

## Agenda Item 7

**Licensing & Enforcement Committee**

**24 November 2009**

**JT/IC/NM/DJ/JL**

### **Committee Update -**

### **Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing**

#### **Summary**

The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters.

#### **Recommendation**

**That the report be noted**

#### **a) Reasons for Recommendation**

To keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service.

#### **b) Alternative Options**

Not Applicable

#### **c) Risk Considerations**

Failure to provide an efficient licensing service may result in complaints or legal challenges being made against the Licensing Authority.

#### **d) Policy and Budgetary Considerations**

None

#### **e) Date for Review of Decision**

Not Applicable

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### **1 Licensing Act 2003**

#### **1.1 Licences Issued and Notices Given**

1.1.1 Within the Licensing Authority's district there are currently 657 (656)\* Licensed Premises. 595 (592) of those hold Premises Licences while the remaining 62 (64) benefit from Club Premises Certificates. In addition a total of 1,366 Personal Licences have been issued by the Authority.

1.1.2 Since the commencement of the Act in November 2005 a total of 2,733 (2,639)\* Temporary Event Notices have been given. 2,511 (2,427) of these were given for events where alcohol was to be sold while the remaining 222 (212) were for regulated entertainment or late night refreshment only.

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\* Note the numbers in brackets are the figures from the previous update report.

## 1.2 Premises Risk Ratings

- 1.2.1 The inspections under the premises risk rating system continue and are on target to be completed by 31 March 2010.

## 1.3 Enforcement

- 1.3.1 The pro-active educational partnership approach to enforcement with the aim of compliance through consent continues to be successful. Again it is pleasing to report that although there have been complaints received against licensed premises all have been resolved without the need for formal enforcement action.

## 1.4 Hearings

- 1.4.1 The following hearings have been held since the last report to committee on 29 September 2009:

|   |   |
|---|---|
| Number of hearings where no agreed position has been reached. |   |
| August 2009   | 2 |
| September 2009  | 0 |
| October 2009  | 1 |
| Number of hearings held to approve an agreed position.        |   |
| August 2009   | 1 |
| September 2009  | 0 |
| October 2009  | 1 |
| Total number of days sub-committees have sat.                 |   |
| August 2009   | 1 |
| September 2009  | 0 |
| October 2009  | 2 |

- 1.4.2 To date, the Council has received no applications to review existing licences. In addition there are no outstanding appeals to the Magistrates' Court against the decisions of this Council's licensing sub committees. Council Officers continue to co-ordinate mediation meetings where Responsible Authorities have expressed their intention to seek a review. Since the last report to committee one "Pre Review Mediation" meeting has been held. This approach continues to be well received by all parties to the meetings and remains as standard practice in cases where responsible authorities are considering making an application for review of a premises licence.

## 1.5 Temporary Event notices

- 1.5.1 These are a key part of the Act's operation, and enable individuals to carry on licensable activities without a premises licence provided they serve notice in the correct way on the licensing authority and the police. The police have only 48 hours in which to object, otherwise the event goes ahead. The number of notices served invariably increase during the early summer months and by August have the numbers have started to drop off.

|   |    |
|---|----|
| Temporary Event Notices given to the Licensing Authority. |    |
| August 2009   | 64 |
| September 2009  | 41 |
| October 2009  | 51 |

**1.6 Variations, new licence applications, and changes of Designated Premises Supervisor**

1.6.1 Applications for variation, transfer, new licences or change of designated premises supervisor continue to be received at a fairly constant rate.

|  |                |    |
|--|----------------|----|
| Applications for the grant of a Premises Licence.            | August 2009    | 2  |
|  | September 2009 | 0  |
|  | October 2009   | 2  |
| Applications for the variation of a Premises Licence.        | August 2009    | 1  |
|  | September 2009 | 3  |
|  | October 2009   | 6  |
| Applications for the transfer a Premises Licence.            | August 2009    | 4  |
|  | September 2009 | 7  |
|  | October 2009   | 5  |
| Applications for a change of Designated Premises Supervisor. | August 2009    | 3  |
|  | September 2009 | 2  |
|  | October 2009   | 13 |

1.6.2 Licensing Officers continue to offer advice and guidance to applicants and liaise regularly with partner agencies to ensure the Licensing Authority provides the best possible service.

1.6.3 Under the new 'Minor Variation' procedure the authority has received a total of 12 applications since July this year.

