

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

23 July 2013

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Matters for Information

1 ANNUAL REVIEW OF PERFORMANCE / KEY CHANGES

1.1 Introduction

1.1.1 This report updates Members on the progress of Licensing Services over the period from April 2012 until May 2013.

1.1.2 The Licensing Service is part of Legal Services and is responsible for the processing and grant of licences / authorisations under the Licensing Act 2003, the Gambling Act 2005 (including Small Society Registrations), Taxis/ Private Hire vehicles, Charitable Collections and Sexual Entertainment Venues.

1.1.3 At the time of preparing this report, Licensing Services have administered some 2,839 licences during the 2012 – 2013 financial year.

1.1.4 The team is made up of a Licensing Manager, one Licensing Officer and one part time administration assistant.

1.1.5 This year has been an extremely challenging year with Licensing Services focusing on processing and granting applications to ensure “fit and proper” applicants have granted licenses and permits; process and data cleansing and enforcement ensuring compliance.

This has resulted in 25 Licensing Hearing Panels for Taxi licensing, 8 for premises licences and 3 Review Hearings.

During the last year the following suspensions and revocations were served:

- 3 Private Hire Operator Licences revoked
- 5 Private Hire Driving Licences revoked
- 14 Private Hire Vehicles revoked
- 13 Hackney Carriage Vehicles revoked
- 1 Hackney Carriage Driving Licence revoked
- 1 Dual Drivers badge revoked
- 6 Driving applications refused
- 2 Private Hire Driving Licences suspended
- 3 Hackney Carriage Driving Licences suspended

1.2 Service Aims

1.2.1 The Licensing Services aims are to:

- To meet statutory responsibilities in a cost effective and responsible manner
- To provide a first class customer service
- To support a strong night-time economy whilst ensuring residents have a good night sleep.

1.3 Licences

1.3.1 The Borough Council is a Licensing Authority under the Licensing Act 2003 and is responsible for granting Premises Licences, Club Premises Certificates, Temporary Event Notices (TENs) and Personal Licences in the Borough with respect to the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.

1.3.2 Under the Gambling Act 2005 the licensing team issues Premises Licences; Gaming Machine Permits; Temporary Usage Notices (TUNs) and Occasional Usage Notices (OUNs), as well as administering Small Society Lottery Registrations.

1.3.3 The team also process applications for Taxi licences, including Hackney Vehicle Licences; Private Hire Vehicle Licences; Hackney Vehicle Driver Licences; Private Hire Driver Licences and Private Hire Operators licences.

1.3.4 Other licensing activities include Street Collections and House-to-House Collections.

1.4 Licensing Policies

1.4.1 The following policies are currently in force -

1.4.2 **Statement of Licensing Policy** (Licensing Act 2003) - The current policy runs from January 2011 until January 2014. During 2013 TMBC will be consulting on a revised policy which will run from 2014 until 2019.

1.4.3 **Gambling Policy Statement** - The current policy runs from January 2013 until January 2016.

1.4.4 **Hackney Carriage and Private Hire Taxi policy** – The current policy runs from May 2013 until May 2016. During the consultation process there was a great focus on engaging the trade in developing the policy with Members through workshops.

1.5 Breakdown of premises licences –

Ward	Club premises certificate	Premises licence	Total 2013	Total 2012
Aylesford	1	14	15	15
Blue Bell Hill and Walderslade	2	8	10	8
Borough Green and Long Mill	1	24	25	24
Burham Wouldham and Eccles	0	12	12	13
Cage Green	0	2	2	2
Castle	2	32	34	32
Ditton	2	10	12	11
Downs	4	21	25	24
East Malling	0	7	7	7
East Peckham and Golden Green	1	20	21	17
Hadlow, Mereworth and West Peckham	2	20	22	21
Higham	0	4	4	4
Hildenborough	2	13	15	16
Ightham	1	8	9	8
Judd	0	11	11	9
Kings Hill	1	12	13	12
Larkfield North	0	7	7	6
Larkfield South	0	9	9	8
Medway	2	27	29	28
Snodland East	2	8	10	9
Snodland West	1	8	9	9
Trench	1	4	5	4
Vauxhall	1	13	14	14
Wateringbury	1	5	6	6
West Malling and Leybourne	4	25	29	29
Wrotham	1	8	9	8
Total	32	332	364	344

1.5.1 Presently, there are 32 Club Premises Certificates and 332 premises licences

1.6 Premises licences – Reviews

		2012-13	2011-12
Minor variation	Ham Hill General Stores, Snodland		
	McKenzies, West Malling		
Total – minor variation		2	2

