

LICENSING COMMITTEE

Date: 11 October 2018

QUARTERLY LICENSING COMMITTEE UPDATE

Report Submitted by: Rachel Jowitt, Chief Officer Neighbourhoods, Planning and Public Protection

Report Written by: Alison Hughes, Licencing Manager, Planning and Public Protection Service

1. Area Affected

1.1 All areas of the County Borough

2. Purpose of Report

2.1 To update the Committee on the work of the Licensing Team for the second quarter of 2018/19, i.e. July – September 2018

3. Recommendation(s)

- 3.1
1. That the committee note the activity report for this quarter, and
 2. That the committee note and comment on the contents of this report.

4. Background

4.1 This report is to update the committee on the work of the Licensing Team, which includes licences issued, complaints and service requests received and other activities completed in the second quarter of 2018/19, i.e. July – September 2018

The report is broken down into two main sections, namely operational and management matters.

5. Issues and Findings - Operational Matters

5.1 Alcohol and Entertainment

- 5.1.1 There were 16 complaints from the public in relation to licensed premises. Six licensed premises have been linked to issues in relation to noise nuisance, mainly resulting from live music in beer gardens. Complaints of this nature are more common during the summer months and this year, due to the long spell of hot weather, there has been a significant increase in the number of complaints received. These have been dealt with jointly by the Licensing Officer and Environmental Health Officer and have involved early intervention with the premises licence holders. Site visits have been undertaken and words of advice have been given.
- 5.1.2 Complaints have also been received in relation to underage drinking, disorder and illegal betting. In relation to the allegations of underage drinking, visits have taken place to the premises, CCTV viewed and no evidence has been found to corroborate the allegations. An update to the illegal betting is given at 5.3.2.
- 5.1.3 There have been no new premises licence applications during this quarter.
- 5.1.4 There were 2 premises that had not paid their annual fee by the due date during the last quarter, and these were paid following intervention by the Licensing Officer. 2 licences remain suspended following non-payment and these premises have been closed for a number of months.
- 5.1.5 There have been 3 ION Track testing operations with the Police during the last quarter. 9 premises were tested and some minimal issues were found at 4 premises. Advice was given in relation to the prevention of drugs misuse.
- 5.1.6 There have been no joint visits to licensed premises with Immigration Enforcement Officers during the last quarter, as no intelligence was received to necessitate a visit.
- 5.1.7 An appeal was received against a decision to revoke an alcohol licence following a representation by the Immigration Service. At the first appeal hearing, the reasons for that appeal were established and timescales for the submission of information by both parties determined. Evidence and a Skeleton Argument were then submitted by the barrister acting for the authority.

The appeal was due to be heard on the 4th October 2018, but was withdrawn shortly before that date. An application for costs by the Authority was heard on the 4th October, and the outcome will be reported verbally at the meeting.

The Licensing Officer has informed the licence holder of the requirement to cease the sale of alcohol at his premises. A new application has now been received and is being considered.

- 5.1.8 A new law which will introduce a minimum price for alcohol in Wales has been approved by the National Assembly for Wales, and is expected to come into force in summer 2019.

The Public Health (Minimum Price for Alcohol) (Wales) Bill was introduced as part of the Welsh Government's wider efforts to reduce excessive drinking, recognising the impacts this can have on people's health and well-being. The Act introduces minimum prices for alcohol, expected to be around 50p per unit, and this will particularly impact on the availability of cheap alcohol from supermarkets and off-licenses. The Act allows for the service of Fixed Penalty Notices where offences are found.

Responsibility and arrangements for enforcement will become clearer once guidance to the legislation is issued.

5.2 Hackney and Private Hire Licensing.

- 5.2.1 There have been 7 taxi related complaints from members of the public during this quarter, relating to matters including an unlicensed vehicle, smoking in vehicles and the late arrival of taxis etc.
- 5.2.2 One complaint related to the refusal of a driver to accept a wheelchair user as a passenger. Advice has been given in order to ensure that there are no further such instances by this driver.
- 5.2.3 A report in respect of a taxi driver application was brought before a Panel in August 2018, and the application was refused.
- 5.2.4 The report in respect of a Private Hire Operator, previously mentioned to this Committee, was brought before a Panel in August, and a decision was deferred in order to allow an improvement action plan to be put in place.

An inspection of the premises is planned for mid-October, in order to assess progress against the issues of concern expressed by the Panel. The Panel will re-convene in mid-December, and the decision of that Panel will be reported to the next Committee.

