

# Gloucester City Council

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|-------------------------|--|---------------------------------|-------------------------------------|
| <b>Meeting:</b>         | <b>Licensing and Enforcement Committee</b>                           | <b>Date:</b>                    | <b>8<sup>th</sup> December 2015</b> |
| <b>Subject:</b>         | <b>Members Update for Licensing and Enforcement Committee</b>        |                                 |                                     |
| <b>Report Of:</b>       | <b>Ross Cook, Corporate Director for Services and Neighbourhoods</b> |                                 |                                     |
| <b>Wards Affected:</b>  | <b>All</b>   |                                 |                                     |
| <b>Key Decision:</b>    | <b>No</b>  | <b>Budget/Policy Framework:</b> | <b>No</b>                           |
| <b>Contact Officer:</b> | <b>Lisa Jones, Food Safety and Licensing Service Manager</b>         |                                 |                                     |
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| <b>Appendices:</b>      | <b>1. Details of licensing applications received</b>                 |                                 |                                     |
|                         | <b>2. Licensing Forward Plan</b>                                     |                                 |                                     |

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To outline to Members, details of key Licensing Activities carried out in the last quarter (July to September 2015), including applications and service requests received, details of any enforcement work, progress updates of our work plan and any changes in Licensing Law.
- 1.2 To seek suggestions from members as ways to improve the format and content of this report.

### 2.0 Recommendations

- 2.1 Members of the Licensing and Enforcement Committee note the contents of this report.

### 3.0 Updates on Licensing Activities in the last Quarter

- 3.1 The Licensing Team currently include five Licensing and Enforcement Officers which comprise of 4.54 Full Time Equivalent (FTE), one 0.6 FTE Licensing Business Support Officer, a Senior Licensing and Markets Officer and a Food

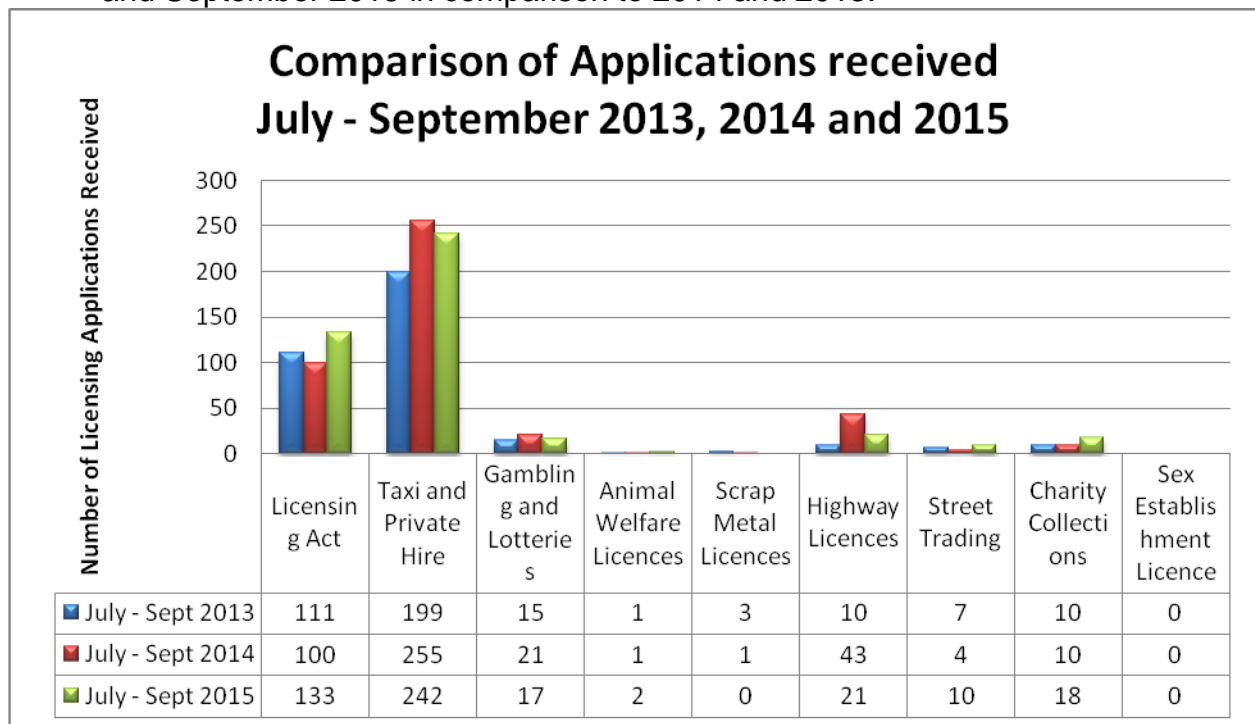
and Licensing Service Manager who covers both Licensing, Food Safety and Market functions.

