

# Annual Licensing Report

1 October 2021 to 30 September 2022

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## 1. EXECUTIVE SUMMARY

1.1 The purpose of this report is to give the Licensing and Regulation Committee:

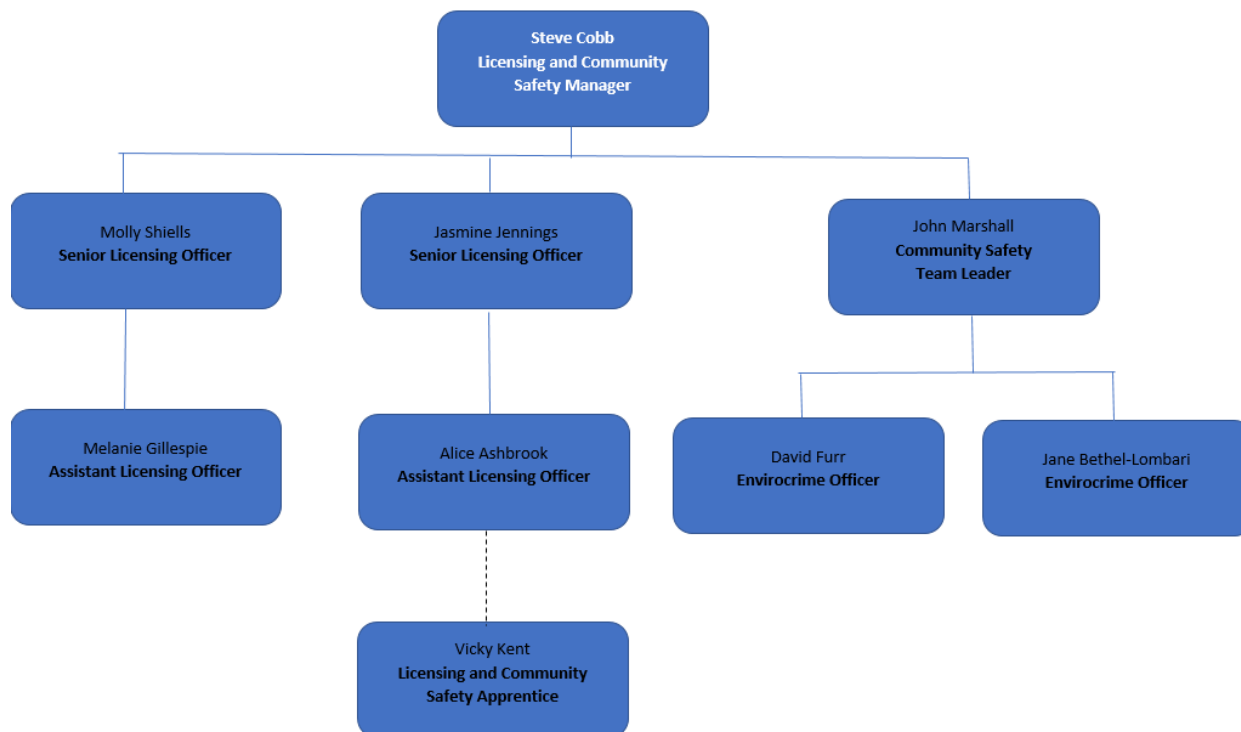
- an overview of the work undertaken by the licensing service over the preceding twelve months
- an update on existing projects and policies
- an overview of future proposals

1.2 The period covered by the report is 1 October 2021 to 30 September 2022.

## 2. OVERVIEW OF THE SERVICE

2.1 From 1 November 2022, the licensing service formally combined with the community safety service. This arrangement had been temporarily in place from 1 June 2022 following the resignation of the community protection manager resulting in transitional arrangements pending a formal restructure consultation.

2.2 During the transitional arrangements, the following structure was trialled and formally adopted following the restructure consultation. The new structure delegates additional responsibilities to the senior licensing officers to allow the licensing and community safety manager to oversee both service areas.



2.3 From 1 April 2022, the licensing service took over the responsibility for the licensing of houses of multiple occupancy (HMOs), caravan and camping sites, and skin piercers which had previously been undertaken by the environmental health service.

2.4 Unfortunately, due to a lack of resources within the environmental health service, coupled with the demands placed on the service by the pandemic, the inherited licences posed several problems for the licensing service. Inspections were outstanding, annual fee

invoicing was outstanding, policies were missing, and the licensing service needed significant upskilling to carry out the new responsibilities.

- 2.5 The ongoing resourcing problem within the environmental health service meant that initially the support needed to upskill wasn't available, other than for skin piercing which transferred relatively seamlessly. Recent resource additions to the environmental health service have meant that the necessary support for upskilling is now present and the two services are working well together to facilitate a smooth handover and ensure an appropriate level of service is provided to our customers.
- 2.6 The new licensing responsibilities and the introduction of the new structure required for incorporating the community safety service into the team have had an impact on the ability of the service to progress some of the proposals identified in last year's report.
- 2.7 The team is assisted by officers in the Management Support Unit (MSU) who undertake a range of administrative functions for the service ranging from basic enquiries to the processing of low-risk applications. This assistance is a key component in being able to deliver an effective licensing service to our customers.
- 2.8 The licensing officer and assistant licensing officer posts are all career-graded to encourage staff development and assist with staff retention and service resilience.
- 2.9 All activities undertaken by the licensing service are in fulfilment of statutory duties placed on the Council.
- 2.10 The licensing of the use of council land is undertaken by the greenspace service manager.
- 2.11 The licensing service's main activities are the determination, issue and enforcement of licences/consents/permits relating to the following activities:

### **Alcohol, entertainment, and late-night refreshment**

- 2.11.1 This includes:
  - all sales of alcohol
  - performance of plays
  - exhibition of films
  - indoor sporting events
  - boxing and wrestling
  - performance of live music
  - playing of recorded music
  - performance of dance
  - sale of hot food/drink between the hours of 11pm and 5am
- 2.11.2 Examples of premises that fall within this regime are pubs, members clubs, cinemas, community halls, late night takeaway shops, theatres, off licences, supermarkets, boxing/wrestling venues, music concerts and outdoor music festivals.
- 2.11.3 Temporary event notices (TENs) also fall within this regime; they are temporary permissions to carry out any combination of the above licensable activities. They are most frequently used by premises that do not have a permanent premises licence, for example a school fete or PTA fundraiser. Additionally, permanent premises licence holders use them for temporary extensions to existing licenced hours.

