



## AGENDA ITEM: 5

### SUMMARY

<b>Report for:</b>	<b>Licensing Health &amp; Safety Enforcement Committee</b>
<b>Date of meeting:</b>	<b>29 April 2014</b>
<b>PART:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Licensing Service Update – April 2014</b>
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To provide the Committee with a general update on the Licensing service, including numbers of licences issued.
Recommendations	That Committee note the contents of the report.
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none"> <li>• Reputation and profile delivery</li> </ul>
Implications:	<u>Financial / Value for Money / Risk / Equalities / Health &amp; Safety</u> No implications arise from this report.
Consultees:	Not applicable
Background papers:	None
Glossary of acronyms and any other abbreviations used in this report:	

## 1. BACKGROUND

1.1. This report gives details of the current numbers of licences issued by the Council's Licensing service as of April 2014, and any applicable trends or upcoming issues arising in each of the regulatory areas for which the service is responsible.

## 2. ALCOHOL, ENTERTAINMENT AND LATE NIGHT REFRESHMENT LICENCES

2.1. At the time of writing, the following licences have been issued:

Licence type	Number issued	Licence duration
Premises licence		Indefinite (subject to lapse / revocation provisions)
Club premises certificate		Indefinite (subject to lapse / revocation provisions)
<i>N.B. Premises licence and club premises certificate data is currently being calculated for annual Home Office statistics, and will be provided at the meeting.</i>		
Personal licence	1299	10 years
Temporary event notice – 2014	85	Event duration only (7 days or less)
Temporary event notice – 2013	369	
Temporary event notice – 2012	425	

2.2. Within the last 12 months, officers have dealt with 29 applications for new premises licences, 1 new club premises certificate, 11 major variations, 15 minor variations, 18 transfers, 83 DPS changes and have suspended 7 licences for non-payment of annual fees. 102 new personal licences have also been granted within this period.

2.3. The Licensing Act 2003 has been subject to an unprecedented rate of statutory change in the last few years, and this shows no sign of abating as further changes have now been proposed via the Deregulation Bill. The following report summarises the latest round of prospective changes.

2.4. A growing number of activities have now been wholly or partly deregulated, and this is beginning to have an effect of enforcement activities. Where it can be shown that an activity has taken place entirely in accordance with one of the new exemptions, licensing enforcement officers will not be able to take action to remedy any issues that have arisen (e.g. noise nuisance, anti-social behaviour). Where such matters fall under the jurisdiction of another regulatory service (e.g. noise nuisance can be controlled under the Environmental Protection Act by environmental health officers), that is now the only available action. We anticipate that exempted activities may form the basis of an attempted defence during future review proceedings, through licensees attempting to have evidence of nuisance excluded on the grounds that it did not occur at a time when the licence was required.

2.5. The Council's Statement of Licensing Policy is now due for review (following an earlier legislative change it is now valid for 5 years, rather than the original 3, and as such could remain in force until early 2016, albeit

becoming increasingly outdated and unhelpful). Officers are currently preparing a draft policy reflecting all of the statutory changes to the Act, new guidance, and the authority's experiences in the last 4 years, and it is intended to bring this to Committee on a pre-consultation basis later this year.

2.6. A Home Office consultation on proposed changes to fee setting for these licences has recently concluded, and the licensing team leader gave an individual response to this. Application and annual fees for alcohol and entertainment licences were set centrally in 2005 and have not changed since, leading to significant shortfalls in licensing authority budgets as costs have risen. The cost to the Licensing service of administering and enforcing the Licensing Act 2003 is estimated at £129,707 per annum. Under the present fee structure, in the 12 months to August 2013 our fee income was £105,913 – a shortfall of £23,794. This is consistent with the national picture, with the LGA estimating a deficit of £18m a year nationally, last November. The consultation set out a number of proposals to reduce this shortfall while remaining compliant with the EU Services Directive, essentially falling into two groups – an increase to the centrally set fees, or granting licensing authorities the power to set fees locally on a cost recovery basis, up to a prescribed maximum level. We await the Government's response to the consultation to indicate how it is intended to proceed.

