

Gloucester City Council

Meeting:	Licensing and Enforcement Committee	Date:	21st March 2017
Subject:	Members Update for Licensing and Enforcement Committee		
Report Of:	Jonathan Lund, Corporate Director for Services and Neighbourhoods		
Wards Affected:	All		
Key Decision:	No	Budget/Policy	No
	For Information	Framework:	
Contact Officer:	Lisa Jones, Food, Licensing and Markets Manager		
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Appendices:	1. Details of licensing applications received		
	2. Licensing Forward Plan		

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 (October to December 2016), 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

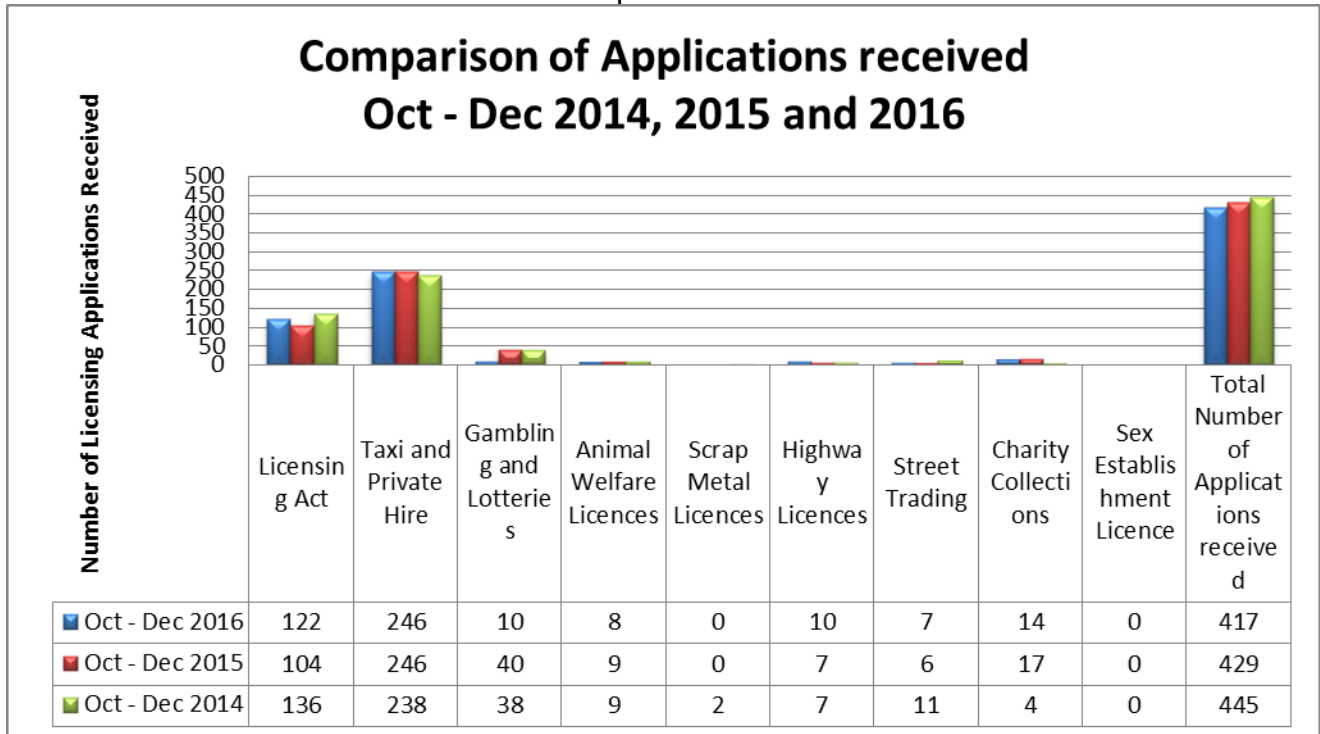
- 2.1 Members of the Licensing and Enforcement Committee note the contents of this report.

