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Please Note: this meeting will take place at Phoenix House and members of the Public and Press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms

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MID DEVON DISTRICT COUNCIL

LICENSING COMMITTEE

A MEETING of the **LICENSING COMMITTEE** will be held in the Phoenix Chambers, Phoenix House, Tiverton on Friday, 30 June 2023 at 10.30 am

STEPHEN WALFORD

Chief Executive
22 June 2023

Councillors: C Adcock, D Broom, J Cairney, S Chenore, L J Cruwys, A Cuddy, J M Downes, M Farrell, J Frost, L G J Kennedy, P Colthorpe and G Westcott

A G E N D A

MEMBES ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE

- 1 **ELECTION OF CHAIRMAN**
To elect a Chairman of the Licensing Committee for the municipal year 2023/2024.
- 2 **ELECTION OF VICE CHAIRMAN**
To elect a Vice Chairman of the Licensing Committee for the municipal year 2023/2024.
- 3 **START TIME OF MEETINGS**
To agree a start time for the Licensing Committee for the municipal year 2023/2024.
- 4 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of Substitute Members (if any).

- 5 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**
To record any interests on agenda matters.
- 6 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the agenda from members of the public and replies thereto.
- Note: A maximum of 30 minutes is allowed for this item.
- 7 **MINUTES OF THE PREVIOUS MEETING** *(Pages 3 - 6)*
To consider whether to approve the minutes as a correct record of the meeting held on 27 October 2022.
- 8 **SERVICE UPDATE** *(Pages 7 - 12)*
To receive an update from the Corporate Manager for Public Health, Regulation and Housing.

Meeting Information

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Teams.

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

Please note that a reasonable amount of hardcopies at the meeting will be available, however this is a limited number. If you are attending the meeting and would like a hardcopy of the agenda we encourage that you notify Member Services in advance of the meeting to ensure that a hardcopy is available. Otherwise, copies of the agenda can be found on our website.

If you would like a copy of the Agenda in another format (for example in large print) please contact Angie Howell on: E-Mail: ahowell@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **LICENSING COMMITTEE** held on 27 October 2022 at 10.30 am

Present

Councillors

J Cairney (Chairman)
J Bartlett, Mrs F J Colthorpe, D R Coren,
J M Downes, Miss J Norton, Mrs E J Slade
and A Wilce

Apologies

Councillor(s)

D J Knowles, D F Pugsley and L D Taylor

Also Present

Officer(s):

Maria De Leiburne (District Solicitor and Monitoring Officer), Deborah Sharpley (Solicitor), Carole Oliphant (Member Services Officer) and Jessica Rowe (Member Services Apprentice)

8 **APOLOGIES AND SUBSTITUTE MEMBERS (02.46)**

Apologies were received from Cllrs D J Knowles, L D Taylor and D F Pugsley

9 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (03.09)**

Members were reminded of the need to make declarations where appropriate

10 **PUBLIC QUESTION TIME (3.17)**

The following questions were read out by the Chairman:

Questions for Licensing Committee, 27 October 2022 from Nick Quinn (Local Resident)

My questions concern: Agenda Item 5 – Remote Licencing Hearings.

I think the recommendation in the report seems a bit “Cart before the Horse”. You should consider whether you are in a position to implement it fully.

The Legal Implications are confusing saying: “Remote hearings are permitted under the language of the Regulations and Act”, then continuing with: “The Regulations are silent on the subject of remote hearings”.

Prior to the pandemic, ALL legislation was silent on remote meetings. New Legislation had to be passed to allow them.

That Legislation has expired and there is now no specific legal permission for remote licensing hearings.

Your Regulations require you to set a place at which the hearing is to be held and the High Court has ruled that the term “place” in Local Government Legislation means a physical location.

So, with the High Court ruling on “place”, and without specific legislated permission, there is some risk in agreeing to restart remote (virtual) hearings.

