

# Taunton Deane Borough Council

## Licensing Committee – 13 June 2017

### Licensing Update report

This matter is the responsibility of Executive Councillor Patrick Berry

Report Author: Mark Banczyk-Gee, Licensing Officer

#### 1 Executive Summary

- 1.1 This report provides an update on the activities of the council's licensing service, changes to legislation, current consultations and other general licensing matters.

#### 2 Recommendations

1. That the report be noted.

#### 3 Risk Assessment

##### Risk Matrix

Description	Likelihood	Impact	Overall
If the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council's Corporate Strategy.	4	4	16
Demonstrating good governance of the licensing function through presentation of current arrangements and statistics relating to the licensing service.	3	4	12

### Risk Scoring Matrix

<b>Likelihood</b>	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			<b>Impact</b>				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

## 4 Background and Full details of the Report

### Performance of the service

- The performance of the licensing service is measured against the number of applications that are completed within 14 days of them having been determined e.g. a licence is issued after a decision as to whether to grant the licence or not, has been reached. The target for the service is that, for all applications that are completed within a set quarter, 95% must be completed within 14 days of them being determined.
- In respect of the last quarter we have reached a performance of 99% which is clearly +4% above our target. We will always strive for 100% albeit this is probably not achievable given the variances in licensing and delays that can occur simply due to the amount of data we process. This figure of 99% therefore given the recent history of the department is remarkable and testament to the licensing manager who is responsible for driving the positive change within the department.

### Applications received and licences in force

- The numbers of applications received for each of the regimes administered by the licensing service, between 1<sup>st</sup> January 2017 and 31<sup>st</sup> March 2017, are shown in

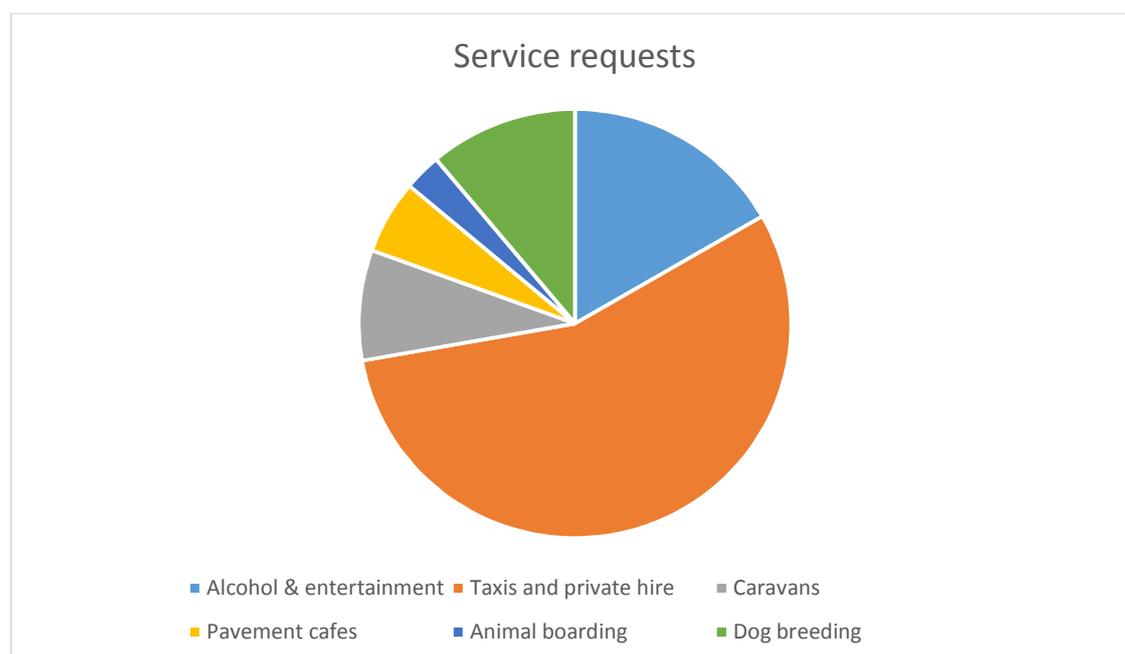
comparison with those received for the period in the preceding two years at **Appendix C**. The numbers of licenses in force and notices given as of the 6 February 2016 are shown at **Appendix D**.