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

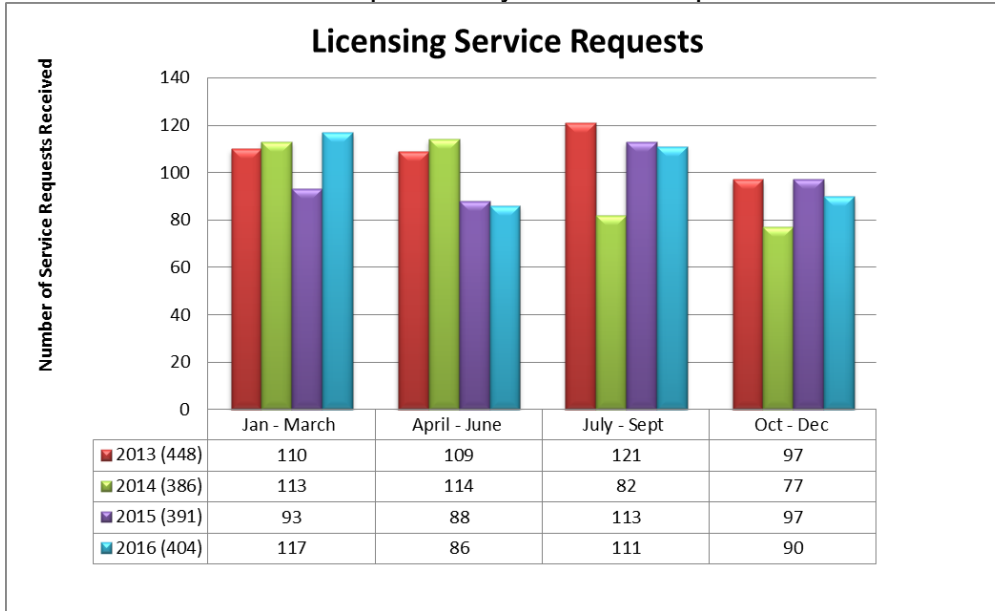
- 3.2 Between 1st October 2016 and 31st December 2016 the Licensing Team received a total of 417 licensing applications, this is 8 more than we received in the previous quarter (July to September 2016) and 12 less than the number of applications that we received during October to December 2015 (429). In comparison to the last quarter, we received only 2 fewer applications for the Licensing Act but double the number of gambling applications, this is expected in the Christmas season. We also received 8 applications for animal welfare licences because most of these licences were due their renewal end of December. Figures of the number of licensing applications received this quarter and over the last three 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 exactly the same number of applications during October to December 2015 (246) as compared to this period in 2016 (246).
- 3.4 The graph below illustrates the numbers of applications received between October and December 2016 in comparison to 2015 and 2014.



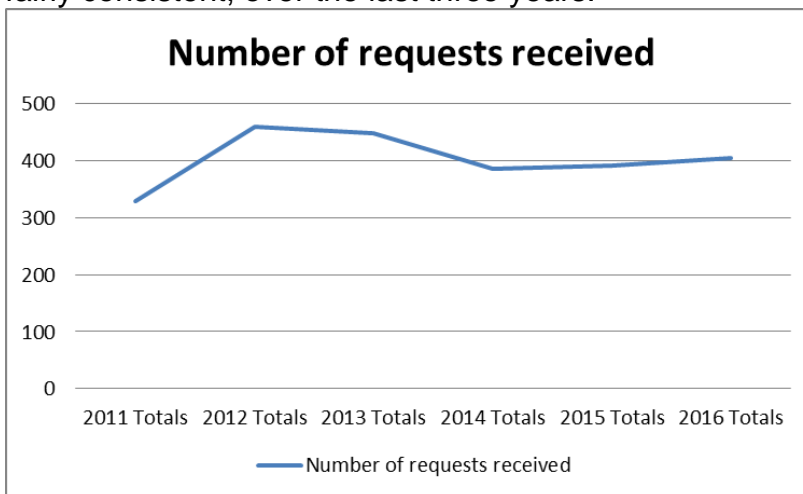
- 3.5 At appendix 1 there is a pie chart that shows the % of licence applications received by type of licence during October - December 2016 and for the whole of 2016. It shows that 59% of the applications received were relating to Hackney Carriage and Private Hire Licensing with 29% relating to Licensing Act

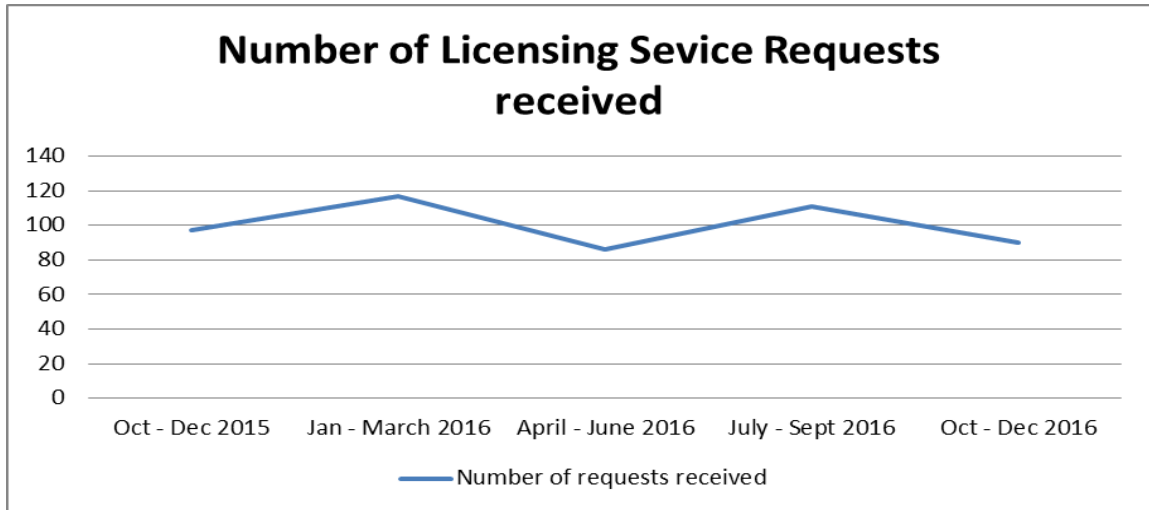
applications, this is similar proportions to the total applications received during the last quarter and the full year of 2016.

