



Doncaster Council

Agenda

To all Members of the

LICENSING COMMITTEE

Notice is given that a Meeting of the above Committee is to be held as follows:

Venue: Council Chamber, Floor 2, Civic Office, Waterdale, Doncaster

Date: Thursday, 20th June, 2019

Time: 10.00 am

Items for Discussion:

- | | PageNo. |
|---|----------------|
| 1. Apologies for absence | |
| 2. To consider the extent, if any, to which the public and press are to be excluded from the meeting. | |
| 3. Declarations of Interest, if any. | |
| 4. Minutes of the Licensing Committee Meeting held on 17th October, 2018 | 1 - 4 |

Jo Miller
Chief Executive

Issued on: Wednesday, 12 June 2019

Governance Services Officer for this meeting

Sarah Maxfield
01302 736723

A. Reports where the public and press may not be excluded

For noting

- | | | |
|----|---|---------|
| 5. | Terms of Reference, Procedures and Delegations. | 5 - 28 |
| 6. | Licensing Act 2003, Gambling Act 2005 and General Licensing Update. | 29 - 36 |

Members of the Licensing Committee

Chair – Councillor Ken Keegan

Vice-Chair – Councillor Iris Beech

Councillors Duncan Anderson, Bev Chapman, Steve Cox, Neil Gethin, John Gilliver
Martin Greenhalgh, Charlie Hogarth, Nikki McDonald, David Nevett, Ian Pearson,
Dave Shaw and Frank Tyas

Public Document Pack Agenda Item 4

DONCASTER METROPOLITAN BOROUGH COUNCIL

LICENSING COMMITTEE

WEDNESDAY, 17TH OCTOBER, 2018

A MEETING of the LICENSING COMMITTEE was held in the COUNCIL CHAMBER, CIVIC OFFICE on WEDNESDAY, 17TH OCTOBER, 2018, at 10.00 am.

PRESENT:

Chair - Councillor Ken Keegan
Vice-Chair - Councillor Linda Curran

Councillors Steve Cox, John Gilliver, Martin Greenhalgh, Nikki McDonald, David Nevett, Ian Pearson and Frank Tyas.

APOLOGIES:

Apologies for absence were received from Councillors Bev Chapman, Neil Gethin, Charlie Hogarth and Sue McGuinness.

1 DECLARATIONS OF INTEREST, IF ANY

No declarations were made at the meeting.

2 MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 14TH JUNE, 2018

RESOLVED that the minutes of the meeting of the Licensing Committee, held on 14th June, 2018, be approved as a correct record and signed by the Chair.

3 STATEMENT OF LICENSING POLICY 2019 - GAMBLING ACT 2005

The Committee considered a report, presented by David Smith, Licensing Officer, which set out a proposed Statement of Licensing Policy 2019, Gambling Act 2005, following its triennial review.

The Council was required under the Gambling Act 2005, to produce a Statement of Licensing Policy and to review its Policy triennially. It was noted that the report was the fifth Statement of Policy produced by the Council under the Gambling Act 2005, which set out the basis for all licensing decisions to be taken by the Authority over the next three years. The Statement had been produced following public consultation including those bodies and persons set out at Section 1.10 of the draft Policy.

It was reported that a notable addition to the Policy was that the Licensing Authority, in its capacity as a responsible Authority under the Gambling Act, would actively seek the views of the Director of Public Health on all applications that the Licensing Authority was required to be notified of. Where applicable, these views would be used to make informed decisions regarding any representation the Licensing Authority may be minded to make.

Members were informed that the Council had consulted widely on the Policy during the review, where all responses received had been considered. Details of the

consultation process and consultees, was detailed in section 1.10 of the Policy, as attached at Appendix D to the report. Matters arising out of the consultation and the actions taken were summarised in Appendix C of the report.