Also, procedures that were accepted when travel was legally restricted, may no longer be. You should have new procedures in place, specifically tailored for remote hearings, before making any resolution for their re-introduction.

Questions:

Q1. Are you prepared to risk remote (virtual) hearings, against the High Court ruling on “place” and without specific, legislated, permission?

Q2. Have you agreed criteria that you would use to assess whether a remote hearing is appropriate - for ALL parties, including the public?

Q3. Have you agreed procedures to conduct a remote hearing and to implement all the provisions in the current legislation?

Q4. Have you agreed procedures to cover any problems arising from the technology, or the participants, during a remote hearing?

The Chairman confirmed that the questions would be answered when the item was discussed.

11 **MINUTES (06.54)**

The minutes of the meeting held on 26th August 2022 were agreed as a true record and duly **SIGNED** by the Chairman

12 **REMOTE LICENSING HEARINGS (07.26)**

The Committee had before it a *report from the District Solicitor and Monitoring Officer detailing the proceedings of the Licensing Committee when discharging the Council’s licensing functions under the Licensing Act 2003.

Consideration was given to:

- Interpretation of the word ‘place’
- Specific geographical locations as opposed to remote/online locations
- High Court decision in both R (Hertfordshire CC) v SSHLG cases
- Licensing Hearings were conducted under the Licensing Act 2003 and not the Local Government Act 1972 which detailed Council Meetings
- A meeting was not the same as a hearing
- A motion passed at Council 26.10.2022 would mean that any decision made by the Committee at this meeting would be referred to the Standards Committee with regard to remote hearings
- The views of a Member who felt that any remote licensing hearings would be unlawful

- The advice of the District Solicitor and Monitoring Officer that holding remote licensing hearings was a decision for the Local Authority based on the LLG/ADSO advice that “*The matter remains untested, and we would advocate a risk-based approach determined by individual local authorities in light of their own circumstances.*”
- The views of Members that the option to hold remote Licensing Hearings in specific circumstances would be a valuable tool

It was therefore **RESOLVED** that:

Licensing hearings under the Licensing Act 2003 would continue to be held remotely (virtually) when considered appropriate to do so.

(Proposed by the Chairman)

In response to public questions asked the District Solicitor and Monitoring Officer confirmed:

- Q1 - Answered during the Licensing Committee
- Q2 - Common sense approach – bearing in mind all of the circumstances including:
 - internet facilities,
 - familiarity with communication platforms,
 - equality and inclusion under the Equality Act 2010

Each case to be reviewed on an individual basis by Licensing Team and Member Services (with assistance from Legal Services, if required)

- Q3 - Continue to use Zoom and the Licensing Hearings Protocol will be used to facilitate the meeting
- Q4 - The initial assessment will assist to identify any issues with technology etc. in advance and lead to an in-person hearing.

With Zoom there are ways to trouble-shoot issues and try to resolve e.g. if video goes down, dialling in on a mobile instead.

If any issues could not be resolved and/or something occurred during a hearing that prevented participation or the ability to put forward any representations then the hearing would need to be stopped and re-scheduled.

Notes:

- *Report previously circulated and attached to the minutes
- Cllr A Wilce requested that his vote against the decision be recorded

(The meeting ended at 11.22 am)

CHAIRMAN



Report for: Licensing Committee

Date of Meeting:	30 June 2023
Subject:	Licensing Update Report
Cabinet Member:	Cllr David Wulff Cabinet Member for Community & Leisure
Responsible Officer:	Simon Newcombe Corporate Manager for Public Health, Regulation and Housing
Exempt:	No
Wards Affected:	All wards
Enclosures:	None

Section 1 – Summary and Recommendation(s)

To provide the Committee with an update on Licensing Act activity undertaken by the Licensing Team.

Recommendation(s):

- 1. To note the contents of the report**
- 2. To provide feedback on the report and the type of information the Committee would like to be included going forward**

Section 2 – Report

1 Introduction

1.1 This report provides an outline of the functions covered by the Licensing Committee in relation to the Licensing Act 2003 and the Gambling Act 2005. It also provides an overview of the activity carried out by the licensing team in respect of the following: regulated entertainment, late night refreshment, gambling and all aspects of alcohol licensing.