- 2.11.4 TENs are a 'light touch approach' to licensing and are less restrictive than a permanent premises licence as conditions cannot be attached. For that reason, prescribed limits apply to the number of TENs per person and per premises each year and the audience capacity is restricted to 499 persons at any one time.

### **Gambling**

- 2.11.5 Examples of premises that fall within this regime are betting shops, bingo halls, casinos, racing track betting, amusement arcades and poker clubs.
- 2.11.6 It also includes small society lotteries, raffles, and gaming machine permits (pubs, clubs, motorway service stations, etc.).

### **Taxis and private hire**

- 2.11.7 This includes taxi (hackney carriage) and private hire drivers, private hire operators, taxis, and private hire vehicles.

### **Street trading**

- 2.11.8 This covers the sale of goods in the street and any land open to the public without payment within the four main towns and adjacent to the main arterial routes.
- 2.11.9 It includes mobile vendors (such as burger vans, sandwich trucks or ice cream vans), markets (other than Charter or licensed local authority markets), car boot sales and temporary stalls.

### **Charitable collections**

- 2.11.10 This covers collection of money in the street, or the collection of money or goods by going house to house, in the four main towns.
- 2.11.11 Examples of collections covered by this regime include charity collections, sale of goods for charitable purposes, clothing collection bags or flower sellers going from pub to pub on Valentine's Day.

### **Pavement Licences**

- 2.11.12 To assist the recovery of business after the national lockdown and during continued restrictions, Government introduced a new temporary permission for tables and chairs outside of premises offering food and/or drink called a pavement licence.
- 2.11.13 These are administered by district and borough councils as a fast-track, cost effective method to assist businesses until 30 September 2022 and are an alternative to county council issued street café licences. Street café licences are still available and pavement licences will need to be replaced by street café licences when these temporary measures expire.
- 2.11.14 This was initially a temporary measure until 30 September 2021 however was subsequently extended by twelve months.
- 2.11.15 Government has subsequently extended this provision for a further twelve months until 30 September 2023 to allow parliamentary time to introduce new legislation formalising these temporary arrangements.

2.11.16 The new legislation will also introduce enforcement powers for district and borough councils, a power currently reserved for highways authorities only. It is unclear until the legislation has been finalised whether county council street café licences will be retained or whether pavement licences will be the only licence for this activity.

### **Animal establishments**

2.11.17 This regime is targeted at ensuring the welfare of animals and covers premises such as kennels, catteries, home boarders, dog breeders, zoos, horse riding schools, pet shops, dangerous wild animals, dog day crèches and keeping/training of animals for the purpose of public performance/exhibition.

### **Sex establishments**

2.11.18 This covers sex shops, sex cinemas or sexual entertainment venues (for example, lap dancing or pole dancing clubs).

### **Scrap metal dealers**

2.11.19 This covers any site that:

- buys or sells scrap metal
- recovers salvageable parts from motor vehicles for re-use or sale
- buys written-off vehicles, repairs and resells them

2.11.20 It also includes mobile collectors that travel door-to-door collecting scrap metal.

### **Hypnotism**

2.11.21 This includes all performances of hypnotism for the purpose of entertaining an audience.

### **Houses in multiple occupation (HMOs)**

2.11.22 A property is an HMO if both the following apply:

- at least three tenants live there, forming more than one household
- toilet, bathroom, or kitchen facilities are shared

2.11.23 An HMO requires a licence if the property is rented as a shared house, flat, or bedsit if both the following apply:

- at least five tenants live there, forming more than one household
- toilet, bathroom, or kitchen facilities are shared

### **Park homes, caravan sites, and camp sites**

2.11.24 The provision of land for mobile (park) homes, caravans, or camping in any moveable structure requires a licence from the local authority.

### **Skin piercing**

2.11.25 Any person or business carrying out skin piercing activities must be registered with the local authority. The premises in which the activities are carried out must also be registered.

2.11.26 Skin piercing activities include, but are not limited to:

- acupuncture
- tattooing
- cosmetic piercing
- electrolysis
- semi-permanent skin colouring

2.11.27 Although this is only a registration scheme, local byelaws enforce standards of hygiene and safety.

### 3. INSPECTIONS

3.1 The licensing service undertakes a series of risk-based planned inspections to ensure licence compliance and minimise the risk to public safety. The number of inspections undertaken within the reporting period was:

INSPECTIONS					
	2017/18	2018/19	2019/20	2020/21	2021/22
Animal Inspection	21	39	25	2	10
Gambling Insp - Betting (other)	11	2	1	0	0
Licensed Premises (alcohol/entertainment/LN)	260	89	74	0	1
Private Hire Operator Insp	20	21	5	1	5
Skin Piercing	0	0	0	0	14
Scrap Metal Site	3	4	1	0	0
Sex Establishment	1	1	0	0	0
	316	156	106	3	30

3.2 Whilst a new inspection regime was outlined in last year's report to increase the number of inspections undertaken, additional workload and the need to upskill in new aspects of licensing have impacted on the number of inspections undertaken.

3.3 Next year's report will reflect the increased number of inspections undertaken through the new inspection program. Inspections will be targeted at premises on the basis of risk to the public, plus will include more proactive inspection visits with a view to reducing the need for reactive visits if problems arise.