Following the presentation of the report, the Licensing Officer responded to a number of questions and concerns from Members seeking clarity on aspects of the report and the draft Policy, and the following was noted:-

Section 4.4 – Enforcement

- Public Health - The Licensing Authority consulted Public Health on all licence premises applications, which is based on a local area profile, particularly where there may be areas in the Borough of high risk of gambling addiction.
- Licensed Gambling Establishments were inspected regularly by the Licensing Authority who adopted and implemented a risk-based inspections programme. These were re-inspected on a one, two and three year basis, which was dependent upon the risk rating. All licenced establishments in Doncaster had been inspected by the Licensing Authority over the last 12-18 months.
- Unlicensed Gambling Establishments - The Licensing Authority liaised with the Gambling Commission and carried out joint Inspections of unlicensed establishments when required.
- Enforcement of premises in relation to the protection of Children and Vulnerable Persons - Restrictions were in place to ensure that under 18 year olds do not have access to gambling premises. Restrictions were set nationally, not locally. If an establishment was to be found to have allowed children on to a premise, they could potentially lose their operating licence. The Licensing Authority could take initial enforcement action and remind the establishment of their responsibilities. The Gambling Commission have higher powers in relation to enforcement of children and vulnerable people, and could revoke a premises operating licence.
- The Gambling Commission is the regulatory and enforcement body for the operating of personal licences and provides advice and guidance to Licensing Authorities. The Licensing Authority would have regard to the Gambling Commissions guidance to amend the Council's Policy.

Section 4.11 – Travelling Fairs

- Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit, provided that certain conditions are met. Travelling fairs have the right to provide an unlimited number of category D gaming machines and / or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair.

The Licensing Authority, through its enforcement activities, will endeavour to ensure that any fair complies with the requirements of the regulations.

Section 4.13 – Unlicensed Family Entertainment Centres

- Monitoring of Unlicensed Family Entertainment Centres – Unlicensed Family Entertainment Centres are required to apply for permission to operate and the premises are also inspected by the Licensing Authority. There are two unlicensed Family Entertainment Centres in Doncaster. They operate on a permit and are only permitted to have Category D machines, which are the lowest stakes machines with a low pay out.
- Licenced Family Entertainment Centres - are inspected by the Licensing Authority.

Section 7.4 – Door Supervisors

- Currently there are no premises in Doncaster where the Licensing Authority has imposed a premises licence condition requirement for the entrances to premises to be controlled by a door supervisor. South Yorkshire Police are a Responsible Authority under the Gambling Act 2005, and would be the most likely to suggest this condition, should it be required.

RESOLVED that the Committee support the reviewed Statement of Licensing Policy 2019 – Gambling Act 2005 and recommend it to Cabinet prior to adoption by Full Council.

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Doncaster Council

Report

20th June 2019

**To the Chair and Members of the
LICENSING COMMITTEE**

TERMS OF REFERENCE, PROCEDURES AND DELEGATIONS

EXECUTIVE SUMMARY

1. The purpose of this report is for the Licensing Committee to note the Terms of Reference for the discharge of licensing functions, to agree the procedure for hearings, to agree the delegation of functions, to agree the appointment of Members to the Licensing Sub-Committee and to agree the procedure for dealing with appeals.

RECOMMENDATIONS

2. a) It is recommended that Members note:
 - (i) The Terms of Reference for the Licensing Committee as detailed in Appendix A to this report.
 - (ii) The Terms of Reference for the Licensing Sub-Committees as detailed in Appendix A.
- b) It is recommended that Members agree:
 - (i) The procedures set out in Appendices B1 and B2 continue to be the procedures for Licensing Committee and Sub-Committee hearings held under the Licensing Act 2003 and the Gambling Act 2005 respectively.
 - (ii) The delegation of functions set out in Appendix C1 and C2.
 - (iii) The appointment of Members to the Licensing Sub-Committee as set out in Appendix D.
 - (iv) The procedure for dealing with settling appeals after the Sub Committee hearing but before the appeal hearing in the Magistrates' Court is decided as set out in Appendix E.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

3. Doncaster Council as the licensing authority is required to establish a licensing committee and sub-committee(s) in order to discharge its duties under the Licensing Act 2003 and the Gambling Act 2005. The establishment of defined terms of reference, clear procedures and delegations allows the Council to make licensing decisions.