### TRENDS

4. There has been an increase in enquiries and subsequent applications in relation to premises licences for festival style events- Fake, Wellistock and Creech are examples, this has increased workloads as there has been as a result an increase in representations.
5. Street trading enquiries have increased as businesses and individuals seek to trade in the town centre, much of the decision making for these enquiries lies with economic development and county highways. As a result it is considered that one yearly street trading licence to Taunton Deane council would allow economic development the flexibility to control town centre traders and impact on the character of the town positively and with less red tape restricting their decisions.
6. Improvement of processes has made the team more efficient in turn this has led to less phone calls enquiries this in turn has allowed officers time to fully investigate complaints. A result of this is the exposure of some poor processes and procedures which have been ignored due to the dark times of 12/18 months ago examples would be the taxi handbook, Scrap metal dealers, updated application forms the problems of using a separate finance and record keeping system.

### Service requests

7. Also shown at **Appendix C** are the numbers of service requests received between 1<sup>st</sup> January 2017 and 31<sup>st</sup> March 2017, compared with the previous two years.
8. Generally speaking, there are more service requests recorded in 2015 and 2016, due to improved record keeping.
9. 36 Service requests were received in total, during the above mentioned period. A split, by category is represented below:



## Changes to the Licensing Act 2003 as a result of the Immigration Act 2016

10. Since the 6<sup>th</sup> April 2017 all applications after this date for the following licensing act applications require proof of the right to work in the UK to be provided, and this can be done with copies of documents such as passport, national identity cards if EU citizen, residence permits.

- Personal Licence
- Grant of premises licence
- Full variation of premises licence
- Transfer of premises licence
- Interim Authority Notice

All forms have been updated to this effect. We send all the applications to the home office apart from personal licence applications unless we have concerns over the data submitted.

At present it is not causing a huge time issue and once we have got into the habit I am sure it will not be an issue in respect of time or management.

In effect the HO have become a responsible authority and are included in our circulations to all responsible authorities.

### Appeals against decisions made by the licensing authority

11. Currently there are two appeals on going –

Taunton Food and wine licence revoked at by committee on 16/1/17. This has been appealed and is listed to be heard at Taunton Magistrates court on 18/5/17. The result was the revocation of the licence stands.

Paul Toland hackney carriage /private hire drivers licence revoked by committee on 31/1/17. This followed a driving incident he was involved in and in respect of his driving and subsequent behaviour This has been appealed and is due to be heard at Taunton Magistrates court on 19/6/17

### Vaping and e-cigarettes

12. Vaping and e cigarettes is a subject that has been bought up by the taxi trade in respect of smoking in hackney carriages/private hire vehicles. The question has been is this smoking because if it is not then clearly driver/passengers can vape in vehicles. As a result a short report in respect of the current position nationally around vaping has been produced (**appendix A**)

### CCTV code of conduct for hackney carriage and private hire vehicle drivers

13. Like Vaping hackney carriage /private hire drivers and operators have sought guidance in the area of CCTV recording in their hackney carriage /private hire vehicles. In fact several have already installed such equipment and are operating it.
14. As the authority that licences them and to ensure uniformity and legality the licensing team have produced a report for consideration by the committee which would ensure the authority do not get pulled into any legal action taken by any persons in respect of the use of the cameras and subsequent footage. (**see appendix B**)

## 15. Review of House to House Collection guidance

The Licensing Service issues permits for House to House Collections which cover collecting money, property, door to door from houses or businesses.

