



Doncaster Council

Report

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 2.5 and approve point 2.6 below.
 - 2.1 For the period 1st April 2017 to 31st March 2018 the following committees were convened
 - Licensing Committee – 1 occasion
 - Licensing Sub-Committee - 18 occasions

A total of 18 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 2017 to 31st March 2018, are attached as Appendix A.
- 2.3 The recent changes to the Licensing Act 2003 and the Home Office guidance as summarised in section 5 and Appendix B.
- 2.4 The Statement of Licensing Policy (Gambling Act 2005) is due for its triennial review. Following a period of consultation the Licensing Committee will be asked to recommend the reviewed Policy to the Executive for adoption by Council (expected to take place in Nov 2018). The Policy must be adopted by 3rd January 2019 to take effect from the 31st January 2019.

- 2.5 The Bawtry Cumulative Impact Policy has now been in effect for over 2 years and, as per the decision made at the time of adoption to review after 2 years, it is now due for review. Following a period of consultation the Licensing Committee will be required to make a determination and recommend to Council whether a policy regarding cumulative impact is required or not (expected to be presented to Council in Nov 2018).
- 2.6 Following the publication of new guidance, the Council's existing hackney carriage and private hire licensing policy is to be reviewed with regard to the guidelines on determining the suitability of applicants and licensees with particular regard to the relevance of convictions. Following a period of consultation with all stakeholders it is planned to bring the matter to the Licensing Committee in the latter part of 2018 for a determination on any proposed changes.

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 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 2017 to 31st March 2018. 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 meeting of the Licensing Committee the Home Office has issued revised Guidance under Section 182 of the Licensing Act 2003. The April 2018 version of the Guidance is published on the internet and Members will have had access to the Guidance at the recently convened hearings training. The Guidance contains a number of amendments, including:
 - a. There are several changes in relation to guidance on Temporary Event Notices (TEN's). These include clarification that TENS' users shall provide clear descriptions of locations when events are held in open spaces and particularly when adjacent plots are used and how the user will ensure that each 499 occupancy limit is maintained. There is also suggested good practice for local authorities to notify local Councillors and residents by putting their TENS' on the Council's website to facilitate public access. Doncaster Council has published an online register of TENS on its website for several years.

- b. There is confirmation about where the sale of alcohol takes place in relation to beer gardens, the sale is not outside unless there is an outdoor bar and that if the area is simply for consumption of alcohol then there is no requirement to put the outside area on the licensing plan.
 - c. There is some clarity on the hearing process and the use of adjournments to extend time limits if it is in the public interest and if the parties are in negotiation. There is further guidance with regard to the handling of appeals against decisions of the licensing committee/sub-committee.
 - d. There are new paragraphs relating to the changes that give cumulative impact assessments (CIAs) a statutory footing.
6. Details of the significant legislative change affecting the Licensing Act 2003 is summarised in Appendix B of this report.
7. The Gambling Act 2005 requires that a Licensing Authority adopt a Statement of Policy and that the Policy must be reviewed at least every 3 years. The existing Policy must be reviewed before January 2019. It is within the remit of the Licensing Committee to advise on the preparation, content and implementation of these Policies.
8. The Bawtry Cumulative Impact Policy (CIP) has now been in effect for over 2 years and, as per the decision made at the time of adoption to review after 2 years, it is now due for review. As detailed in Appendix B, a legislative change has introduced the concept of 'Cumulative Impact' formally into the Licensing Act 2003 in the form of Cumulative Impact Assessments (CIA). The review of the Bawtry CIP will be undertaken in accordance with the new provisions.
9. 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. 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. With the Committee's consent it is proposed to undertake a period of consultation with all interested parties with a view to this new guidance being adopted by Doncaster Council. The results of the consultation will be reported back to the Licensing Committee for a determination at a later date. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the licensing

system.

OPTIONS CONSIDERED

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

REASONS FOR RECOMMENDED OPTION

11. N/A

IMPACT ON THE COUNCIL'S KEY OUTCOMES

12. 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• Everyone takes responsibility for keeping Doncaster Clean• Building on our cultural, artistic and sporting heritage	<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 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>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>

	Learning in Doncaster prepares young people for the world of work	
	<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 	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>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 	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..

RISKS AND ASSUMPTIONS

13. None

LEGAL IMPLICATIONS [Officer Initials HW Date 23/5/18]

14. 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: 23.05.2018]

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

HUMAN RESOURCES IMPLICATIONS [Officer DK Date 24/05/2018]

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

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 23.05.2018]

16. 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 23.05.2018]

17. As a consultee, Public Health welcomes the opportunity to contribute to the:
- Review of the Statement of Licensing Policy (Gambling Act 2005). Problem gambling can have significant negative impacts on individuals and families and any measure to ensure that this is minimised is welcomed.
 - Consultation about the changes to the Hackney Carriage and Private Hire Licensing Policy. Public Health welcomes the changes to the guidance in relation to convictions; it is imperative the public are secure in the knowledge that they are safe using this mode of transport.
 - The review of the Bawtry Cumulative Impact Policy.