BACKGROUND

4. The terms of Reference of the Licensing Committee are unchanged from those that were noted by the Licensing Committee on the 14th June 2018. A copy of the Terms of Reference is set out in the Appendix A to this report for the Committee to note.
5. The Licensing Act 2003 and the Gambling Act 2005 enables the Licensing Committee to determine its own procedure and those of its Sub-Committees subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 respectively. The procedures are set out in Appendix B1 and B2 of this report and are unchanged.
6. The Licensing Act 2003 provides that the functions of the Council as the Licensing Authority shall be carried out by its Licensing Committee, with the exception of the Statement of Licensing Policy. The Licensing Committee may delegate those functions to Sub-Committees or, where permitted, to officers. The delegation of functions are set out in Appendix C1 of this report and are amended to take account of the addition of the Home Office as a Responsible Authority, as follows:
 - i. Added Home Office as a Responsible Authority who can object to Application for transfer of premises licence.
 - ii. Added Home Office as a Responsible Authority who can object to Applications for interim authorities.
7. The Gambling Act 2005 provides that all decisions relating to premises licences are, with the exception of those listed below, delegated to the Licensing Committee that has been established under the Licensing Act 2003. The Licensing Committee may delegate those functions to the Sub-Committee or, where permitted, to officers. Details of these delegations are set out in Appendix C2 of this report which is amended to correct an error in previous versions, as follows:
 - i. Removed reference to the Gambling Commission being the only Responsible Authority who may object to Application for a transfer of a licence.

Exceptions:

- A resolution not to issue casino licences (Full Council decision only)
- Functions in relation to the Statement of Policy (Full Council decision)
- Setting of fees (Full Council)

8. The appointment of the Licensing Sub-Committee and Member make-up process, as set out in Appendix D, is unchanged with the minimum number of Members required to be quorate being 3.
9. For hearings held to consider matters relating to the Licensing Act 2003 or the Gambling Act 2005, where more than 3 Members attend those additional Members would be able to choose from the following options:
 - Stay and take part in the meeting and determine the outcome with the rest of the Sub-Committee Members;
 - Sit in the public area as an observer; or
 - Leave the meeting if they so wished.
10. In the case of an appeal against a Sub-Committee decision there is no reason why mediation or other discussions should not be held between the Licensing Authority and the appellant, once an appeal has been lodged, to either settle the matter entirely or to resolve those issues that can be resolved or indeed to identify issues in dispute. The procedure for dealing with settling appeals after the Sub Committee hearing but before the appeal hearing in the Magistrates' Court is set out in Appendix E. The procedure remains unchanged from the version agreed on 14th June 2018.

OPTIONS CONSIDERED

11. No other option was considered.

REASONS FOR RECOMMENDED OPTION

12. The Committee must note the Terms of Reference, may adopt its own Procedures, may establish one or more sub-committees and may determine the delegation of functions under the Licensing Act 2003 and the Gambling Act 2005.
13. The principles behind the delegation of functions for the Licensing Act 2003 and the Gambling Act 2005 are published in Doncaster Council's respective Statements of Licensing Policy. It is recognised that many of the decisions and functions will be purely administrative in nature and it is therefore the policy of Doncaster Council that functions, so far as possible, should be delegated in the interests of speed, efficiency and cost effectiveness. (*Section 13.1 of the Council's Statement of Licensing Policy – Licensing Act 2003 and Section 3.2 of the Council's Statement of Licensing Policy – Gambling Act 2005*)

IMPACT ON THE COUNCIL'S KEY OUTCOMES

- 14.

	Outcomes	Implications
	Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;	Functions are delegated in the interests of speed, efficiency and cost effectiveness wherever possible. This ensures that licensing decisions can be made in

	<ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	a timely manner.
	<p>Doncaster Living: Our vision is for Doncaster’s people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better Learning in Doncaster prepares young people for the world of work 	None
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	
	Connected Council:	

	<ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	
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RISKS AND ASSUMPTIONS

15. It is a requirement of the Licensing Authority, under the Licensing Act 2003 and the Gambling Act 2005, to adopt Terms of Reference, the procedure for hearings and approve the delegation of functions.

