

TITLE OF REPORT: LICENSING SERVICE ANNUAL REPORT**REPORT OF THE HEAD OF HOUSING AND PUBLIC PROTECTION****1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to update the Licensing and Appeals Committee on the work of the Licensing Service and to advise of forthcoming issues that are likely to be referred to the Committee over the next 12 months.

2. FORWARD PLAN

- 2.1 This report does not contain a recommendation on a key decision that has been notified to the public in the Forward Plan.

3. UPDATE ON RECENT POLICIES

- 3.1 At its meeting on 21st November 2011, the Licensing and Appeals Committee recommended to Cabinet that it adopt new policies in respect of Street Trading, Street Collections and House to House Collections. All three policies were subsequently adopted by Cabinet at its meeting on 13th December 2011 and are now in effect.

- 3.2 The adoption of the Street Collections and House to House Collections has been particularly successful and the Licensing Service have been able to refuse applications where concerns exist as to the net amount of money actually being received by the charity. Prior to the adoption of the policies, refusals were more difficult to implement without the safeguard of a stated policy position to defend the decision.

- 3.3 The Street Trading Policy has been equally successful with mobile traders across the District now being regulated through the issuing of consents where appropriate. The introduction of new Town Centre Consents as part of the policy has been well received by Town Centre Managers and applications have been received in respect of Hitchin and Garden Square in Letchworth.

4. FUTURE POLICY CONSIDERATIONS

- 4.1 The only matter currently identified for review in 2013 is the Council's policy in respect of the Licensing Act 2003.

- 4.2 It is anticipated that the new policy will need to take effect from April 2013 to incorporate significant statutory changes to the Licensing Act 2003 that have either taken effect already or take effect from April 2013.

- 4.3 A summary of the changes to the Licensing Act 2003 will be identified during the forthcoming training for Members planned for 8th November 2013. It is important that all Licensing and Appeals Committee Members attend this training session to ensure that they are fully aware of the new legislation and its impact on Licensing Sub-Committee decision making. The evening session is designed to update previously trained Members on the new provisions whereas the afternoon session is a full training session for Members newly elected to the Committee.

5. LICENSING FEES

- 5.1 The process of setting of licensing fees is, in most cases, prescribed by legislation. Depending on the legislation, the fee can either cover administrative costs only or a combination of administrative and enforcement costs.
- 5.2 A common factor throughout the legislation, however, is that licensing fees should only seek to recover the legitimate costs associated with the specific licensing activity. Case law has determined that the assessment period for cost recovery is typically a 3 – 5 year cycle, thus allowing for any anomalies or unforeseen circumstances to be recovered or refunded over a reasonable time period.
- 5.3 The EU Services Directive further introduced a responsibility for councils to ensure that licensing fees are reasonable and are not unduly restrictive to potential applicants. Additionally, recent case law in respect of licensing fees for sex establishments has clarified the cost recovery aspect of fee setting and councils may find that excessive licensing fees in this area are likely to be subject to future challenge.
- 5.4 In the majority of cases, the setting of licensing fees is a local function having regard to the above parameters. The one significant exception, however, is the centrally set fees in relation to the Licensing Act 2003.
- 5.5 Recent changes to the Licensing Act 2003 will allow local authorities to locally set the Licensing Act fees within prescribed parameters and subject to a centrally set maximum (this is a reflection of the current fee setting process for the Gambling Act 2005).
- 5.6 In preparation for setting the Licensing Act fees, the Licensing Service has commenced a detailed time-recording exercise to enable the new legislative requirements (as yet unpublished) to be achieved. The Licensing Service has also taken this opportunity to extend the time-recording exercise to all licensing functions to enable a full audit of the Council's licensing fees.
- 5.7 The responsibility for setting fees can either be an Executive function or a Council function depending on the legislation. The Portfolio Holder for Housing and Environmental Health has indicated that prior to the setting of fees for the financial year 2013/14 he will be seeking the views of the Licensing and Appeals Committee. The Portfolio Holder for Housing and Environmental Health has also indicated that he will be seeking the views of the Licensing and Appeals Committee in respect of the enforcement activities carried out by the Licensing Service, particularly where the legislation does not allow enforcement costs to be recovered through licensing fees.
- 5.8 Depending on the outcome of the costing exercise, it is possible that there may be a need to significantly increase or decrease fees. Also, consideration will need to be given as to how this is managed over the 3 – 5 year fee setting cycle.

6. LICENSING SERVICE UPDATE

Value For Money Report

- 6.1 The Licensing Service has been the subject of a Value for Money (VFM) report in 2012 which has now been approved by Challenge Board.

- 6.2 Changes to the Licensing Act 2003 and the recent licensing fee court judgements are likely to have a significant impact on the Licensing Service, not least the requirement to ensure that licensing fees reflect the true cost of the service as allowed for by legislation.
- 6.3 The VFM report identified ways in which the service could operate more efficiently through increased use of the Council's Management Support Unit (MSU) and shared services, whilst highlighting the need to establish a sustainable staffing structure to meet the future challenges.

Licensing Service

- 6.4 The Licensing Service's main activities are the determination and issue, and associated enforcement, of licences/consents/permits relating to the following activities:
- (i) Alcohol and Entertainment
 - (ii) Gambling
 - (iii) Hackney Carriage and Private Hire
 - (iv) Street Trading
 - (v) Charitable Collections
 - (vi) Animal Establishments
 - (vii) Sex Establishments
 - (viii) Scrap Metal Dealers
 - (ix) Hypnotism

All activities undertaken by the Licensing Service are in fulfilment of statutory duties placed on the Council.