### **New Licensing Applications**

3.2 Between 1<sup>st</sup> July 2015 and 30<sup>th</sup> September 2015 the Licensing Team received a total of 443 licensing applications, this is 15 more than we received in the previous quarter (April to June 2015) and 8 more applications than the number of applications that we received during July to September 2014 (413). In comparison to the last quarter, we received 10 fewer applications under the Licensing Act because we received less personal licence applications and 34 fewer applications for highways licences because most of these licences were due their renewal in May. More applications were received for Charity collections, which were expected whilst Gloucester City was hosting the Rugby World Cup 2015. Figures of the number of licensing applications received this quarter and over the last two years can be found in Appendix 1.

3.3 A further breakdown of Hackney Carriage and Private Hire applications can also be found in Appendix 1. We have received 13 fewer applications during July – September 2015 (242) than compared to the same period in 2014 (255).

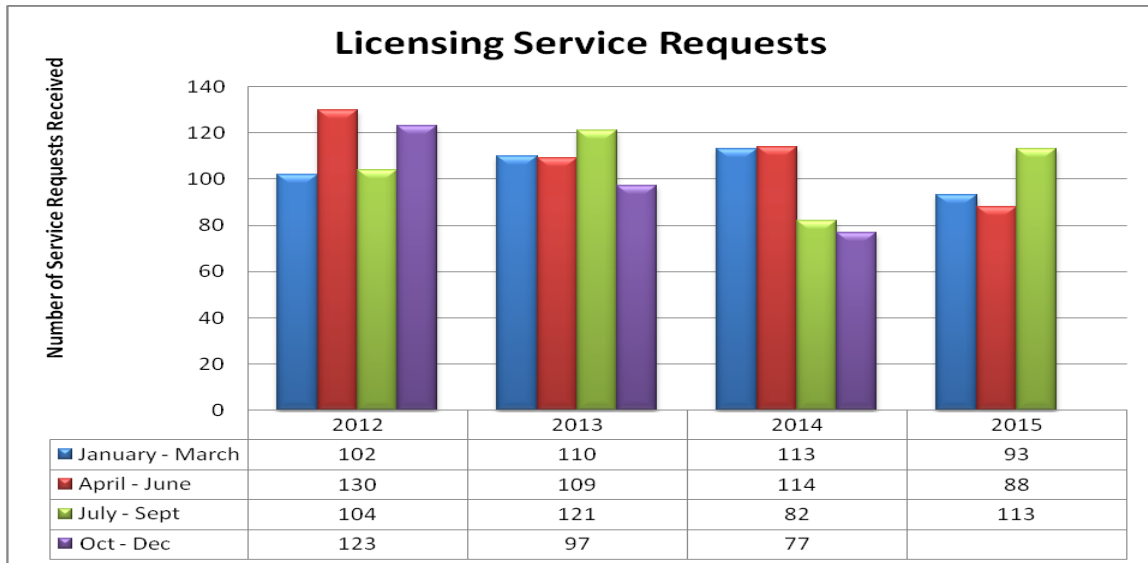
3.4 The graph below illustrates the numbers of applications received between July and September 2015 in comparison to 2014 and 2013.