3.4 The types of inspections introduced under the new inspection program and now logged on the licensing database include:

- any visit investigating a complaint
- programmed annual inspections for in perpetuity licences
- mandatory mid-term licence inspections for longer fixed term licences such as animal establishment licences
- out of hours inspections during peak operating hours
- joint inspections with other agencies, such as the police or fire
- ad hoc courtesy visits to taxi ranks where basic vehicle checks are undertaken
- ad hoc courtesy visits to licensed premises
- courtesy visits to new licence holders within the first few months of a new premises opening
- courtesy visits within the first few weeks of a business changing ownership when the licence is transferred

- courtesy visits to alcohol licensed premises when a new designated premises supervisor takes over the day-to-day management

#### 4. APPLICATIONS

4.1 The number of applications processed during the reporting period was:

			2017/18	2018/19	2019/20	2020/21	2021/22	
Hackney Carriage and Private Hire	Dual Driver	Change of name or address	6	5	5	3	2	
		Upgrade to dual	7	12	3	6	5	
		Replacement licence	1	1	2	1	1	
		Replacement badge	1	1	0	0	0	
		New	2	3	2	0	2	
		Renewal	17	45	24	35	31	
			34	67	36	45	41	
	Hackney Carriage Driver	Change of name or address	6	4	4	7	5	
		Replacement licence	1	0	1	0	0	
		Replacement badge	1	0	0	0	0	
		Upgrade from PHD	0	3	0	0	1	
		Renewal	46	57	35	38	38	
		New	1	1	0	0	4	
			55	65	40	45	48	
	Hackney Carriage Vehicle	Change of name or address	13	4	4	6	6	
		Transfer of ownership	11	9	14	33	16	
		New	36	35	61	23	25	
		Renewal	199	209	220	262	251	
		Internal holder/badge	0	1	4	5	4	
		Replacement licence	12	2	0	2	2	
		Replacement plate	6	2	3	1	0	
		Temporary Vehicle	15	9	6	5	11	
				292	271	312	337	315
		Private Hire Driver	Change of name or address	5	6	5	4	2
	Replacement badge		1	0	1	1	0	
	Replacement licence		0	1	1	0	1	
	Renewal		20	26	18	34	20	
	New		39	22	9	0	26	
	Upgrade to HCD		2	1	0	0	2	
			67	56	34	39	51	
	Private Hire Operator	Change of name or address	1	1	5	1	3	
		New	3	2	4	2	4	
		Renewal	6	2	6	0	3	
			10	5	15	3	10	
Private Hire Vehicle	Change of name or address	4	3	5	0	1		
	Transfer of ownership	1	2	2	2	8		
	New	29	29	24	6	18		
	Renewal	39	114	100	90	107		
	Internal holder/badge	0	1	0	2	2		
	Replacement licence	6	1	0	0	0		
	Replacement plate	4	2	2	1	3		
	Temporary Vehicle	2	4	2	1	2		
			145	153	137	101	141	
		603	617	574	570	606		
Animal Licensing	Animal Activity Licence	New	13	11	3	7	10	
		Amend a schedule of animals (no visit)	1	1	0	1	0	
		Renewal	28	28	12	13	17	
		42	40	15	21	27		
Scrap Metal	Site Licence	New	1	0	0	1	1	
		Renewal	0	0	2	2	2	
		1	0	2	2	2		
Gambling	Notification of 2 or less Gaming Machines	New	10	5	8	5	3	
		Variation	0	2	1	0	1	
		Replacement Licence	0	1	0	0	0	
	Licensed Premises Gaming Machine Permits	New	0	0	1	1	0	
		Transfer	0	1	0	0	0	
		Replacement Licence	0	1	0	5	0	
	Premises Licences	Transfer	0	1	0	1	0	
		New	30	38	20	17	22	
	Small Society Lotteries	New	30	38	20	17	22	
		Renewal	45	45	44	54	58	
		75	83	64	71	80		
		85	94	74	83	84		

			2017/18		2018/19		2019/20		2020/21		2021/22					
Alcohol, Entertainment and Late Night Refreshment	Club Premises Certificate	Replacement licence	2		2		0		0		0					
		Minor variation	1	3	0	2	0	0	1	1	0	0				
	Film Classification	New	1	1	0	0	0	0	0	0	1	1				
		Late TEN	126		132		86		70		119					
	Temporary Event Notice	TEN	519	645	612	744	288	374	177	247	429	548				
		New	74		102		58		50		62					
	Personal Licence	Replacement licence	0		6		2		3		5					
		Change of name or address	29	103	23	131	14	74	27	80	33	100				
		New	20		32		21		25		29					
	Premises Licences	Change of name or address	8		8		5		15		8					
		Vary DPS	30		105		80		51		76					
		Transfer	32		28		26		12		17					
		Variation	11		3		6		4		5					
		Minor variation	20		10		10		7		10					
		Review	0		2		0		2		1					
		Interim authority notice	0		0		0		0		1					
		Replacement licence	5		10		3		3		4					
Notification of interest		2	188	0	204	1,081	0	151	599	2	121	449	3	154	803	
Charitable Collections	House to House	New	36		44		29		38		31					
	Street	New	45	81	81	37	81	81	34	63	63	16	54	54	28	59
Sex	Sex shop	Renewal	1	1	1	1	1	0	0	0	0	0	0	0	0	0
Houses of Multiple	HMO Licences	New	HMO licensing was transferred to the licensing service on 01/04/2022									0				
		Renewal	HMO licensing was transferred to the licensing service on 01/04/2022									1	1	1		
Mobile Home and Caravan Sites	Caravan site licences	New	Mobile home and caravan site licensing was transferred to the licensing service on 01/04/2022									0				
		Renewal	Mobile home and caravan site licensing was transferred to the licensing service on 01/04/2022									0	0	0		
Skin Piercing	Skin piercing registration	Premises	Skin piercing registration was transferred to the licensing service on 01/04/2022									18				
		Personal	Skin piercing registration was transferred to the licensing service on 01/04/2022									31				
		Variations	Skin piercing registration was transferred to the licensing service on 01/04/2022									2	51	51		
Street Trading	Street trading (Fixed Pitch)	New	3		4		4		5		2					
		Renewal	5	8	3	7	0	4	1	6	4	6				
	Street trading (Town Centre Consent)	New	2		1		0		2		1					
		Renewal	1	3	4	5	4	4	1	3	3	4				
	Street trading (Transient Trader)	New	1	1	1	1	0	0	0	0	0	0				
	Street trading (Special Event/Market)	New	0	0	0	0	1	1	0	0	0	0				
Pavement licences	New	0	0	12	0	0	13	6	6	15	28	28	37	32	32	42
<b>TOTAL</b>			<b>1,765</b>		<b>TOTAL</b>	<b>1,937</b>		<b>TOTAL</b>	<b>1,342</b>		<b>TOTAL</b>	<b>1,216</b>		<b>TOTAL</b>	<b>1,675</b>	

4.2 As the above figures demonstrate, the effect of the pandemic on the number of applications has been reversed. Indeed, it is encouraging to see an increase in the number of new businesses starting up in North Hertfordshire.