EQUALITY IMPLICATIONS [Officer Initials DDS Date 11 May 2018]

18. 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

19. N/A

BACKGROUND PAPERS

20. [Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003](#)
21. [Institute of Licensing Guidance on determining suitability of applicants and licensees in the hackney and private hire trades.](#)

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Part 1

Statistical Summary of licence applications (Licensing Act 2003) and notices received by the Authority for the period 1st April 2017 to 31st March 2018.

Application Type	Number of Applications	Number of applications determined by the Licensing Sub-Committee	Comments
Personal Licence (New)	199	0	199 granted
Premises Licence (New)	65	7	7 applications were granted by the LSC
Premises Licence (Transfer)	106	0	105 granted, 1 withdrawn.
Premises Licence (Review)	10	9	1 application withdrawn. 1 licence suspended and 8 licences revoked by the LSC.
Premises Licence (Variation)	17	1	1 application granted by LSC.
Premises Licence (Minor Variations)	17	N/A	17 granted.
Premises Licence (Change of DPS)	182	0	179 granted, 2 rejected/ incomplete application and 1 withdrawn.
Club Certificate (New)	1	0	1 granted
Club Certificate (Minor Variation)	1	N/A	1 granted
Standard Temporary Event Notice (TEN)	236	1	230 accepted. 1 counter notice issued by the LSC
Late TEN	137	N/A	119 accepted
Total Number of Applications	971	18	1.9% 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 2017 to 31st March 2018.

Application Type	Number of Applications	Number of applications determined by the Licensing Sub-Committee	Comments
Premises Licence - Betting Non Track (New)	0	0	
Club Gaming Permit	0	N/A	
Club Machine Permit	2	N/A	1 new, 1 renewal. Both granted.
Small Society Lotteries (New)	21	N/A	20 granted, 1 withdrawn.

Part 3

Statistical summary of the main licensing enforcement actions taken/commenced by Business Safety & Licensing during the period 1st April 2017 to 31st March 2018.

Enforcement Action Taken	Number of Actions
Licensed Taxi/Private Hire vehicle suspended from service	184
Licensed Taxi/Private Hire driver suspended	181
Taxi/Private Hire driver licences revoked	5
Taxi/Private Hire driver licence applications refused (new applications & applications to renew)	3
Premises Licence suspended (Licensing Act 2003)	111
Unauthorised licensable activity – Licensing Act 2003 (Prosecutions/Cautions)	6
Taxi licensing prosecution/caution	6

Change introduced by the Policing and Crime Act 2017

“Cumulative Impact” has been described within the Section 182 Guidance and used by licensing authorities within their statement of licensing policy since the commencement of The Licensing Act 2003. With effect from 6th April 2018, ‘Cumulative impact assessments’ (CIAs) were introduced into the 2003 Act by the Policing and Crime Act 2017 thereby giving them a basis in law.

A Cumulative Impact Assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing ones in a specified area or zone.

Under the new provisions, after publishing a CIA the licensing authority must, within 3 years, review decision. The 3 year period for reviewing a CIA begins with the original date of publication of the CIA or the date that it was last revised.

Doncaster currently has 3 Cumulative Impact Policies (CIP’s) which came in to effect in January 2016. As CIPs were not part of the 2003 Act, there are no transitional provisions that apply to CIP’s that were in place before 6 April 2018. Guidance states that any existing CIP’s should be reviewed at the earliest practical opportunity to ensure they comply with the legislation. It is recommended that the review should take place within 3 years of the commencement of the legislation on CIAs (i.e. before April 2019) or when the licensing policy statement is next due for review, whichever is sooner. This will ensure that any CIP’s in place before the commencement of the provisions on CIAs adhere to the principles in the legislation (in particular concerning relevant evidence and consultation).

Doncaster Council has 3 areas which are subject to a Cumulative Impact Policy –

Area 1 – Doncaster Town Centre (To be reviewed before April 2021)

- Bradford Row
- Cleveland Street
- Hall Gate
- High Street
- Market Place
- Priory Walk
- Silver Street

Area 2 – Part of the Town Ward (To be reviewed before April 2021)

- Broxholme Lane
- Christ Church Road
- Copley Road
- Highfield Road
- Nether Hall Road

Area 3 – Bawtry Town Centre (To be reviewed after January 2018)

- Church Street
- Grasswood Lane / Dower House Square

- High Street
- Market Place
- Scot Lane
- Swan Street
- Wharf Street