

Title	The Licensing function in Test Valley		
Report of the Head of	Legal and Democratic Services		
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Report to	Overview and Scrutiny Committee	Date	July 2017

Briefing Summary

The purpose of this briefing note is to appraise the Overview and Scrutiny Committee of the delivery of the various statutory licensing functions delivered by the Licensing Team of the Legal and Democratic Service with a particular emphasis on how delivery has altered since the introduction of the Licensing Act 2003.

Main focus of the document

Introduction

The Licensing team in the Legal and Democratic Service is responsible for the following licensing functions: Licensing Act 2003 (alcohol, entertainment and late night refreshment); Gambling Act 2005 (gambling premises, gaming machines and small lotteries); taxis (hackney carriages and private hire vehicles); scrap metal dealers; charitable street and house to house collections; sex establishments; charity banner site bookings; and tables and chairs on the highway (pavement cafes).

The Licensing Manager also manages the Local Land Charges function and is the lead officer for emergency planning and business continuity planning. These matters are not included within this report other than the commentary below about staffing. It should also be noted that some licensing functions mostly those relating to animals and food, e.g. animal boarding and riding establishments, pet shops and street traders, are provided by the Housing and Environmental Health Service and again are not included in this briefing note.

Background

The current Licensing Team was formed in 2004 in preparation for the authority assuming responsibility for the Licensing Act 2003. This new legislation combined the existing licensing regimes for public entertainment, alcohol and late night refreshment with the major change being the move of responsibility for alcohol licensing from the Magistrates Courts to local authorities.

Licensing Act 2003

It would not be unreasonable to say that the introduction of the Act was accompanied by some unhelpful media reporting which predicted an increase in alcohol related violence and focussed largely upon the fact that the Act would allow 24 hour drinking. Fortunately such concerns have proved unfounded in Test Valley at least with 24 hour licences restricted to a handful of properties such as supermarkets and convenience stores and hotels (the latter were already able to provide alcohol 24 hours a day to residents and guests under the previous licensing regime). Nationally various studies and surveys have been unable to prove any conclusive increase in levels of alcohol related crime as a result of the introduction of the Act. It is important to recognise that alcohol related behaviour such as binge drinking existed long before the introduction of the Licensing Act 2003.

Initially it was necessary to arrange for a number of Licensing Sub Committee meetings to hear contested applications. As the Act has bedded in and the legislation become better understood the number of hearings has declined such that the most recent one was the first in over a year. A list of licensing hearings appears as Annex 1 to this report. Whilst the higher level work requiring matters to be determined at a hearing has reduced there remains a considerable level of regular lower level administrative work associated with issuing new licences and variations.

Gambling Act 2005

The Gambling Act 2005 became fully effective on 1st September 2007 and combined the existing licensing regimes operated by local authorities for small lotteries (raffles and draws) and gaming machines with the gaming regimes previously operated by the Magistrates. As with the Licensing Act, the introduction of the Gambling Act was beset by problems such as the late publication of legislation and guidance by central government. Fortunately, the number of gambling premises within the Borough is small and so the impact of these problems was minimal. A list of currently licensed gambling premises within the Borough appear as Annex 2 to this report. The Act has not had a significant impact particularly taking account of the fact that most premises are operated by multi-national corporations who are heavily regulated by the government sponsored Gambling Commission.

Taxis

Taxis comprise two categories of vehicle; hackney carriages are what most people would recognise as a taxi i.e. it can be hailed in a street and plies for hire from a rank. The Council restricts the number of hackney carriage vehicles it licenses with 43 currently licensed and a further three licences currently available for wheelchair accessible vehicles. The number of private hire vehicles fluctuates at around 200 vehicles and legislatively there is no limit to the number of licences that the authority can issue. Vehicles are subject to an inspection at the Council's Portway Depot to ensure that the vehicle is suitable to be licensed. The vehicle owner must then also provide proof of ownership, MOT and necessary insurance before the vehicle can be licensed. Anybody driving a licensed vehicle must be licensed and is required to pass a written knowledge test, provide a medical to DVLA Group 2 standards (that required for bus, coach and lorry drivers), allow the authority to access their driving licence record and have no criminal convictions which would cause the authority to

believe the person is not a 'fit and proper' person to hold a licence. The latter point is determined by seeking an enhanced criminal records disclosure from the Disclosure and Barring Service which will list all convictions, cautions and findings of guilt.

Presently taxi licensing is the one area which takes a considerable amount of officer time and resource. There is no national standard for taxi licensing and local authorities are largely free to set their own criteria and conditions which will vary from authority to authority. Thus there is a danger that an authority with lesser standards will be seen as an easy touch and will become inundated with applications from persons who are unable to obtain licences in other areas. This has not happened in Test Valley and there is good liaison amongst the Hampshire local authorities in an effort to prevent this from happening. Conversely it is important to ensure that conditions are not so onerous that persons are prevented from entering the trade without good reason. It should always be remembered that the primary purpose of the taxi trade is to provide public transport often for those more vulnerable members of society for whom other means of transport are inaccessible.

Scrap Metal Dealers

The current legislation was introduced in reaction to the widespread problem of metal thefts. Dealers are now required to apply for a licence and as part of that process must submit a basic criminal records disclosure; any conviction for metal related theft would likely result in refusal of a licence. Dealers must verify the name and address of persons from whom they buy scrap, keep records and not pay cash for scrap. The problems associated with metal thefts have now largely reduced but they may have more to do with the reduced value of scrap metal rather than the licensing regime.

