

Taunton Deane Borough Council

Licensing Committee – 28 August 2013

Licensing Update Report

Report of the Licensing Officer

(This matter is the responsibility of Executive Councillor Ken Hayward)

1. Executive Summary

This report provides an update on the activities of the Council's Licensing Team, changes to legislation, current consultations and other general licensing matters.

2. Background

- 2.1 This report is produced to keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service.

3. Report

3.1 Applications received and licences in force

The numbers of applications received for each of the regimes administered by the Licensing Team during the first quarter of the year are shown in comparison with those received for the same quarter in the preceding two years at **Appendix 1**. The numbers of licenses in force and notices given at the end of July 2013 are shown at **Appendix 2**.

3.2 Hearings

Since the last meeting of this Committee on 06 March 2013, three Licensing Sub Committee hearings have been held to determine licence applications received under The Licensing Act 2003. All premises licences were granted subject to additional conditions being attached for the following premises; 32 High Street, Wellington on 11 July 2013, Khode & Aloha Cocktail Bar, 43 -45 East Street, Taunton on 15 July 2013 and Riviera, 2 Bridge Street, Taunton on 29 July 2013.

3.3 Forums

Rather than hold a Taxi Forum to consider the proposed plate test which is the subject of a separate report to this Committee, copies of the proposed inspection sheet were sent out to forum members for consideration at their convenience.

3.4 Changes to legislation

Recent amendments to Schedule 1 of the Licensing Act 2003 – Provision of Regulated Entertainment have been introduced through the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013. These amendments build on those changes introduced through the Live Music Act 2012 and provide a further set of exemptions for a number of activities that previously required a license. A summary of the definition of regulated entertainment and the exemptions is set out in **Appendix 3**.

- 3.5 The Scrap Metal Dealers Act 2013 is expected to come into force in early October 2013. The Act will repeal the Scrap Metal Dealers Act 1964 and Part 1 of Vehicles (Crime) Act 2001 and introduce in their place a regulatory regime for scrap metal dealing and vehicle dismantling. The Act will provide Local Authorities with powers to better regulate these industries including a power to refuse to grant a licence or revoke licences if the dealer is considered 'unsuitable'. Commencement of the Act is dependent upon a national register of scrap metal dealers being established by the Environment Agency.

3.6 Consultations

The 'Community Film Exemption Consultation' was launched on 04 July 2013 by the Department for Culture Media and Sport. The consultation seeks views on two basic options, keep things as they are or allow "not-for-profit" film exhibitions in community venues between 8am and 11pm, provided that the exhibitor ensures that the screening abides by any age classification ratings. Views on some potential variations to the second option are also being sought. The consultation ends on 28 August 2013. Details of the intended responses by the Licensing Manager are set out in **Appendix 4**.

3.7 Projects

The Licensing Team is currently undertaking a full review of all its policies, procedures and processes to aid resilience and ensure good governance is maintained. Following a recent challenge to the Council's accounts, methods of fee construction are also being reviewed for those fees over which there is local discretion in the level of cost recovery.

3.8 Nominated Testing Stations

Through advertisements in the Somerset County Gazette (on Thursday, 02 May 2013 and Thursday, 13 June 2013) expressions of Interest were sought from VOSA testing stations within Taunton in becoming the Council's Nominated Testing Station for Taxi testing from January 2014. Only one expression of interest was received in response to the advertisements. That response was from The Service Centre which is our existing nominated testing station. The Chair of the Licensing Committee has agreed their appointment and a new Service Level Agreement is being prepared.

The Service Level Agreement will be more robust in its conditions with regard to communication and control measures.

4 Finance Comments

None

5 Legal Comments

The legal implications are set out within the report.

6 Links to Corporate Aims

As an update report there are no links to specific corporate aims. However 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.

7 Environmental and Community Safety Implications

None identified.

8 Equalities Impact

As an update report there are no equality impacts upon service users, employees or the wider community. Any new policies, procedures and processes implemented by the Licensing Teams undertaking of project work will be subject to the requirement of an Equality Impact Assessment.