LEGAL IMPLICATIONS [Officer Initials HW Date 24/5/19]

16. Sections 101 and 102 of the Local Government Act 1972 empower the Council to arrange for the discharge of any of its functions by a Committee or Sub-Committee. Whilst these sections do not apply to the Licensing Committee or Licensing Sub-Committees the Council has chosen to utilise the format as set out in these provisions to ensure the good governance of the committee. The Council is obliged by law to appoint a Licensing Committee under the Licensing Act 2003 and Gambling Act 2005. Further secondary Regulations determine the requirements of a licensing hearing and the process to follow. Any additional procedures the Licensing Committee chooses to recommend and the Council agrees must comply with these regulations. Therefore, care must be taken to ensure the procedure agreed and delegations comply with the relevant statutes.

FINANCIAL IMPLICATIONS [Officer R Taylor – 21/05/19]

17. There are no specific financial implications associated with this report. The costs associated with applications and their determinations are generally met from fees paid to the Council by applicants for Authorisations/Licences under the relevant licensing enactments and there are no further financial considerations.

HUMAN RESOURCES IMPLICATIONS [Officer D Knapp – Date 22/05/2019]

18. There are no human resource implications to this type of report.

TECHNOLOGY IMPLICATIONS [Officer P Ward – Date 21/05/19]

19. There are no technology implications to this report

HEALTH IMPLICATIONS [Officer C Temperton – 29.5.19]

20. Evidence shows a strong correlation between problem gambling and problem drinking within areas of high deprivation. As Doncaster has a significant number of ward areas that are some of the most deprived in the country Public Health would ask that decision makers consider the impact on the health and wellbeing of individuals when assessing applications. Public Health would advise that continued use of tools such as Cumulative Impact Zones are utilised to ensure proliferation of licensed establishments is minimised. The recently revised Statement of Licensing policy for Gambling now includes the Director of Public Health as a consultee on new gambling licensing applications. The Director of Public Health is a responsible authority for alcohol licensing both roles provide opportunities for Public Health to inform decision making. It is essential to have up to date terms of reference in place to enable a shared understanding of the procedures and delegation of functions.

EQUALITY IMPLICATIONS [Officer D McMurdo Date 10.05.2019]

21. 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

22. Consultation has taken place between Democratic Services, Legal Services and the Licensing Officer.

BACKGROUND PAPERS

- 23.
- Report to Annual Council, Terms of Reference Report.
 - Licensing Act 2003
 - Gambling Act 2005
 - Licensing Act 2003 (Hearings) Regulations 2005
 - Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007
 - Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 – April 2018
 - Gambling Commission Guidance to licensing authorities 5th edition.
 - Doncaster Council's Statement of Licensing Policy (2016) – Licensing Act 2003
 - Doncaster Council's Statement of Licensing Policy (2019) – Gambling Act 2005

REPORT AUTHOR & CONTRIBUTORS

Dave McMurdo, Regulatory Manager, Trading Standards & Licensing

Tel: (01302) 737522

Email: dave.mcmurdo@doncaster.gov.uk

David Smith, Licensing Officer

Tel: (01302) 862546

Email: david.smith@doncaster.gov.uk

Helen Wilson, Senior Legal Officer

Telephone: 01302 734688

Email: Helen.wilson@doncaster.gov.uk

Peter Dale
Director of Regeneration and Environment

LICENSING COMMITTEE

This Committee is a Committee of the Council constituted:

- (1) In relation to its functions under the Licensing Act 2003, under Section 6 of that Act.
- (2) In relation to its functions under the Gambling Act 2005.
- (3) In relation to its other functions, under Sections 101 and 102 of the Local Government Act 1972.

Terms of Reference

FOR RECOMMENDATION TO COUNCIL:-

1. In respect of the relevant prescribed period to consider the adoption of the Statement of Licensing Policy.
2. During the relevant prescribed period to keep the Statement of Licensing Policy under review, and to recommend any revisions to it.

FOR RECOMMENDATION TO THE EXECUTIVE AND THEN TO COUNCIL:-

1. In respect of the relevant prescribed period to advise on the preparation, content and implementation of the Statement of Gambling Policy.
2. During the relevant prescribed period to keep the Statement of Gambling Policy under review, and to recommend any revisions to it.

