



AGENDA ITEM: 8

Report for:	Licensing and Health & Safety Enforcement Committee
Date of meeting:	28 February 2017
PART:	I
If Part II, reason:	

Title of report:	Licensing Legislative Update
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	This is a general information report on recent and upcoming legislative changes which will affect the exercise of the Council's licensing functions.
Recommendations	That Members note the contents of this report.
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none"> • Performance excellence
Implications:	No adverse implications are currently expected to arise from implementing these statutory changes.
Consultees:	n/a
Background papers:	n/a
Glossary of acronyms and any other abbreviations used in this report:	

1. SCRAP METAL DEALERS ACT 2013

- 1.1. This Act, under which the Council regulates the conduct of scrap metal dealers, both at fixed sites and itinerant collectors, includes a 'sunset clause', whereby the Act will cease to have effect 5 years after commencement unless a positive decision is made by Parliament to retain it, following a review.
- 1.2. The Home Office have now begun the necessary review of the Act ahead of the expected schedule, and have issued a call for evidence and views on the efficacy of the Act to date. The deadline for responses was the 30th January 2017.
- 1.3. The Licensing Team Leader has responded to this review in an individual capacity, with details of the Council's experiences to date in administering and enforcing the Act. Generally, the response supported the retention of the Act and the regulatory structure, but observed that the current framework for itinerant collectors is not working effectively, having proved overly bureaucratic and difficult to enforce.

2. ANIMAL LICENSING

- 2.1. Committee were advised last year of a DEFRA consultation on proposed reform of animal licensing requirements, and approved a response for submission to that consultation on behalf of the authority. The proposals included repeal of legislation underpinning several current (separate) licensing schemes, and replacement with a new combined scheme, covering authorisation for:
 - Animal boarding establishments (kennels, catteries, home boarders, pet daycare)
 - Dog breeding establishments (commercial and hobbyist (5+ litters per year))
 - Pet shops
 - Horse-riding establishments
- 2.2. DEFRA have now announced the outcomes of the consultation, and how they propose to take the reforms forward. Details are available via the [DEFRA press release](#), but the key points to note are:
 - Current legislation for the above licence types will be repealed, to be replaced by a new combined licence (called an 'animal activity licence') issued under the Animal Welfare Act 2006. Each licence will specify which activities it authorises.
 - The specifics of this new scheme will be set out in Regulations.
 - Licences will last for up to 3 years – longer licences for lower-risk premises.
 - Licences will remain non-transferrable.
 - Inspections before grant of licences may have to be carried out by 'expert' trained licensing officers accredited by government, or vets.
 - New standardised national licence conditions contained within the legislation.
 - Sale of puppies for profit will be licensable, including pet and pedigree offspring. Non-commercial hobbyists breeding 3+ litters a year will also require licences.
 - The sale of puppies and kittens will be banned below 8 weeks of age. This will include sales from breeders to pet shops.
 - Licence numbers must be included in adverts placed by licensed dog breeders.

- 2.3. No timelines have been confirmed as of yet, but from informal discussions it is understood that implementation by April 2018 is being targeted. This will be confirmed when the Government makes Regulations, which are expected later this year.
- 2.4. DEFRA have also announced that performing animal registrations (currently dealt with by HCC) will also be repealed and replaced by a new but separate scheme, also under the AWA2006. This scheme will be expanded to include exhibited animals.

3. EQUALITIES ACT 2010 – WHEELCHAIRS IN TAXIS

- 3.1. The Government have [announced](#) that provisions within the Equality Act 2010 relating to the carriage of passengers in wheelchairs by taxis will be commenced with effect from April 2017. These provisions, which were originally included in the Disability Discrimination Act 1995 but never enacted, would require drivers of 'designated' accessible taxis to carry passengers in wheelchairs for no additional charge and to render appropriate support and assistance in loading and unloading, and creates a specific criminal offence for failure to do so. Historically, any refusals to carry or assist such passengers have been dealt with under generic legislation.
- 3.2. Only licensed vehicles which have been specifically designated by the local authority will be subject to these duties and the offence, and the designation of vehicles is a discretionary function. If a designation list was not created, drivers would not commit the specific offence if they failed to comply with the new duties – however, they would still breach the general duty in the 2010 Act prohibiting discrimination against service users on the basis of an identifying characteristic, namely disability.
- 3.3. At the time of writing, 38 of the 225 hackney carriages licensed by the Council are wheelchair-accessible, and only wheelchair-accessible vehicles may be licensed as new hackney carriages (the 187 existing non-accessible vehicles may be replaced on a like-for-like basis, so long as the licences are maintained). The proportion of licensed hackney carriages in Dacorum which are wheelchair-accessible has fallen in recent years, from 22.7% in 2013 to 16.9% today.
- 3.4. As this announcement was only made shortly before this report was submitted and supporting government guidance is not available at the time of writing, it has not been possible to prepare a fuller report at this time for consideration by Committee. When the guidance is available later in the year, a full report will be prepared, to enable a decision on whether to enact the provisions and designate accessible taxis within Dacorum.

4. POLICING AND CRIME ACT 2017

- 4.1. This Act received Royal Assent in January and makes various amendments to licensing legislation. Although commencement dates have not yet been confirmed, it is anticipated that the following measures will take effect from April 2017:
 - Sales of alcohol in non-liquid states (vapour, powder, etc) will be licensable
 - Prohibition of licensees making repeat challenges against interim steps on a summary review application

- Interim steps on summary review application continue in force until final review decision takes effect (e.g. during appeals process)
- Power for licensing authority to review personal licences following convictions / immigration penalty
- New relevant offences to be considered on application for a personal licence (sex offender orders, violent offences, firearms offences, terrorism offences)
- Parliament no longer required to approve statutory Government guidance on alcohol and entertainment licensing
- Provision for Government to issue new national guidance on taxi licensing, in respect of protecting children and vulnerable adults

4.2. It has been indicated that further measures within the Act will be held back pending the outcome of a House of Lords review of the Licensing Act 2003, which is expected to report in the Spring. These measures are:

- Placing cumulative impact policies for alcohol licensing on a statutory footing
- Reform of late night levy requirements, allowing levies to be targeted at particular areas, expanding their scope to include late night food outlets, and allowing police commissioners to request that licensing authorities introduce them in an area.

5. IMMIGRATION ACT 2016

- 5.1. Licensing-related provisions of this Act, which impose a new duty on licensing authorities to carry out immigration status checks on applicants for certain licence types, went through the first phase of commencement in December 2016, when taxi-related provisions were enacted. Licensing authorities are now prohibited from granting a taxi driver or operator licence to any person who cannot demonstrate a lawful right to work in the UK, and where time limits apply to such entitlement the licence duration cannot exceed the immigration status.
- 5.2. The second phase of commencement is expected in April 2017, from which time any applicant for a personal (alcohol) licence or a premises licence, including transfers of existing licences, will be required to demonstrate their right to work in the UK. Again, licensing authorities will be prohibited from granting (or transferring) a relevant licence to a person who does not have the lawful right to work in the UK. These licences, which are generally of unlimited duration, will lapse if a holder loses the right to work in the UK. The Home Office, who oversee the Immigration Enforcement Unit, will also be added as a statutory consultee to these licence applications.