9 Risk Management

None identified.

10 Partnership Implications (if any)

None identified

11 Recommendations

That the report be noted.

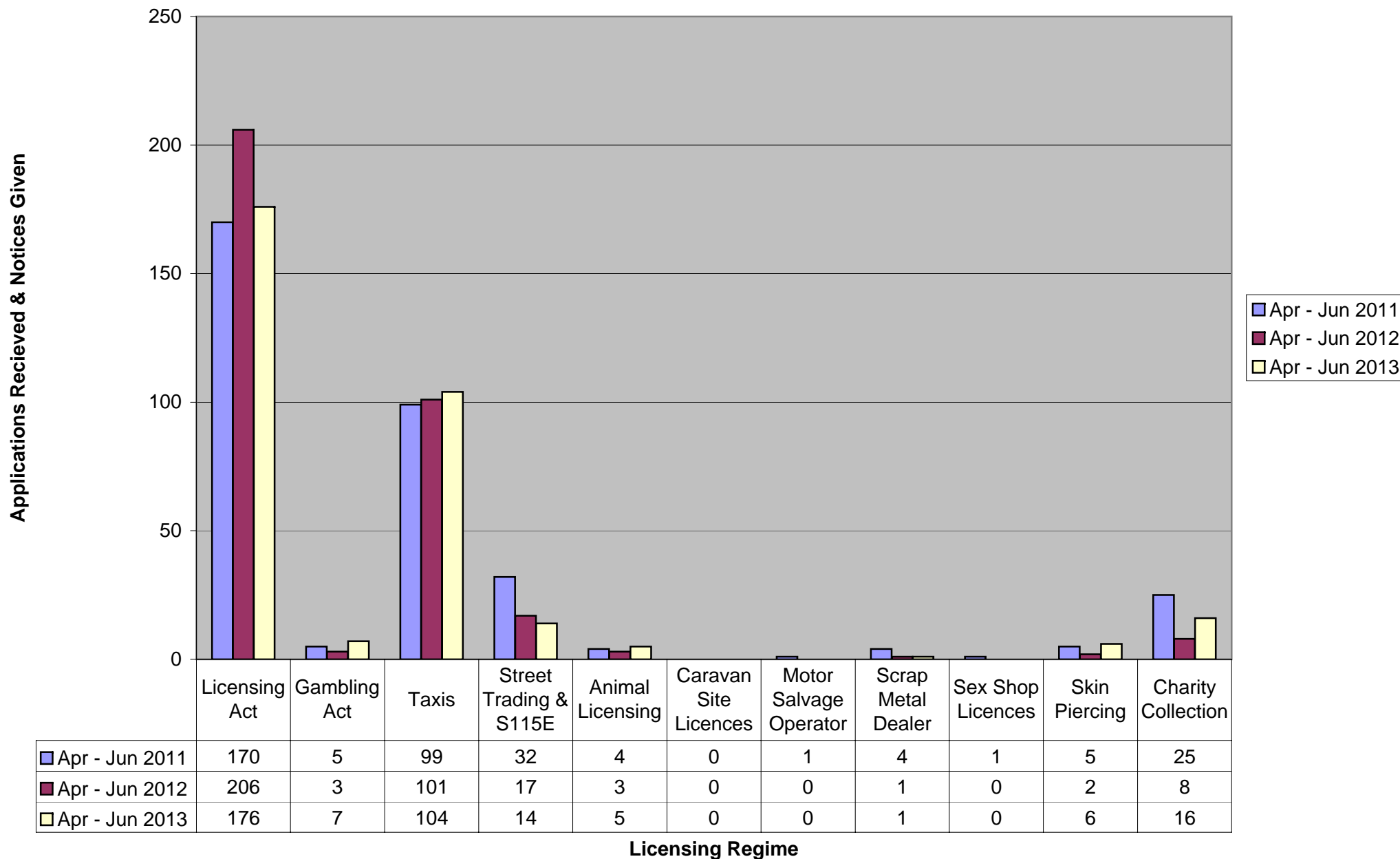
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Applications Received & Notices Given