In March 2017 new guidance has been produced by the Committee of Advertising Practice (CAP) following a review by the Advertising Standards Agency (ASA) into misleading advertising practices by private door-to door collection companies, in particular not making it sufficiently clear the commercial nature of its business. Problems with charitable collections bags issued by commercial companies have included:-

- Giving recipients the misleading impression they are donating directly to a charity when they are not
- Not providing their company name or commercial status on the front of collection bags
- Giving undue prominence to a charity's name and registration number on collection bags
- Not giving their company name equal prominence, where it appears, as the charity's name

This new guidance provides examples of the type of wording and presentation on collection bags that is in line with the rules

Upon receipt of these applications they are being checked in accordance with this guidance, prior to a permit being issued.

You can view the guidance information on line at [www.asa.org.uk](http://www.asa.org.uk)

## **5 Links to Corporate Aims / Priorities**

1. The licensing service is committed to helping businesses and individuals to comply with all relevant legislation, in order to support new and existing businesses and enable cultural and leisure activities, thereby supporting the Council's growth agenda.

## **6 Finance / Resource Implications**

1. No finance or resource implications identified.

## **7 Legal Implications (if any)**

1. No legal implications identified.

## **8 Environmental Impact Implications (if any)**

1. There are no specific environmental impact implications identified as a result of this report.

## **9 Safeguarding and/or Community Safety Implications (if any)**

1. The four licensing objectives under the Licensing Act 2003 are:
  - Prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance

- Protection of children from harm

With the addition of securing the welfare of animals, these are the main aims of the Licensing Service. The continued work of the service to achieve and promote these aims, further supports the role of the Council in ensuring community safety.

**10 Equality and Diversity Implications (if any)**

1. There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:
  - Eliminate discrimination, harassment, victimisation;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2. No equality and diversity implications were identified.

**11 Social Value Implications (if any)**

1. No social value implications have been identified.

**12 Partnership Implications (if any)**

1. No partnership implications were identified.

**13 Health and Wellbeing Implications (if any)**

1. Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

**14 Asset Management Implications (if any)**

1. No asset management implications were identified.

**15 Consultation Implications (if any)**

1. No consultation implications were identified.

**16 Scrutiny Comments**

1. There are no scrutiny comments or recommendations.

**Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – No**

- Cabinet/Executive – No
- Full Council – No

Reporting Frequency:  Once only     Ad-hoc     Quarterly  
 Twice-yearly     Annually

### List of Appendices

Appendix A	Vaping report
Appendix B	CCTV report
Appendix C	Applications received
Appendix D	Licences in force

### Contact Officers

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# VAPING

Vaping is the term used to describe the smoking of e cigarettes.

At present it is seen as a healthier alternative to smoking conventional cigarettes however there is no national legislation that dictates when or where you can use these e cigarettes.

In Wales legislation is being processed to ban vaping in enclosed spaces similar to the current smoking ban in force in the rest of the UK. However there are no plans in respect of legislation in the rest of the UK.

Several transport links such as Heathrow airport, London underground, National Express coaches and Virgin trains have banned vaping.

Also several food and drinks chains have such as Starbucks, KFC to name but two have also banned the use of e cigarettes in their premises.

What is vaping -

E-cigs contain a sensor and a tiny computer chip. When you take a drag they activate a heater, which warms up a canister of highly addictive nicotine stored in propylene glycol – a solution of water and glycerine.

When the solution evaporates it creates a nicotine vapour that the smoker sucks in through the mouthpiece. Smokers exhale the vapour just as they would the smoke from a cigarette.

So the smoke is in fact vapour added to this is the aroma caused by the different flavours.

The health risk –

E cigarettes cut out 4000 harmful chemicals found in normal cigarettes which make them much safer but not completely harmless. They still contain nicotine. High doses of nicotine can kill research by scientists in America have found strikingly similar mutations in lung cells exposed to e cig vapour as those found in smokers of traditional cigarettes.

The fact is as it is in only the last few years it has become fashionable to use these devices as with normal cigarettes the dangers may not come to light for many years to come.

