

## LICENSING COMMITTEE – 16TH FEBRUARY 2021

### Report of the Head of Regulatory Services

#### Part A

#### ITEM 6 LICENSING UPDATE

##### Purpose of Report

To provide Members with an update, for the Licensing Team during the Coronavirus pandemic, since March 2020.

##### Recommendation

That Committee Members note the content of this report.

##### Reason

To provide the Committee, with an update in regard to the Licensing Team's activities since March 2020 and the first lockdown.

##### Policy Justification and Previous Decisions

The Licensing Committee has delegated non-executive responsibility under the Council's licensing provisions which are set out both in legislation and in the Council's Constitution.

##### Implementation Timetable including Future Decisions

There is no implementation timetable for this report.

##### Report Implications

##### *Financial Implications*

None.

##### *Risk Management*

There are no specific risks associated with this report.

*Background Papers:* None

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## **Part B**

### Background

#### 1.0 Licensing Team

- 1.1 The Licensing Team consist of 4 full time employees and 3 part time employees (the position of part time Licensing Enforcement Officer has been vacant since September 2020)
- 1.2 Licensing work closely with the Council's Customer Service Centre and Contact Centre to deliver the licensing Service.
- 1.3 The current COVID-19 pandemic and necessary social restrictions presents a fast changing legislative landscape including that of the position of drivers carrying passengers, vehicle MOTS and licensing in general.
- 1.4 In light of government advice about COVID-19 (Coronavirus) in March 2020, Licensing made changes to the Licensing Service. These changes were made to help minimise the risk and spread of the virus.
- 1.5 Licensing web pages were removed or linked through to a licensing coronavirus page which advised all drivers of the changes to their service. A newsletter was prepared and sent out.

#### 2.0 Licensing Service changes Implemented in March 2020.

##### 2.1 Charnwood Hackney Carriage and Private Hire Drivers

###### 2.1.1 New Drivers

Applications were stopped in March 2020 for new drivers. This was due to applicants being unable to complete a knowledge test, obtain a DBS countersignature (as the Council Offices were shut) and applicants were unable to obtain a Group 2 Standards Medical due to GP's being unavailable for all but essential work. This is continuing to be reviewed.

###### 2.1.2 Existing Drivers

The licensing section wished to keep current licensed drivers working. Although they faced the same issues as new applicants, in respect of obtaining medicals, and completing processes such as the DBS countersignature, their medical and criminal history was known. Existing drivers were given the opportunity to renew by completing a 6 month 'intention to renew' initially introduced in first lockdown, which asked the driver to declare medical fitness and any new convictions. Drivers are currently still struggling to obtain Group 2 Medicals so 'intentions to renew' have been extended for a further 2 months.

### 2.1.3 Removing Barriers to Driver applications

The licensing section considered how barriers to obtaining licences, currently and potentially in the future could be removed, and looked at several areas in DD109 ( signed 23.12.2020) attached at **Appendix 1**.

### 2.1.4 Medicals

To reduce the barrier that excessive cost may create or a GP surgeries refusal to do a medical, the Hackney Carriage and Private Hire Licensing Policy, has been amended to allow an existing driver/applicant to use their own GP for a Group 2 Standard medical or to approach any medical practice they choose as long the GP they see, has sight of a summary of their medical records. They must obtain their medical summary from the surgery they are registered with before approaching another GP and that GP must view that medical summary and complete the Councils medical form. The Councils medical form will be amended to ask a GP completing the form to sign they have seen the drivers medical summary.

It is proposed that the flexibility with medicals would be reviewed within 12 months of its introduction, as it is an unknown whether GP surgeries will provide the medical summaries at this time.

### 2.1.5 DVLA Mandates

Prior to Coronavirus, renewing drivers and applicants visited the Council's Customer Service Centre and completed a DVLA mandate form with their DVLA Licence card checked at the same time, as submitting their completed application.

During lockdown applicants and renewing drivers have been unable to provide a completed DVLA mandate to a Customer Service Advisor for their DVLA licence to be verified.