Licences Issued and Notices Given

These figures show the number of licences in force at the 31st July 2013 and the number of notices given since commencement of the relevant legislation

Licensing Act 2003 Premises Licences	411
Licensing Act 2003 Club Premises Certificates	30
Licensing Act 2003 Personal Licences	1133
Licensing Act 2003 Temporary Event Notices	2423
Gambling Act 2005 Club Machine Permit	8
Gambling Act 2005 Licensed Premises Gaming Machine Permits	7
Gambling Act 2005 Occasional Use Notices	25
Gambling Act 2005 Premises Licences	18
Gambling Act 2005 Prize Gaming Permits	0
Gambling Act 2005 Society Lotteries	218
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	60
Hackney Carriages	167
Private Hire Vehicles	36
Hackney Carriage & Private Hire Drivers	244
Private Hire Operators	31
Street Trading Consents	57
Section 115E (Pavement Café) Permits	17
Zoo Licences	0
Pet Shop Licences	13
Dog Breeding Licence	3
Animal Boarding Licence	13
Riding Establishment Licences	11
Dangerous Wild Animal Licences	1
Caravan Site Licences	42
Motor Salvage Operator	7
Scrap Metal Dealer Registration	32
Sex Shop Licences	2
Skin Piercing Registrations	209
Street Collection Permits	267
House to House Collection Permit	103

Licensing Act 2003
Schedule 1 – Provision of Regulated Entertainment
As amended by Live Music Act 2012 &
The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

Regulated Entertainment Qualifying Conditions

In order to be regulated entertainment under the control of the Act it must include the provision of any of a) – h) below and be provided:

- To any extent for members of the public or a section of the public
 - Exclusively for members of a club (a qualifying club under the act) or for members of such a club and their guests
 - In any other case, for consideration and with a view to a profit; and
 - The premises are made available for the purpose or for purposes which include the purpose of enabling the entertainment concerned to take place; and
 - The entertainment takes place in the presence of an audience and is provided for the purpose or for purposes which include the purpose of entertaining that audience
- *Note(The audience do not have to be or want to be entertained)

Types of Entertainment & Their Licensing Requirements

a) Performance of a play

No licence required if:

- Takes place between 08:00 – 23:00; and
- Audience of no more than 500 people

b) Exhibition of a film

No licence required if:

- The sole or main purpose of the film is to
 - demonstrate any product
 - advertise any goods or services
 - provide information, education or instruction; or
- The film consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery.

c) Indoor Sporting Event

No licence required if:

- Takes place between 08:00 – 23:00; and
- Audience of no more than 1000 people

d) Boxing or Wrestling Entertainment

Licence required except under general exemptions below

e) Performance of live music

Unamplified) - No licence required if:

- Takes place between 08:00 – 23:00; and
- Audience of no more than 200 people; and
- In the case of licensed premises no specific condition related to live music that was imposed following a review exists; or
- It is incidental to some other activity which is not itself entertainment falling within (a) – (h)

Amplified - No licence required if:

- Takes place between 08:00 – 23:00; and
- Takes place on licensed premises that are open for the sale of alcohol for consumption on the premises; or
- Takes place at a workplace (as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992) which is not licensed under the 2003 Act for anything other than Late Night refreshment; and
- Audience of no more than 200 people; and
- No specific condition related to live music that was imposed following a review exists; or
- It is incidental to some other activity which is not itself entertainment falling within (a) – (h)

f) Playing of recorded music

No licence required if:

- It is incidental to some other activity which is not itself entertainment falling within (a) – (h)

g) Performance of dance

No licence required if:

- Takes place between 08:00 – 23:00; and
- Audience of no more than 500 people; and
- The performance does not fall within the meaning of paragraph 2A of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (meaning of “sexual entertainment venue”).

h) Entertainment of a similar description to (e), (f) or (g)

Licence required except under general exemptions below

General Exemptions

1) Television & Radio

No licence required if the entertainment:

- consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990 (c. 42).

