

**Committee:** Licensing Committee  
**Date:** 15 June 2005  
**Agenda Item No:** 4  
**Title:** Update on Licensing Act 2003  
**Author:** Michael Perry (01799) 510416

### **Summary**

- 1 This report is to update Members on applications for licences received under the Licensing Act 2003 and to inform Members of the likely workload in the months to come.

### **Background**

- 2 The transitional period for existing licence holders under the Licensing Act 1964 to secure grandfather rights under the 2003 Act commenced on 7 February 2005 and expires on 6 August 2005. Applications received within that period must be dealt with by 6 November 2005. Any which have not been dealt with by that time will be deemed to be granted if there are no variations applied for or deemed to be refused if there are variations. The applicant, any relevant authority, which has made representations, and any interested party who has made relevant representations may appeal to the magistrate's court against a deemed grant or refusal.
- 3 There are approximately 300 licensed premises of all descriptions within the district. All of these will need to apply for premises licences if they wish to continue trading after the second appointed day (which is still to be designated). Those who do not apply before 6 August 2005 will need to apply after that date but this would be treated as a fresh application and grandfather rights would not be available.
- 4 At the time of preparation of this report the Council had received 68 applications for personal licences. 56 have been issued and the remainder were in the course of being processed. It is not possible to forecast with any degree of certainty how many personal licence applications can be expected as such applications have to be made to the Licensing Authority for the district where the applicant resides, not the Authority for the district in which the applicant is employed. Further, some licensed premises will wish to have

more than one personal licence holder on the premises. It can be anticipated that where there are currently joint licensees they will all wish to convert to personal licences to take advantage of grandfather rights. It is therefore unlikely that less than 300 personal licences will be issued. Where an application for a personal licence is made by an existing licensee during the transitional period only the police are able to object. They may only do so on crime and disorder grounds and only if the applicant has a relevant conviction. It is likely that there will be few (if any) hearings for personal licence hearings under the transitional provisions.

- 5 At the time of preparation of this report 25 applications for premises licences had been received. The fire authority had made representations in respect of 5 premises, 4 owned by the same brewery. This company owns approximately 12 public houses within the district and as the applications are being submitted in the same format it is likely that the same representations will be made. One of these applications must be dealt with by 24 June 2005 and a hearing has therefore been arranged for 22 June to determine the application. With regard to the other three as the issues will be the same it is intended to arrange for these to be heard on the same date in the week commencing 4 July 2005 unless other representations are received.
  
- 6 In respect of one premises licence application there are representations from the fire authority and 41 members of the public. Representations from the police have been withdrawn following an agreement with the licensees to reduce the hours they were proposing to open. This application will need to be determined prior to 6 July 2005. The Licensing Act 2003 (Hearings) Regulations 2005 provide that all parties must be given an equal maximum length of time to present their case. Such time must be sufficient to give the applicant a reasonable time to present his case. Less than 30 minutes would be unlikely to satisfy that criteria but if all parties used the maximum time this case will take 22<sup>1</sup>/<sub>2</sub> hours plus the Committee's time on deliberations to deal with (assuming no more objections are received before the closing date). It is suggested that prior to the meeting objectors are asked to appoint one spokesperson if possible. Each objector should then be given the opportunity to state whether they agree with representations which have been made but not permitted to repeat those representations. They should also be given the opportunity to add comments which have not previously been aired. This does not prevent the objector from utilising their full allotted time but would make it highly unlikely that they would do so. Arguably persons who insist on trying to repeat previously voiced objections could be said to be behaving in a disruptive manner and required to leave the room.
  
- 7 It is not known at this stage how many of the objectors will attend the hearing but given the potential for a long hearing this application will need to be listed for a full day commencing no later than 10.00 am.
  
- 8 For the future the workload of the Committee will slow dramatically after 6 November 2005. Thereafter Members will only be required to deal with

applications for premises licences and personal licences for those who failed to apply during the transitional period, applications for licences for premises which were not licensed prior to 7 February 2005 where it is now intended to carry on a licensable activity, applications for personal licences from people living in the district who were not licensed previously and (after the second appointed date) objections to temporary event notices made by the police.

RECOMMENDED that Members note this report.

Background Papers: None

**Committee:** Licensing Committee  
**Date:** 15 June 2005  
**Agenda Item No:** 5  
**Title:** Vetting Procedures for Driver Renewals  
**Author:** Murray Hardy (01799) 510598

### **Summary**

- 1 This report advises Members of proposed amendments to the current procedures when dealing with Hackney Carriage and Private Hire Driver renewals.

### **Background**

- 2 The Police Act 1997 established the Criminal Records Bureau which effectively removed the vetting procedure from the Police to this new independent body.
- 3 From 1 March 2002 the Bureau began accepting requests from local authorities in connection with applications for the grant and renewal of Hackney Carriage and Private Hire Driver's Licences. The quality of service from the Bureau has improved. However, in some cases there is still a delay, especially when vetting takes place in the months of March and April and again in September and October.
- 4 Licensing renewals for all drivers takes place either on 1 April or 1 October each year. This policy was adopted a number of years ago due to the increase in applications and renewals that the Licensing Section were receiving.

- 5 The vetting policy for both new and existing drivers is laid down by Home Officer Circular 13/92 and that policy is followed by this Council. Generally, vetting takes place every three years; however, if certain information is received by a local authority then an application to vet can be made under three years.
- 6 Problems can arise when an existing driver applies to renew his licence and simultaneously he is required to be vetted in accordance with Home Office Policy. Vetting normally takes approximately four weeks; however, in some cases this can be longer.
- 7 In order for a licence to be renewed a driver must have a valid Criminal Records Bureau Enhanced Disclosure, thus meeting the criteria of being a fit and proper person.
- 8 To prevent an existing driver waiting for his licence to be renewed, thus not being able to work, officers are seeking authority to accept the application for renewal with a caveat that the driver makes a statutory declaration that to the best of their knowledge and belief their current Enhanced Disclosure will not contain any further information.
- 9 A warning should be included that they may be liable to prosecution if they make a false statement and that their licence will be revoked.