DELEGATED MATTERS:-

1. To discharge the functions of the Council which are licensing functions within the meaning of the Licensing Act 2003.
2. To discharge the functions of the Local Authority as set out in the Gambling Act 2005.
3. The appointment of Licensing Sub-Committees under Section 10 of the Licensing Act 2003.
4. To determine Policies that are relevant to the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions unless the policy must be determined by Full Council.
5. To exercise the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions except where the function has been delegated to Officers of the Council

LICENSING SUB-COMMITTEES

These are Sub-Committees of the Licensing Committee appointed by that Committee under Section 10 of the Licensing Act 2003 and constituted:

- (1) In relation to their functions under the Licensing Act 2003, under Section 6 of that Act.
- (2) In relation to their functions under the Gambling Act 2005.
- (3) In relation to their other functions, under Sections 101 and 102 of the Local Government Act 1972.

Terms of Reference

1. To determine applications under the Licensing Act 2003, where relevant representations are received.
2. To determine applications under the Gambling Act 2005, where relevant representations are received.
3. To determine applications in relation to the Council's functions under Part 3 of the Constitution which relate to those licensing and registration functions, where relevant representations are received.

DONCASTER METROPOLITAN BOROUGH COUNCIL**LICENSING ACT 2003**
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**1. Meaning of Expressions used in this Document**

- “the Act”* - Licensing Act 2003
- “the Regulations” or any particular reference to a “Regulation”* - The Licensing Act 2003 (Hearings) Regulations 2005
- “the Authority”* - Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
- “the Committee”* - the Sub-Committee of the Authority’s Licensing Committee constituted under the Act to determine the matter before it
- “the Chair”* - the member of the Committee appointed to act as Chairperson of the Committee
- “the Applicant”* - the party making the application e.g. the licence/certificate holder or prospective holder, or the party seeking a review
- “responsible authorities”* - the public or other bodies described in the Act as “responsible authorities” and who have made representations
- “party”* - means person(s) to whom notice of hearing is to be given (including their representatives) and “party” and “parties” shall be construed accordingly

2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.
- (b) The hearing shall take place in public, unless the Authority decides to exclude the public from all or part of the hearing because it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public. A party and any person assisting or representing a party, may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner, and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.
- (e) The Authority has the power to consider adjournments and an extension of time limits provided for within the Regulations on the basis it is in the public interest to do so. When a request for an adjournment or an extension of time is received the request is referred to the Chair for agreement provided the request can be accommodated in the statutory time frame. If this is not possible the matter shall be determined by the Committee at the prelisted hearing.

3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority shall adjourn the hearing to a specified date if it considers it in the public interest to do so, but it shall otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.

- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee any information that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority" (as defined in the Act)
- [2] Any other party opposing the Applicant

[3] Any other party not falling within category [1] or [2] above, or category [4] below

[4] Any other party supporting the Application

Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non contentious and is for the purpose of clarification only.

5. The Committee's Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in the presence of the note taker and legal adviser only, unless an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate. All persons required to vacate the room during the deliberations shall be required to take all their personal belongings out of the room except as may be directed by the Committee.

- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing or otherwise where the Committee is unable to announce its determination.
- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including any appeal or judicial review).

DONCASTER METROPOLITAN BOROUGH COUNCIL
HEARING PROCEDURE

Gambling Act 2005
The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-
committees) (Premises Licences and Provisional Statements) (England and
Wales) Regulations 2007

1. Meaning of Expressions used in this Document

<i>“the Act”</i>	- Gambling Act 2005
<i>“the Regulations” or any particular reference to a “Regulation”</i>	- the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007
<i>“the Authority”</i>	- Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
<i>“the Committee”</i>	- the Sub-Committee of the Authority’s Licensing Committee constituted under the Act to determine the matter before it
<i>“the Chair”</i>	- the member of the Committee appointed to act as Chairperson of the Committee
<i>“the Applicant”</i>	- the party making the application e.g. the licence holder or prospective holder, or the party seeking a review
<i>“Responsible Authorities”</i>	- the public or other bodies described in the Act as “responsible authorities” and who have made representations
<i>“party”</i>	- means person(s) to whom notice of hearing is to be given (including their representatives) and “party” and “parties” shall be construed accordingly

2. Rights of attendance, assistance and representation at hearings

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.