2) Religious services, places of worship etc.

No licence required if the entertainment is:

- For the purposes of, or for purposes incidental to, a religious meeting or service; or
- Takes place at a place of public religious service

3) Garden fêtes etc.

No licence required if the entertainment:

- Takes place at a garden fête, or at a function or event of a similar character; and
- The fête, function or event is not promoted with a view to applying the whole or part of its proceeds for purposes of private gain.

4) Morris dancing etc.

No licence required if the entertainment:

- Consists of the a performance of Morris dancing or any dancing of a similar nature or the playing of live or recorded music that forms an integral part of such a performance.

5) Sexual Entertainment Venues etc.

No licence required if the entertainment:

- Takes place at premises for which a licence for a sexual entertainment venue is required (or the requirement has been waived).

6) Vehicles in motion

No licence required if the entertainment:

- Takes place at premises consisting of or forming part of a vehicle which is not permanently or temporarily parked.

Definitions

(a) Performance of a play

- A performance (including a rehearsal) of any dramatic piece whether involving improvisation or not
 - which is given wholly or in part by one or more persons actually present and performing
 - in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role

(b) Exhibition of a film

- any exhibition of moving pictures

(c) Indoor Sporting Event

- Any contest, exhibition or display of any game in which physical skill is the predominant factor or any form of physical recreation which is also engaged in for purposes of competition or display which takes place wholly inside a building (any roofed structure (other than a structure with a roof which may be opened or closed) and includes a vehicle, vessel or moveable structure) at which the spectators present at the event are accommodated wholly inside that building.
- Does not include boxing or wrestling entertainment

(d) Boxing or Wrestling Entertainment

- any contest, exhibition or display of boxing or wrestling or which combines boxing or wrestling with one or more martial arts

(e) & (f) Music

- includes vocal or instrumental music or any combination of the two

QUESTION	YOUR VIEWS				
<p>1. Do you support the ‘do nothing’ proposal (Option 1, as set out in paragraphs 28-30) or the Government’s proposal (Option 2, ‘deregulate not-for-profit film exhibition in ‘community premises’ as set out as paragraphs 31-35). If not, please explain why.</p>	<table border="1" data-bbox="810 286 1396 365"> <tr> <td data-bbox="810 286 1106 324">Option 1</td> <td data-bbox="1106 286 1396 324"></td> </tr> <tr> <td data-bbox="810 324 1106 365">Option 2</td> <td data-bbox="1106 324 1396 365">✓</td> </tr> </table> <p data-bbox="810 365 1396 403">If not please explain why?</p>	Option 1		Option 2	✓
Option 1					
Option 2	✓				
<p>2. If you generally support Option 2, do you agree with the Government’s suggested definition of community premises? If not, please explain why?</p>	<p data-bbox="810 551 1396 656">Yes, we agree with the Government’s suggested definition of Community Premises.</p>				
<p>3. If you support Option 2, do you agree with the Government’s proposals that the exemption should only extend to ‘not for profit’ activities? If not, please explain why?</p>	<p data-bbox="810 701 1396 775">Yes, we agree that the exemption should only extend to ‘not for profit activities’.</p>				
<p>4. Do you agree that exhibition of film that is incidental to other entertainment activities that are not regulated under the 2003 Act should be exempt?</p>	<p data-bbox="810 887 1396 1037">Yes, we agree that exhibition of film that is incidental to other entertainment activities that are not regulated under the 2003 Act should be exempt</p>				
<p>5. Do you agree that the Government’s draft clause at Annex C will achieve the deregulation outlined in Option 2?</p>	<p data-bbox="810 1072 1396 1146">Yes we believe that Annex C will achieve the deregulation outlined.</p>				
<p>6. Do you agree that films that do not have an age classification rating should not be exhibited in community venues without a licence? If you do not agree, please explain why?</p>	<p data-bbox="810 1223 1396 1373">Yes we agree that films that do not have an age classification rating should not be exhibited in a community venue without a licence.</p>				