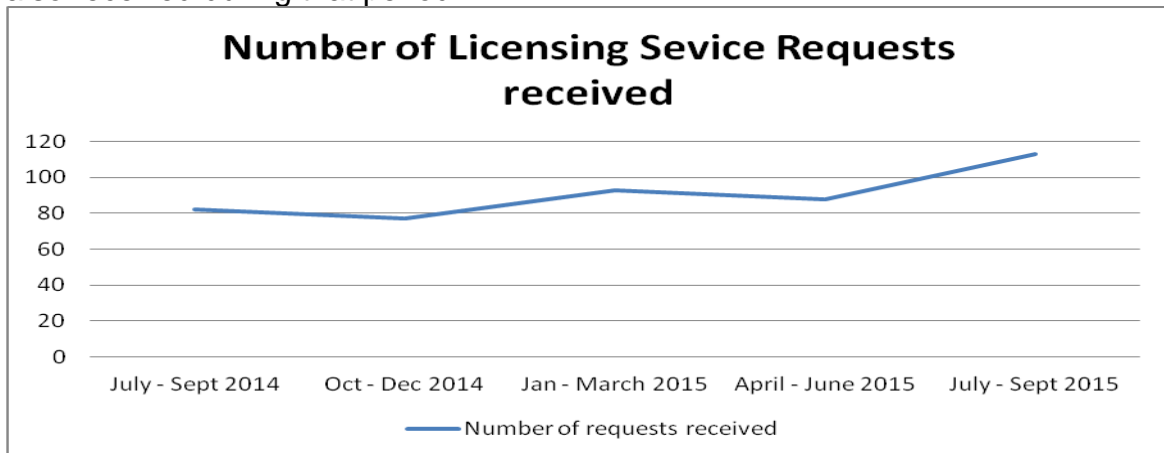
3.5 At appendix 1 there is a pie chart that shows the % of licence applications received by type of licence during July - September 2015. It shows that more

than 55% of the applications received were relating to Hackney Carriage and Private Hire Licensing with 30% relating to Licensing Act applications, this is similar proportions to the total applications received during the full year of 2014.

3.6 In addition to the administration of Licensing applications, the Licensing Team also deal with a number of service requests. These can consist of complaints and enquiries about various Licensing matters. The graph below compares the numbers received per quarter during 2012, 2013, 2014 and 2015. Over the last three years the total number of service requests received has reduced. This is clearly seen when comparing the service requests received between July and September 2015 with previous years for that period.



3.7 The line graph below illustrates the trend in the number of licensing service requests received over the last year. There has been a reduction in 2015 however the general workflow within the team has remained consistent, because although fewer service requests were received, more licensing applications were also received during that period.



## 4.0 Enforcement Work

### Sub-Committees Held between August and October 2015

#### Taxi and Private Hire Hearing (Three Hearings)

- 4.1 On the 2<sup>nd</sup> September 2015 a Private Hire Driver was referred to the Licensing and Enforcement Sub- Committee to consider his suitability to be licensed because he had failed to notify the Council of a licensing conviction which did not fall in line with the Licensing Authority's guidelines for convictions. The Sub-Committee considered the applicant's explanation and decided to issue a written warning as he was considered to be a fit and proper person to hold a Private Hire Drivers Licence. The driver was also required to take a further copy of the Private Hire rule book and satisfy the Officers of his knowledge thereof.
- 4.2 On the 2<sup>nd</sup> September 2015 a Private Hire Driver was referred to the Licensing and Enforcement Sub- Committee to consider his suitability to be licensed because he had a couple of motoring convictions and failed to notify the Council of a further licensing conviction which did not fall in line with the Licensing Authority's guidelines for convictions. The Sub-Committee considered the applicant's explanation and decided to suspend the driver's licence for a period of four months because he was not considered to be a fit and proper person to hold a Private Hire Drivers Licence. The driver was required to complete the enhanced DVSA driving assessment and satisfy the Officers of his knowledge of the Private Hire Rule Book.
- 4.3 On the 29<sup>th</sup> September 2015 a new Private Hire Driver was referred to the Licensing and Enforcement Sub- Committee to consider his suitability to be licensed because he had been arrested for a domestic assault and a separate sexual assault which did not result in conviction. The Licensing and Enforcement Sub-Committee considered the applicant's explanation and decided to refuse the driver's application because he could not be considered to be a fit and proper person to hold a Private Hire Drivers Licence