### 3. ANIMAL WELFARE LICENCES

3.1. At the time of writing, the following licences have been issued:

Licence type	Number issued	Licence duration
Animal boarding establishment	18	1 year
- <i>Commercial boarding</i>	6	
- <i>Home boarding</i>	12	
Dangerous wild animal keeper	2	2 years
Dog breeding establishment	1	1 year
Pet shops	8	1 year
- <i>All animal licences</i>	5	
- <i>Fish only licences</i>	3	
Riding establishment	4	1 year
Zoo	0	4/6 years

3.2. Animal welfare licensing is one of the next regulatory areas in which licensing officers will be working on a review, and a report later in this agenda pack contains details of the first stage of this program of work, with proposals to update the standard conditions being attached to licences. The controlling legislation is currently reasonably stable (Government ministers have had powers since 2006 to bring further changes, but have not to date used them), and a thorough review of applicable safety standards at such premises is currently being undertaken by professional advisory bodies, culminating in the publication of new guidance and model licence conditions.

3.3. As part of this review process, consideration will be given to creating an animal licensing policy, so as to provide a single source of guidance to officers and sub-committees in determining applications, and to applicants and licensed businesses so that they are aware of the Council's expectations of them.

#### 4. BETTING, GAMBLING AND LOTTERY LICENCES

4.1. At the time of writing, the following licences have been issued:

Licence type	Number issued	Licence duration
Premises licence	19	Indefinite (subject to lapse / revocation provisions)
- <i>Adult gaming centre</i>	2	
- <i>Betting shop</i>	17	
- <i>Betting track</i>	0	
- <i>Bingo</i>	0	
- <i>Family entertainment centre</i>	0	
Occasional use notice	0	Event duration only (1 day)
Temporary use notice	0	Event duration only (21 days or less)
Club gaming permit	1	10 years
Club machine permit	13	10 years
Licensed premises gaming machine notification (1-2 machines)	62	Indefinite (until the alcohol licence is transferred)
Licensed premises gaming machine permit (3+ machines)	14	Indefinite (subject to lapse / revocation provisions)
Family entertainment centre permit	0	10 years
Prize gaming permit	0	10 years
Small society lottery registration	144	Indefinite (subject to lapse / revocation provisions)

4.2. At present the legislation controlling premises-based gambling is fairly stable, with the only prospective change relating to the validity of alcohol-licensed premises gaming machine authorisations following the transfer of the alcohol licence. There is more fundamental change afoot to the regulation of remote gambling (i.e. internet and phone-based gambling), with legislation currently being promoted which would require any operator advertising remote gambling in the UK to be licensed by the UK Gambling Commission even if the provision occurred from overseas. At present much of the sector is based in white-listed off-shore locations, such as the Channel Islands, Gibraltar and Malta, and does not require UK authorisation, only the approval of the local gambling regulators.

4.3. The Council's Statement of Principles (i.e. the gambling licensing policy) is valid until early 2016, and a review will commence in summer 2015.

## 5. CHARITABLE COLLECTION LICENCES

5.1. At the time of writing, the following licences have been issued:

Licence type	Number issued	Licence duration
Street collection (2014 to date)	48	Days specified only
Street collection (2013)	113	
House to house collection (2014-)	14 plus 21 national exemption holders	Days specified only
House to house collection (2013)	14 plus 26 national exemption holders	

5.2. The legislation in this area remains outdated, dating as it does from the First and Second World Wars respectively. This creates its own challenges in applying the laws – for example, the concept of collecting direct debit details from persons in public places was unheard of at that time, and consequently falls outside of the ‘cash collections’ regulatory scheme, leaving the Council unable to take formal action against collectors who exceed their bounds and cause people to complain. Officers are now in discussions with the Professional Fundraising Regulatory Association (PFRA), which is a trade body representing the collection agencies and larger charities which promote such public DD collections, with a view to establishing an agreement to limit the promotion of direct debit collections, and bind collectors to a code of conduct which can be enforced by the PFRA.

5.3. A licensing policy for licensable collections remains an intention, to provide guidance to Sub-Committees and clarity to applicants over the Council's expectations – particularly in respect of the proportion of proceeds of collections to be applied to charitable purposes. However, this issue has been clouded by ministerial decisions to overturn licence refusals by councils, in one case permitting a collection where less than 10% of proceeds would have reached the charity. Officers are continuing to review the applicable legislation and precedents, with a view to bringing a draft policy to Committee within the next year.