Street and House to House Collections

Public collections of money or sale of goods for charitable and similar purposes requires the permission of the local authority when conducted in the street or similar public open space or when going from house to house. Typically these will be flag days and similar collections on behalf of national and local charities. As regards street collections it should be noted that the Council's policy is to allow no more than one collection in the same place at any one time so as to benefit the charity and ensure the public are not subjected to multiple collections at the same time. Regrettably the solicitation of interest from persons for donating to a charity undertaken by persons commonly known as chuggers falls outside of the current street collection legislation and cannot be regulated by the Council. It should be noted that as from 1st September 2017 Street Collections in Romsey will be administered by Romsey Town Council.

Sex establishments

The authority has the ability to license sex shops, sexual entertainment venues (e.g. pole and lap dancing clubs) and sex cinemas. In recent years however the authority has only licensed one sex shop in Andover. Whilst many persons may have strong moral or personal views on the existence of such premises these cannot be taken into account when determining applications. Licences have significant conditions attached to them and such premises do not generally give rise to any issues.

Charity banner site bookings

Administration of the bookings for use of the banner sites at Beech Hurst, Vigo Road, The Rapids and Valley Park is not a licensing function but is undertaken in this team largely because a great many of the organisations wishing to use the sites will have had contact with the Licensing Team over other matters such as applying for a small lottery registration or street collection. Use of the Andover sites has become so popular that they are often booked up a year in advance.

Tables and Chairs on the Highway

Persons wishing to place tables and chairs on highway land adjacent to their premises for the purposes of providing refreshment to the public must obtain a licence under the Highways Act 1980. A handful of premises in Andover and Romsey town centres typically, bars, bistros and coffee shops hold such a licence. The application procedure involves consultation with the Police, Hampshire Highways, our own highways and environmental health staff to ensure that the area to be licensed does not present a safety hazard. As with so many areas of licensing there is a balance to be struck between allowing premises to operate in a commercially viable manner and ensuring public safety is not compromised.

Partnerships

One of the most of the most significant benefits of the introduction of the Licensing Act has been the development of excellent working relationships with external partners particularly the Police. Liaison with the Police officers has reduced in recent years in line with the reduction in Police numbers but there is still regular communication. Other partner agencies with whom regular communication takes place include Hampshire County Council Trading Standards, Hampshire Fire and Rescue Service, the Security Industry Authority, Home Office Immigration Enforcement and the Gambling Commission.

Performance

It is difficult to accurately assess the performance of the licensing function as there are no national performance indicators. With regard to Licensing Act applications there are certain statutory deadlines which must be complied with e.g. representations in support of or objecting to an application must be submitted within 28 days of an application being received. If an application is contested then the hearing must be held within a certain period of time and the result of the hearing notified within a set timescale; all of these deadlines have been met as there is simply no option for the Council to deviate from them. Similar deadlines exist for application under the Gambling Act although the authority has only ever had one application that has been contested.

In the absence of national indicators the authority has introduced its own namely that for Personal Licences and amendments to existing licences 96% of applications are processed and issued within four working days. Unfortunately due to staffing difficulties in recent years this target has not been met but the Licensing Manager is confident that the target will be achieved in future.

Again, as a result of there being no national indicator taxi licensing also has a locally set indicator of 94% of driver licences being issued within four working days of the receipt of all information. This target has also been a challenge to meet in recent years although it has been met all but once in the last two years.

In the absence of any other indicators the Licensing Team largely rely on feedback from customers and the public as a means of assessing performance. In recent years the criticisms levied against the Licensing Team have largely been as a result of customers being unhappy because legislation or policy has prevented them from doing what they wanted e.g. a potential objector to a licence application being unable to submit a representation as a result of being outside of the permitted period for doing so.

Resources

One of the most significant issues with regard to resources is that relating to licence fees. Under the Licensing Act, all fees are set by statute. Income for 2015/16 was £86,606 and after all expenditure was accounted for there was a net surplus of £37,233. Many local authorities have argued that they lose money administering the Licensing Act and there has been a proposal to allow authorities to set their own fee levels. However, in the case of Test Valley that would not be to our benefit as there is an established legal principal that licence fees can only be set at a level that cover the costs of administering the licensing function and so if given the discretion to set fee levels locally we would have to reduce fees to level where no surplus was made.

Under the Gambling Act 2005, central government set a maximum limit for all fees and local authorities could set their fees at any level up to this maximum. The Council has used the maximum but even so has incurred net expenditure in 2016/17 of £24,540. These figures reflect the position that despite having relatively few gambling premises and generally low numbers of licences there is still a significant amount of officer time that needs to be spent on administration of this area of licensing.

The other areas of licensing such as taxis, sex establishments, scrap metal dealers and pavement cafes are ones where the authority is able to determine its fee levels and as such these licensing regimes operate with fee levels which ensure the cost of the service is covered and neither a surplus nor a deficit are produced.

Staffing has proved problematic in recent years with staff leaving and not being replaced immediately. Historically, members of the Team have tended to administer specific areas of work which means in their absence it is not always possible to provide a full service. To remedy these issues and generally increase resilience amongst the Team it is proposed to make all staff across the wider Licensing and Local Land Charges functions multi-disciplinary so that staff absence will not impact detrimentally on service delivery. An organisational diagram is attached as Annex 3 showing the future team structure. This revised approach can be achieved within existing budgets and only requires a minor change to one post.

Proposed Outcomes for consideration

Members are asked to consider if there are any further areas of licensing work upon which they might like more detailed information.

In addition the Licensing Manager would be keen to receive comments or suggestions from Members regarding any possible improvements in the existing level of service. Members are also asked to consider if there might be ways to increase the amount of customer feedback received so that it provides a meaningful assessment of current service delivery.

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	Three
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