1.7 New Premises licences

		2012-13	2011-12
#1	Sam's Off Licence And Supermarket, Tonbridge		
#2	El Mariachi, Tonbridge		
#3	Super Kebab And Fried Chicken, Tonbridge		
#4	Cave Direct, Aylesford		
#5	Veblen Wines Ltd, East Peckham		
#6	The River Centre, Tonbridge		
#7	Delikatesy On The Bridge, Tonbridge		
#8	Martins, Tonbridge		
#9	Shell, Ham Hill, Snodland		
#10	Aylesford Village Stores, Aylesford		
#11	Martins, Aylesford		
#12	Humphreys Fish & Chips, Kings Hill		
#13	Ightham Village Shop, Ightham		
#14	The Angel Inn, Addington		
#15	Shell Cossington, Aylesford		
#16	Tonbridge British Legion Club, Tonbridge		
#17	Leybourne Castle		
#18	Shell, Bluebell Hill, Northbound		
#19	Gorgeous George Limited		
#20	Music on the Hill 2013		
#21	Martins, Hadlow		
Total – new premises		21	7

1.8 Premises licences – Variations

		2012-13	2011-12
Variation	Sanchos Kebab & Pizza Takeaway, Tonbridge		
	Waitrose, Tonbridge		
	Townsend Hook Bowls Club, Snodland		
	Co-Op, Borough Green		
	Co-Op, Snodland		
	Co-Op, Snodland (2)		
	Co-op, East Peckham – 1 st time		
	Parkfoot Garage, West Malling		
	Blue Anchor, Platt		
	C-op, East Peckham – 2 nd time		
Total – variations		10	2

1.9 Premises licences – Minor Variations

		2012-13	2011-12
Minor variation	Starlight2, Borough Green		
	Holiday Inn		
	Shell UK, Wrotham		
Total – minor variation		3	10









1.10 Breakdown of premises licences – sales of alcohol

Ward	Off sales	On sales	Off & On	None
Aylesford	6	0	10	0
Blue Bell Hill and Walderslade	3	1	4	2
Borough Green and Long Mill	6	6	10	2
Burham Wouldham and Eccles	4	0	8	1
Cage Green	1	0	0	1
Castle	6	15	13	3
Ditton	3	3	6	0
Downs	0	5	14	6
East Malling	1	3	2	1
East Peckham and Golden Green	5	2	13	1
Hadlow, Mereworth and West Peckham	3	4	12	3
Higham	3	0	1	0
Hildenborough	3	3	8	1
Ightham	1	1	6	1
Judd	4	1	4	1
Kings Hill	2	4	7	0
Larkfield North	3	2	2	0
Larkfield South	4	1	3	0
Medway	9	7	9	4
Snodland East	4	3	3	0
Snodland West	3	0	6	0
Trench	3	1	1	0
Vauxhall	5	2	6	0
Wateringbury	2	1	3	0
West Malling and Leybourne	4	8	17	0
Wrotham	2	1	4	2
Total	90	74	172	29


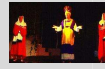







1.10.1 With respect to sales of alcohol, there are currently:

- 90 premises that can sell alcohol for consumption off the premises
- 74 premises that can sell alcohol for consumption within the premises
- 172 premises that can sell alcohol for consumption off and within the premises
- 29 premises where a premises licence is in place detailing licensable activities but no authorised sale of alcohol

1.11 Breakdown of premises licences – activity




Ward	plays	films	indoor sport	boxing wrest	live music	record music	dance	Late refresh
								
Aylesford	2	4	5	0	7	7	6	5
Blue Bell Hill and	1	1	1	0	2	3	2	2
Borough Green and Long Mill	4	4	5	1	10	12	10	8
Burham Wouldham and	2	5	5	0	7	8	6	5
Cage Green	1	0	1	0	1	1	1	0
Castle	7	12	14	0	17	20	15	15
Ditton	2	4	7	1	8	8	6	6
Downs	6	9	7	0	19	18	13	7
East Malling	2	0	0	0	4	4	4	3
East Peckham and Golden	5	7	8	3	11	11	11	10
Hadlow, Mereworth and West	3	5	10	1	16	14	12	11
Higham	0	1	0	0	1	1	1	2
Hildenborough	5	7	6	1	10	11	9	8
Ightham	2	1	3	0	4	5	3	3
Judd	3	4	4	1	4	5	4	6
Kings Hill	2	5	3	1	8	9	7	6
Larkfield North	2	1	1	0	3	3	3	1
Larkfield South	2	1	0	0	3	3	2	3
Medway	4	7	11	0	13	14	6	14
Snodland East	2	2	3	0	4	6	3	2
Snodland West	2	2	4	1	4	5	2	2
Trench	1	1	1	0	1	1	1	1
Vauxhall	2	3	5	0	6	8	4	6
Wateringbury	2	3	3	1	4	4	3	3
West Malling and Leybourne	4	7	8	1	11	14	9	11
Wrotham	3	4	2	0	6	7	6	4
Total	71	100	117	12	184	202	149	144

