

TO THE CHAIR AND MEMBERS OF THE LICENSING COMMITTEE

Licensing Act 2003, Gambling Act 2005 and General Licensing Update

EXECUTIVE SUMMARY

1. The purpose of this report is to update Members on issues relating to the Licensing Act 2003, the Gambling Act 2005 and any significant licensing enforcement actions.

RECOMMENDATIONS

2. It is recommended that Members note the following:
 - 2.1 For the period 1st April 2016 to 31st March 2017 the following committees were convened
 - Licensing Committee – 2 occasions
 - Licensing Sub-Committee - 14 occasions

A total of 16 applications / notices were determined by the Licensing Sub-Committee, all of which were applications made under the Licensing Act 2003.

- 2.2 Statistical details of all other licence applications (Licensing Act 2003 and Gambling Act 2005) determined by the Authority and a summary of significant licensing enforcement actions, for the period 1st April 2016 to 31st March 2017, are attached as Appendix A.
- 2.3 The recent changes to the Licensing Act 2003 and the Home Office guidance as summarised in Appendix B.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. By noting the recommendations of this report, the Licensing Committee are kept aware of the latest developments and forthcoming issues thereby ensuring they continue to be best placed to make future licensing decisions.

BACKGROUND

4. The Licensing Committee have requested that the Committee be furnished with details of the licensing decisions (Licensing Act 2003 and Gambling Act 2005), that are delegated outside the remit of the Committee and Sub-Committee, at least annually at the inaugural meeting. Statistical details of these decisions along with a summary of

the significant enforcement actions taken by the Business Safety & Licensing service are attached at Appendix A. The figures are based on licence applications and enforcement actions that were received and completed respectively during the period 1st April 2016 to 31st March 2017. The figures relating to sub-committees refer to hearings that were convened during the above period but they also include decisions on some applications that were received in the latter part of the previous year.

5. Since the last inaugural meeting of the Licensing Committee the Home Office has issued revised Guidance under Section 182 of the Licensing Act 2003. The April 2017 version of the Guidance is published on the internet and Members will have had access to the Guidance at the recently convened hearings training.
 - a. The Guidance was last revised in 2015 and one of the key areas of change has been to include amendments brought about by the Immigration Act 2016. The Licensing Service is now required to check eligibility to work in the UK when considering certain applications. The Guidance now includes the directive that Licensing Authorities should work with the Home Office Immigration Enforcement, as well as the Police, in respect of the prevention of immigration crime including the prevention of illegal working in licensed premises. Doncaster Council has long established links with these services and routinely actively participates in joint operations.
 - b. Another key change is the introduction of a new chapter 12, which deals with Summary Reviews. Until this version of the Guidance was published, we had not had any statutory guidance from the Home Office on the most impactful of enforcement powers within the legislation. The Chapter goes on to deal with what the Licensing Authority needs to do in considering Interim Steps, pending the determination of the final review hearing.
 - c. The Guidance now deals with the introduction of new powers for Licensing Authorities to revoke or suspend Personal Licences, with effect from 6th April 2017.
6. Details of the significant legislative changes affecting the Licensing Act 2003 are summarised in Appendix B of this report.

OPTIONS CONSIDERED

7. It is recommended that the Committee note the recommendations in section 2.

REASONS FOR RECOMMENDED OPTION

8. N/A

IMPACT ON THE COUNCIL'S KEY OUTCOMES

9. This effective operation of the Licensing Authority is a key part of the Council's statutory responsibility.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>None</p>
	<p>Council services are modern and value for money.</p>	<p>Keeping the Committee up to date assists in ensuring that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	<p>None</p>

RISKS AND ASSUMPTIONS

10. None

LEGAL IMPLICATIONS

11. There are no specific legal implications associated with this report. All necessary steps are taken to ensure the Licensing Committee and sub Committee exercise their functions in accordance with that relevant Legislation.

