

Report to: Licensing and Environmental
Regulation Committee

Date: 14th April 2015

Report of: Director – Environmental Services

Report No: LER/09/15

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Report Title: **Licensing Enforcement Team Activities January – December 2014**

Confidential:

This report does **not** contain information which warrants its consideration in the absence of the press of members of the public

Purpose:

To inform Members of the activities of the Licensing Enforcement Team from 1st January 2014 to 31st December 2014

Recommendations:

1. Members are asked to note the report and endorse the enforcement approach .
2. Consider whether payment to GMP to conduct operations should be made.

Background Doc(s):

Human Rights Act 1998 – Guidelines

Summary:

No summary

1. Background

- 1.1 The Licensing Enforcement Team have undertaken a number of activities and operations in 2014 and wish to bring these activities to the attention of the Committee and Executive Member as requested and agreed.

2. Underage Sales Checks of On and Off Licensed Premises

- 2.1 The Licensing Act 2003 makes it an offence to sell alcohol to those under the age of 18 – either from off licenses or on licensed premises. Numerous surveys are undertaken, usually in conjunction with Greater Manchester Police (GMP) as they can issue fixed penalty notices for any sales. These surveys involve a volunteer(s) under the age of 18 attempting to purchase alcohol from premises about which we have intelligence alleging underage sales. Six surveys were carried out in 2014 and the details are as follows:

Survey Type	Survey date	Number of Visits	Number of sales	Outcome of sales
On sales	21/2/14	6	1	FPN issued
Off Sales	9/8/14	5	1	FPN issued
Off Sales	15/8/14	4	1	FPN issued
Off Sales	19/9/14	6	0	No sales
Off Sales	24/10/14	6	1	FPN issued
On Sales	13/12/14	6	0	No sales

3. Vehicle Spot Checks

- 3.1 In conjunction with Greater Manchester Police (GMP) and VOSA spot checks are planned throughout the year. Unfortunately due to lack of GMP resources many of the planned operations have had to be cancelled, sometimes at the last minute, due to lack of GMP support as they are pulled off to other emergency work. An operation planned for 29th and 30th March 2014 had to be cancelled as GMP could not support it.

Some Local Authorities (such as Manchester) pay Traffic Police to assist with planned checks which means they will not then be asked to assist with other work at the last minute.

The results of the operations carried out this year are as follows:

Date	Number of vehicles inspected	Number of prohibitions issued	Number of vehicles suspended	Number of advisory notes issued
16 th April 2014	20	7	1	
20 th & 21 st September 2014	46	10	15	
15 th December 2014	24	4	4	1

3.2 Typical reasons for suspensions were:

- CV Boot leaking / split
- Tyres
- Lights
- Insecure radio

Also, on the September operation GMP issued 3 fixed penalty notices, two for tyres and one for driving a private hire vehicle without a badge. GMP also seized the vehicle as the driver was not insured to drive that vehicle without a private hire badge.

4. Approved Garages

4.1 Spot checks above complements the testing carried out with the Approved Garages. Changes to the testing regime and approved garages were made in 2013 and this has been working well. Quarterly meetings are held with the garages to ensure consistency and good working relations between them and the Council. In 2014 457 suspensions were approved. Of these, 417 have been lifted. This requires an officer monitoring the inbox to ensure suspensions are issued within a 15 minutes turnaround.

4.2 As confidence with the garages has increased a large piece of work has been carried out in conjunction with the Council's Corporate IT Section and a shared calendar system with automatic suspension generation and lifting has been developed. This has been rolled out at one of the busiest garages at the end of 2014. It is planned to have the shared calendar up and running in the remaining garages in the early part of 2015. This means an officer no longer has to monitor and inbox to generate a suspension or lift a suspension. The shared calendar system will do this automatically based on the testing regime which is RAG (red, amber, green) rated – ie if a vehicle failed on a 'red' item on test, at the end of the test a suspension will automatically be generated by the garage and issued to the vehicle owner by them.