RECOMMENDED that:

- 1 Members approve the new protocol.
- 2 The Executive Manager Corporate Governance be given delegated authority to revoke the licence of any driver who makes a false declaration.

Background Papers: Sample Declaration Form.

**Committee:** Licensing Committee  
**Date:** 15 June 2005  
**Agenda Item No:** 6  
**Title:** Gambling Act 2005  
**Author:** Michael Perry (01799) 510416

### **Summary**

- 1 This report is to inform Members of the salient provisions of the Gambling Act 2005 and of the functions the Council will be required to undertake under that Act.

### **Background**

- 2 As part of the Government's reforming agenda for regulatory legislation the Government undertook a wholesale review of the law relating to gambling. The result was the Gambling Bill 2004. This was the subject of much controversy, not least with regard to the provisions relating to casinos. However, after the Government made a number of concessions the Act finally received royal assent on 7 April 2005.
- 3 The Gambling Act relates to every type of gambling activity. It covers gambling in casinos, betting shops, bingo halls, lotteries, prize competitions, fruit machines, pools betting, on track betting, etc.
- 4 There will be three types of licences to be granted under the Act, namely operators' licences, personal licences and premises licences. Operators' licences are for those who run gambling establishments. Personal licences are for persons who manage gambling establishments but not all such establishments will be required to be managed by a personal licence holder. Both of these licences will be issued by a new body to be created under the Act to be known as the Gambling Commission. The licensing of premises is the function of local authorities.
- 5 Uttlesford District Council (along with other district, borough and unitary councils throughout the country) will be required to licence casinos, bingo halls, adult gaming centres (centres which carry category B gaming machines), family entertainment centres (which provide category C gaming machines), betting shops and race tracks. The Council will only be able to grant licences to holders of operators' licences or persons who have applied for such a licence. In the latter event the operator will not be able to use the premises until an operator's licence has been granted.

- 6 The Act automatically delegates to the Licensing Committee formed under the Licensing Act 2003, all of the functions of the local authority with regard to gambling with three exceptions. Firstly, it is open to a local authority to resolve not to issue casino licences within its district. Secondly, the Council will be required to adopt a licensing policy. Both of these resolutions must be passed by full council and may not be delegated. Setting fees is also a function exercisable by full council although this function may be delegated to the Licensing Committee if the Council so decide.
- 7 The Act itself is very short of detail on a number of significant issues. For example, definitions of important phrases are left to be incorporated in statutory instruments. Casinos will be divided into four categories, regional, large, small and below minimum size. These will be defined by regulations. Gaming machines will be divided into classes A, B, C and D and the Act presupposes that category B will be subject to sub-division. However, these will also be defined by statutory instruments.
- 8 Other statutory instruments will deal with the form of application, the form of licences and fee bands. Statutory instruments will also categorise conditions. With regard to premises there will be some conditions which the authority must impose, some conditions which may be varied or deleted by the authority and the Committee will have the power to impose additional conditions which are not inconsistent with those which must be imposed by the authority.
- 9 The Act requires the payment of an initial fee to apply for a licence and an annual fee thereafter. The level of fees will be set by statutory instrument but unlike the Licensing Act 2003 the fees will not be fixed. Instead fees will be charged on a band rating with each band being capped. It is for each authority to determine its own fee structure within those bands and subject to that cap although fees can only be charged on a cost recovery basis and not with a view to making a profit.
- 10 Before the Act can become effective the Government will need to establish the Gambling Commission and the Gambling Tribunal (a body which will hear appeals from decisions of the Gambling Commission but not local authorities). Once formed, the Gambling Commission has a statutory duty to formulate a gambling policy, to prepare codes of practice (breach of which will not constitute an offence but will be evidential in proving offences under the Act) and prepare guidance to local authorities.
- 11 The Council has a duty to adopt a licensing policy. In formulating its policy the Council must have regard to the licensing objectives, codes of conduct issued by the Gambling Commission and guidance from the Gambling Commission. The licensing objectives for gambling are as follows:-
  - (a) Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support the crime;
  - (b) Ensuring that gambling is conducted in a fair and open way;

- (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 12 It is anticipated that local authorities will be given a six months period to prepare a draft policy, consult upon the draft, consider the outcome of the consultation process and for full council to formally adopt the policy. It has been suggested that the Gambling Commission should be in a position to publish its first drafts of its policy, codes of practice and guidance to local authorities in the early part of 2006. In order to meet the expected timescale it will be necessary for work to commence on the draft policy document almost immediately after the Gambling Commission's draft documents have been published.
- 13 Members will recall that with the Licensing Act 2003 officers from this authority worked with colleagues in other authorities through Essex to produce a model policy document which could be adapted by authorities to suit local needs. Subject to Members' approval it is proposed to adopt a similar approach with regard to gambling.
- 14 Other than the work involved in formulating and adopting the licensing policy it is unlikely that the demands on this Council will be great. There are few adult entertainment centres in Uttlesford (officers are aware of only two, namely Stansted Airport and Birchanger services) and only a limited number of bookmakers. Save for some additional software to run gambling licensing it is not considered that there any significant resource implications.

RECOMMENDED that

- 1 Members support officers working in conjunction with others in Essex on a draft licensing policy to be adapted to local needs
- 2 Members note the contents of this report.

Background Papers: None