## 5. CURRENT LICENCES

5.1 As of 30 September 2022, the number of current licences issued by the licensing service was:

<b>TOTAL LICENCES (valid at 30/09/2022)</b>						
		2017/18	2018/19	2019/20	2020/21	2021/22
Adult Gaming Centre Premises Licence			1	1	1	1
* Animal Boarding Establishment	12			n/a	n/a	n/a
* Dangerous Wild Animals	1			n/a	n/a	n/a
* Dog Breeding Establishment	1			n/a	n/a	n/a
* Dog Day Creche	1			n/a	n/a	n/a
* Home Boarding	18			n/a	n/a	n/a
* Pet Shop	4			n/a	n/a	n/a
* Riding Establishment	2			n/a	n/a	n/a
* Animal Activity Licence	0		39	39	35	32
Betting (Other) Premises Licence			19	18	12	12



Club Gaming Machine Permit		2	2	2	2	2
Club Gaming Permit		1	1	1	1	1
Club Premises Certificate		35	35	31	31	30
Dual Driver		102	97	92	85	80
Fast Track Club Gaming Machine Permit		9	9	9	9	9
Fast Track Club Gaming Permit		2	2	2	2	2
Hackney Carriage Driver		138	124	119	109	102
Hackney Carriage Vehicle		169	181	195	187	175
House to House Collection		39	31	28	11	24
Licensed Premises Gaming Machine Permit		14	14	15	16	16
Notification of 2 or less Gaming Machines		77	74	78	77	78
Pavement Licences <sup>#</sup>		0	0	6	24	20
Personal Licence		1521	1609	1654	1700	1764
Premises Licence		495	511	475	495	512
Private Hire Driver		147	133	110	82	80
Private Hire Operator		40	34	32	26	22
Private Hire Vehicle		109	98	86	72	85
Scrap Metal Dealer Site		4	4	4	4	5
Sex Shop		1	1	0	0	0
Small Society Lotteries		140	77	63	68	80
Street Collection		55	46	27	2	4
Street Trading (Fixed Pitch)		2	6	0	2	2
Street Trading (Town Centre Consent)		4	5	4	1	3
Street Trading (Special Event/Market Consent)		0	0	1	0	0
Unlicensed FEC Gaming Permit		1	1	1	1	1
Skin piercing: individual						113
Skin piercing: premises						73
Park Homes and Caravan Sites						10
Houses of Multiple Occupancy						41
		3166	3153	3083	3052	3382

\* From September 2018, previous separate animal licensing legislation was repealed and replaced with a single licence under the Animal Welfare Act 2006

# A new fast-track temporary measure to assist with Covid-19 recovery that has been extended until September 2023

5.2 In addition to these licences which, in most cases, are granted in perpetuity the licensing service also issued 548 temporary event notices which are specific to one off small-scale events during the period covered by this report.

5.3 The impact of the lockdown had a significant impact on the number of temporary event notices (TENs) as most community events were cancelled due to ongoing restrictions. It is encouraging to see that the number of TENs is now returning to pre-pandemic levels.

## 6. MISCELLANEOUS SERVICE REQUESTS

6.1 The licensing service receives a high number of service requests in writing and by telephone, most notably requests for advice on the need for, and the submission of, an application.

6.2 The high volume of telephone requests is not currently quantifiable as many are not recorded on the database if they can be resolved either at the time of the call or by a return telephone call or email. Those that require a more detailed response, or an investigation are logged as service requests.

6.3 With effect from 2021, customers were encouraged to submit service requests in writing to reduce the amount of telephone contact. The aim was to reduce the number of telephone calls attempting to contact a customer which were often unsuccessful at the first attempt and reduce the number of calls needed to establish the full facts of the request.

- 6.4 This new approach served two key purposes. It reduced the amount of officer time needed to deal with basic service requests, thus providing a more effective service for the customer, plus a written record of the request and the response was held rather than having to rely on recollections of oral conversations. The increase in the above figures for 2020/21 and 2021/22 highlight the number of service requests previously unrecorded.
- 6.5 In addition to service requests, the licensing service also undertakes a number of functions related to taxi and private hire licensing that are an integral part of assessing drivers' ability to meet the 'fit and proper' person test and that vehicles are roadworthy and compliant with policy.
- 6.6 Due to lockdown restrictions, face-to-face services were not available during previous reporting periods so that has reduced the number of taxi-related services provided. Post pandemic, face-to-face services have resumed and numbers have increased accordingly.
- 6.7 The number of recorded service requests and ancillary functions within the reporting period was:

<b>MISCELLANEOUS</b>					
	2017/18	2018/19	2019/20	2020/21	2021/22
Service requests	205	273	269	403	423
Taxi complaints	40	56	28	28	26
Taxi compliance tests	363	377	387	371	425
Taxi Verbal knowledge tests	118	88	30	12	50
Taxi computerised topographical tests	40	52	10	7	33
Taxi DBS/Right to Work appointments	155	168	66	15	94
	921	1014	790	836	1051

Note:

2020/21 knowledge tests, topographical tests and DBS appointments were only available from 01/09/2021 due to lockdown restrictions

- 6.8 The licensing service receives a significant number of freedom of information (FOI) requests, mainly in relation to taxi and private hire licensing or animals. The requests previously involved considerable officer time searching the database and extracting the specific information requested. The full implementation of the public licensing register has decreased the amount of officer time needed to process these requests as the majority can now be referred directly to the information already publicly available on the register.