**1.7 Personal licences**

1.7.1 Applications relating to Personal licences are still being received at a steady rate.

|   |                |   |
|---|----------------|---|
| Personal Licences issued.                   | August 2009    | 8 |
|   | September 2009 | 2 |
|   | October 2009   | 6 |
| Applications for change of name or address. | August 2009    | 0 |
|   | September 2009 | 0 |
|   | October 2009   | 0 |

**2 Gambling Act 2005**

**2.1 Licences Issued and Notices Given**

2.1.1 Within the Licensing Authority's area there are now 14 (15)\* Premises licensed under the Gambling Act. The reduction of one licence relates to the surrender of the adult gaming centre premises (AGC) licence for Symonds Amusements, 165 High Street, Honiton EX14 1LQ. We also have 185 (173) Small Society Lotteries registered.

\* Note the numbers in brackets are the figures from the previous update report.

## 2.2 Premises Inspections and Risk Ratings

2.2.1 The Licensing Authority is required to inspect premises licensed under the Gambling Act in accordance with the advice given by the Gambling Commission. To meet the Authority's obligations in this matter the scheme of inspection, report and risk assessment is still under development in consultation with the Gambling Commission and Partner Agencies. However regular visits are made to licensed premises when officers are in the vicinity.

## 2.3 Enforcement

2.3.1 Currently the Authority's role remains one of education and guidance with licence and permit holders to achieve compliance with the Gambling Act 2005. To date no formal enforcement action has been required and it is generally anticipated that as with the Licensing Act close working with partner agencies will usually prove most beneficial.

2.3.2 In recent weeks there has been concern raised in respect of the premises known as the 'Dove', Dove Lane, Sidmouth. In particular regarding the standard of window display at the premises. Members will recall that these premises were subject to a hearing in late 2008 when the proprietor successfully applied for an Adult Gaming Centre licence. However at the hearing members heard that the District Council's Planning Department had placed a condition on the planning permission requiring the proprietor to maintain a retail display in the shop window.

2.3.3 The Licensing Sub Committee hearing the application and objections against the grant of the licence placed the following condition on the premises licence:  
'The premises shall have a window display which will prevent direct vision into the premises. The display shall not be of a nature that advertises or invites gambling.'

2.3.4 It is the Licensing Service's view that the current window display not only breaches the planning permission but also the Premises licence condition prohibiting advertising and invitations to gamble. The Licensing Service has written to the proprietor twice on this matter but with little effect. In view of the proprietor's lack of corrective response it is intended that the issue will be progressed with more vigour in the coming weeks.

## 2.4 Hearings

2.4.1 Since the last update report there has been no requirement for any hearing relating to applications made under the Gambling Act. As is the case with the Licensing Act 2003 if there are no representations made against an application and in all other respects the application is properly made then there is no requirement for a hearing.

## 2.5 Applications & Notifications received

|  |          |   |
|--|----------|---|
| Applications for a Permit.                       | Aug 2009 | 1 |
|  | Sep 2009 | 0 |
|  | Oct 2009 | 2 |
| Applications for a Licence.                      | Aug 2009 | 0 |
|  | Sep 2009 | 0 |
|  | Oct 2009 | 0 |
| Notifications of Intent to have Gaming Machines. | Aug 2009 | 1 |
|  | Sep 2009 | 5 |
|  | Oct 2009 | 2 |

## 2.6 Gambling Act Licensing Policy Consultation

2.6.1 A report on this matter is included within the agenda for this meeting.

## 3 Taxis

### 3.1 Licences Issued and Notices Given

3.1.1 Within the Licensing Authority's district there is currently a fleet of 211 (222)\* licensed Vehicles, 179 (188) of which are Hackney Carriages and 34 (34) are Private Hire Vehicles. There are 247 (249) licensed Hackney Carriage Drivers and 54 (55) Licensed Private Hire Drivers. There are also 16 (17) licensed Private Hire Operators.

\* Note the numbers in brackets are the figures from the previous update report.

### 3.2 Enforcement

3.2.1 The Licensing Team has continued the education based enforcement and monitoring approach to the Hackney Carriage and Private Hire drivers and vehicles as we have used with the Licensing Act. Again close liaison is maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality are maintained.

### 3.3 Hearings

3.3.1 There have been no hearings relating to Hackney Carriage and Private Hire licensing since the last report to committee on 29 September 2009.