- 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 2013, 2014, 2015 and 2016. 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 October and December 2016 with previous years for that period.



- 3.7 The line graphs below illustrates the trend in the number of licensing service requests received over the last year and previous years. There has been small increase in 2016 however the general workflow within the team has remained fairly consistent, over the last three years.





4.0 Enforcement Work

Sub-Committees Held between November 2016 and January 2017

Taxi and Private Hire Hearing (Two Hearings)

4.1 On the 20th December 2016 a Private Hire Vehicle was referred to the Licensing and Enforcement Committee to consider its suitability to be licensed because he declared that he had received a conviction for failing to provide a specimen (driving or attempting to drive) at Cheltenham Magistrates Court on 12 March 2013. The Committee took into account the circumstances and decided that the application should be granted because he was considered to be a fit and proper person to hold a Private Hire Drivers Licence.

4.2 On the 12th January 2016 a new application for a Private Hire Driver was referred to the Licensing and Enforcement Sub- Committee to consider his suitability to be licensed because he had four convictions within a five year period which raised doubts about his suitability to be licensed. Convictions included drug offences and dangerous driving. The Sub-Committee considered the applicant's explanation and decided to refuse the licence because he was not considered to be a fit and proper person to hold a Private Hire Drivers Licence.

Licensing Act Sub-Committee Hearings (Two Hearings)

4.3 On the 29th November 2016 the Licensing Sub-Committee considered an application for a new premises licence for The Daily Field Store, 192, Barton Street, Gloucester. The application was for the retail sale of alcohol between the hours of 06.00 and 23.00, Monday to Sunday inclusive. Six objections had been received from local residents, five of which were prepared to withdraw their objections if the licensing hours were reduced.

The Sub-Committee considered the application and the representations received and decided to Grant the application as applied for and the Sub-Committee

accept the offer from the applicant to add the additional condition on the licence that they do not sell beer, lager or cider over 6.5 per cent ABV and they welcome and accept this offer.

- 4.4 On the 24th January 2017 the Licensing Sub-Committee considered an application for a new premises licence for Sedoo's Stop, 25 London Road, Gloucester. The application was to increase the licensable hours for the retail sale of alcohol from 06.00 and 23.00, Monday to Sunday inclusive to 24 hours. Sixteen objections had been received from local residents, and Gloucester Constabulary. The sub-committee decided to refuse the application for the following reasons:-
- 1) The Sub-Committee is not convinced that the application will promote the four Licensing Objectives.
 - 2) The Sub-Committee is concerned, given the location of the premises, being close to sensitive groups of people including those with alcohol and drug issues and in a highly residential area, that an additional 24 hour alcohol licence would be detrimental to their on-going care.
 - 3) The Sub-Committee cannot be satisfied, on the balance of probabilities, that granting an additional 24 hour alcohol licence would not increase anti-social behaviour.
 - 4) The Sub-Committee has considered the fact that there is a premises on London Road with a 24 hour alcohol licence but on the basis that they have signed a voluntary agreement with the police not to sell high strength beer and cider at night and this is managed via a security hatch that promotes the Licensing Objectives.

Out of Hours Enforcement

4.5 Taxi and Private Hire Enforcement

Licensing and Enforcement Officers have continued to monitor activities of drivers and conditions of their vehicles. In 2016 a total of 244 penalty points were issued for reasons including failure to notify us of convictions/cautions, failure to display bus lane stickers, insurance stickers and approved door panels, failure to keep a fire extinguisher or first aid kit.

In comparison to the total number of penalty points issued in 2015 which was 411, we are pleased to see a decrease in the number of points issued in 2016. 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.

Requirement to complete the Taxi and Private Hire Driving Assessment

25 Hackney Carriage and 40 Private Hire drivers received Suspension Notices because they had not notified the Licensing Team that their successful completion of the Council's approved driving assessment. This is out of a total of

around 380 drivers. To date we have not been formally notified of any appeals to the magistrates court.

