

Somerset West and Taunton Council

Licensing Committee – 16th September 2019

Licensing Quarterly Update Report

This matter is the responsibility of Executive Councillor Alan Wedderkopp

Report Author: John Rendell, Specialist: Licensing & Parking

1 Purpose of the Report

- 1.1 This report provides an update on the activities of the council's licensing service, changes in licensing legislation and other licensing related matters.

2 Recommendations

- 2.1 That the report be noted.

3 Risk Assessment (if appropriate)

- 3.1 The contents of this report do not relate to any of the risks identified in the Corporate Risk Register.

4 Background and Full details of the Report

Staffing update

- 4.1 As described at the committee meeting in June and subsequent briefing session with the Licensing Specialist on the 24th of June, there have been a number of changes to personnel within the licensing service over recent months.
- 4.2 An up to date representation of who's who in the service is attached at **Appendix 1**.
- 4.3 Since the 24th of June, Alison Langston-Bishop has started in her Case Manager role and Mark Banczyk-Gee has left the organisation. Mark's role is currently vacant but the intention is to recruit a permanent replacement and advertise both internally and externally, subject to approval from the Senior Leadership Team. Realistically, that vacancy may not be filled until the end of October/beginning of November. In the meantime, it is hoped a further experienced temporary member of staff can be brought in to boost numbers and cope with the current level of demand.

Performance of the service

- 4.4 The service has a statutory duty to process various application types. In some cases, there are even prescribed time periods within which these applications should be completed.
- 4.5 The performance of the licensing service is measured against the number of applications that are completed within 14 days of them having been determined. In essence, this is when the council is in possession of all the information it needs and has made its decision to grant a licence or not. In some cases, an application is 'determined' immediately upon receipt and this might be because the form is judged to have been filled in correctly and the relevant fee has been paid. In other, more complex cases, a consultation may need to be carried out and the determination cannot not be made until after the consultation period has finished. 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 that application having been determined.
- 4.6 Between April and June, being the first quarter for 2019/20, the team issued 96.99% of applications within 14 days; 1.99% above the target. That is a reduction of 0.01% from the previous quarter (January to March).
- 4.7 Month by month across the first quarter, performance was follows:
- April: 97.10% (166 out of 171 applications in 14 days or less);
 - May: 99.40% (165 out of 166);
 - June: 94.47% (188 out of 199).
- 4.8 In June alone, performance fell slightly short of the 95% target. Given the changes in the staffing at the time and it being a busier month in terms of applications, the reduction in performance is no great surprise. Nor is it a surprise therefore that the trend of underperformance continued over the month of July, with 94.20% being achieved (161 out of 172); a decrease of 0.27%.
- 4.9 With the staffing situation as it currently is, as described at paragraph 4.3, it is difficult to envisage performance improving over the next quarter.
- 4.10 When the licensing service underperforms, it is normally felt most by customers who rely on a licence to earn money; taxi and private hire drivers and operators being a prime example. This is borne in mind when resources are thin at times the team may sacrifice performance against the 14 day target in order to meet customer needs e.g. keep a driver or vehicle 'on the road'.

