

Taunton Deane Borough Council

Licensing Committee – 16 November 2016

Licensing Update Report

This matter is the responsibility of Executive Councillor Patrick Berry

Report Author : John Rendell, Licensing Manager

1 Executive Summary

- 1.1 This report provides an update on the activities of the council's licensing service, changes to legislation, current consultations and other general licensing matters.

2 Recommendations

- 2.1 That the report be noted.

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
If the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council's Corporate Strategy	4	4	16
Demonstrating good governance of the licensing function through presentation of current arrangements and statistics relating to the licensing service.	3	4	12

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

Performance of the service

- 4.1 The performance of the licensing service is measured against the number of applications that are completed within 14 days of them having been determined i.e. the licence is issued after a decision as to whether to grant the licence or not, has been reached. The target for the service is that, for all applications that are completed within a set quarter, 95% must be completed within 14 days of them being determined.
- 4.2 96% of all applications completed between the 1st of July and 30th of September 2016 were completed within the 14 day timescale. Although there have been steady improvements in the performance of the service over the last year, this is the first time that the performance target has been achieved in over 15 months.

Applications received and licences in force

- 4.3 The numbers of applications received for each of the regimes administered by the licensing service, between July and September 2016, are shown in comparison with those received for the period in the preceding two years at **Appendix A**. The numbers of licenses in force and notices given as of the 2 November 2016 are shown at **Appendix B**.

- 4.4 Across the board, application numbers remain broadly similar when compared with 2014 and 2015, except that there has been a noticeable increase in the number of charitable collection permits applied for during the period; up by 59%, when compared with 2015.
- 4.5 This is, in part, due to applications made by young people taking part in the National Citizen Service (NCS); a scheme open to 16 to 17 year olds during the Spring, Summer and Autumn. It involves participants spending time away from home, followed by them embarking on a team community project where they must develop a social action plan to deal with a local issue they're passionate about. To complete the scheme, they then spend 30 hours putting the project into action in their community. Some of the young people who live in Taunton Deane that have taken part have chosen to fund raise for charity and applying for a street collection permit in order to collect money in the street has been a necessary step in completing their project.

Service requests

- 4.6 Also shown at **Appendix A** are the numbers of service requests received between April and June 2016, compared with the previous two years.
- 4.7 Generally speaking, there are more service requests recorded after 2015, due to improved record keeping. However, there has been a marked increase over the last quarter due in part to reports of hackney carriage/private hire vehicle drivers operating in Bristol. These account for 8 of the 45 service requests record in the last quarter (18%). 4 of those 8 investigations are ongoing. A full update on the work of the team to reduce the number of out of area drivers has been provided at paragraph 4.13.
- 4.8 Complaints against licensed hackney carriage and private hire vehicles and drivers, in general, account for 30 of the 45 service requests (67%).

Staffing

- 4.9 After almost ten years of service, Licensing Officer Olivia Denis left the team on the 5th of October. During her time at Taunton Deane, Olivia dealt with around 4600 applications, went on over 640 inspections and carried out around 230 investigations into complaints made against licensed premises, persons and vehicles.
- 4.10 Licensing Assistant Sally Atfield is set to leave the team in December. Sally has been with Licensing on a temporary contract since February 2015, having initially been brought into clear the backlog and improve customer service.
- 4.11 Approval to recruit permanent replacements for both Olivia and Sally was obtained from Executive Councillor Patrick Berry and Assistant Director for Operational Delivery, Chris Hall, in accordance with Council policy and at the time of writing this report, the vacancies are being advertised. The closing date for applications is the 17th of November. It is hoped that an appointment can be made by mid-December.

Unmet demand survey update

- 4.12 At the meeting of the Licensing Committee on 2 March 2016, members approved a proposal to commission a hackney carriage unmet demand survey.
- 4.13 Since the update within the last Licensing Committee report, CTS Traffic was successfully appointed to carry out the survey and at the time of writing this report, certain elements of the survey, which includes the videoing of the taxi ranks, has already

been completed. There are consultations to licensed drivers, stakeholders (as recommended within the Department for Transport's best practice guidance) and an 'on the ground' survey of members of the public, to follow.