## 6. HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLE LICENCES

6.1. At the time of writing, the following licences have been issued:

Licence type	Number issued	Licence duration
Hackney carriage vehicle	238	1 year
- <i>Wheelchair-accessible</i>	50	
- <i>Non-accessible</i>	188	
Private hire vehicle	169	1 year
Hackney carriage driver	288	3 years
Private hire driver	242	
<i>N.B. Approximately 95 drivers hold both types of driver licence – these are now being combined into dual driver's licences, and future statistics will reflect this combination.</i>		

Private hire operator	50	1 year (2-3 years from April 2014)
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- 6.2. Across all of the various application types (i.e. new/renewal applications, vehicle changes, transfers), in the last 12 months officers dealt with a total of 309 hackney carriage vehicle applications, 224 private hire vehicle applications, 187 driver's licence applications and 77 reports of accidents involving licensed vehicles.
- 6.3. The last year has seen a 3% drop in the number of licensed hackney carriage vehicles and drivers in the borough, with the largest proportional drop among wheelchair-accessible vehicles. The number of licensed private hire vehicles has fallen by 7% in the same period, although PH driver and operator numbers have both increased slightly.
- 6.4. Changes to the knowledge test for new drivers have now been partially implemented, with the communication and driving skills components active at this time. The revised legal/local knowledge test component, to be taken on a computer, has not yet been implemented due to a delay in the procurement process.
- 6.5. The last 18 months has seen significant policy change in this area, as outdated policies have been reviewed and modernised, and administrative processes have been reviewed and overhauled. That program of work is now drawing to a close, with only a couple of major areas left to look at (compliance standards, vehicle/driver licence conditions, and stretch limousine licensing). The pace of change may be one contributory factor in the above reduction, although there are a number of more significant factors believed to be behind this.
- 6.6. In particular, numerous complaints have been made by the licensed trade alleging that drivers from other areas continue to take work from them by trading unlawfully within Dacorum, and enforcement work continues to try and identify those responsible and take appropriate action against them. A number of major operations have taken place over the last year, including several covert 'plying for hire' and 'pre-booked hire' test purchase operations, for which judicial approval was sought and obtained. As a result of these operations, several individuals have been cautioned or are currently under investigation, and three taxi companies (including two not licensed within Dacorum) are currently being prosecuted. One RIPA authorisation allowing for covert operations has now been successfully renewed, and further operations are being planned, utilising council officers and, subject to availability, police officers.
- 6.7. We are still awaiting publication of the Law Commission's proposals for the reform of the taxi and private hire licensing legislation, which has now been pushed back until late May 2014. Early indications are that the reforms will be less radical than was first expected (and than requested by many licensing authorities). It is not yet known if or when the proposals will be given Parliamentary time. However the Government have, at short notice, included several provisions within the Deregulation Bill which will profoundly affect the taxi licensing function. These are discussed in greater detail in the following report.

## 7. SCRAP METAL DEALER LICENCES

7.1. At the time of writing, the following licences have been issued:

Licence type	Number issued	Licence duration
Scrap metal site licence	9	3 years
Scrap metal collector licence	7	3 years

7.2. The new legislation was only fully commenced in December 2013, and as such it is too early to establish trends, although it must be noted that the number of licensed collectors in the borough is below initial estimates. As enforcement activity increases and unlicensed collectors come to light, we believe that the latter number will rise.

7.3. The inflexibility of the legislation has attracted criticism, with one prominent commentator suggesting that the new Act is unenforceable. We understand that the Home Office are monitoring the situation at present, and we await official reports on the effectiveness of the new legislation.

## 8. SEX ESTABLISHMENT LICENCES

8.1. At the time of writing, the following licences have been issued:

Licence type	Number issued	Licence duration
Sex establishment licence	2	1 year
- <i>Sex shop</i>	1	
- <i>Sex cinema</i>	0	
- <i>Sexual entertainment venue</i>	1	
Sex establishment waiver	0	Indefinite

8.2. Revisions to the sex establishment licensing policy took effect in February 2014, so it is too early to assess their impact at present.

## 9. SKIN PIERCING AND TATTOOING LICENCES

9.1. At the time of writing, the following licences have been issued:

Licence type	Number issued	Licence duration
Registered piercing premises	24	Indefinite
- <i>Providing acupuncture</i>	12	
- <i>Providing electrolysis</i>	5	
- <i>Providing skin piercing</i>	9	
- <i>Providing tattooing</i>	8	
Registered piercing operator	57	Indefinite

9.2. As piercing registrations cannot be made subject to conditions, any measures to ensure cleanliness of premises can only be enforced if adopted as byelaws. Although the primary legislation was amended in 2003 to enable regulation of cosmetic body piercing and skin colouring, it is not known if the byelaws previously adopted by the Council were correctly updated at that time, giving rise to concerns over whether the pre-existing controls would be sufficient and could be enforced if required. Officers are currently examining both the records of proceedings and external correspondence from the relevant time, and the process of adopting new byelaws should this be required.