- 5.2.5 A request was made that the Hackney Carriage fares be reviewed, and the outcome of those discussions have been reported separately to this committee.
- 5.2.6 A Task and Finish Group on Taxi and Private Hire Vehicle Licensing has now published their report. This UK-wide report, "Taxi and private hire vehicle licensing: recommendations for a safer and more robust system", included the following

recommendations

- An urgent review of taxi and PHV legislation
- The Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators
- The Government should urgently update its Best Practice Guidance
- The Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked'
- The Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators
- The Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and PHVs
- All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas
- Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area
- Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator are licensed
- Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced
- Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London
- In the interests of passenger safety all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures
- The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of conduct as well as crimes, by taxi and PHV drivers (and applicants) is disclosed
- Mandatory training requirements for taxi drivers in safeguarding and equality awareness
- Mandatory language requirements for licence holders
- The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV or taxi operator
- Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers

Officers will report back to the Committee in respect of any outcomes of this report, which can be found at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742470/taxi-and-phv-working-group-report.pdf

5.3 Gambling, Gaming and Lotteries

5.3.1 There were no complaints from the public concerning licensed gambling premises in this quarter.

5.3.2 Information was received from the Gambling Commission that illegal betting was allegedly taking place in a local public house, namely that bets were being taken by the person in charge and placed on behalf of customers. Commercial betting is not allowed in pubs, clubs or similar alcohol licensed premises, and it is illegal for a person to act as a betting intermediary and to place bets on behalf of any customer. A visit to the premises was carried out by the Licensing Officer and appropriate advice was given.

5.3.3 3 joint visits have been carried out with the compliance manager from the Gambling Commission with responsibility for the Torfaen area. No issues were found

5.3.4 There were 2 premises that had not paid their licence annual fee for their premises licence during the last quarter. The outstanding fees have now been paid following intervention by the Licensing Officer. There were 2 club gaming machine permits that remained unpaid during this quarter, again these outstanding fees have been paid following intervention from the licensing officer.

5.4 Smoking in Enclosed Public Places

5.4.1 There were 2 smoking complaints this quarter relating to smoking in taxi vehicles, and advice was given in both cases.

5.5 Street Trading

5.5.1 There were no complaints in relation to street trading this quarter.

5.5.2 A new application for an Ice Cream pitch and round in the Blaenavon area was heard in September 2018, following a representation by the Police. The decision of the Panel, based on the evidence presented, was to issue the Street Trading Consent.

5.6 Charity Collections

5.6.1 There have been no complaints relating to charity collections in this quarter.

5.7 Scrap Metal

5.7.1 There have been no complaints in relation to scrap metal this quarter.

5.8 Animal Establishment Licensing

5.8.1 There have been no complaints in this quarter regarding licensed premises, although concerns have been received about two premises currently falling outside of the licensing regime.

5.8.2 An application for a dog breeding licence was received and approved, being the first such licence in the Torfaen area. A new application for a dog crèche/play facility is also expected, which will be another first for the area.

5.8.3 New animal establishment legislation came into force in England at the beginning of October. A consultation will shortly be undertaken with licensed animal establishments in Torfaen to determine whether this Authority should adopt the model licensing conditions that are now mandatory in England. This will not only create a level playing field for businesses, but will help this Authority ensure that our licensing conditions remain pertinent and up to date. A report for Members consideration will be made in the Spring.

5.9 Service Requests

5.9.1 There were 54 service requests recorded this quarter in total across the range of functions carried out by the Licensing Team, where information or advice etc. have been requested.

5.9.2 Of these, 4 were Freedom of Information requests, relating to a range of matters.

5.10 Overall workload results

5.10.1 Proactive inspection levels have fallen in this quarter, due to the number of complaints, new licence applications and on-going work on the new database. It is hoped that this shortfall will be resolved over the coming months.

5.10.2 The changeover from a specialist database is on-going, with monitoring and reporting mechanisms now being looked at. Work continues to input data not transferred during the migration.

6 Management Matters

6.1 **Constitution**

6.1.1 The identified updates to the constitution remain with the legal team for implementation, but are not considered urgent at present.

6.2 **Policies**

6.2.1 Members previously agreed that Sex Establishment and Charity Collection policies should be developed, and these are in the process of being drafted. It is anticipated that the draft policies will be ready for Member consideration in early 2019.

6.2.2 The consultation in respect of the Gambling Policy has now been completed, and the final draft of this Policy has been reported separately.

6.3 **Fees**

6.3.1 It is anticipated that non-statutory fees will be reviewed and reported to Members for consideration in January/February.

6.5 **Collaboration**

6.5.1 The collaboration is continuing, with both teams working together as needed. In particular, there has been a lot of collaborative work around the development of the Gambling Policy, and arrangements are being put in place to share the translation costs prior to publication.

6.6 **Complaints against service**

6.6.1 There have been no complaints against service in this quarter.

7. **Licensing Team Performance**

7.1 The activity report for the licensing team is attached at **Appendix A**. There have been a high number of complaints received by the team again during this quarter, with some significant investigations underway, and the team continue to be very busy.

We are currently unable to report on the timescales for the processing of applications, due to the change in the database. This is being looked at to see if a remedy can be found.

8. **Action to be taken following decision**

8.1 The suggestions and directions of the committee will be followed by officers.

9. Monitoring and Evaluation

9.1 The Licensing Team will continue to review its workload delivery to ensure that the Authority delivers the best service to the public

10. Conclusion/summary

10.1 The Licensing Team completed a range of work in second quarter of 2018/19, including inspections, dealing with complaints and taking enforcement action as outlined in the report.

11 Recommendation(s)

- 11.1
1. That the committee note the activity report for this quarter, and
 2. That the committee note and comment on the contents of this report.

Appendices	A Team Performance
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Background Papers	None
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For a copy of the background papers or for further information about this report, please telephone: Alison Hughes, Team Leader Licensing. Tel: 01633 647286