Out of area hackney carriage and private hire drivers

- 4.14 Within the last update report presented to the Licensing Committee, it was reported that officers had revoked hackney carriage and private hire vehicle driver licences from four separate men, who were suspected to be working regularly in Bristol. This is at odds with the Councils policy for drivers who live outside of the district.
- 4.15 In the case of one such driver, Mr Abdo Al Arab; not only could he not evidence that he was regularly working within the Taunton Deane district, he also gave a false address on one of his applications. Mr Abdo Al Arab chose to appeal the decision to revoke his licence and the matter was heard at Taunton Magistrates' Court on the 19th of October 2016. The decision made by the Magistrates was to uphold the Councils decision to revoke Mr Al Arab's licence and they awarded the Council £300 in costs. A press release was sent to the Somerset County Gazette and Wellington Weekly News and officers were pleased to note that both newspapers gave the story prominent coverage, publishing the full release.
- 4.16 There are currently 20 individuals registered to Bristol addresses that still hold driver licences, which is 10 less since the last report to the Licensing Committee. There are six ongoing service requests/investigations into complaints which relate to individual drivers within the 20 referred to above.

Changes to licensing as a consequence of the Immigration Act 2016

- 4.17 The Immigration Act 2016, which commences on the 1st of December 2016, amends existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle and taxi sector.
- 4.18 From the commencement date, the provisions in the 2016 Act mandate all licensing authorities not to issue licences to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from holding such a licence. This is to be achieved by carrying out certain immigration checks when a person applies for the grant or renewal of a driver licence; namely the checking of their identification, such as a birth certificate, passport and for those born overseas, their biometric residency permit or similar.
- 4.19 Officers attended a Home Office training session held at Deane House on the 31st of October, where they were briefed on the changes and given practical demonstrations in how to determine if identity documents have been forged or counterfeited, using real forged and counterfeit passports, residency permits and driving licences.
- 4.20 The provisions within the Act also add immigration offences and penalties to the list of grounds on which a driver and operator licence may be suspended or revoked by licensing authorities. In circumstances where the driver or operator licence expires, is revoked or suspended on immigration grounds, it must be returned to the issuing licence authority. Failure to return the licence will be a criminal offence, punishable on conviction in a Magistrates' Court by a fine of up to £1,000, plus £10 for each day that the licence is not returned after conviction.

5 Links to Corporate Aims / Priorities

- 5.1 The licensing service is committed to helping businesses and individuals to comply with all relevant legislation, in order to support new and existing businesses and enable cultural and leisure activities, thereby supporting the Council's growth agenda.

6 Finance / Resource Implications

- 6.1 The changes to the licensing regime for hackney carriage and private hire vehicle drivers, as a consequence of the Immigration Act 2016 as explained within paragraphs 4.17 to 4.20, will have an impact on the resources of the Licensing service, since it will take longer than the current face to face meeting with the applicant, to establish the validity of any identification document presented and whether the applicant has the right to live and work in the UK.
- 6.2 That being said, the service is able to recover all reasonable costs associated with the administration of an application for the grant or renewal of a hackney carriage/private hire vehicle drivers licence, such as the time a Licensing Officer spends interviewing an applicant and checking their identification. In this instance, the application fee is to be adjusted to ensure that the additional cost to the service is recovered and there is not a detrimental impact on the Council general fund.
- 6.3 The Council is able to set discretionary fees for a number of different licensing regimes in order to recover reasonable costs, as explained above. These reasonable costs includes staff salaries and as above, the calculation of licence fees has taken into account the staffing changes explained at paragraph 4.11 to ensure that there is not a detrimental impact on the Council general fund.

7 Legal Implications (if any)

- 7.1 As explained within paragraphs 4.17 to 4.20, the commencement of the Immigration Act 2016 on the 1st of December 2016, will place a legal duty on the Council to not issue hackney carriage/private hire vehicle drivers licences to individuals who do not have the right to live and work in the UK.