Gov.uk offers the facility online to be able to check someone else's DVLA Licence., <https://www.gov.uk/check-driving-information>

To enable the 'intention to licence' to be approved and move the process online, the licensing section contacted the applicant by email and asked them to apply online for a DVLA code. This code was then passed to the Licensing Section. This enables Licensing to check their DVLA licence, via the Gov.uk website, that they have no endorsement points on their licence or anything that may affect their ability to hold a Charnwood Borough Combined Drivers licence.

This can be done by the applicant clicking on the following link:  
<https://www.gov.uk/view-driving-licence>

The need for a DVLA Mandate and a payment of £15.00 (£5.00 per year introduced in the 2020 reviewed Policy) for their DVLA licence to be annually

checked has been removed from the Licensing policy/process and that the applicant be asked to provide a summary code on their first application or renewal and then annually, on the anniversary of their 3 year licence renewal. This allows the DVLA licence and any endorsements to be checked, saves the Driver the cost of the Mandate and allows drivers DVLA licences to continue to be checked during the pandemic. This allows the 'intention to renew' to be authorised.

Due to lockdown and the Council Offices being closed Licensing have been unable to obtain a complete DBS (Disclosure and Barring Service) Enhanced application form, countersign the form and check verification of original documents. This continues to delay applications.

Consideration is being given to a Third Party option to manage and complete the DBS process, Right to Licence, a DVLA mandate and possibly introduce an electronic Knowledge Test.

## 2.2 Charnwood Hackney Carriage and Private Hire Vehicles

Prior to the Pandemic, on renewal of a vehicle licence, an appointment would be made for the licensed CBC driver to visit the Council Offices. A Customer Service (CSC) Advisor would see the licensed vehicle owners, whose vehicle had already been tested and passed by an authorised garage, to check all their documents. Licensing would renew the paper vehicle licence and make new livery/plates for the vehicle. On taking the new paper licence, vehicle livery and plates down to the driver, licensing would recheck the documents prior to issuing the plates. The Council Offices closed with the introduction of the first lockdown in March 2020 and Licensing had to review the process of vehicle licence and plates collection.

The vehicle licensing process was moved online during the initial lockdown as the two testing garages remained open (the third closed in September 2019). Since March 2020 the vehicle renewal application has been posted out and drivers asked to complete their application form and provide both that and all their supporting documents via email (legible photos or scanned documents were accepted) to the licensing generic email address.

The garages send the Certificate of Compliance direct to the licensing email address on a vehicle passing or failing at the garage so that licensing can ensure any failed vehicles are removed from the road quickly. A passed Certificate of Compliance lets us start the licensing process for the plate renewal prior to the proprietor/driver contacting us.

Licensing have created additional back office administrative stages to the renewal process by creating spreadsheets, which enables all licensing staff to be fully aware of each stage whilst working at home. The renewal process is completed by licensing staff at home, to the point that the plate(s) and livery are to be printed. Licensing staff then access the Council building to print the licence, livery and plates.

Plates are issued to drivers, sat in their cars within the Council car park by licensing staff adhering Covid 19 secure protocols.

### 3.0 Licensing Act and General Applications

#### 3.1 Licensing Act 2003 Applications.

Licensing Assistants and the Licensing Officer, prior to the Coronavirus Pandemic regularly saw Licensing Act customers, wishing to submit premises or variation applications within the Customer Service Centre. Since the Pandemic all Licensing Act applicants where possible have been advised to submit applications via GOV.uk.

#### 3.2 General Licensing Act applications

All other licence applications, where possible, have been sent through via email to the [licensing@charnwood.gov.uk](mailto:licensing@charnwood.gov.uk) email address.

### 4.0 Business and Planning Act 2020

In July 2020 the Business and Planning Act 2020 introduced a new temporary legal framework to district Councils for issuing pavement licence's which enabled food and drink premises to put removable furniture on the pavement adjacent to their premises in order to sell or serve food and drink. The framework superseded the existing framework for pavement licensing set out in the Highways Act 1980 (issued by Leicestershire County Council Highways for Loughborough Businesses).

