

# **Somerset West and Taunton Council**

## **Licensing Committee – 21<sup>st</sup> June 2021**

### **Licensing Quarterly Update Report**

**This matter is the responsibility of Executive Councillor Andrew Sully**

**Report Author: John Rendell, Licensing Manager**

#### **1 Purpose of the Report**

- 1.1 Somerset West and Taunton is required by law to establish a Licensing Committee, in order to discharge various licensing functions and is referred to as the 'licensing authority'. These functions include the regulation of alcohol and entertainment, taxis and private hire vehicles, drivers and operators, gambling and types of animal business, amongst many others.
- 1.2 The licensing authority's objectives (some of which are statutory) are to:
  - Prevent crime and disorder;
  - Prevent public nuisance;
  - Keep the public safe;
  - Protect children and other vulnerable people, from harm;
  - Ensure gambling is conducted in a fair and open way;
  - Ensure businesses provide high standards of care to animals.
- 1.3 Some of functions of the licensing authority, such as determining individual licence applications, are discharged by sub-committees. The main committee is largely responsible for setting policy.
- 1.4 This report gives officers the opportunity to update members of the committee on work of note, progress on any projects, changes in legislation and look ahead to any significant events that lie ahead.

#### **2 Recommendations**

- 2.1 That the report be noted.

#### **3 Risk Assessment**

3.1 The contents of this report do not relate to any of the risks identified in the Corporate Risk Register.

## 4 Background and Full details of the Report

### Recruitment

4.1 Licensing Assistant Maggie Greenslade and Licensing Officer Leeann Leeds have both formally joined the team, having initially joined as temporary members of staff last year. They fill the vacant posts previously held by Joanna Kalwaszewska and Leigh-ann Fumagalli.

### Service plan

4.2 Included with the update report for the meeting in January, was a shortened service plan, showing the main work priorities over the next 12 to 18 months (excluding business as usual e.g. processing applications, investigating complaints). A current version is shown at **Appendix 1**.

4.3 Most of the expected completion dates have now changed, owing to there being some long-term sickness in the team during January and February, which resulted in a temporary change to work priorities. Changes to dates are shown in red.

4.4 On a slightly more positive note, the new and improved knowledge test for taxi and private hire drivers is nearing completion. The new format sees questions on the local area return, alongside questions about council licensing rules and the following new elements:

- Numeracy;
- Taxi and private hire law;
- Attitude and behaviour in certain situations;
- Child exploitation (including child sex exploitation).

4.5 Members of the taxi trade have helped to develop the new format by road testing questions and providing feedback.

4.6 The current knowledge test, known as the 'knowledge and suitability interview', has recently changed from being a face to face meeting to being done remotely on Microsoft Teams, and we currently intend to continue using this technology in the future, as this would allow more flexibility and help to cut down on unnecessary travel.

### West Bay residential park home site, Watchet

4.7 Following a further land slip, Officers have served a second compliance notice on the owners of West Bay Residential caravan site.

4.8 The land slip in February 2020 ultimately resulted in the removal of one of the park homes completely, where ground lost from the cliff side caused the owners to be in breach of a condition of the licence which requires three clear metres between the boundary of the site and any combustible structure.

- 4.9 It is a similar situation on this occasion although because it is slightly further along the cliff edge and as land has not been lost completely, it is hoped stabilisation works will achieve compliance, rather than the removal of one or more park homes.
- 4.10 Mobile homes: a fit and proper person test for park home site owners
- 4.11 On the 1<sup>st</sup> of July, new regulations are coming into force in England, which require managers of most residential caravan parks in England to be registered as a 'fit and proper person'.
- 4.12 All local authorities will be required to keep a public register of people who are considered "'fit and proper' to manage the parks in their area. The name and business contact details of the manager, as well as the name and address of the site and whether any conditions have been attached to their appointment, will all be shown on the register.
- 4.13 The Regulations come into force in two parts. The first part, which enables applications to be made, comes into force on the 1<sup>st</sup> of July 2021. The second part, which makes it a legal requirement for a site owner or manager to be a 'fit and proper person', comes into force on the 1<sup>st</sup> of October 2021 and is backed up with potentially serious sanctions for non-compliance.
- 4.14 The regulations will not apply to holiday parks and residential parks which are defined as a 'non-commercial family occupied site' i.e. one which is only occupied by members of the owner's family and is not being run on a commercial basis.
- 4.15 The penalties for anyone operating a residential caravan site in breach of the regulations include an unlimited fine, or potentially the revocation of the operator's site licence.
- 4.16 The regulations do not give a definition of 'fit and proper'. However, they do set out certain matters which the local authority must take into account when deciding whether an applicant meets the test. These are whether the applicant:
- Has the experience, ability and financial resources needed to run and manage the site;
  - Has committed any offence involving fraud or other dishonesty, violence, arson or drugs or certain sexual offences;
  - Has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or landlord and tenant law;
  - Has contravened the Equality Act 2010 in relation to its business;
  - Has harassed any person in, or in connection with, the carrying on of any business.
  - Is, or has been within the past 10 years, insolvent;
  - Is, or has been within the past 10 years, disqualified from acting as a company director;
  - Has the right to work in the United Kingdom; and
  - Is a member of any scheme for dealing with complaints about the management of the site.