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.

4.7 Best Bar None

Best Bar None award ceremony was held on 17th January 2017 to announce the winners of the different categories. This year 18 premises received accreditation plaques and the Overall Winner was 'Butlers' for the second year running.

Other Enforcement work

4.7 Operation with Cheltenham Licensing

The Licensing Team took part in an operation with Cheltenham Licensing Officers on 28th January 2017, focussing on illegal plying for hire by private hire vehicles and conducting road safety checks of licensed vehicles. The operation tested Private Hire's by either flag downs or by approaching a parked private hire and asking if they were available for hire in the vicinity of the Quays. All drivers that were tested for illegally plying for hire passed and refused the fares.

4.8 Court Cases

On Monday 20th February 2017, we had a successful prosecution on a Private Hire driver that was 'caught plying for hire'.

The driver failed to turn up to court and the case was proved in their absence. The driver was fined £660 for plying for hire and £660 for no insurance. Their DVLA driving licence was endorsed with 6 penalty points and they were also ordered to pay £400 costs.

On Monday 6th March 2017 we had plea hearing for a Private Hire driver that was 'caught plying for hire' and therefore invalidating his insurance. He pleaded not guilty to both offences and a trial has been listed at Cheltenham Magistrates Court on 8 May 2017.

5.0 Legislative Updates

5.1 Police and Crime Act 2017

The Police and Crime Act 2017 has received royal assent which will reform the late night levy to make it easier for licensing authorities to implement and put cumulative impact policies on a statutory footing. It proposes to include takeaways in the Late night Levy and the option of applying the levy to part of the City instead of the whole of it.

Some provisions of the Act will commence on 6 April 2017, however, the provisions on cumulative impact and the late night levy will not start until after the Home Secretary has considered any recommendations made by the Lords Select Committee reviewing the Licensing Act.

5.2 Equalities Act 2010

On 7th February, the Secretary of State for Transport signed the Commencement Order which will bring the remaining parts of Sections 165 and 167 of the Equality Act 2010 into force on the 6th April 2017. This means that from April drivers of designated wheelchair accessible taxis and private hire vehicles will be required to transport wheelchair users in their wheelchair, provide passengers in wheelchairs with appropriate assistance and charge wheelchair users the same as non-wheelchair users.

Local authorities are also strongly recommended to maintain lists of vehicles designated as wheelchair accessible, without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra. The Licensing Team is preparing to implement the Act following guidance issued by the Department for Transport.

5.3 Uber lost challenge in High Court ruling

Uber lost its attempt to overturn a Transport for London (TfL) decision to implement an English test for London licensed drivers.

Uber argued that the TfL requirement was "unfair and disproportionate". TfL argued that the requirements were vital to ensure passenger safety and to raise standards. TfL are entitled to require private hire drivers to demonstrate English language compliance, it does not apply to black cabs.

6.0 **Future Work**

6.1 Safeguarding Training

It is proposed to offer safeguarding awareness training to all of the Hackney Carriage and Private Hire drivers. Free training is currently available until 31st December 2017, from Gloucestershire Safeguarding Board in partnership with Gloucestershire Constabulary.

It will generally deal with the signs of child sexual exploitation (CSE), trafficking and other safeguarding issues and how licensed drivers can identify these issues and report them to the appropriate authorities. It is also intended to ensure that licensed drivers are themselves equipped to guard against false and misleading safeguarding related allegations being made against them. Drivers would be awarded a certificate of attendance on completion of the training.

6.2 Late Night Levy

The Licensing Team consulted on the Late Night Levy from 7th October to 7th December 2016 and the feedback was planned to be reported to Full Council for a final decision on 23rd March 2017. However, this report has now been deferred to the Council meeting on 24th July 2017.

The Licensing team have received notification that a ballot for a Gloucester Business Improvement District will be held from 1st June 2017 for one month. If the BID is adopted it could take effect on 1st August 2017. As BID's can support similar initiatives as a Late Night Levy through an objective for safer nights, the decision to adopt the Levy has been deferred until after the BID ballot is announced.

Cheltenham's late night levy will cease from 1st April 2017 in favour of the town's business improvement district, they gave three reasons:

- The need to ensure that businesses were not unduly burdened by two levies;
- The understanding that levy activities would be incorporated in BID activities; and
- The fact that BID income would be substantially more than the income raised through the levy.

6.3 Scrap Metal Policy Review

The Licensing Team had scheduled to review the Council's scrap metal dealers licensing policy after it was adopted three years ago. The Government are currently evaluating the effectiveness of the Act since its introduction; the review will therefore be postponed until the outcome of this evaluation can be considered.

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