In conducting a hearing the relevant committee must ensure that each party is given the opportunity to—

- i. address the relevant committee on any matter that is relevant to the application or review, or any representations made on the application or review;
 - ii. call witnesses to give evidence on any matter that is relevant to the application or review, or any representations made on the application or review;
 - iii. provide further information on, or explanation of, any matter on which the relevant committee has indicated that it will want further clarification.
- (b) The hearing shall take place in public, unless the committee direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to—
- (a) any unfairness to a party that is likely to result from a hearing in public; and
 - (b) the need to protect as far as possible, the commercial or other legitimate interests of a party. A party and any person assisting or representing a party may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.
- (e) The Authority has the power to consider adjournments and an extension of time limits provided for within the Regulations on the basis it is in the public interest to do so. When a request for an adjournment or an extension of time is received the request is referred to the Chair for agreement provided the request can be accommodated in the statutory time frame. If this is not possible the matter shall be determined by the Committee at the prelisted hearing.

3. Non-attendance of a party at the hearing

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority may adjourn the hearing to a specified date if it considers it in the public interest to do so, but it may otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee any information that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do

so. If granted, the party or parties receiving permission may question the Applicant.

Order of Addresses under paragraph (c)

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a “responsible authority” (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

Permission to question or cross-examine the Applicant or other party

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non-contentious and is for the purpose of clarification only.

5. The Committee’s Deliberations and Determination

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in the presence of the note taker and legal adviser only, unless an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application. The function

of the legal adviser shall be to advise the Committee on points of law and procedure only.

- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 8(2), to enable the Committee to deliberate. All persons required to vacate the room during the deliberations shall be required to take all their personal belongings out of the room except as may be directed by the Committee.
- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing, or otherwise where the Committee is unable to announce its determination, notification will be given to all parties within five days.
- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

6. Record of proceedings

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including any appeal or judicial review).

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a police or Home Office objection	If no objection made
Application for personal licence with unspent convictions (coming to light after grant).	If a police or Home Office objection	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police or Home Office objection	All other cases
Applications for interim authorities	If a police or Home Office objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc.		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases
Suspension of premises licences and club premises certificates for non-payment of annual fees		All cases
Revoke or suspend personal licence	All cases	Required actions before the final decision is made.

Matters to be dealt with	Sub-Committee	Officers
Application for premises licences	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a provisional statement	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence	All cases	
Application for club gaming /club machine permits	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits	All cases	
Applications for other permits		All cases
Cancellation of licensed premises gaming machine permits		All cases
Consideration of temporary use notice		All cases
Decision to give a counter notice to a temporary use notice	All cases	

LICENSING COMMITTEE

Chair: Cllr 1, Vice-Chair: Cllr 2

Members: Cllr 3, Cllr 4, Cllr 5, Cllr 6, Cllr 7, Cllr 8, Cllr 9, Cllr 10, Cllr 11, Cllr 12, Cllr 13, Cllr 14

LICENSING SUB-COMMITTEES

(Appointed under the Licensing Act 2003, section 10)

In the event of there being a Hearing required under the Licensing Act 2003, the Gambling Act 2005 or other relevant statutory provision then the Chair of the Licensing Committee shall be asked to Chair the Sub-Committee and all other Members shall be asked if they can attend. 3 Members shall be enough to be quorate but 4 Members shall be asked to attend to ensure the Hearing can go ahead in the event of Member illness or other incapacity.

Please note:

1. There is no need for the Sub-Committee to be balanced politically or for Members to be barred from taking part in the Hearing when the event or premises etc. is in their Ward,
2. If the Chair is unavailable the Vice Chair will be asked to Chair the Sub-Committee. If neither is available a chair shall be appointed at the Hearing.

The procedure for dealing with settling appeals after the Sub Committee hearing but before the appeal hearing in the Magistrates' Court is decided.

Licensing Officers are authorised to conduct discussions with an appellant or other party to appeal. However, no agreement is to be made with an appellant reflecting a departure from a decision made by the licensing authority or licensing subcommittee without the approval of either the chair of the licensing committee or the chair of the relevant licensing subcommittee that made the decision subject to the appeal.