2 Service Delivery

2.1 Contextual data

2.1.1 The Licensing team is responsible for issuing a range of premises licences and personal licences under the Licensing Act 2003, this is broken down as below:

Type of Licence	Total active	Issued 2022-2023	Surrendered or suspended
<i>Personal Licence</i>	1396	64	11
<i>Premises With alcohol</i>	310	73 (new or amended)	14
<i>Premises with no alcohol</i>	62	3	1
<i>Club premises</i>	37	8	0

2.1.2 Mid Devon currently has 409 premises licensed under the licensing Act. A review of historic data shows that the total number of Licenced premises with alcohol within the district has increased by 8.4% since 2018. The Licensing Service dealt with applications from 23.5% of the licensed premises within the district in the previous year, this will include minor and full variations.

2.1.3 A Temporary Event Notice (TEN) is a notification given by an individual to the Licensing Authority where it is proposed to use a premises for one or more licensable activities during a period not exceeding 168 hours. They can be used to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time.

2.1.4 The number of Temporary Event Notices (TEN) issued within the last financial year:

Temporary Event Notices	Standard TEN	Late TEN
With alcohol	295 (12 amended or withdrawn)	57 (mostly Mid Devon show)
No alcohol	10	1

2.1.5 We receive a large number of TENS for some of the larger scale events, providing multiple TENS, for example Mid Devon Show. Discussions are being had with these event organisers to encourage applications for Premises Licences for such events. This will remove the reliance on TENS and provide more control of the events through Licence conditions.

2.1.6 Mid Devon has the following licences under the Gambling Act 2005:

Type of permit/Licence	Number active within District
Adult Gaming centres	2
Betting premises	4
Gaming machine permit	3
Club gaming permit	2
Club machine permit	4
Licensed premises gaming permit	3
Gambling machine notifications	74
Small society lotteries	70

2.2 Inspections

2.2.1 The Licensing Officers have conducted 35 licensed premises inspection with a purpose of determining if premises are in compliance with Licence conditions. A risk rating is applied to premises to identify those that are a priority for inspection. 10 of these inspections were carried out jointly with Devon and Cornwall police, where information and intelligence suggested that there was a non-compliance with Licence conditions.

2.3 Speed of processing and determination of applications

2.3.1 The Licensing Service ensures effective consultation on all applications received and is focused on determining applications within the legislative deadlines. All applications were determined within the deadlines over the last financial year.

3.0 Enforcement and Hearings

3.1 Hearings

3.1.1 There has been one premises licence application considered during 2022/23 by the Licencing Sub-committee. This related to Smeatharpe stadium and the retail sale of alcohol. The outcome of hearing resulted in the licence being granted with conditions.

3.2 Mediation

3.2.1 The Service provides a mediation function, recognising that through liaising between applicants and interested parties, a number of applications can be dealt with through delegated authority rather than needing to be scheduled at a Licensing Sub-Committee. This is resource intensive for the Licensing Service but results in a reduced number of cases going to Sub-Committees and therefore reduces the cost and speeds up the process for these applicants.

3.3 Enforcement

3.3.1 No formal enforcement action was recorded during the last year. Officers apply a graduated approach to enforcement, initially working to resolve issues of non-compliance informally.

4.0 Annual Fee Retrieval

- 4.1 Licensed premises are subject to an annual fee, determined by their rateable value, with fees set by central government. Some premises have historically not paid their annual fees, for reasons such as closure. The Licensing Team have been collecting historic debt for unpaid annual fees which has resulted in £16,000 of income for the service.
- 4.2 An additional outcome of this piece of work has been the cleansing of historic data and some licences have been suspended through this process.