1.12 Breakdown of premises licences – activity by time

time	alcohol	plays	films	indoor sport	boxing wrest	live music	record music	dance	Late refresh
									
23:00	115	13	12	15	2	29	24	22	0
23:30	9	7	4	7	0	15	11	7	4
00:00	87	27	45	50	19	77	76	60	29
00:30	16	0	9	15	0	8	14	10	16
01:00	48	4	11	13	1	23	28	18	32
01:30	5	0	1	3	0	1	10	3	7
02:00	23	5	11	9	5	17	20	14	23
02:30	0	1	2	2	0	0	2	1	2
03:00	1	0	1	1	0	1	1	1	5
03:30	0	0	0	0	0	0	0	0	0
04:00	1	0	0	0	0	1	1	1	4

1.12.1 This table details the high number of premises that are authorised for licensable activities until the early hours of a Saturday morning. This also highlights the importance of late night enforcement to ensure compliance with issued licences.

1.13 Breakdown of premises licences – activity by percentage

	 alcohol		 Live music		 Recorded music	
time	Num of premises	% of premises	Num of premises	% of premises	Num of premises	% of premises
23:00	115	37.70%	29	16.86%	24	12.83%
23:30	9	2.95%	15	8.72%	11	5.88%
00:00	87	28.52%	77	44.77%	76	40.64%
00:30	16	5.25%	8	4.65%	14	7.49%
01:00	48	15.74%	23	13.37%	28	14.97%
01:30	5	1.64%	1	0.58%	10	5.35%
02:00	23	7.54%	17	9.88%	20	10.70%
02:30	0	0.00%	0	0.00%	2	1.07%
03:00	1	0.33%	1	0.58%	1	0.53%
03:30	0	0.00%	0	0.00%	0	0.00%
04:00	1	0.33%	1	0.58%	1	0.53%

1.14 Premises enforcement

1.14.1 Regular enforcement of all premises takes place, the frequency of which (either six monthly; yearly or every eighteen months) will be determined through a risk assessment of the premises and the activities authorised under the licence.

In addition premises enforcement currently takes place:

- Through joint visits with Responsible Authorities (Kent Police; Environmental Health etc)
- Where complaints are received with respect to non compliance
- Where a new management team has taken over licensed premises

1.14.2 **Premises Inspection sheets** – During premises visits the following information is tracked to ensure compliance with granted licence - Premises Uniform reference number; date and time; Designated Premises Supervisor (DPS); DPS on duty; Managers name; Door Security on duty; Summary premises licence (Part B) displayed; Notice specifying the position displayed; Capacity; Number of people on premises; Plastic bottles/glasses; TV Screens; Number of Gaming machines; Live Music; Recorded Music and General Comments (conditions on the premises licence being complied with).

1.15 Hackney Carriage & Private Hire

1.15.1 A breakdown of taxi licences in force as of February 2012 is set out below

Type of licence	Number
Dual drivers	51
Hackney Carriage drivers	151
Hackney Carriage vehicles	151
Private hire drivers	214
Private hire vehicles	211
Private hire operator	69
Total	847

1.15.2 Taxi drivers liaison meeting

Meetings/workshops have been held in August 2012 and January 2013 with representatives from the taxi trade and Licensing & Appeals Committee Members attending.

1.15.3 Taxi Enforcement

Regular enforcement of taxi operations by both Hackney Carriage and Private Hire take place at different times during the day to ensure compliance with legislation and the Borough Council Taxi Policy.

Taxi Vehicle Inspection sheets - During any vehicle inspection twelve pieces of information are recorded: date and time; Plate No; Registration; Drivers Badge; Drivers Name; Valid Insurance; Expiry date of Insurance; Plates in date; Plates shown (Outside/inside); Condition of Taxi; Roof light working (HCV) and Notes.

Joint enforcement

The Licensing team has undertaken joint enforcement with Kent Police, Kent County Council (School contracts) and the Border Agency.