- 4.17 If an applicant fails to meet one of more of the above requirements it is not automatic that they will not be considered 'fit and proper', but it makes it more likely that their application will be refused.
- 4.18 When a local authority receives and considers an application, it may either:
- Grant the application unconditionally;
  - Grant the application subject to conditions; or
  - Refuse the application.
- 4.19 If a council intends to refuse an application or apply any conditions, it will have to first serve the applicant with a 'preliminary decision notice' setting out its intended decision and reasons for it. The applicant will then have 28 days to respond and make any representations to the council if they wish. After the end of the period, the council must then make a final decision as soon as reasonably practicable. An applicant may appeal such a decision to the First Tier Tribunal.
- 4.20 Councils will be able to charge a fee for the application.

#### Tax conditionality for taxi, private hire and scrap metal dealer licensing

- 4.21 Legislation due to be implemented on the 4<sup>th</sup> of April 2022 will introduce tax checks to the licensing of taxi and private hire drivers, private hire operators and scrap metal dealers.
- 4.22 Under current plans published in the Finance Bill 2021, first time applicants for the aforementioned licence types will be directed to guidance published by HMRC on tax obligations. When licence holders then renew their licences, a simple digital service which HMRC is developing will enable applicants and licensing authorities to complete a tax check, to determine if that person is appropriately registered for tax and has completed a tax return.
- 4.23 In accordance with the Government's New Burdens Doctrine, local authority licensing departments will receive additional funding to make changes to their current systems and processes.

#### Numbers of licences currently in force

- 4.24 To give an idea of the variety and number of persons, premises, vehicles and activities which are currently licensed, the numbers of licences in force as of the 11<sup>th</sup> of May 2021 are shown at **Appendix 2**.
- 4.25 As things currently stand, all pavement licences are due to expire on the 30<sup>th</sup> of September this year. However, the Secretary of State for Housing, Communities and Local Government did announce in March that this would be extended by a further 12 months.

## **5 Links to Corporate Strategy**

- 5.1 The council has a statutory duty to issues licences for various activities, as outlined in **Appendix 3**. By providing advice to the public, helping them to understand and meet

regulatory requirements and responding proportionately where breaches of legislation occur, the service can support the following corporate aims:

- Support the town centres throughout the District to meet the challenge of changing shopping habits.
- Support the enhancement of arts and culture provision within the District.

## **6 Finance / Resource Implications**

6.1 Where legislation allows for cost recovery, licence fees are levied against the administration of the regime and the supervision of licences issued. It would be unlawful to deliberately set the fees to make a profit and any over (or under) recovery is redressed in future fee levels.

## **7 Legal Implications**

7.1 No legal implications identified.

## **8 Climate and Sustainability Implications**

8.1 There are no direct carbon/environmental impacts arising from this report.

## **9 Safeguarding and/or Community Safety Implications**

9.1 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

9.2 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**

10.1 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.

10.2 No equality and diversity implications were identified.

## 11 Social Value Implications

11.1 As this report does not relate to the procurement of any services or products, no social value implications were identified.

## 12 Partnership Implications

12.1 No partnership implications were identified.

## 13 Health and Wellbeing Implications

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

## 14 Asset Management Implications

14.1 No asset management implications were identified.

## 15 Data Protection Implications

15.1 No data protection implications were identified.

## 16 Consultation Implications

16.1 As this is an update report, consultation has not been necessary.

## 17 Scrutiny Comments / Recommendation(s)

17.1 As a quarterly report just for the Licensing Committee, 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 1	Licensing service plan: priorities in 2021/22
Appendix 2	Licences in force

### Contact Officers

Name	John Rendell
Direct Dial	01823 219491
Email	<a href="mailto:j.rendell@somersetwestandtaunton.gov.uk">j.rendell@somersetwestandtaunton.gov.uk</a>