5.0 Legislative and Policy updates

5.1 Review of Statement of Licensing Policy

- 5.1.1 The Act requires that Licensing Authorities publish a Statement of Licensing Policy for their area to guide them when considering licence applications and controlling licensed premises. Licensing authorities are required to review their statements of Licensing Policy every 5 years. The 5th review of the Mid Devon District Council statement of licensing policy will be carried out autumn 2023, with a view to consultation at the end of 2023 and ready for adoption in 2024.

5.2 Martyn's law

- 5.2.1 'Martyn's Law' is a tribute to Martyn Hett who was killed alongside 21 others in the Manchester Arena terrorist attack in 2017.
- 5.2.2 The Terrorism (Protection of Premises) Bill sets out the requirements that, under 'Martyn's Law', venues and other organisations will have to meet to ensure public safety. This will place a requirement on those responsible for licensed venues to consider the threat from terrorism and implement appropriate and proportionate mitigation measures. The draft bill will be subject to pre-legislative scrutiny by the Home Affairs Select Committee ahead of formal introduction.
- 5.2.4 Which regulatory body will enforce the legislation is still to be determined, however, Licensing will likely be required to play a key role in working with Licensed Premises when the legislation comes into force with a tiered approach being introduced for certain locations depending on the capacity of the venue or event; standard tier will be capacity 100-799 and enhanced 800+. Below 100 will be supported by generic guidance and training materials.

5.3 Regulatory easements

- 5.3.1 The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2022, came into effect on 29 September, extending the off-sales provision of the Business and Planning Act 2020 (modification of premises licences to authorise off-sales for limited period) until 30 September 2023. The modifications provide automatic extensions of premises licences that only permit sales of alcohol for consumption on the premises ("on-sales") to allow sales of alcohol for consumption off the premises ("off-sales").

5.4 Levelling up and regeneration bill

5.4.1 In July 2020, the Business and Planning Act 2020 introduced a new pavement licence scheme so that operators of businesses selling food and drink could apply for authorisation to put removable furniture such as tables and chairs on the highway, in front of or adjacent to their premises for consumption of food and drink outside their premises to aid social distancing. The Levelling Up and Regeneration Bill will make pavement licensing the permanent licensing regime for outside consumption and the placement of furniture on the highway. This is now at the final stage in the House of Lords.

5.5 White Paper - High stakes: gambling reform for the digital age

5.5.1 Measures in this white paper are designed to increase existing protections against gambling-related harm.

Financial Implications: All licences for the areas mentioned above have a charge associated with them. The income from the licences is used to offset the running of the service. The service is not self-funding as the Licensing Act and Gambling Act fees are set at a national level and have not been increased for many years therefore do not fully cover costs. Where possible the fee income is used to reduce the contribution of the general fund to the running of the service.

Legal Implications: There are various regulations that govern the range of applications administered by the licensing team. These detail a range of duties and statutory deadlines, as well as policy and procedural requirements.

Risk Assessment: Provision of the licensing service is a statutory obligation. If resources for the team are not available there is a risk that the council is unable to meet its statutory duties in relation to licensed activities. This would put the health and safety of residents at risk if they accessed a service that did not meet licensing standards.

Impact on Climate Change: There is no direct impact on climate change as a result of this report.

Equalities Impact Assessment: An equality impact assessment is not required in respect of this update report.

Relationship to Corporate Plan: This report links directly to the Licensing Authority functions of the Council with the primary aim of protecting public safety and ensuring the well-being of our community and licensed service users. It therefore contributes to the priority of Community within the Corporate Plan.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 20 Jun 2023

Statutory Officer: Maria de Leiburne

Agreed on behalf of the Monitoring Officer

Date: 20 Jun 2023

Chief Officer: Simon Newcombe

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 19 June 2023

Performance and risk:

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 20 June 2023

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact:

Name: Harriet Said - Commercial Team Leader, Public Health and Housing Options

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Name: Tanya Wenham - Operations Manager for Public Health and Housing Options

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Telephone: 01884 244610

Background papers: None