Applications received and licences in force

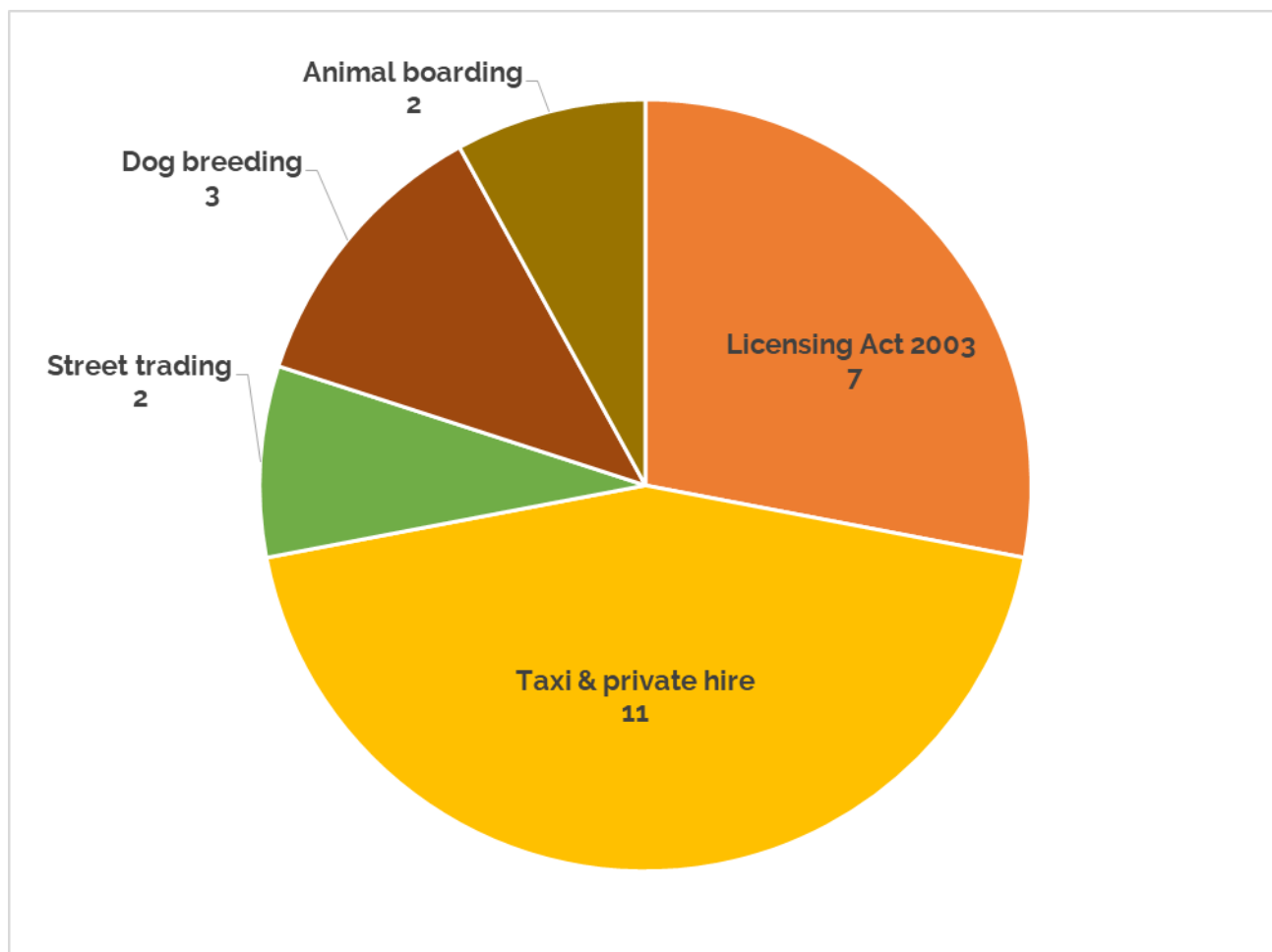
- 4.11 To give an idea of the variety and number of persons, premises, vehicles and activities licensed, the numbers of licences in force and numbers of notices given, as of the 21st of August 2019, are shown at **Appendix 2**.
- 4.12 The numbers of notices submitted to the council will always increase as they relate to one-off activities, whereas numbers of licences can rise and fall as demand for certain services fluctuates.

Service requests/complaints

- 4.13 The service investigates reports and complaints received from members of the public

and other sources, which relate to people, premises, vehicles and activities which are licensed or need licensing. These are referred to as 'service requests' internally.

4.14 Between April and June, 25 service requests were received, across the following categories:



4.15 The service continues to receive, month on month, reports of unlicensed dog breeding activity in the district, with more and more stemming from adverts on websites which allow people to sell unwanted pets.

4.16 Breeding dogs does not, per say, need a licence. Breeding activity only requires a licence where an owner has three or more litters of puppies born in a 12 month period or a person breeds dogs as part of an advertised business.

4.17 The team has plans to raise public awareness of animal licensing and licensed dog breeders, in the hope that members of the public will make sensible choices when choosing where they buy their puppies and buy only from licensed breeders.

New councillor guidance published

4.18 The Local Government Association (LGA) has recently published a Licensing Act 2003 'handbook' especially for councillors. This handbook is attached at **Appendix 3**.

Taxi and private hire vehicle emission data sharing

- 4.19 The Department for Environment, Food & Rural Affairs (DEFRA) has published [statutory guidance](#) to assist local authorities with new data sharing regulations which came into force in May 2019; The Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019.
- 4.20 Under the new rules, councils must provide certain information relating to licensed taxis and private hire vehicles to DEFRA, on a weekly basis, being:
- a) Vehicle registration number;
 - b) Start date of current licence;
 - c) Expiry date of current licence;
 - d) Type of vehicle e.g. taxi or private hire;
 - e) Any other information the local authority holds to identify that vehicle specifically.
- 4.21 Councils are also being asked to indicate, where possible, if each vehicle is wheelchair accessible.
- 4.22 As the [statutory guidance](#) explains, the new regulations follow the publishing of the government's plan for tackling roadside nitrogen dioxide concentrations.
- 4.23 At this point in time, DEFRA have released a draft technical specification for uploading the data, with a final version expected before uploading begins around the end of October 2019.