## **7. CHANNEL SHIFT**

- 7.1 The need for officers to develop new ways of working during the pandemic to ensure continuity of trade highlighted that a number of service improvements, temporarily introduced during the pandemic, could be permanently introduced to improve our service to customers.
- 7.2 Increased use of electronic applications was introduced during the pandemic and due to its success, has been continued as a permanent change. Electronic applications are available for all licence types either through the GOV.UK portal or in-house electronic formats that can be downloaded by customers and sent to the council by email. Further development of this service is detailed in the future work section of this report.
- 7.3 Once we were able to re-introduce face-to-face appointments the demand was high and became resource intensive as officers were allocating time/date slots upon request that

subsequently didn't work for many customers resulting in a number of time/date changes. This work was undertaken across a mix of telephone calls and emails.

- 7.4 To improve this service, officers designed a self-booking system that could be accessed directly by customers to pick the date/time slots that suited them. Once the required system parameters had been mapped by officers, this development work was implemented by the CSC. Customers can now self-serve their bookings of knowledge tests, DBS appointments, and right to work checks. This service has been well received by our customers and has reduced the administrative time involved for officers. Further development of this service is detailed in the future work section of this report.
- 7.5 By mandating that taxi and private hire drivers register their DBSs with the online update service, officers can undertake checks at any time to ensure that there have been no additions to the DBS record. This serves three purposes:
- drivers now only have to undertake a DBS once rather than every renewal (unless there has been a change in circumstances)
  - a reduction in DBS appointments has resulted in an administrative time saving for officers which has been reflected in the fees charged
  - public safety is further protected by officers being able to periodically check DBSs and identify if any driver has committed a criminal or driving offence rather than only seeing an application at renewal every three years

Public safety is further enhanced by government's introduction of an online national register of taxi/private hire driver refusals or revocations (known as NR3) facilitated by the National Anti-Fraud Network (NAFN). This register is only accessible by licensing officers registered with NAFN. All applicants for driver licences and all driver renewal applications are now checked against the register to ensure that the applicant has not been refused or revoked elsewhere.

- 7.6 Continued movement away from telephone contact for taxi and private hire applicants/licence holders has reduced officer administrative time. Additionally, a closed membership Taxi Forum Facebook page has been introduced where licence holders can post questions. The advantage of this Forum is that all members can see the officer responses reducing the need for others to ask the same question. Equally, officers can post important messages/updates for licence holders. Monthly email updates of posts are sent to those licence holders that choose not to join the Facebook Forum.

## **8. LICENSING HEARINGS**

- 8.1 Applications under the Licensing Act 2003 for new, varied, or reviewed premises licences/club premises certificates that receive representations are determined by a licensing and appeals sub-committee.
- 8.2 The number of sub-committee hearings held within the reporting period was four (4). This is one of the lowest annual hearing numbers and reflects the additional engagement the case officer now undertakes with the applicant, responsible authorities and customers who may be considering making representations. Where possible, this engagement often alleviates the need for representations where the concerns can be adequately addressed by the applicant and incorporated into the application by way of an amendment. It also removes the possibility of representations being made on a misunderstanding of the application or a lack of detail in the application form.

- 8.3 It is pleasing to report that all members of the Licensing and Regulation Committee have undertaken the mandatory training and are eligible to sit on sub-committee hearings. The amendment to the Constitution requiring a fourth (non-participating) sub-committee member to be present in case of technology failure during virtual hearings continues to be a valuable training tool to allow newly trained members to experience an actual hearing prior to sitting as a voting member at subsequent hearings.
- 8.4 As with all meetings during the pandemic, licensing sub-committees met virtually which proved successful in increasing attendance by persons making representations, or interested observers, due to the convenience of not having to travel to the Council Offices. As these hearings are administered under the Licensing Act 2003 rather than the Local Government Act 1972, they can continue to be held virtually. It has been decided to continue with virtual hearings to increase public participation and transparency in the licensing process.
- 8.5 There is a right of appeal to the Magistrates Court against the decision of a licensing sub-committee however no decisions during the reporting period were subject to appeal.
- 8.6 A licensing or licensing regulation sub-committee would also determine the following applications:
- Contested premises licence applications under the Gambling Act 2005
  - All applications for new sex establishments

No such applications were received during the reporting period.

- 8.7 All other licensing decisions are delegated to the licensing and community safety manager, none of which have been subject to appeal.

## 9. LICENSING FEES

- 9.1 Established licensing fee case law supported by the *Hemming* judgement prevents local authorities from making a profit from licensing fees. The *Hemming* judgement indicated that fees can only cover the reasonable costs of administration and enforcement of the specific licensing regime and should be cost neutral over a period of three years.
- 9.2 A report was provided to the Licensing and Appeals Committee on 12 December 2013 summarising the legal position regarding fees; the Committee passed the following resolution:

**RESOLVED:** *That, having considered the criteria suggested within the report, the following principles for the setting of future licensing fees and charges be supported:*

- (a) *licensing fees and charges should be set having regard to the need to promote local economic growth provided that they are consistent with the following objectives:*
- (i) *That the local Council Taxpayers does not, unless provided for by law or decision of the Council, subsidise the operating costs associated with businesses or other trading entities (i.e. the Council seeks to fully recover the lawful costs licensing activity);*
- (ii) *the Council may not fully recover its lawful costs associated with licensing activity if*
- this would result in significant hardship to third parties, or*
  - the effect of fees or charges associated with licensing may encourage unlicensed activity and where formal enforcement is unlikely to be an effective control, or*
  - where the Council specifically wishes to encourage the growth a specific licensable activity;*

- (b) *an analysis of licensing costs, including detailed analysis of all recharges, should be undertaken every three years vis-à-vis licensing fees and charges;*
- (c) *in the years between cost reviews, fees and charges should ordinarily be subject to the Council's published inflationary increase;*
- (d) *any under/over recovery of full cost within existing licensing fees and charges should be rectified without undue delay, where legislation allows. However, where this may result in a significant increase in a licence fee/charge then consideration will be given to a phased introduction of the new levy;*
- (e) *that enforcement activities in respect of unlicensed businesses/individuals should continue with the associated costs being financed from the General Fund; and*
- (f) *that enforcement activities are periodically reviewed to ensure that they are delivered in the most cost-effective manner including, where appropriate, the use of other internal departments or external statutory bodies.*

9.3 This resolution has been fully implemented and a full costing exercise was undertaken before setting the fees for 2022/23.