The safety risks –

There have been reported instances of devices causing fires or exploding and clearly there will be issues with devices that are purchased on the black market.

## Vaping and the Taxi industry-

It seems in line with other industries as exemplified it is down to the businesses themselves to decide on whether vaping should be allowed.

In the case of the hackney carriage/private hire market will the vapour and smell impact on the passenger and if so will this harm or enhance the trade or in the case of Taunton Deane the borough council who manage/control the vehicles and drivers employed in this field should it be allowed in hackney carriages /private hire vehicles.

Given the concern there is for ensuring that vehicles and drivers present in a manner which enhances the reputation of Taunton Deane I cannot see how allowing the use of e cigarettes by drivers or passengers in hackney carriages or private hire vehicles will support the authorities aim to be a responsible authority within the area of hackney carriage and private hire licensing.

## **Taunton Deane Borough Council advised conditions relating to the use of CCTV in licensed vehicles**

There is no requirement to install CCTV in vehicles licensed by this authority.

### **The purpose of CCTV**

The purpose of the CCTV system shall be to provide a safer environment for the benefit of the taxi/private hire driver and passengers by:

- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- Assisting Police in investigating incidents of crime
- Assisting insurance companies in investigating motor vehicle accidents
- Assisting local authorities in ensuring compliance when investigating complaints against licensed drivers.

### **Minimum System Requirements**

1. The power for the CCTV system must be linked to the vehicle ignition, and is not to be independently turned on or off.
2. Recordings made must be clear in all light conditions, whether in bright sunlight or at night and must be of sufficient quality and of suitable angle to enable the facial identification of individuals in the vehicle.
3. Usage must be to record inside the vehicle.
4. All recordings must be time and date stamped, with the full date displayed and time in hours, minutes and seconds.
5. The system must be capable of storing recordings for a minimum of 7 days.
6. Equipment to be used- safe e marked or CE marked – ensures quality of footage and safety of passengers/driver

### **Audio Recordings**

1. Audio recordings shall not be made unless in exceptional circumstances, e.g. when triggered by a 'panic button'.
2. If audio recordings are made following the triggering of a 'panic button', a reset function must be present that returns the system to normal after a set period of time.
3. If the system is capable of recording audio, then the signage within the vehicle must confirm that audio recordings may be made.

**However, should you wish to install such a system, the licensing authority advise is that you seek to comply with the following conditions.**

1. Any CCTV system used must be professionally installed to the satisfaction of any inspection by the licensing authority. Any damage caused to the fixtures, fittings or trim of the vehicle during installation must be repaired to ensure no loose wires, sharp edges or ill-fitting trim remain.
2. Any CCTV system installed must be permanent to that vehicle and not temporarily fitted (e.g. with suction cups).
3. Any camera fitted must be installed in a conspicuous manner; concealed cameras will not be permitted.
4. Positioning- ensure that cameras only cover the inside of the vehicle
5. There should be no facilities within the vehicle to view recordings.
6. CCTV cameras, control boxes or any other feature of the CCTV system must be securely installed so as to not cause any harm or injury to the driver, passengers or any other person. This includes injury from electric shock from any wire or component as well as any injury resulting from physical contact with the system during day to day use of the vehicle or during an accident.
7. The proprietor/licence holder of the vehicle shall ensure that the CCTV system is properly and regularly maintained & serviced in accordance with the manufacturer's instructions
8. The proprietor/licence holder of the vehicle will identify the data controller, responsible for personal data captured in recordings and for ensuring compliance with applicable legislation.
19. The data controller must be registered with the Information Commissioners Office.
10. Recordings shall only be viewed/downloaded for one of the following reasons:
  - When the Police have formally requested the data.
  - As part of an investigation by the Licensing Section.
  - Following a Subject Access Request compliant with the Data Protection Act.
  - Customer dispute or request re lost property
11. The proprietor/licence holder of the vehicle shall not refuse any reasonable request to view footage made by the police or the Licensing Section, and shall make footage available as soon as reasonably practicable, and in any event within 7 days of the request.
12. Recordings must be kept for a minimum of 7 days and shall be kept for no longer than 31 days.
13. The proprietor/licence holder of the vehicle shall maintain a record concerning the CCTV system, including the following:
  - The make and model number(s) of all components comprising the system
  - The date the system was installed and the dates of all services to the system, including the nature of any faults identified.
  - The dates, times and reasons for any occasion where any 'panic button' is used.