- 6.5 It has been a major success of the Licensing Service that, despite a reduced staffing resource due to long term sickness and a vacant post, all applications have been processed in accordance with the strict prescribed timescales and that all statutory functions have been fulfilled.
- 6.6 Inevitably, the reduced staffing resource has meant that despite meeting all statutory requirements, non-statutory services have been affected. This has resulted in a reduced level of pre-application advice and assistance and an increase in response times to some service requests.
- 6.7 As part of the VFM report, statistics were compiled in relation to the Licensing Service. A snapshot of these statistics is provided below for Member's information as Appendix A.

7. LEGAL IMPLICATIONS

- 7.1 There are no specific legal implications arising directly from this report.
- 7.2 Future policies and licensing fee issues will be subject to formal reports to the Committee which will contain the specific legal implications appropriate to each individual report.

8. FINANCIAL AND RISK IMPLICATIONS

- 8.1 There are no specific financial and risk implications arising directly from this report.
- 8.2 Future policies and licensing fee issues will be subject to formal reports to the Committee which will contain the specific financial and risk implications appropriate to each individual report.

9. HUMAN RESOURCE AND EQUALITY IMPLICATIONS

- 9.1 There are no specific human resource and equality implications arising directly from this report.
- 9.2 Future policies and licensing fee issues will be subject to formal reports to the Committee which will contain the specific human resource and equality implications appropriate to each individual report.

10. CONSULTATION WITH EXTERNAL AND INTERNAL STAKEHOLDERS

- 10.1 This report has not been subject to consultation with external or internal stakeholders.

11. RECOMMENDATIONS

- 11.1 That the Licensing and Appeals Committee note the content of the report.

12. REASONS FOR RECOMMENDATIONS

- 12.1 To update Members on the work of the Licensing Service and highlight forthcoming issues that will require consideration by the Committee.

13. ALTERNATIVE OPTIONS CONSIDERED

- 13.1 No alternative options were considered as the purpose of the report is to update Members on service and forthcoming issues.

14. APPENDICES

- 14.1 Appendix A - Licensing Service Statistics.

15. CONTACT OFFICERS

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APPENDIX A: LICENSING SERVICE STATISTICS

1. Number of licences in existence (as at April 2012)

<u>Licensing Act 2003</u>	
Premises licences	436
Club premises certificates	36
Personal licences	1060
<u>Gambling Act 2005</u>	
Adult gaming centre	1
Family entertainment centre	1
Betting shops	15
Amusement with prizes machines	100 (approx)
Small society lotteries	90
<u>Hackney Carriage and Private Hire</u>	
Hackney carriage vehicles	209
Hackney carriage drivers	195
Private hire vehicles	73
Private hire drivers	98
Private hire operators	29
Dual hackney carriage / private hire drivers	93
<u>Street Trading</u>	
Lay-by traders	6
<u>Charitable Collections</u>	100
<u>Animal Establishments</u>	
Animal boarding establishments	13
Riding establishments	3
Pet shops	2
Zoos	0
Dog breeding establishments	2
Dangerous wild animals	1
<u>Sex Establishments</u>	
Sex shops	1
Sex cinemas	0
Sex entertainment venues	0
<u>Scrap Metal</u>	
Scrap metal dealers	2
Motor salvage operators	2
<u>TOTAL</u>	<u>2568</u>

APPENDIX A: LICENSING SERVICE STATISTICS

2. Number of annual applications

Licensing Act 2003	950
Gambling	100
Hackney carriage and private hire	450
Street trading	24
Charitable collections	100
Animal establishments	21
Sex establishments	1
Scrap metal	4
<u>TOTAL</u>	<u>1650</u>

The above figures are an overview of an average year's applications which was deemed more appropriate than considering a set period due to the variable nature of applications received.

3. Number of service requests (excluding applications)

This is a significant part of the work undertaken by the Licensing Service but is very difficult to quantify as much of it is undertaken by the MSU by telephone and is not, therefore, recorded. In respect of service requests of a technical nature that are referred to a Licensing Officer, these are recorded when the officer needs to respond to them. In order to assist during particularly busy periods, the MSU will telephone an officer for advice which is then passed on to the customer via the telephone and, therefore, not recorded.

Based on the number of recorded technical enquires / service requests not relating to a particular application in 2011, the Licensing Service deal with an average of 325 such requests per year. These requests can vary from a technical query requiring detailed knowledge of legislation that can be resolved in under an hour, to a serious complaint against a hackney carriage driver that requires a thorough investigation and a disciplinary hearing that can takes 2 -3 months.

4. Number of inspections undertaken

The Licensing Service undertake regular premises inspections to ensure compliance with licence conditions and legislation. All premises are risk-rated to ensure that resources are targeted at appropriate premises. High risk premises receive a six-monthly inspection and medium risk premises receive an annual visit. In order to reduce unnecessary inspections on smaller businesses, low risk premises have the option of undertaking a self-assessment inspection to avoid the burden of an officer visit.

The number of inspections scheduled for 2012/13 is 260, comprising 62 self-assessments and 198 officer visits.