### 3.4 Applications received

|   |          |     |
|---|----------|-----|
| Applications for a Hackney Carriage Licence (including renewals, transfers & vehicle changes) | Aug 2009 | 3   |
|   | Sep 2009 | 19  |
|   | Oct 2009 | 122 |
| Applications for a Hackney Carriage Drivers Licence (including renewals)                      | Aug 2009 | 0   |
|   | Sep 2009 | 34  |
|   | Oct 2009 | 161 |
| Applications for a Private Hire Vehicle Licence.  | Aug 2009 | 0   |
|   | Sep 2009 | 0   |
|   | Oct 2009 | 0   |
| Applications for a Private Hire Vehicle Drivers Licence.                                      | Aug 2009 | 0   |
|   | Sep 2009 | 0   |
|   | Oct 2009 | 0   |
| Applications for a Private Hire Operators Licence.  | Aug 2009 | 1   |
|   | Sep 2009 | 0   |
|   | Oct 2009 | 0   |

3.4.1 October is always a busy month as all Hackney licences issued by the Council expire on the 31 October and the applications for renewal of these licences need to be processed before they expire. At the time of compiling these figures (28.10.09) more applications to renew hackney licences were expected. The next very busy period is May as all the Private Hire licences expire on the 31 May.

3.4.2 The hackney licence renewal process has been greatly hampered by the disruption of postal services caused by strikes. Applicants were encouraged to deliver documents and collect licences from the Council Offices in Sidmouth whenever possible.

### **3.5 Taxi Rank Update**

3.5.1 **Exmouth** - A report on this matter is included within the agenda for this meeting.

3.5.2 **Honiton** – On the 29 September 2009 members will recall that this Committee resolved to appoint two areas on the northern side of High Street, Honiton as taxi ranks. One rank for four vehicles being located 77 metres east of its junction with Dowell Street for a distance of 16 metres in an easterly direction and the other rank for three vehicles being located from a point 98 metres east of its junction with Dowell street for a distance of 10 metres in the same direction (easterly). As required by the legislation a public notice was placed in a Honiton newspaper giving notice of the decision and providing the opportunity for local representations on the decision. Additionally the Council provided a press release which lead to a newspaper article inviting local representation. The legal consultation period ended on the 4 November 2009 and I am happy to report that only one representation has been received and that was from a local lady who wrote in support of the Committee's decision.

3.5.3 As provided for in your resolution on the 29 September 2009 as there were no objections or representations against your decision then the two ranks are deemed appointed. The Licensing Manager will now write to Devon County Council as the Highways Authority and requested that the County Council put in place, as soon as possible, the appropriate legal provisions and to mark out the ranks as appropriate.

3.5.4 **Seaton** - The Licensing Manager reported to members in the September up date report that owing to the passage of time since the original Committee decision to appoint taxi ranks in Seaton there was now some controversy over the appointment of a taxi rank in Eyrecourt Road, Seaton. Negotiations have been on going since your last meeting but at the time of finalising this report have not been completed. However it is anticipated that the Licensing Manager will be able to provide the Committee with a verbal report on the 24 November 2009.

## **4. Street Trading**

4.1 As the main tourist season has drawn to a close so interest in street trading has declined and no new applications have been made to the Council. No unauthorised trading has been found and no further complaints have been received.

## **5. Consultations and Partnership Working**

### **5.1 Meeting between Members, Taxi Proprietors and Officers**

5.1.1 The usual six monthly liaison meeting between members, taxi proprietors and officers was held on Monday 26 October 2009. The meeting was chaired by Councillor Godbeer and also present was Councillor Gibbings. A copy of the minutes will be available at the meeting on the 24 November 2009.

5.1.2 The next liaison meeting has been arranged for Wednesday 7 April 2010 at 1400 hours in the Council Chamber. The Committee's Chairman and Vice Chairman normally attend these meetings.

## **6. Customer Service Excellence (Chartermark)**

6.1 The final assessment took place on 29 October 2009. It is hoped that the official notification of the decision will be available to the Committee at the meeting.

### **Legal Implications**

There are no legal implications set out within the report requiring comment.

### **Financial Implications**

The Customer Service Excellence (Chartermark) award incurred a one off fee of £2,345 and will incur an annual reassessment fee of £1,100 from 2010/2011.

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Licensing and Enforcement Committee  
24 November 2009

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