- A record of any occasions in which recordings are downloaded or viewed, including the date the recordings were accessed, the dates and times concerned and the reason for the footage being accessed.

Such records shall be maintained for as long as the CCTV system is installed within the licensed vehicle plus an additional 31 days, and shall be made available upon request to any authorised officer of the Council or a police officer.

14. The proprietor/licence holder of the vehicle shall ensure that signage is displayed in the vehicle confirming that CCTV is in operation or can be operated within the vehicle. Such signage must be clearly visible from the exterior and interior of the vehicle to all users of the vehicle and must provide the name and contact details of the data controller. It is recommended at least two signs at least 8cm x 10cm

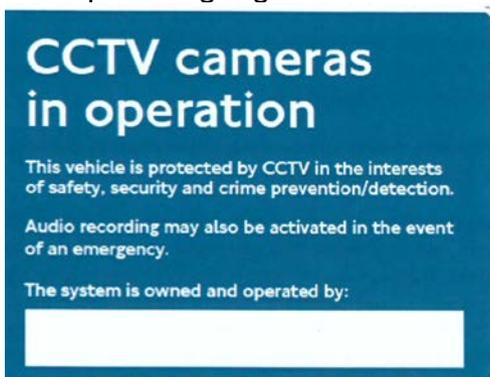
15. Failure to adhere to these conditions will impact on any application to get the vehicle or user licensed by the authority.

16. Activation methods can be any number of or combination of methods to include-

- Door switches
- Time delay
- Driver's panic button
- Predetermined G force parameters in the case of an accident