9.4 Work is in progress on a full costing exercise to facilitate the setting of 2023/24 licensing fees at full cost recovery, where legislation permits, incorporating identified training costs for the development of the licensing team and administrative cost savings arising from channel shift.

## **10. POLICY WORK**

10.1 To ensure transparency for applicants, licence holders and the public, and to ensure consistent decision-making, each aspect of licensing has its own policy clearly stating the Council's requirements and local interpretation where legislation allows.

10.2 The Licensing and Regulation Committee is involved in the development and ongoing review of licensing policies as follows:

- (a) Statutory policies under the Licensing Act 2003 and Gambling Act 2005

These policies can only be adopted by Full Council however the Licensing and Regulation Committee is responsible for reviewing the results of the public consultations and recommending the policies to Full Council.

- (b) Non- statutory policies
  - (i) Where policies are reserved for the Executive, Cabinet has the responsibility for the initial adoption of new policies
  - (ii) Where policies are not reserved for the Executive, initial adoption falls to the Licensing and Regulation Committee
- (c) Review and amendment of existing policies
  - (i) Statutory policies are reserved for Full Council
  - (ii) Executive non-statutory policies can be amended by the relevant Executive Member

- (iii) Non-statutory policies not reserved for the Executive can be amended by the Licensing and Regulation Committee, or the licensing and community safety manager (in consultation with the relevant Executive Member and Chair of the Licensing and Regulation Committee) depending on the extent of the amendments. Each policy details the responsibilities of each of the potential decision makers.

10.3 No policies required adoption or amendment in the reporting year however there will be a number of non-statutory policies reviewed during 2023/24:

- Taxi and private hire licensing policy
- Charitable collections policy
- Street trading policy
- Caravan and camping site licensing policy

## 11. PROJECT UPDATES

11.1 The licensing service has several ongoing projects targeted at smarter ways of working, channel shift, public engagement, and income generation, combined with business continuity for licence holders affected by the pandemic.

### **Public licensing register**

11.2 The public register is proving a valuable resource in two significant areas:

- customers have immediate access to licences and can view licence conditions, timings, etc. (this is a much quicker service for our customers rather than having to log a call-back and wait for an officer to return the call with the appropriate information)
- FOI requestors can be directed to the public register where the information requested is published thereon (this saves a significant amount of officer time previously responding to these types of requests whilst the register was being finalised)

11.3 Work is continuing to facilitate online applications being submitted through the public register portal. The last stage of the process before trialling some applications is our software supplier providing a direct link within the portal to the Council's existing payment service; this work is at commissioning stage.

11.4 Online applications through the portal will be a significant resource saving for the Council as the application is released directly into the database automatically populating the database fields. Using the Government portal or in-house electronic application forms, information currently has to be copy typed into the licensing database in the same way as applications received in hard copy and enquiries have to be made with the payment service to ensure payment has been received.

### **Customer engagement**

11.5 Work is ongoing to make the Council's webpages more customer friendly despite the technical nature of the content. Pages are being shortened to cover basic generic information with links to more detailed content based on the specific information required by the customer. Pages for the newly transferred licensing types (HMOs, caravan and camping sites, skin piercing) have been moved from the environmental health pages to the licensing pages of the website.

- 11.6 If a licensing hearing is required because mediation has been unsuccessful, additional information is being sent to parties to the hearing advising them of what to expect and how the process works. Whilst there hasn't been a recent hearing, it is hoped this additional information will make the experience less intimidating for our customers.
- 11.7 To further assist our customers if they need to make a request or complaint to the licensing service, officers are working on some online forms specific to different request/complaint types. The intention is to have forms that will capture the necessary information rather than the process being delayed as additional information is sought by officers.
- 11.8 Following the success of the taxi and private hire driver self-service booking facility for knowledge tests, DBS appointments and right to work checks, it is intended to extend the online booking system to include vehicle compliance tests too.
- 11.9 As part of the new inspection regime that has commenced recently, more courtesy visits are being undertaken with licence holders, especially if they are new to the trade or to the specific premises. The intention is to work more with proactively licence holders to ensure a full understanding of licence conditions and the relevant legislation. Whilst undertaking this work in the towns, additional engagement will be undertaken with drivers at taxi ranks too. It is hoped this proactive approach will develop working relationships and reduce the need for reactive enforcement. Additionally, increased presence of officers should serve as reassurance to our customers that we are ensuring licences are being complied with and that our customers are safe.

#### **Safeguarding for licensed drivers**

- 11.10 Following the introduction of mandatory safeguarding training for all taxi and private hire drivers at initial grant and renewal there has been a significant increase in awareness of their responsibilities. Previously, most new applicants failed their initial knowledge test on the safeguarding section however most applicants are now passing. There have been no failures at renewal stage.
- 11.11 This training was initially delivered face-to-face which was costly to administer and class sizes varied. During the pandemic, this training was amended to a written presentation that the driver had to read followed by a short test which the driver had to pass. This proved successful and so has been retained post-pandemic with the presentation being periodically updated to include recent developments and the test questions being varied to ensure the test remains relevant.
- 11.12 Safeguarding questions remain part of the verbal and computerised knowledge tests in addition to this safeguarding training requirement.

#### **Safeguarding**

- 11.13 It is the view of the Institute of Licensing that safeguarding should become a licensing objective for all licensing regimes and this is strongly supported by officers. Until such time as legislation provides for this, officers will continue to highlight safeguarding expectations in all licensing policies as they are reviewed/introduced; most policies now contain safeguarding expectations for licence holders.