#### Licensing Act Sub-Committee Hearings (Two Hearings)

- 4.4 On the 20<sup>th</sup> October 2015 the Licensing Sub-Committee considered an application to vary a premises licence for Bar Fever (Gloucester) Ltd. 83-85 Eastgate Street. The application was to increase the hours of licensable activities from 2:30hrs to 03:30hrs and the closing hours from 2:30 to 04:00hrs on Fridays and Saturdays. Objections had been received from Gloucestershire Constabulary. Members decided to accept the application and modify the contents of the licence, by adding a condition that there will be no admission after 03:00hrs.
- 4.5 On the 29<sup>th</sup> October 2015 the Licensing Sub-Committee considered an application to review a premises licence for Costless, 82 Eastgate Street. The application was received from Trading Standards service following a number of

test purchases where illegal tobacco was seized, the premises licence holder had not taken on board the seriousness of the implications and carried on regardless. There were also breaches in his duties relating to the CCTV conditions. Members decided to revoke the premises licence application to prevent any further criminal activity.

### **Out of Hours Enforcement**

#### 4.5 **Taxi and Private Hire Enforcement**

In the last quarter Licensing and Enforcement Officers have continued to monitor activities of Hackney Carriage and Private Hire Drivers and their vehicles. Between July and September 2015, 36 drivers were issued a cumulative total of 119 penalty points on our internal totting up system. This included matters such as drivers witnessed making illegal U-turns, parking on double yellow lines, no fire extinguisher, proceeding through a red light, no door panels, no Bus lane stickers, smoking in a licensed vehicle, defective brake lights, rear plates not being displayed and leaving a licensed vehicle unattended.

Where 12 or more points are issued, the Licence holder will be referred to the Licensing and Enforcement Sub-Committee for a disciplinary hearing. Some infringements can incur 12 points at one time, e.g. plying for hire. The Licence team have also worked with Gloucestershire Constabulary to help pull over vehicles on the roadside.

#### 4.6 **Licensed Premises**

The Licensing Team have a close working relationship with the Police and Environmental Protection and regularly share information to ensure compliance at licensed premises. In the last quarter, a number of premises were monitored out of hours where complaints were received regarding noise emanating from licensable activities. In particular, disturbances at the Quays and Docks area

### **Other Enforcement work**

#### 4.7 **Operation Rickshaw**

The Licensing Team took part in Operation Rickshaw with 6 Special Constables on 18<sup>th</sup> July 2015, focussing on illegal plying for hire by private hire vehicles and conducting road safety checks of licensed vehicles. The operation tested 30 Private Hire's 18 by flag downs and 12 by approaching a parked private hire and asking if they were available for hire.

One private hire driver was flagged down by two undercover Officers and continued with the journey despite not having been pre-booked.

Further checks were also conducted on 13 Licensed vehicles, Six were issued internal penalty points for matters including no door panels, missing first aid kit or fire extinguishers and driver's not displaying their badge.

#### 4.8 Court Cases (4 Cases)

The Licensing Team attended Court on 7<sup>th</sup> September for a pre-hearing to an appeal against the Council decision to revoke a Private Hire Driver's Licence under delegated powers. The decision was taken as an urgent and sensitive matter following information received from the County's Council's safeguarding children's service. The trial was scheduled for 25<sup>th</sup> November 2015, however the appellant withdrew his appeal in the final hour.

Cheltenham Borough Council took two cases to Court on 7<sup>th</sup> September and 19<sup>th</sup> October, after Gloucester City Officers witnessed offences and supplied them with evidence to pursue the prosecutions. The first case involved an unlicensed driver and vehicle and the second case included a plying for hire offence witnessed during Cheltenham Race Week. Both cases resulted in successful prosecutions; this is a good example of how Council Officers can support each other to keep the County safe.