FINANCIAL IMPLICATIONS

12. There are no specific financial implications associated with this report.

EQUALITY IMPLICATIONS

13. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

14. N/A

BACKGROUND PAPERS

15. Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003

REPORT AUTHOR & CONTRIBUTORS

Paul Williams, Business Safety & Licensing Manager
Tel: (01302) 737837
E: mail: pj.williams@doncaster.gov.uk

Helen Wilson, Senior Legal Officer
Telephone: 01302 734688
Email: Helen.wilson@doncaster.gov.uk

Richard Taylor, Finance Manager
Telephone: 01302 737984
Email: richard.taylor@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment

Part 1

Statistical Summary of licence applications (Licensing Act 2003) and notices received by the Authority for the period 1st April 2016 to 31st March 2017.

Application Type	Number of Applications	Number of applications determined by the Licensing Sub-Committee	Comments
Personal Licence (New)	233	0	233 granted
Premises Licence (New)	48	10	7 applications were granted and 3 applications were refused by the LSC
Premises Licence (Transfer)	87	0	
Premises Licence (Review)	2	2	2 Premises licences revoked by the LSC
Premises Licence (Variation)	20	4	1 application was granted and 3 refused by LSC.
Premises Licence (Minor Variations)	31	N/A	1 withdrawn, 1 refused, 29 granted.
Premises Licence (Change of DPS)	221	0	220 granted, 1 rejected/incomplete application
Club Certificate (New)	2	0	
Standard Temporary Event Notice (TEN)	238	0	226 accepted
Late TEN	98	N/A	92 accepted
Total Number of Applications	980	16	1.5% of all applications received were determined by the LSC.

Key: LSC – Licensing Sub-Committee

Part 2

Statistical Summary of Premises Licence applications (Gambling Act 2005) received by the Authority for the period 1st April 2016 to 31st March 2017.

Application Type	Number of Applications	Number of applications determined by the Licensing Sub-Committee	Comments
Premises Licence - Betting Non Track (New)	1	0	1 granted – 2 transfers
Club Gaming Permit	1	N/A	1 granted
Club Machine Permit	1	N/A	1 granted
Small Society Lotteries (New)	16	N/A	All granted

Part 3

Statistical summary of the main licensing enforcement actions taken/commenced by Business Safety & Licensing during the period 1st April 2016 to 31st March 2017.

Enforcement Action Taken	Number of Actions
Licensed Taxi/Private Hire vehicle suspended from service	198
Licensed Taxi/Private Hire driver suspended	151
Taxi/Private Hire driver licences revoked	10
Taxi/Private Hire driver licence applications refused (new applications & applications to renew)	4
Premises Licence suspended (Licensing Act 2003)	114
Unauthorised licensable activity – Licensing Act 2003 (Prosecutions/Cautions)	4
Taxi licensing prosecution/caution	1

Licensing Act 2003 – Update on recent legislative changes

Changes introduced by the Immigration Act 2016

Licensing authorities are now required to play an active role in respect of the prevention of immigration crime including the prevention of illegal working in licensed premises.

- From 6th April 2017, the Secretary of State Home Office Immigration Enforcement is now a responsible authority and, where applicable, e.g. all new applications for Premises Licences and Personal Licences or applications to transfer a Premises Licence, the application must also be served on the Secretary of State (Home Office Immigration Enforcement - (HOIE))
- Any individual applying for a Premises Licence for the supply of alcohol or late night refreshment must be entitled to work in the UK and provide supporting evidence.
- Any individual seeking to transfer a Premises Licence for the supply of alcohol or late night refreshment must be entitled to work in the UK and provide supporting evidence.
- In a situation where an individual is no longer entitled to work in the UK then the Premises Licence will lapse immediately. There is an option to transfer the licence and resurrect it but this must be done within 28 days.
- An individual applying for a Personal Licence must be entitled to work in the UK and provide supporting evidence.
- Where a Personal Licence Holder is no longer entitled to work in the UK then their Personal Licence will lapse automatically.

Change introduced by the Police and Crime Act 2017

From 6th April 2017 all licensing authorities have a new power to revoke or suspend Personal Licences. This is a discretionary power. When a licensing authority that granted the Personal Licence becomes aware that the licence holder has been convicted of a relevant offence, foreign offence or been required to pay an immigration penalty, the Licensing Authority may revoke the licence or suspend it for a period of up to six months. This has been introduced into the legislation due to the fact that the Magistrates were not using their powers when relevant prosecutions were taken. This is effectively the additional ability for a licensing authority to review such instances and determine in the circumstances whether a suspension or revocation should be considered.