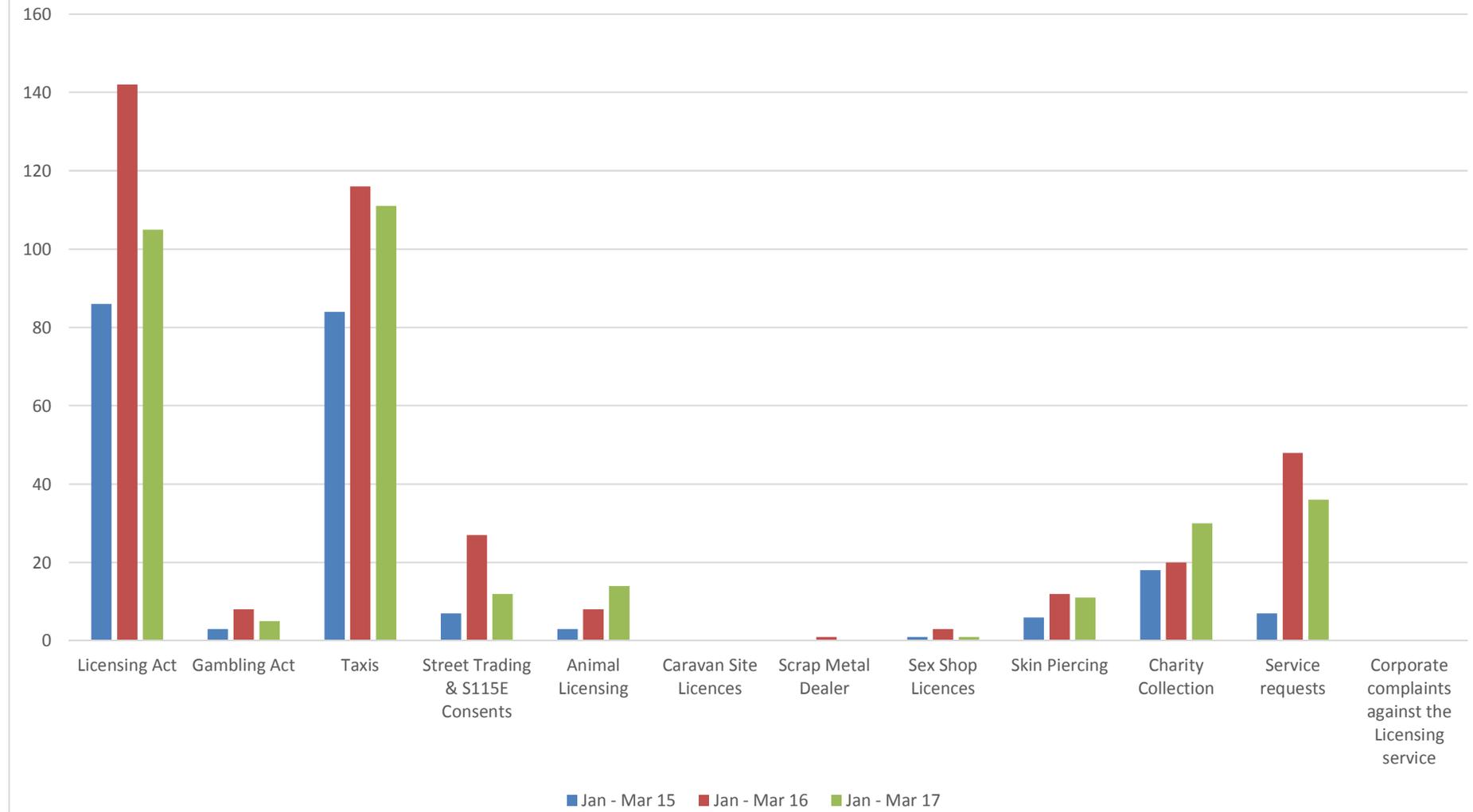
17. A direct wire link to the vehicles taximeter, in the case of a taxi will not be allowed.

Example of signage to be used-



The name and contact details of the Data Controller must be provided in the blank space included on the sign template. The contact details can be in the form of either a telephone number, email address or website URL.

## Applications Received, Notices Given, Service Requests and Complaints



## **Licences Issued and Notices Given**

These figures show the number of licences in force at the 18th May 2017 and the number of notices given since commencement of the relevant legislation

Licensing Act 2003 Premises Licences	412
Licensing Act 2003 Club Premises Certificates	27
Licensing Act 2003 Personal Licences	1423
Licensing Act 2003 Temporary Event Notices	3684
Gambling Act 2005 Club Machine Permit	6
Gambling Act 2005 Licensed Premises Gaming Machine Permits	10
Gambling Act 2005 Occasional Use Notices	43
Gambling Act 2005 Premises Licences	16
Gambling Act 2005 Prize Gaming Permits	0
Gambling Act 2005 Society Lotteries (since 01/09/2007)	114
Gambling Act 2005 Temporary Use Notices	0
Gambling Act 2005 Unlicensed Family Entertainment Centres	4
Gambling Act 2005 Notification of 2 or less Gaming Machines	62
Hackney Carriages	198
Private Hire Vehicles	37
Hackney Carriage & Private Hire Drivers	246
Private Hire Operators	17
Street Trading Consents	21
Section 115E (Pavement Café) Permits	7
Zoo Licences	0
Pet Shop Licences	4
Dog Breeding Licence	5
Animal Boarding Licence	20
Riding Establishment Licences	10
Dangerous Wild Animal Licences	0
Caravan Site Licences	42
Scrap Metal Dealer licence	6
Sex Shop Licences	1
Skin Piercing Registrations	263
Street Collection Permits	324
House to House Collection Permit	132