4.3 A report was approved in 2014 to restrict the use of Category C and Category D vehicles to be used as private hire and hackney carriage vehicles, from 1st June 21015 . New Category C vehicles will no longer be allowed on the fleet and Category D vehicles will require further proof of roadworthiness before being allowed on the fleet.

5. Complaints

5.1 A new system of dealing with complaints was developed during 2013 and this has continued during

2014. There is no commitment to contact complainants (unless it's serious complaint which needs immediate action) and therefore call takers are advised to take as much information as possible. This information is then used for intelligence and action can be taken where there is a pattern of complaints about a driver. Complainants receive a standard letter explaining this. This way of dealing with complaints is really important as it frees up time to draft up robust reports to committee where we have serious complaints about drivers. Further information on these referrals to committee will be provided further on in the report.

5.2 Over 200 complaints were allocated to the Licensing Enforcement Officers for investigation along with over 20 meter seal requests. Over 100 standard letters were sent to complainants and the information added to the private hire and hackney carriage complaints log for intelligence.

6. Plying for Hire Operations

6.1 One plying for hire operation was carried out on 6th September 2014 where two officers attempted to take a journey in a private hire vehicle which had not been booked via an operator. Four private hire drivers took the officers on unbooked journeys – this is an offence under Section 45 of the Town Police Clauses Act 1847 as only Hackney Carriage Vehicles can take passengers who have not booked a journey. There is also an offence of permitting to use a vehicle on a road without a policy of insurance being in existence, contrary to Section 143 of the Road Traffic Act 1988. Prosecution Files have been prepared and court dates are awaited to hear these prosecutions.

7. Operator Inspections

7.1 15 Operator Inspections were carried out in 2014. All new Operators are inspected within the first few weeks of obtaining a licence. Subject to resources, existing Operators are visited on a yearly basis. Operators can be split into 4 main categories. Those who are a sole operator (for example, airport runs, school contracts etc) where only one vehicle is used by the Operator. There are currently 57 of these licensed in Bolton. The next category are those who are licensed for 2 to 10 vehicles of which there are currently 3 in Bolton. Next are those who are licensed for 11 to 50 vehicles, of which there are currently 11 in Bolton. Finally are those who are licensed to operate over 50 vehicles, of which there are currently 5 in Bolton.

7.2 Problems have been identified at two existing operators regarding use of vehicles not licensed by Bolton Council and investigations are ongoing into these Operators.

8. Visits to Licensed Premises

7 visits to Licensed Premises were carried out in 2014. This included visits to various premises with GMP and Pollution Control Unit as part of the Horwich Street Party in September.

Two expedited reviews for late night town centre licensed premises were taken in 2014 by GMP with involvement from Licensing Enforcement Officers.

9. Unpaid Invoices

9.1 A large piece of work was started in 2014 into unpaid invoices, led by a Licensing Enforcement Officer. A procedure was developed which includes identifying premises, sending letters and reminders advising that the licence will be revoked and alcohol will no longer be able to be sold if the payment isn't made by the deadline set. If payment is not then received a visit is made by a Licensing Enforcement Officer and GMP to take the licence and ensure alcohol is no longer sold at the premises.

9.2 As at the end of 2014 £3910 in unpaid fees has been recovered with no visits required as payments were made after the first or second letter. The aim for 2015 is to make this an administrative role until non-payment is made and a joint visit is required by GMP and an LEO.

10. Cars for Sale on the Highway

10.1 The Licensing team doesn't have any powers to act in relation to cars which are to be repaired etc being parked on the street. However we can take action against someone selling cars on the highway under the Local Government (Miscellaneous Provisions) Act 1982 as it can constitute illegal street trading. There are also penalties under the Clean Neighbourhoods & Environment Act for someone selling two or more cars within 500m of each other on a public highway.