Appeal against refusal to grant hackney carriage vehicle licence

- 4.24 The case of Keith William Griffiths v Somerset West and Taunton Council (SWT) was dismissed at a preliminary hearing held on 14th August 2019, as it had been improperly started in the Magistrates' Court, instead of the Crown Court.
- 4.25 Mr Griffiths was issued a notice of refusal on the 9th of April 2019 because he presented a vehicle which did not conform with the council's hackney carriage vehicle regulation requiring new hackney carriages to be accessible to wheelchairs. The notice identified the place to appeal the decision was the Crown Court (in accordance with section 7 of the Public Health Acts Amendment Act 1907).
- 4.26 The council received summons from Taunton Magistrates' Court on the 7th of May 2019 in relation to an appeal against the refusal to grant Mr Griffiths a hackney carriage drivers licence, rather than a vehicle licence which had been the case. The summons set a date for an initial preliminary hearing on the 5th of June. The council legal advisor responded to the court, advising the matter was in fact a refusal to grant a vehicle licence and that it did not have jurisdiction for such a refusal.
- 4.27 As neither party's legal advisors were able to attend the preliminary hearing on the 5th of June, the District Judge adjourned the hearing for determination of jurisdiction until the 3rd of September at North Somerset Magistrate's Court, sitting at Weston-Super-Mare.
- 4.28 A second preliminary hearing was held on 14th August 2019, at North Somerset Magistrates' Court. It was there that the case was eventually dismissed on account of the appeal being incorrectly started with the Magistrates' Court. An application was made to the Court for costs and this was agreed. The matter of costs has been left for the council's legal advisor to settle with Mr Griffiths. If costs cannot be agreed, the

matter would have to be relisted before the Court.

4.29 Licensing of tuk tuks

4.30 The team has been approached by a party who is looking to set up a tuk tuk business within the district.

4.31 Tuk tuks are three-wheeled motorised versions of rickshaws. They are usually powered by a motor cycle engine, have handle bars rather than a steering wheel and are commonly used a method of transport in countries such as India, Thailand and Pakistan. Generally speaking, as they are passenger carrying vehicles that have 8 or less seats and are made available for hire with the services of a driver, they must be treated as either hackney carriages (taxis) or private hire vehicles, depending on the manner in which they are hired.

4.32 Tuk tuks do not typically meet local licensing rules around the UK because of their design. They have been licensed by a number of councils; Cardiff, Ipswich and Chester to name a few; but only by virtue of those councils resolving to modify licence conditions for that purpose or having created special policies.

4.33 Officers are looking to existing examples of licence conditions and policy with a view to bringing back a proposal to the Licensing Committee, hopefully at the meeting in December.

4.34 Policy consultations

4.35 The re-drafted Licensing Act 2003 and Gambling Act 2005 policies are currently undergoing consultations, with responses needing to be made by the 9th and 23rd of September respectively.

4.36 Examples of various licences

4.37 At the last meeting, it was suggested that it would be helpful to members of the committee if they could be provided with examples of certain types of licences and permits, so that they would be more familiar. The following examples are attached to this report:

- **Appendix 4:** Licensing Act 2003 premises licence;
- **Appendix 5:** Gambling Act 2005 premises licence (bingo);
- **Appendix 6:** Street trading consent
- **Appendix 7:** Hackney carriage/private hire vehicle driver's licence
- **Appendix 8:** Hackney carriage vehicle licence.

4.38 Where Appendix 7 is concerned, the holder is also issued with an ID badge and with Appendix 8, they receive a licence plate which must be displayed on the vehicle.

4.39 All licence samples have been redacted, where necessary to ensure GDPR principals have been adhered to.

5 **Links to Corporate Strategy**

5.1 The council has a statutory duty to issues licences for various activities, as outlined in **Appendix 2**. The licensing service does, however, support the council's growth agenda by providing advice to customers, helping them to understand and meet

regulatory requirements more easily, and responds proportionately where breaches of legislation occur.

6 Finance / Resource Implications

6.1 Where legislation allows for cost recovery, licence fees are levied against the administration of the regime and the supervision of licences issued. It would be unlawful to deliberately set the fees to make a profit and any over (or under) recovery is redressed in future fee levels.

7 Legal Implications

7.1 No legal implications identified.

8 Climate and Sustainability Implications (if any)

8.1 No direct carbon/environmental impacts arising from the recommendation in 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

9.2 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 No equality and diversity implications were identified.

11 Social Value Implications

11.1 As this report does not relate to the procurement of any services or products, no social value implications were identified.

12 Partnership Implications

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications

13.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

14 Asset Management Implications

14.1 No asset management implications were identified.

15 Data Protection Implications

15.1 No data protection implications were identified.

16 Consultation Implications

16.1 As this is an update report, consultation has not been necessary.

17 Scrutiny Comments / Recommendation(s)

17.1 As a quarterly report just for the Licensing Committee, 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 (delete if not applicable)

Appendix 1	Who's who in Licensing
Appendix 2	Licences issued and notices given
Appendix 3	LGA councillors handbook – Licensing Act 2003
Appendix 4	Sample Licensing Act 2003 premises licence
Appendix 5	Sample Gambling Act 2005 premises licence
Appendix 6	Sample street trading consent
Appendix 7	Sample hackney carriage/private hire vehicle driver licence
Appendix 8	Sample hackney carriage vehicle licence

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