8 Environmental Impact Implications (if any)

- 8.1 There are no specific environmental impact implications identified as a result of this report.

9 Safeguarding and/or Community Safety Implications (if any)

- 9.1 The four licensing objectives under the Licensing Act 2003 are:
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm

With the addition of securing the welfare of animals, these are the main aims of the Licensing Service. The continued work of the service to achieve and promote these aims, further supports the role of the Council in ensuring community safety.

10 Equality and Diversity Implications (if any)

- 10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:
- Eliminate discrimination, harassment, victimisation;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2 The changes to the licensing regime for hackney carriage and private hire vehicle drivers, as a consequence of the Immigration Act 2016, explained within paragraphs 4.17 to 4.20, are to be applied to all individuals that apply for the grant or renewal of a hackney carriage/private hire vehicle drivers licence, irrespective of their race, nationality or country of birth (including those born within the UK).
- 10.3 No other equality and diversity implications were identified.
- 11 Social Value Implications** (if any)
- 11.1 No social value implications have been identified.
- 12 Partnership Implications** (if any)
- 12.1 No partnership implications were identified.
- 13 Health and Wellbeing Implications** (if any)
- 13.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.
- 14 Asset Management Implications** (if any)
- 14.1 No asset management implications were identified.
- 15 Consultation Implications** (if any)
- 15.1 Members of the taxi and private hire trade are to be briefed on the changes to their licensing regime as a result of the Immigration Act 2016 at the next meeting of the trade forum, to be held on the 24th of the November, with the minutes of the meeting to be circulated subsequently via email to all licensed drivers.
- 16 Scrutiny Comments**
- 16.1 There are no scrutiny comments or recommendations.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**