Under the new act Councils were required to process application for pavements licences within 2 weeks. Licences must be a minimum of 3 months but could run to the end date of 30<sup>th</sup> September 2021. This was a streamlined process to assist premises to work within the Covid restrictions and remain Covid secure. Where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people.

Charnwood Borough Councils licensing section put into place an application process, including consultation with Leicestershire Highways, the Police and other agencies. A total of 12 applications were received, 7 Pavement licences were issued, all expiring on the 30.09.2021. 4 applications were refused and 1 withdrawn by the applicant.

## 5.0 Hearings conducted under the Licensing Act 2003

5.1 In the period from March 2020 to present day 2 Licensing Sub Committees have been held;

Date	Applicant	Type of Application	Decision
17 <sup>th</sup> June 2020	Mr Andrew Reed	Grant of Premises Licence – Hall Croft Tap	Granted
3 <sup>rd</sup> August 2020	Richard Langham and John Smith	Variation of Licence – Quorn Grange Hotel	Variation granted with conditions
18 <sup>th</sup> August 2020	Bethany Sole, Marc Grant & Stuart Sole	Grant of Premises Licence – Salon 45	Granted

## 5.2 Hearings conducted for Hackney Carriage/Private Hire Licensing

One hearing has been held in respect of a Hackney Carriage driver.

Date	Applicant	Type of Application	Decision
21 <sup>th</sup> December 2020	Hackney Carriage Driver	Review of drivers badge	Revoked

## 6.0 Appeals & Prosecutions

An appeal was heard by Loughborough Magistrates on the 22<sup>nd</sup> September 2020 in respect of a personal licence applicant whose application for a personal licence had been refused by the Licensing Sub Committee on the 11<sup>th</sup> December 2019 due to an unspent relevant offence. The Court remitted the appeal back to be reheard by the Councils Licensing Sub-Committee with additional mitigation provided to the Court. On rehearing the case the Licensing Sub Committee granted the personal licence application.

## 7.0 Enforcement Actions/Inspections April 2020 to present day

Due to the coronavirus pandemic the routine inspection programmes organised throughout the year for licensed premises, gambling premises and scrap metal dealers have not taken place.

However, reactive work and day to day work has kept the Licensing Enforcement Officers busy. (Antony Bunker, Part time Licensing Enforcement Officer left the authority on the 29<sup>th</sup> September 2020).

### 7.1 Licensed Premises Inspections

The Licensing Enforcement Officers visited 29 licensed premises, during the period from April 2020 to now. A number of licensing visits were carried out

along partnership agencies, checking that the premises were Covid Secure. At these visits a full licensing inspection was carried out to ensure that there were no premises licence issues. 39 visits were carried out to check the blue and white notices required to be displayed at a premise as part of the application process. They gave advice to 33 premises over the telephone and sent out 17 advice letters. They dealt with 6 complaints and fed back to 4 of the complainants as to the outcome.

## 7.2 Taxi Licensing

Other actions taken with drivers, vehicles and operators included 56 vehicle suspensions where Officers were not satisfied with the fitness of a hackney carriage or private hire vehicle licensed by Charnwood Borough Council due to accident damage etc. or other reason such as expired insurance etc. 20 visits were carried out to drivers and 46 to vehicles to deliver or collect plates after the first lockdown.

9 complaints were received in respect of drivers or vehicles. 4 warning letters were issued to drivers with a further 9 letters sent issuing Council Penalty Points to Drivers.

Two drivers were revoked by the Licensing Manager in liaison with the Head of Regulatory Services. All details of those drivers revoked have been added to the National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3) and passed onto to Leicestershire Police and the other Leicestershire Licensing Authorities.

## 7.3 Gambling Premises

1 visit has taken place in respect of a gambling licensed premise.

## 7.4 General Licensing

Telephone advice has been given to one Scrap Metal Dealer Site applicant who was unsure if he required a licence or not.