During 2013 we have further joint working enforcement with Kent Police, Vehicle and Operator Services Agency (VOSA), Department for work and Pensions (DWP) and Kent County Council (school contracts)

1.16 Suspension/Revocation and Appeals

Date (case no)	Reason	Panel/Officer delegation
16.05.2012 (01/2012)	<ul style="list-style-type: none"> Not fit and proper person to hold such licences Breached Code of Good Conduct Failing to display a Private Hire Vehicle Plate Failing to disclose convictions Driving with no insurance Driving while licence revoked by DVLA three times in two years 	Private Hire Drivers Badge Revoked Private Hire Vehicle Licence Revoked 9 October 2012 – Appeal to Magistrates Court Appeal dismissed
16.05.2012 (02/2012)	<ul style="list-style-type: none"> Not fit and proper person to hold such licence Failed to renew an Operator's Licence for the last ten years 	Written Warning over not renewing an Operator's Licence Prevented from holding a Private Hire Operators Licence
15.06.2012 (03/2012)	<ul style="list-style-type: none"> Caught driving unlicensed car on KCC school run 	Written Warning
15.06.2012	<ul style="list-style-type: none"> Caught driving unlicensed car on KCC school run 	Written Warning

Date (case no)	Reason	Panel/Officer delegation
(04/2012)		
25.07.2012 (05/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licences • As a Private Hire Operator breaching the Tonbridge and Malling Hackney Carriage and Private Hire Taxi policy: • Appendix K – Private Hire Operator’s Licence Conditions • Appendix J – Code of Good Conduct for Licensed Drivers • Using unlicensed driver over Christmas and New Year 2011 • Failing to ensure that all vehicles operated are adequately insured • Operating unlicensed private hire vehicles on two separate School contracts carrying children • Failure to ensure the safety of passengers • Failure to keep proper records of all private hire vehicles 	Private Hire Operators Licence Revoked Private Hire Badge Revoked 4 Private Hire Vehicle Licences Revoked
28.06.2012 (06/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licence • 6 Points on DVLA Licence • Criminal Records Bureau (CRB) check shows 4 Convictions 	Application refused
28.06.2012 (07/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licence • Criminal Records Bureau (CRB) check shows 2 convictions and 2 Cautions 	Application refused
09.08.2012 (08/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licence • Found guilty at Maidstone Crown Court of two counts of perverting the cause of justice (Given a four month prison sentence suspended for twelve months and 200 hours unpaid community work). 	Private Hire Operators Licence Revoked Dual Badge Revoked 9 Private Hire Vehicle Licences Revoked 12 Hackney Carriage Vehicle Licences Revoked
29.11.2012 (09/2012)	<ul style="list-style-type: none"> • Criminal Records Bureau (CRB) check shows 3 convictions and 1 Cautions for BATTERY • 8 Weeks imprisonment 	Application withdrawn

Date (case no)	Reason	Panel/Officer delegation
29.11.2012 (10/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licences • Failed to disclose caution on application forms • Criminal Records Bureau (CRB) check shows 1 • Cautions for Common Assault 	Private Hire Drivers Badge Revoked
06/09/2012 (11/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licences • Found guilty at Maidstone Crown Court of two counts of perverting the cause of justice (Given a six month prison sentence). 	Private Hire Drivers Badge Revoked Private Hire Operators Licence Revoked
17.09.2012 (12/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licences • 11 Points on DVLA licence • DVLA licence revoked in 2010 • Failed to disclose driving conviction on application forms 	Application refused
17.10.2012 (13/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licences • 11 Points on DVLA licence • DVLA licence revoked in 2010 • Failed to disclose driving conviction on application forms 	Application refused
07.11.2012 (14/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licence • 9 Points on DVLA licence • DVLA licence revoked 6 times in last three years • Criminal Records Bureau (CRB) check shows 2 Convictions 	Application refused
07.11.2012 (15/2012)	<ul style="list-style-type: none"> • Not fit and proper person to hold such licence • offences at Uxbridge Magistrates Court • 6 Points on DVLA Licence • Drivers Badge revoked at Dartford Borough Council • Failed to disclose information on Application form and Questionnaire to previous convictions/offences 	Application refused