Where possible, and in any event where either the licensing officer or the chair of the licensing committee or the chair of the relevant licensing sub-committee considers it appropriate, responsible authorities and other persons who made relevant representations, together with any other responsible authority and other members of the relevant sub-committee are to be consulted as to the proposed departure from the original decision.

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Doncaster Council

Report

20th June 2019

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 the activities of the Committee and Sub Committee in the previous year, issues relating to the Licensing Act 2003, the Gambling Act 2005, upcoming matters and any significant licensing enforcement actions.

RECOMMENDATIONS

2. It is recommended that Members note the matters referred to in points 2.1 to 2.4 below.
 - 2.1 For the period 1st April 2018 to 31st March 2019 the following committees were convened
 - Licensing Committee – 2 occasions
 - Licensing Sub-Committee - 13 occasions

A total of 13 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 2018 to 31st March 2019, are attached as Appendix A.
- 2.3 Consultation has recently been undertaken by the Department for Transport on draft Statutory Guidance on Taxi and Private Hire Vehicle licensing. The Council's existing hackney carriage and private hire licensing policy (taxi policy) remains unchanged.

- 2.4 A restructure of the Regulation & Enforcement Service has resulted in a change of management of the Licensing staff responsible for the processing of applications, the issuing of licences, permits and registrations and the enforcement of the same.

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 historically 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 Trading Standards & 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 2018 to 31st March 2019. The figures relating to sub-committees refer to hearings that were convened during the above period but they may also include decisions on some applications that were received in the latter part of the previous year.
5. The Council have responsibility for the licensing and regulation of the hackney carriage (taxi) and private hire trades. Whilst licensing decisions are delegated to officer level, it is within the remit of the Licensing Committee to determine policy and advise on the preparation, content and implementation of taxi licensing policies. The Council's existing policy and guidelines concerning the relevance of convictions for new and existing licence holders in the taxi and private hire trades was adopted in 2012 and is based on Home Office guidance issued in the early 1990s. Whilst each application must be considered on its individual merits, guidelines covering recommended minimum periods free of conviction for offences falling into broad categories act as a guideline to decision makers and afford potential applicants the ability to make an informed decision as to whether or not to apply.
6. Following a period of consultation, the Institute of Licensing published new guidance, in April 2018, on determining the suitability of applicants and licences in the hackney carriage and private hire trades. This Committee previously consented on a consultation with all interested parties with a view to this new guidance being adopted by Doncaster Council.
7. Before consultation could take place, the Department for Transport (DfT) began its own consultation on the *Taxi and Private Hire vehicle licensing: protecting users (Draft Section 177 Statutory Guidance)*. This document includes elements of the Institute of Licensing's published guidance.

8. The consultation, which was open to all interested parties including licensing authorities and the licensed trade, ended on 22 April 2019. The licensing authority provided its response following consultation with the chair of this committee.
9. Once the results of the consultation have been determined and the Statutory Guidance has been published, any proposed changes to the Councils tax policy, will be brought before this Licensing Committee.
10. The Licensing team previously sat within the Business Safety & Licensing Department which was managed by Mr Paul Williams. Following a restructure the Licensing team are now part of Trading Standards & Licensing and the Regulatory Manager is Mr Dave McMurdo.

OPTIONS CONSIDERED

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

REASONS FOR RECOMMENDED OPTION

12. N/A

IMPACT ON THE COUNCIL'S KEY OUTCOMES

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

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>It is recognised that licensed premises are, quite often, businesses and places of employment.</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>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport 	<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>

<ul style="list-style-type: none"> • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	
<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better <p>Learning in Doncaster prepares young people for the world of work</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>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<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>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<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>

RISKS AND ASSUMPTIONS

14. None

LEGAL IMPLICATIONS [Officer Initials HW Date 23/5/19]

15. 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 [Officer RT. Date: 21/05/19]

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

HUMAN RESOURCES IMPLICATIONS [Officer DK Date 21/05/2019]

17. There are no specific human resource implications to this type of report. There are no HR implications specific to the recommendations in the report, however, any emerging matters that impact on the workforce will require HR engagement at the appropriate time.