## 8.0 Future Legislation or Process Changes

Future changes are expected in respect of legislation.

## 8.1 Taxis

### **Statutory Taxi and Private hire Vehicle Standards**

In July 2020, the Department of Transport (Dft) introduced the Statutory Taxi and Private hire Vehicle Standards (guidance), a report introducing these prior to consultation with the Taxi Trade is to be discussed at tonight's meeting.

### **New Tax check on Hackney and Private Hire Drivers (& other licence renewals) – April 2022**

The 2020 Budget announced that the government will legislate in the Finance Bill 2020-21 to make the renewal of licences to drive taxis, drive and operate private hire vehicles (PHVs) (for example minicabs) and deal in scrap metal conditional on applicants completing checks that confirm they are appropriately registered for tax.

Individuals, partnerships (including limited liability partnerships (LLPs)) and companies applying for licences in England and Wales to either drive taxis or private hire vehicles (PHVs), or both, operate a PHV business or deal in scrap metal.

The measure also affects licensing bodies in England and Wales that administer those licence applications.

Conditionality will introduce a check on tax registration (tax check) for renewed applications in England and Wales for licences to:

- drive taxis and PHVs (for example, minicabs)
- operate a PHV business
- carry on the business of a scrap metal dealer on a site
- carry on business as a mobile collector of scrap metal

An applicant who wishes to renew a licence will need to carry out a tax check. The licensing body (typically a local authority) will have to obtain confirmation from HMRC that the applicant has completed the check before being able to consider their renewed licence application.

This measure will have an effect on applications made from 4 April 2022.

Conditionality aims to address part of the hidden economy by helping applicants for certain public sector licences better understand their tax obligations and by making access to the licences they need to trade conditional on completing a tax check. It is an innovative, cost effective and simple way to tackle this part of the tax gap and help level the playing field, making it more difficult for people to enter or stay in the hidden economy.

Licensing bodies will be required to signpost first-time applicants to HMRC guidance about their potential tax obligations and obtain confirmation that the applicant is aware of the guidance before considering the application. Where the application is not a first-time application (a renewed application) the licensing body must, before considering the application, obtain confirmation from HMRC that the applicant has completed a tax check.

An applicant will carry out a tax check by providing information to enable HMRC to satisfy itself that the applicant has complied with an obligation to notify their chargeability to tax, where such an obligation applied. The check will be completed when HMRC is satisfied the applicant has provided all information requested.

Where a HMRC failure prevents the licensing body from meeting its requirement to obtain confirmation of the completion of a tax check, that requirement will cease to apply. HMRC will also have discretion to waive the requirement where an HMRC failure prevented the applicant completing their tax check.

In cases where the licensing body has been unable to obtain confirmation of completion of the tax check for 28 days other than because of an HMRC failure (for example, where an applicant refuses to complete a tax check and therefore HMRC cannot provide confirmation that they have completed one) amendments to section 17 of the Transport Act 1985 and paragraph 1 of Schedule 1 to the Scrap Metal Dealers Act 2013 will cause the extended licence to expire.

## 8.2 Future Changes to Charnwood Driver Process

In April 2020, Charnwood introduced in their reviewed 2020 Hackney Carriage and Private Hire Licensing Policy the need for all grant and renewal applicants to register with the Disclosure and Barring Service (DBS) Update Service. This would effectively mean the number of new DBS Applications requiring countersignature by Charnwood would reduce to only that of new drivers over a period as all existing drivers on renewal would register with the Update Service. It is a condition of being a Registered Body with the DBS that Charnwood average 100 applications per annum.

This is unlikely to be met due to the Update Service registration.

Due to the Pandemic this year and the difficulties experienced on being able to see the renewing driver's to check and countersign paperwork and the definite possibility averaging less than 100 applications per annum submitted under Charnwood's registration number Licensing have been considering other options.

One such option is working with a third party, to complete DBS checks on our behalf, such as other Councils use. Initial talks are being held with a company called Taxi Plus (previously known as Personnel Checks).