## **Licensing forums**

- 11.14 Pre-pandemic, two face-to-face trade forums were provided for licence holders in the animal trade and taxi and private hire trade respectively. Attendance was sporadic although both forums provided a useful engagement opportunity for officers and licence holders.
- 11.15 Lockdown restrictions prevented the forums from being held in person and so officers trialled the closed membership Facebook Forum page with taxi and private hire drivers to ensure the engagement opportunities continued (with monthly email summary updates for those licence holders not joining the forum). Following its success, it is intended to offer a similar Facebook Forum to animal licence holders in 2023.

## **Taxi and private hire right to work and tax checks**

- 11.16 Legislative changes now require taxi and private hire drivers, and private hire operators, to demonstrate to the licensing service that they have a right to work in the UK and that they are registered with HMRC. Licences cannot be granted or renewed until these two checks have been successfully completed.
- 11.17 Officers worked closely with existing licence holders to ensure that they were fully aware of these new requirements well in advance of implementation to ensure that applications were not delayed due to these new responsibilities.
- 11.18 Implementation was successful with very few drivers or operators being unable to be granted or renew licences, despite information being finalised very close to implementation date.

## **12. TEAM DEVELOPMENT**

- 12.1 As a regulatory service, it is essential that officers are given development opportunities to expand their knowledge. This is important in delivering the best possible service to our customers whilst retaining officers for service resilience. The cost of relevant development can be included in the fee setting calculations.

### **Professional Licensing Practitioner Qualification**

- 12.2 During the reporting year, a third officer passed the above qualification offered by the Institute of Licensing. Four of the five licensing officers now hold a professional licensing qualification.

### **BTEC Level 3 Certificate for Animal Inspectors**

- 12.3 Following the introduction of the new animal licensing regulations under the Animal Welfare Act 2010, government announced its intention to limit future animal inspections to persons holding the above qualification or an equivalent. This restriction takes effect from 1 April 2023.
- 12.4 An officer has successfully obtained the qualification having completed a number of examination modules and compiling a portfolio of practical inspections to demonstrate appropriate competencies.
- 12.5 The Council are no longer reliant on outsourcing animal inspections to Central Bedfordshire Council who employ accredited inspectors as required by the Animal Welfare Act 2010.
- 12.6 The majority of animal inspections are now undertaken in-house, with the resilience of the former Central Bedfordshire Council officer (now employed by Luton Borough Council)



available to assist with more complex cases on a consultancy rate as our officer develops her knowledge. This means a more cost-effective service for our customers and enables inspections to be undertaken in a timelier manner rather than having to wait for an outsourced inspection being balanced against other workload.

### **Apprentices**

- 12.7 The service has shared an apprentice with the community protection service for a number of years which has proved an invaluable resource. The previous shared apprentice is now employed as an assistant licensing officer following her successful completion of the apprenticeship qualification.
- 12.8 The previous arrangements for a shared apprentice with the community protection service is no longer necessary as that service no longer exists. The new licensing and community safety service has secured an apprentice until January 2024.
- 12.9 The apprentice has been actively involved in the day-to-day administrative tasks of the service including undertaking vehicle compliance tests, driver knowledge tests, processing application, accompanying officers on visits, etc.
- 12.10 It is hoped that the skills learning and development opportunities available during the apprenticeship will enable the apprentice to apply for jobs within the Council towards the end of the 2023.

### **13. FUTURE PROPOSALS**

- 13.1 The licensing service has several future developments planned that are targeted at increased channel shift, customer focus and income generation. It is important to be aware that some of these ideas are still at the developmental stage and that implementation will be dependent on available resourcing and practicalities. The development of some of these ideas has been delayed by the added pressures of the new licensing responsibilities from 1 April 2022.

#### **Income generation**

- 13.2 Where permitted by licensing fee legislation and case law, the licensing service will be introducing charging for some discretionary services including, but not limited to:
- Pre-application advice for Licensing Act 2003 applications
  - Training for prospective taxi and private hire drivers
  - Training for new alcohol-licensed premises supervisors
- 13.3 Given the channel shift and customer engagement work already undertaken and in progress, it is not known how this will impact on the likelihood of customers taking up the income generation proposals.
- 13.4 Even with the additional information and support now available from the licensing service, customers are still using solicitors and licensing agents to submit licence applications under the Licensing Act 2003. These private sector services are expensive for customers therefore the intention is to focus on introducing the pre-application advice service during the next reporting year. This will provide a more cost-effective alternative to customers and would facilitate the development of working relationships at an earlier stage.

## **Customer engagement**

- 13.5 Customers often get frustrated when they approach officers about problems with a licensed premises only to be told it's not part of the licensing remit and they need to contact other council services e.g., parking issues outside takeaway premises. Officers are now committed to assisting customers by engaging across council services to try to resolve issues on a multi-service basis, where appropriate, rather than the customer having to liaise with multiple services.
- 13.6 Following the success of the taxi and private hire survey in 2020, officers are considering other surveys to capture the thoughts of customers on the licensing service and how it can be improved.

## **Taxi and private hire licensing development**

- 13.7 Whilst the working relationship with the taxi and private hire licence holders had improved considerably due to the increased engagement and channel shift to assist businesses through the pandemic, this was impacted by the recent taxi fares proposal that caused concerns amongst licence holders.
- 13.8 One positive to come out of the consultation was the drivers formed the North Herts Taxi Drivers Association (NHTDA) which represents a significant number of the total licence holders. The NHTDA has met with the licensing and community safety manager, Executive Member and Deputy Executive Member in a very positive meeting about moving forward together to maintain the high standards expected by the Taxi and Private Hire Licensing Policy. A further meeting was held between the NHTDA and the licensing officers to discuss specific areas of concern or potential improvement.
- 13.9 These meetings will continue periodically to ensure that the current high standard of service provided by the taxi and private hire businesses is maintained and that the licensing service is delivered in way that is beneficial to all stakeholders.
- 13.10 Two significant projects have arisen from these initial discussions:
- (a) a system is being trialled whereby the taxi or private hire licence plate is handed to the driver at the completion of their vehicle compliance test, provided all other necessary documentation and payment has been received in advance of the test, rather than the licence plate being posted at a later date when final paperwork checks have been completed
  - (b) an officer equivalent of a Task and Finish Group has been set-up to reconsider the whole taxi and private hire licensing process to ensure it is cost effective, practicable and works effectively for all stakeholders
- 13.11 The Task and Finish Group will be led by a senior licensing officer and consist of licensing officers and MSU officers, excluding the licensing and community safety manager, plus representation from the NHTDA. The remit is based on the question of 'if you had a blank sheet of paper, what is the best licensing service that can be delivered?'
- 13.12 The senior licensing officer will then prepare a report setting out all considerations and viewpoints, with any proposals for change to procedures and policy. The licensing and community safety manager will prepare a response for the Group to consider prior to it finalising the report.