### 5.0 **Legislative Updates**

#### 5.1 The Deregulation Act 2015 and Late Night Refreshment guidance

Section 71 of the Deregulation Act 2015 has come into effect permitting Licensing Authorities to relax the requirements for licensing late night refreshment in certain circumstances.

The changes to the Licensing Act 2003, now provide that Licensing Authorities can designate a particular description of premises as not requiring permission to sell hot food and drink after 23:00, that Licensing Authorities can designate areas where premises do not need a Premises Licence to sell hot food or drink after 23:00 and, finally, Licensing Authorities can stipulate that during periods between 23:00 and 05:00, premises may trade freely for the provision of hot food and drink without the need for a licence.

There are particular categories of premises which a Licensing Authority can decide are exempt from requiring a licence for hot food or drink after 23:00. The Guidance also makes it clear that whilst a Licensing Authority can use more than one type of exemption, it cannot use different forms of exemption in conjunction with one another, giving the example that a Licensing Authority is not permitted to change the times premises require permission to sell hot food and drink in one geographic area only. In other words, it would have to change the hours across the entire area for the Licensing Authority.

#### 5.2 High Court Ruling on Uber

A taxi booking service called Uber which uses an app to estimate fares, put the customer directly in contact with a driver rather than through a centralised

booking system)and allows the customer to pay cashless through the app has been ruled by a High Court to be legal.

London black cabs and minicab drivers claimed the app was being used as a taxi meter. But the Court ruled that Uber's mobile service did not constitute a taximeter, explaining that a taximeter does not include a device that receives GPS signals in the course of a journey, and forwards GPS data to a server located outside of the vehicle, which server calculates a fare that is partially or wholly determined by reference to distance travelled and time taken and sends the fare information back to the device.

The Judge also said that while the smartphone using the driver's app may be essential to enable the calculation of fares that did not make it a device "for" calculating fares, which would breach the taximeter prohibition.

## **6.0 Future Work**

### **6.1 Taxi and Private Hire Fees**

The Licensing Team have reviewed the Taxi and Private Hire fees to bring in line the option of 5 year operator fees and the standard 3 year driving licences under the Deregulation Act 2015. A 3% increase has also been applied to all driver, vehicle and operator fees and is proposed to take effect from 1<sup>st</sup> April 2016. The consultation for these fees ends on 11<sup>th</sup> December 2015. Any objections will be considered and brought back to the Licensing and Enforcement Committee for decision.

### **6.2 Street Trading Fees**

It is planned to review the street trading fees for 1<sup>st</sup> April 2016. Revised proposed fees will be advertised and consulted upon during December. Any objections will be brought to the Licensing and Enforcement Committee for consideration.

## **7.0 Forward work plan and Conclusions**

7.1 The table in appendix 2 outlines our proposed work plan for Full Licensing and Enforcement Committee meetings over the next 3 years. As the years goes on, additional matters may need to be brought to Members attention or further requests may be presented for decision. However, the items listed illustrate expected matters that are scheduled for consideration Committee dates are in **bold** and shaded grey.

7.2 At each quarterly Licensing and Enforcement Committee meeting, we will continue to update Members on any activities carried out in the last quarter, this will include a summary of what has happened in the team, including number of new Licences, any enforcement work carried out and details of any appeals or prosecutions held, the outcomes of those hearings and any further court cases pending.

## **8.0 Financial Implications**

8.1 There are no financial implications attached to the recommendations in this report.

(Financial Services have been consulted in preparing this report.)

## **9.0 Legal Implications**

9.1 There are none at this time.

(Legal Services have been consulted in the preparation this report.)

## **10.0 Risk & Opportunity Management Implications**

10.1 In Compliance with the Council's risk management strategy any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty. There is no risk to the Authority connected to this report, as it is for information only.

## **11.0 People Impact Assessment (PIA):**

11.1 There are no key decisions included in this report.

11.2 A separate PIA will be carried out for each Policy when it is brought before the Licensing and Enforcement Committee.

## **12.0 Other Corporate Implications**

### Community Safety

12.1 None

### Sustainability

12.2 None

### Staffing & Trade Union

12.3 None

**Background Documents:** None