TECHNOLOGY IMPLICATIONS [Officer Initials DMC Date 10.05.2019]

18. There are no specific technology implications in regards to this type of report. The Northgate M3 system is used to process applications and record the information.

HEALTH IMPLICATIONS [Officer Initials CT Date 21.5.19]

19. Public Health welcomes the statutory guidance in relation to private hire and hackney carriage licensing and would be keen to provide a public health aspect to the policy if and when revised.
It is imperative the public are secure in the knowledge that they are safe using this mode of transport and procedures are in place and being utilised to address vehicle and licensing issues.
With regard to the permits licensed under the Gambling Act 2005 Public Health is pleased to see that numbers issued are low which is in line with the ambition to offer less opportunity for gambling and gaming across the borough.
There has been a 13% increase in all alcohol-attributable admissions to DRI from April 2013 to March 2018 in particular alcoholic liver disease which has risen by 59% in this time. Many of these increases have become concentrated in males and females over age 50 and who live in deprived areas. Public Health will continue to work with Licensing to reduce these numbers through initiatives such as Reduce the Strength and Best Bar None.

EQUALITY IMPLICATIONS [Officer Initials DMC Date 10.05.2019]

20. 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

21. N/A

BACKGROUND PAPERS

22. [Department for Transport, Taxi and Private Hire Vehicle Licensing: Protecting Users, Statutory Guidance for Licensing Authorities, February 2019 – consultation version](#)

REPORT AUTHOR & CONTRIBUTORS

Dave McMurdo, Regulatory Manager, Trading Standards & Licensing
Tel: (01302) 737522
Email: dave.mcmurdo@doncaster.gov.uk

David Smith, Licensing Officer
Tel: (01302) 862546
Email: david.smith@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 2018 to 31st March 2019.

Application Type	Number of Applications	Number of applications determined by the Licensing Sub-Committee	Comments
Personal Licence (New)	215	0	(up from 199 previous year) 213 granted 2 incomplete
Premises Licence (New)	56	7	(down from 65 previous year) 7 applications were granted by the LSC
Premises Licence (Transfer)	89	0	(down from 106 previous year) 89 granted
Premises Licence (Review)	5	5	(down from 10 previous year) 5 licences revoked by the LSC. 1 appeal pending
Premises Licence (Variation)	18	1	(up from 17 previous year) 1 application granted by LSC.
Premises Licence (Minor Variations)	19	N/A	(up from 17 previous year) 17 granted.
Premises Licence (Change of DPS)	198	0	(up from 182 previous year) 197 issued 1 withdrawn.
Club Certificate (New)	0	0	(down from 1 previous year)
Club Certificate (Minor Variation)	0	N/A	(down from 1 previous year)
Standard Temporary Event Notice (TEN)	242	0	(up from 236 previous year) 237 accepted.
Late TEN	110	N/A	(down from 137 previous year) 98 accepted
Total Number of Applications	952	13	1.4% 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 2018 to 31st March 2019.

Application Type	Number of Applications	Number of applications determined by the Licensing Sub-Committee	Comments
Premises Licence - Betting Non Track (New)	0	0	(equal to previous year)
Club Gaming Permit	0	N/A	(equal to previous year)
Club Machine Permit	2	N/A	(equal to previous year) 1 new, 1 renewal. Both granted.
Small Society Lotteries (New)	14	N/A	(down from 21 previous year) 14 granted.

Part 3

Statistical summary of the main licensing enforcement actions taken/commenced by Trading Standards & Licensing during the period 1st April 2018 to 31st March 2019.

Enforcement Action Taken	Number of Actions
Licensed Taxi/Private Hire vehicle suspended from service	154
Licensed Taxi/Private Hire driver suspended	148
Taxi/Private Hire driver licences revoked	5
Taxi/Private Hire driver licence applications refused (new applications & applications to renew)	6
Premises Licence suspended (Licensing Act 2003)	215
Unauthorised licensable activity – Licensing Act 2003 (Prosecutions/Cautions)	0
Taxi licensing prosecution/caution	1