Date (case no)	Reason	Panel/Officer delegation
29.11.2013	<ul style="list-style-type: none"> spent 8 weeks in prison for one common assault charge 3 further accounts of Assault and battery 	Application withdrawn
13.12.2013 (19/2012)	<ul style="list-style-type: none"> failed to inform the Council of the 2 driving offences DVLA licence had been revoked on 20 January 2012, which the Driver had also failed to notify to the Council. 	Private Hire Drivers Badge Revoked
20.12.2013	<ul style="list-style-type: none"> As a result of a medical report received back from The Preventative Healthcare Company Limited 	Licensing Manager suspended pending Hearing Suspension lifted due to medical clearance received from PH
27.02.2013 (01/2013)	<ul style="list-style-type: none"> Failed to disclose information on Application form and Questionnaire to previous convictions/offences A further 6 convictions had been revealed in the extract from the disclosure supplied by the Disclosure and Barring Service 	Hackney Carriage Drivers Badge Revoked
27.03.2013 (02/2013)		Licensed Granted
22.04.2013 (03/2013)		Licensed Granted
22.04.2013 (04/2013)	<ul style="list-style-type: none"> Failed to disclose information on Application form and Questionnaire to previous convictions/offences Caution for Common Assault 	Hackney Carriage Badge suspended for 3 months
22.04.2013 (05/2013)	<ul style="list-style-type: none"> Applicant seeking guidance from panel after having Dual Driving Licence previously suspended. 	Advice – if you applied today it would not be granted
22.04.2013 (06/2013)	<ul style="list-style-type: none"> Applicant seeking guidance from panel after having previously application refused 	Advice – if you applied today it would not be granted
10.05.2013	<ul style="list-style-type: none"> Driver informed Licensing Manager when challenged that he had been suffering from Heart problems 	Licensing Manager suspended pending Medical

Date (case no)	Reason	Panel/Officer delegation
	<ul style="list-style-type: none"> Driver sleeping in Car Drivers Hygiene causing concern 	Driver did not pass medical Awaiting to go to a Hearing
20.05.2013 (07/2013)	<ul style="list-style-type: none"> Caution on DBS Certificate 	Licensed Granted
20.05.2013 (08/2013)	<ul style="list-style-type: none"> Driver had failed to notify the Licensing Authority of a change of address Guilty at the Central Magistrates of driving a motor vehicle with excess alcohol and had been disqualified from driving for eighteen months. 	Licensing Manager suspended pending Hearing on 4 April 2013 Hackney Carriage Badge revoked at Hearing
20.05.2013 (09/2013)		Licensed Granted
22.05.2013	<ul style="list-style-type: none"> Information received from the Duty Intelligence Officer, Operational, Intelligence Directorate, Home Office 	Private Hire Driver Arrested at TMBC by Border Agency for not having permission to work in the UK Licensing Manager suspended pending Hearing

1.17 Member training

1.17.1 Training has taken place during 2012-13 on the Licensing Act 2003 and Taxis.

1.18 Licensing applications year to date 2011-12 and 2012-13

	TMBC 2011 - 2012	TMBC 2012 - 2013
Personal Licences on database	1066	1157
Personal licences - NEW	76	111
*Personal - Change of name and address		34
Premises licences on registrar	312	332
Club Premises Certificates on registrar	32	32
*New premises licence issued	97	22
*Transfer of premises licence		19

	TMBC 2011 - 2012	TMBC 2012 - 2013
*Variation of premises licence		9
* Minor Variation of premises licence		3
*DPS Variations		62
*Change of Names & Addresses on premises licences		16
*Number of Street Collections	79	64
*Number of House to House Collections	20	32
*Gaming Machine permits	6	14
GA2005 Premises licences - New	0	0
*Temporary Event Notices	339	354
*New Hackney Carriage Driver licences (3 year)		18
* Renew Hackney Carriage Driver licences (3 year)		63
*New Private Hire Driver licences (3 year)		34
* Renew Private Hire Driver licences (3 year)		52
*Dual Drivers Licence (3 years)		5
*Renew Dual Drivers Licence (3 years)		13
*New Hackney Carriage Vehicle licences (3 year)		26
* Renew Hackney Carriage Vehicle licences (3 year)		124
*New Private Hire Vehicle licences (3 year)		42
* Renew Private Hire Vehicle licences (3 year)		173
*Operator licences (three year licence)	22	28
Total	2579	2839

1.19 Legal Implications

1.19.1 As set out in the report

1.20 Financial and Value for Money Considerations

1.20.1 None arising from this report

1.21 Recommendations

1.21.1 Members are asked to note the annual review of licensing

1.22 Equality Impact Assessment

1.22.1 See 'Screening for equality impacts' table at end of report

Background papers:

contact: Anthony Garnett

Nil

Adrian Stanfield

Director of Central Services and Monitoring Officer

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	N/A	For Information only
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	For Information only
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.