10.2 The service does not have any powers to remove cars from the highway or to stop traders from selling cars on the highway, however we can take prosecution action in the magistrates court if traders continue to sell cars in contravention of the legislation. Both the above pieces of legislation require that we prove the seller was acting in the course of a business before we can take action which can be very difficult to do. The sellers frequently change the contact mobile phone numbers they display on the cars and these are usually pay as you go phones for which no subscriber details are held. Our ability to investigate these offences was further restricted by the changes to Regulation of Investigatory Powers Act (RIPA) which prohibit us from carrying out surveillance in relation to these offences. As a result of these difficulties and the reductions in service resources over the past few years we have developed a procedure to tackle cars for sale on the highway by applying warning notices to vehicles to disrupt the activity of these sellers. In some locations this practice has proven effective at dissuading the sellers from displaying vehicles there at least in the short term.

10.3 12 complaints were received alleging the sale of cars from the highway and visits were made and warning notices were issued on all vehicles found in the area on sale from the highway. This usually has the desired effect and cars are no longer sold from that area.

11 Committee and Delegated Powers

11.1 In 2014 various changes were made to the Committee and the Scheme of delegation around Licensing. This was to strengthen the Council's systems in light of the safeguarding issues in Rochdale (and subsequently in Rotherham) and case law (Khan which stated suspensions could not be used as an interim measure). Along with the changes, training was provided to Members, Officers and legal representatives by James Button and our Domestic Abuse Advisor regarding safeguarding issues and the changes to the Committees.

From July 2014 there are now four committees dealing with licensing issues:

11.1.1 Licensing and Environmental Regulation Committee deals with the functions of the Council in relation to the licensing of private hire and hackney carriages, street traders, sex establishments, second hand car dealers, scrap metal dealers, motor salvage operators, charities and street and house to house collections, gambling premises, gaming machines and lotteries. 15 referrals were made to this Committee in 2014 by the Licensing Enforcement Team and the outcomes are as follows:

Licence type	Reason for referral	Outcome
Private hire driver	Safeguarding GMP	NFA Badge returned
Private hire driver	Domestic violence/rape	Suspended pending outcome GMP
Private hire driver	Inappropriate sexual comments	Revoked

Private hire driver	Racial abuse	Suspended 4 weeks
Private hire driver	Money laundering	Revoked
Private hire driver	Refusal to take assistance dog	Warning letter
Private hire driver	Dangerous driving	Revoked
Private hire driver	Plying for hire & dangerous driving	Revoked
Private hire driver	Safeguarding	Revoked
Private hire driver	Benefit fraud	Revoked
Private hire driver	Benefit fraud	Revoked
Private hire driver	Inappropriate behaviour	Did not attend – handed badge in
Private hire driver	Slapping child passenger	Suspended 4 weeks
Private hire driver	Dangerous driving and GBH	Suspended pending outcome GMP
Private hire driver	Driving without due care & attention	Warning letter

11.1.2 Licensing Act Committee deals with the functions of the Council in relation to the licensing of public houses, nightclubs, members clubs and off licensed premises which sell alcohol, together with venues which provide regulated entertainment whether or not they sell alcohol and late night refreshment houses.

11.1.3 LERC Sub-Committee for sensitive cases has been established to undertake the function of the Council with respect to the conduct of licence holders such as hackney carriage, private hire, ice cream vans etc in respect of reports of a sensitive nature, including but not limited to matters of a sexual nature, indecency or domestic violence. Guidance has also been drafted to sit with this committee to try to ensure cases taken are robust and stand the scrutiny of potential appeals. 6 referrals have been made to this committee since it was formed in July 2014 by the Licensing Enforcement Team and the outcomes are as follows:

Licence Type	Reason for referral	Outcome
Private hire driver	Domestic violence	Licence revoked, appeal allowed but licence has expired
Private hire driver	Domestic violence and rape	Licence revoked, appeal dismissed
Street trading consent (ice cream van)	Exposure	Licence refused
Private hire driver	Inappropriate behaviour towards females	Licence revoked, appeal dismissed
Private hire driver	Sexual assault	NFA – badge returned
Private hire driver	Inappropriate behaviour and comments to vulnerable females	Revoked – appeal lodged

11.1.4 LERC Sub-committee for Motoring Convictions is established to undertake the functions of the Council with respect to the conduct of private hire and hackney carriage licence holders in relation to traffic related matters. 8 meetings of this Committee were held in 2014 with 45 referrals having been made by the Licensing Enforcement Team and the outcomes are as follows:

Hackney carriage drivers:					
Revocation	No. suspended for 4 weeks	No. suspended for 3 weeks	No. suspended for 2 weeks	No. suspended for 1 week	Warning letter / other
			1		1
Private hire drivers:					
Revocation	No. suspended for 4 weeks	No. suspended for 3 weeks	No. suspended for 2 weeks	No. suspended for 1 week	Warning letter / other
2	3	1	7	9	19 warning 1x5 weeks suspension 1x4 month suspension

Delegated powers mean that the Licensing Team can issue warning letters in relation to low level matters including but not restricted to motoring convictions which have been dispensed by means of a fixed penalty notice and /or 3 points or less. Two letters have been issued in 2014. A policy and standard letters have also been drafted to sit with this delegated power.

11.2 Delegated Powers in relation to emergency action.

The Director of Environmental Services since July 2014 has delegated power, in consultation with the Chair or Vice-Chair of the Licensing and Environmental Regulation Committee, authority to suspend or revoke a licence granted to a person:

- who has been convicted of offences relating to drugs, indecency, dishonesty or violence, or
- any other reasonable cause where the Director of Environmental Services is satisfied that the licence holder is not a fit and proper person to hold such a licence and such action is in the interests of public safety.

In 2014 8 drivers were taken before the Director of Environmental Services under the delegated powers and the outcomes were as follows:

Licence Type	Date	Reason for action	Outcome
Private Hire driver	March 2014	Drugs – possession & intent to supply	Suspended *
Private Hire driver	March 2014	Safeguarding issues	Suspended *
Private hire driver	April 2014	Sexual assault	Suspended *

Private hire driver	June 2014	Safeguarding / grooming	Revoked
Private hire driver	July 2014	Sexual assault with a child	Revoked
Private hire driver	October 2014	Sex offences with children	Revoked
Hackney Carriage driver	October 2014	Drugs – intent to supply	Revoked
Hackney Carriage driver	December 2014	Affray with an iron bar	NFA pending outcome of GMP investigation

* this change from suspensions to revocation when the Director is considering cases reflects the case law which stated a suspension could not be used as an interim measure

12. Other Licensing Enforcement Work

12.1 Second Hand Goods Dealers (Greater Manchester Act)

This legislation requires dealers in second hand goods to be registered with the Local Authority. Joint visits with Greater Manchester Police are carried out and all dealers are given a register produced by Licensing Enforcement to keep and complete.

A joint day of action was carried out in 2014 between Greater Manchester Police, Greater Manchester Fire and Rescue Service and UK Border Agency where visits were made to various second hand goods dealers within Bolton. Where kept, registers were checked to ensure compliance. Where registers were not kept they were provided and advice given on the legislation.

12.2 Charity Collections

The Council's Charity Collections Policy was reviewed and a revised policy was adopted following a consultation period. As part of the revised policy the council entered into a Site Management Agreement with the Public Fundraising Regulatory Association (PFRA) in November 2014. This agreement came into effect in January 2015 and provides a means to manage charities and agencies carrying out street and doorstep Direct Debit fundraising as this is outside the scope of the legislation which regulates charity street collections.

When complaints are received relating to unlicensed street collections visits are made to ensure compliance. Two complaints were investigated relating to unlicensed street collections and warnings issued.

15. General Issues

The Licensing Team currently consists of one Principal Officer, three full time Licensing Enforcement Officers and one part time Licensing Enforcement Officer. The team works closely with other partners including Greater Manchester Police (in particular the Partnership Team), the Licensing Team and Trading Standards.

In September 2014 a redeployee was placed on a one year placement with the enforcement team, to cover a vacancy, and training is ongoing for this key member of staff.

One other full time officer obtained the Institute of Licensing Professional Licensing Practitioners Qualification in 2014.

The team work really well together and with our partners. It is a credit to them that they have achieved all the above.

16. Recommendations

1. Members are asked to note the report and endorse the enforcement approach.
2. Consider whether payment to GMP to conduct operations should be made.