- 13.13 Any subsequent proposed changes to policy are likely to be referred to the Licensing and Regulation Committee to make an informed decision knowing that:
- there will be a report from the Group setting out the proposals and the reasoning for, and practicalities of, implementation
  - existing licence holders have been involved in the process of drafting the proposals ensuring that their views are adequately represented to the Licensing and Regulation Committee

### **Women's Safety Charter**

- 13.14 At the request of Members, officers are involved in the drafting and implementation of a Women's Safety Charter for Licensed Premises in North Hertfordshire. The intention is to provide suitable advice and training to premises owners/operators to ensure that a consistent cross-district process is in place to ensure that women feel safe in licensed premises and know the processes available if they feel uncomfortable or have concerns. This builds on existing schemes that are already in place in some premises.
- 13.15 The Charter is being developed by the multi-agency Violence Against Women and Girls (VAWG) sub-group of the Community Safety Partnership Joint Action Group, and licensing officers will be involved in its development and implementation.

## **14. FUTURE LEGISLATIVE CHANGES**

- 14.1 The world of licensing has always been ever-changing however the number of planned legislative changes has the potential to significantly impact resources and existing projects. The following list is not exhaustive but contains the main proposals known to officers at the time of writing.

### **PROTECT Duty**

- 14.2 New legislation will require public venues to improve security and have more awareness of potential terrorist attacks. Public venue owners/operators will have a duty in law to consider the threat from terrorism and implement appropriate and proportionate mitigation measures. The legislation will ensure parties are prepared, ready to respond and know what to do in the event of an attack. Better protection will be delivered through enhanced security systems, staff training, and clearer processes.
- 14.3 The legislation is more widely known as Martyn's Law after Martyn Hett who was one of the twenty-two people to die in the Manchester Arena bombing in 2017; his mother Figen Murray has campaigned for the measures to be introduced.
- 14.4 The majority of licensed venues open to the public (capacities of 100 plus) will be covered by this duty and licensing officers will have a key role in raising awareness. The legislation hasn't yet completed its parliamentary passage so it is unclear where the responsibility for enforcement will lie at this stage.
- 14.5 Premises will fall within the scope of the duty where "qualifying activities" take place. This will include locations for purposes such as entertainment and leisure, retail, food and drink, museums and galleries, sports grounds, public areas of local and central Government buildings (e.g., town halls), visitor attractions, temporary events, places of worship, etc.

## **Skin piercing licensing scheme**

- 14.5 The Health and Care Act 2022 contains a section enabling the Secretary of State to publish Regulations introducing a new licensing scheme for specified cosmetic procedures. This is the same legislative process that was included in the Animal Welfare Act 2006 and allowed the introduction of the new animal licensing regime by virtue of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 14.6 As detailed earlier in this report, skin piercing is currently only a registration scheme with surprisingly sparse entry requirements, for example no formal qualification for practitioners, and enforcement capabilities. The Government has indicated its intention to introduce a new licensing requirement for specified procedures to ensure public safety from these intrusive, and potentially dangerous, procedures.
- 14.7 Responsibility for the introduction, administration, and enforcement of the new licensing scheme will be the responsibility of local authorities. This will result in additional training requirements for licensing officers and an increased workload.

## **Animal Welfare (Kept Animals) Bill**

- 14.8 This Bill is currently concluding its passage through the House of Commons before moving to the House of Lords and contains a number of new proposals that may have an impact on local authority licensing officers.
- 14.9 The Bill includes new provision for specialist private primate keeper licences to allow primates to be kept as pets. This new licensing requirement will fall to local authorities as part of their existing animal licensing provisions and require additional officer training plus increased workloads. The RSPCA currently estimate that there are between 4,000 and 5,000 primates kept as pets in the UK.
- 14.10 The following list includes other provisions in the Bill relating to animal welfare, some of which will fall to district/borough authorities, some to county/unitary authorities, and some to the police. It is not clear yet exactly which provision will fall to which authority however the first two are already district/borough council responsibilities so are likely to fall to licensing officers:
- new standard conditions for zoos
  - animal sanctuaries (currently excluded from boarding licensing) to be included in the boarding regulations (cats, dogs, horses)
  
  - compulsory microchipping of cats (could impact on pet shop licensing)
  - improvements in animal transportation (could impact on pet shop licensing)
  - increase to the age that dogs can be imported into the country (could impact on pet shop licensing)
  - ban the import of dogs with cropped ears or docked tails (could impact on pet shop licensing)
  
  - further protection for greyhounds
  - update to dangerous dog legislation
  - further measures to tackle wildlife crime
  - improved animal health and welfare on farms

## **Levelling-up and Regeneration Bill**

- 14.11 This Bill includes the legislative measures to formalise the temporary pavement licensing arrangements for district/borough councils.
- 14.12 Whilst licensing officers are already dealing with pavement licensing under the temporary provisions, it is an administrative process only with no enforcement powers. The Bill proposes new enforcement powers for licensing officers which will increase workload.
- 14.13 Currently, county/unitary councils (highways authorities) can undertake a separate street café licensing regime similar to but with a wider remit than the pavement licensing scheme. It is unclear at this stage whether that alternative licensing regime will be retained or whether street café licensing will also transfer to district/borough council.