



Licensing Committee 16 September 2015

Legislation and Policy Update

Purpose of report

To inform members of new and upcoming changes to the licensing legislation and provide an update on licensing matters.

1.0 Background

- 1.1 There have been a number of legislative changes for licensing coming into force this year, mostly through the Deregulation Act 2015, which received royal assent on 26 March 2015. This act brought in many of the proposed changes that were discussed at the last meeting of this committee in March 2015.
- 1.2 The Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015 details the commencement dates for the various sections within the act, many of which relate to licensing. They do not come into force all at the same time
- 1.3 In addition, changes to the Gambling Policy following consultation undertaken by the Gambling Commission and developments relating to Child Sex Exploitation have also developed in recent months.

2.0 Deregulation Act 2015

- 2.1 The removal of the requirement to renew a personal licence came into force on 1 April 2015. The requirement to report lost or stolen personal licences to the Police before applying for duplicates was abolished on 26 May 2015.
- 2.2 On 6 April 2015, section 76 (exhibition of films in community premises) changes came into force. This allows the exhibition of films in community premises not to be classed as regulated entertainment under the Licensing Act 2003 if it meets a number of conditions. These include:
 - 1. prior written consent for the entertainment to take place at the community premises has been obtained, by or on behalf of a person concerned in the organisation or management of the entertainment
 - 2. the entertainment is not provided with a view to profit
 - 3. there is an audience of no more than 500 people
 - 4. the entertainment takes place between 8am and 11pm on the same day
 - 5. the certification of the film is suitable for the audience and necessary exclusions are made
- 2.3 On 26 May 2015 the changes made under the act relating to the number of Temporary Event Notices that are allowed in a calendar year, increasing from 12 to 15 in a calendar year, came into force. Section 148 of the Licensing Act 2003 (sale of liqueur confectionery to children under 16) was also repealed. In practice this will come to effect on 1 January 2016. Also coming into force on this date, the offence of selling liqueur confectionery to children under 16 was repealed.
- 2.4 The changes to the taxi legislation will come into force on 1st October 2015. A member briefing has been issued regarding these changes, which include:

- Increase in duration of a driver's licence to 3 years as standard unless there are exceptional circumstances
- Increase in the duration of an operator's licence to 5 years as standard unless there are exceptional circumstances
- The ability for a taxi operator to sub contract work to another licensed driver not from their company
- The ability for a licensed driver from outside of our district being able to complete work on behalf of an operator within our district

2.5 Countywide work has been taking place to look at the potential changes to fees for both the driver's and operator's licences now that they must be for 3 and 5 years respectively. We are expecting our fees to increase as a result of these changes and this will form part of the budget setting process.

3.0 The Legislative Reform (Entertainment Licensing) Order 2014

3.1 This order made further changes to live and recorded music, allowing for a licence for regulated entertainment not being needed for live (indoor and outdoor) and recorded music (indoor only) from 08:00hrs - 23:00hrs and with an audience not exceeding 500 people.

3.2 However, as with previous changes to live and recorded music, where a premises licence is called in for review the panel can choose still to include them as a licensable activity. This came into force on 6 April.

4.0 Child Sexual Exploitation (CSE)

4.1 There has been much press attention about the issues of CSE as a result of high profile cases involving taxi drivers in Oldham, Rotherham and Oxford. As a result there have been countywide discussions on how we can better educate our drivers and ensure that they are fit and proper to hold a licence.

4.2 We have developed an information leaflet on CSE for all drivers based on a similar document used by Daventry and South Northants District Councils. This will be provided in all renewal and new driver applications. Questions relating to CSE will be included within the knowledge test and training also provided at the Taxi Trade Meeting. The trade meeting booked for June was cancelled due to poor uptake (6 out of 141 drivers). A new date will be provided before the end of the year.

5.0 Notifiable Occupations – Police Disclosure

5.1 Home Office Guidance which required the Police to disclosure information relating to offences and convictions of taxi drivers has been replaced by the Common Law Disclosure. This removes the requirement for certain occupations to be notifiable and instead requires the Police to disclose to relevant bodies if there is a pressing social need. They are required to take into account the Data Protection Act and Human Rights Act when determining if a disclosure should be made.

5.2 There has been much concern over the removal of the notifiable occupations and how this will affect the amount of information we are provided should any of our drivers be investigated or convicted of an offence. Members are required to determine if a driver is fit and proper to hold a licence and therefore should have all relevant information available to them to make this decision. The burden of proof for this is lower than the Police may need, making disclosure of investigations etc. important in allowing a full picture of the applicant to be considered.

5.3 The Information Unit at Northamptonshire Police has met with the Countywide Licensing Group and the issue and concern that disclosures will reduce as a result of the change has also been discussed at the Chief Executives Group. The Information Unit has advised that it is the proper channel for any requests for information and that it will release information to use that it feels able to. All licensing teams are keeping the situation under review for the time being. A letter concerning this issue was sent to the Police and Crime Commissioner and local MP from the Chairman of the Licensing Committee and the Leader of the Council. To date a response has not been received.

6.0 Gambling Policy

6.1 As with the Statement of Licensing Policy, there is also a countywide Gambling Policy in place. The current policy has run from 2013-2015 and requires a review. The new policy must be consulted on, approved by committee and in place for 1st February 2016. The Gambling Policy like the Licensing Policy will no longer hold all councils logos showing a countywide document to ensure local information on each district is included. This work has been led by Daventry District Council through the Countywide Licensing Group.

6.2 The majority of changes to the gambling policy relate to making it specific to the individual licensing authority, updates or removal of outdated guidance or government departments and the continued requirement for the no casinos resolution to be approved at committee and inserted into the gambling policy. This policy will be brought in front of Policy and Resources Committee for approval including the continuation of the no casinos resolution.

7.0 Equality and Diversity Implications

7.1 There are no equality and diversity implications arising from the report.

8.0 Legal Implications

8.1 As stated in section 4, the proposed changes and amendments to the new taxi application forms to have two separate declarations to give us permission to check their criminal records and DVLA record throughout the life of their licence will be reviewed and considered by legal services.

9.0 Risk Management

9.1 Section 5 details the main risk of the recent changes in policy regarding notifiable occupations. We may not receive as much information as we used to that will assist members in making decisions at panel as to whether an applicant is a fit and proper person. Whilst we will continue to work with the Police Information Team and Disclosure Barring Service it is accepted that decisions will have to be made on the information provided through the application form, DBS and the applicant themselves. We will continue to monitor this situation and seek improvements where possible.

9.2 Section 6 states that countywide a low risk has been identified in terms of the effect and social responsibility around gambling and the revised policy will reflect that. This policy will be required to be reviewed and any changes in the future years will be considered at review stage.

10.0 Financial Implications

10.1 Following the Deregulation Act 2015 coming into force there have been a number of changes that will affect our fees and charges. The number of Temporary Events Notices has been increased which will see a small increase in revenue. The fees and charges for the change to taxi and operator licence duration also needs to be reviewed, this will perhaps see an increase in the first year of their licence and a decrease in other years as their licence runs for longer.

11.0 Corporate Outcomes

11.1 The Corporate Outcomes affected by this report are:

- Good Quality of Life - Safe
- Effective Partnership Working

12.0 Recommendations

12.1 Members are asked to note the changes and amendments to licensing legislation.

Legal	Power: Licensing Act 2003, Gambling Act 2005, Deregulation Act 2015				
	Other considerations:				
Background Papers:					
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