshire, DE45 1BT.	To update the premises plan to reflect a change of internal layout.

1.13 Licensing and Appeals Sub-Committee Hearings

During the financial year 2022-2023 one application for a premises licence and one for a Temporary Event Notice (TEN) were referred to the Licensing and Appeals Sub-Committee, following receipt of objections.

The premises licence application sought permission to permit the Rosa Music Festival to take place annually in Middleton-by-Youlgrave in the north of the district. The Licensing and Appeals Sub-Committee granted with additional conditions attached.

The Temporary Event Notice (TEN) was for a music event in a marquee in Bonsall; The Licensing and Appeals Sub-Committee resolved that the Licensing Manager would issue a Counter-Notice, negating the Temporary Event Notice, which meant that the event was not authorised. The Sub-Committee supported the concerns of the Council's Environmental Health Service, as several events had taken place previously at the same location, resulting in noise complaints on more than one occasion.

1.14 Working with Partners

The Licensing Team continues to work closely with the other agencies with responsibility for dealing with applications for licensing eg through the Safer Derbyshire (Community Safety) Partnership VAL Group (**V**iolence, **A**lcohol and **L**icensing).

1.15 As a general rule, throughout the year, visits to licensed premises are carried out jointly, where appropriate, with officers from the Police, Environmental Health, Fire Service and Trading Standards Authorities. Where problems exist or there is the potential for problems, measures to deal with these are agreed by officers and negotiated with the licence holder.

1.16 During 2022-2023 a total of 23 visits were made to alcohol-licensed premises. The visits related mainly to a very small number of alcohol-licensed premises with on-going issues, so some repeat visits were required.

However, some of the visits were also made were to open-air sites across the district due to an increase in the number of site visits needed in respect of local music/food festivals and similar outdoor events, some taking place for the first time.

1.17 The Gambling Act 2005 (“the Act”)

Local licensing authorities have regulatory obligations under the Gambling Act 2005 for licensing gambling premises and issuing permits and permissions.

The Gambling Commission works closely with licensing authorities and other regulatory partners on joint initiatives and provides support through training, advice and publications. The Commission has developed toolkits, application forms, returns forms, codes of practice, guidance, and a monthly Bulletin, to help Licensing Authorities carry out their regulatory responsibilities around gambling.

1.18 Local Gambling-related Activity

The following numbers of premises in Derbyshire Dales are currently licensed under the 2005 Act:

- 1 Adult Gaming Centre (Matlock Bath)
- 2 Bookmakers (Betting Shops)
- 4 Family Entertainment Centres (Matlock Bath)
- 1 Occasional Use Notice (Pikehall Harness Racing)
- 180 (approx) Small Society Lotteries.

1.19 Licensing Statistics

Regulatory Services Service Plan -

A target of 20+ visits to licensed premises during 2023-2024 has been agreed and published in the Regulatory Services Service Plan. It is proposed that some of these will be made as joint visits with partners where resources permit. In the main these will be to alcohol-licensed premises and to gambling premises.

1.20 Licensing Authority Statistics Published by Gambling Commission

Licensing authorities (LAs) have a statutory duty to provide the Gambling Commission with specific information about gambling regulation in their area. The Commission collates and analyses the information to help Licensing Authorities, and the Government, understand the local and national landscape of gambling regulation.

Every September, the Commission publishes the licensing authority statistics for all authorities in England and Wales. The statistics for 2022-2023 have been delayed and are awaited.

1.21 Alcohol and late Night Refreshment Licensing Statistics Published by the Home Office

The Home Office asked all licensing authorities in England and Wales to complete a statistical return for the year 2021/22 to enable them to produce the Alcohol and Late Night Refreshment Licensing 2021/22 statistical release.

The data will now be collected every other year and the length of the questionnaire has been reduced. This should reduce the burden on licensing authorities while continuing to ensure the headline data series is available for comparison between authorities/areas.

The next return is not expected before the end of the financial year 2023-24.

2. **Financial and Resource Implications**

2.1 The direct costs and income of administering the Licensing Act 2003 and the Gambling Act 2005 during the last 3 financial years, are shown in the following table:

Licensed Premises	2020/21 Actual £	2021/22 Actual £	2022/23 Budget £
Direct Costs	89,646	88,296	107,350
Support Services	30,480	30,021	36,499
Total Income	-100,607	-131,752	-121,858
Net Cost / (Income)	19,519	-13,435	21,991

NB: Support services are no longer allocated directly to services. Support service costs have been applied as a proportion of direct costs using a multiplier of 34% (based on 2016/17 actuals when more detailed records were maintained).

The costs of implementing the recommendations made in this report can be met from the existing budget and therefore the financial risk is assessed as low.

3. Legal Advice and Implications

- 3.1 It is the duty of the Council to licence and monitor gambling and licensable activities in the District.
- 3.2 This report provides the Committee with information on how the Council is continuing to implement the Licensing Act 2003 and the Gambling Act 2005 in practical terms.
- 3.3 This report shows that practical steps are taken to make sure premises are complying with the relevant legislation and the risk to the council of a legal challenge due to its licensing functions is relatively low.

4. Equalities Implications

- 4.1 No direct impact.

5. Climate Change Implications

- 5.1 No direct impact.

6. Risk Management

- 6.1 The District Council has a statutory responsibility for the regulation of alcohol, entertainment, late night refreshment and gambling activities.

Report Authorisation

Approvals obtained from:

	Named Officer	Date
Chief Executive	Paul Wilson	27/11/2023
Director of Resources/ S.151 Officer	Karen Henriksen	23/11/2023
Monitoring Officer	Helen Mitchell	23/11/2023