- Cabinet/Executive – No

- Full Council – No

Reporting Frequency : Once only Ad-hoc Quarterly

Twice-yearly Annually

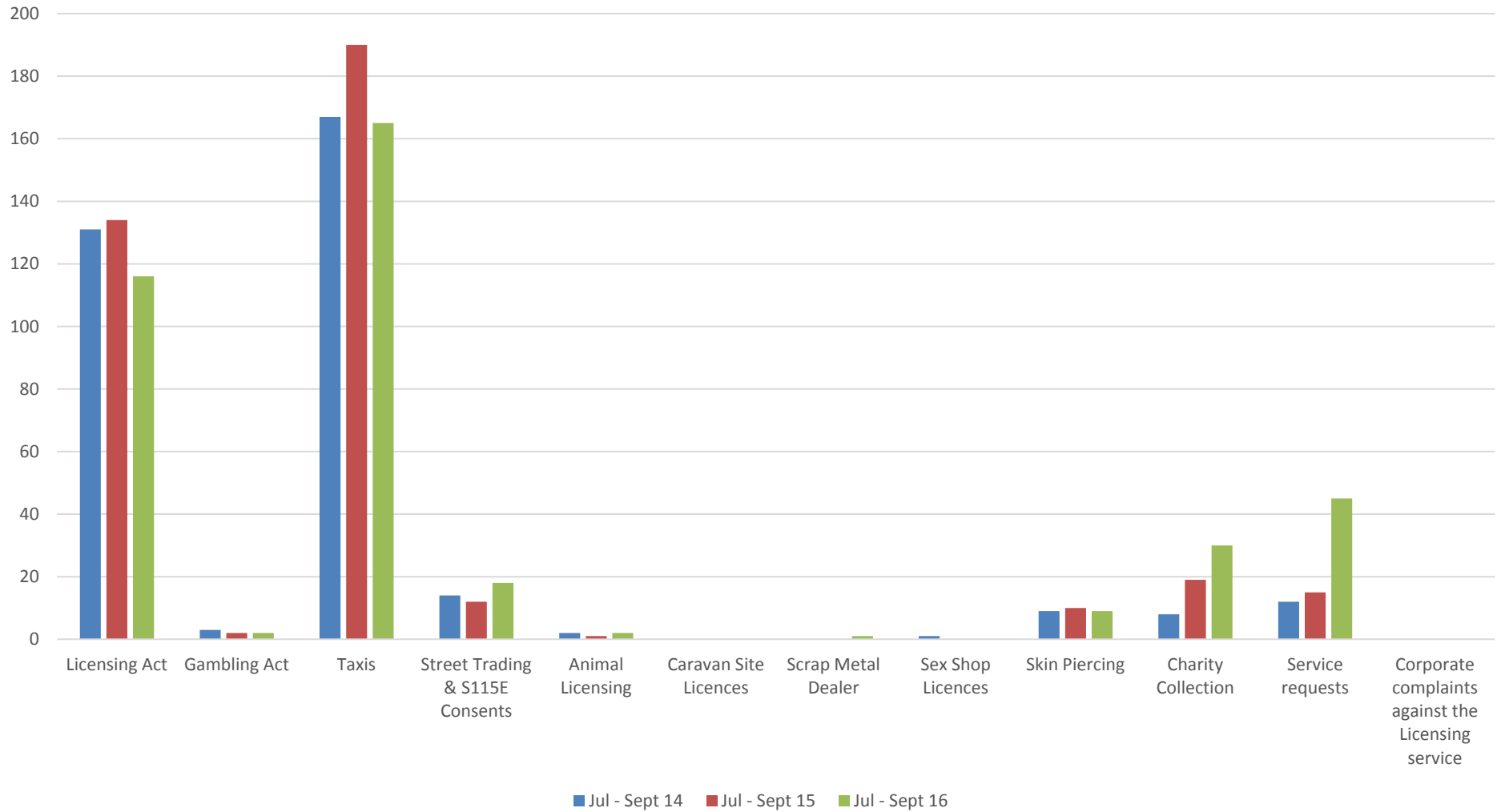
List of Appendices

Appendix A	Applications received, notices given, service requests and complaints
Appendix B	Licences issued and notices given

Contact Officers

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Applications Received, Notices Given, Service Requests and Complaints



Licences Issued and Notices Given

These figures show the number of licences in force at the 2nd November 2016 and the number of notices given since commencement of the relevant legislation

Licensing Act 2003 Premises Licences	404
Licensing Act 2003 Club Premises Certificates	29
Licensing Act 2003 Personal Licences	1387
Licensing Act 2003 Temporary Event Notices	3510
Gambling Act 2005 Club Machine Permit	6
Gambling Act 2005 Licensed Premises Gaming Machine Permits	10
Gambling Act 2005 Occasional Use Notices	40
Gambling Act 2005 Premises Licences	16
Gambling Act 2005 Prize Gaming Permits	0
Gambling Act 2005 Society Lotteries	109
Gambling Act 2005 Temporary Use Notices	0
Gambling Act 2005 Unlicensed Family Entertainment Centres	4
Gambling Act 2005 Notification of 2 or less Gaming Machines	63
Hackney Carriages	197
Private Hire Vehicles	38
Hackney Carriage & Private Hire Drivers	259
Private Hire Operators	15
Street Trading Consents	20
Section 115E (Pavement Café) Permits	5
Zoo Licences	0
Pet Shop Licences	3
Dog Breeding Licence	4
Animal Boarding Licence	21
Riding Establishment Licences	10
Dangerous Wild Animal Licences	0
Caravan Site Licences	42
Scrap Metal Dealer licence	18
Sex Shop Licences	1
Skin Piercing Registrations	266
Street Collection Permits	315
House to House Collection Permit	127

(since 01/09/2007)

Applications Received, Notices Given, Service Requests and Complaints

	Jul - Sept 14	Jul - Sept 15	Jul - Sept 16
Licensing Act	131	134	116
Gambling Act	3	2	2
Taxis	167	190	165
Street Trading & S115E Consents	14	12	18
Animal Licensing	2	1	2
Caravan Site Licences	0	0	0
Scrap Metal Dealer	0	0	1
Sex Shop Licences	1	0	0
Skin Piercing	9	10	9
Charity Collection	8	19	30
Service requests	12	15	45
Corporate complaints against the Licensing service	0	0	0