

# West Berkshire Council Licensing Annual Report 2021/22

**Committee considering report:** Licensing Committee

**Date of Committee:** 04 July 2022

**Portfolio Member:** Councillor Tom Marino

**Report Author:** Moira Fraser

**Forward Plan Ref:** N/A

## 1 Purpose of the Report

To set out the work of the Licensing Committee, Licensing Sub-Committee and Licensing Service in 2021/22.

## 2 Recommendation

That the Committee **NOTES** the content of this report including the work of the Licensing Committee and Service related activity for 2021/22.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	The Licensing functions within the PPP operate on a cost recovery basis with respect to discretionary fees. The Committee considers discretionary fees before they are considered by Full Council as part of the annual budget setting process. The report shows information relating to volumes of applications at March 31 <sup>st</sup> 2022. Due to the impact of the Covid pandemic throughout the previous year Officers had already identified a financial risk associated with licensing income. This was covered off by holding vacancies in the service.
<b>Human Resource:</b>	Vacant posts were held during the year to help mitigate the loss of licensing income arising from the various Covid lockdowns.  During Quarter 2 of 2021/22 the Applications Team was merged with the Licensing Operations function as a result of changes to the Partnership Support function.
<b>Legal:</b>	These are all statutory functions.

	Under the Licensing Act 2003 and the Gambling Act 2005 there is a legal obligation for the Council to set key policies. In other areas the Council has a range of powers to set licence conditions and adopt sector specific policy positions.			
<b>Risk Management:</b>	The PPP operated a risk based approach for their inspection programme during the 2021/22 municipal year. It was apparent that the implications of the national lockdown would be a risk to the hospitality and other licensed sectors such as taxi and private hire operators and drivers. The PPP has had to regularly amend its approach to maintain its services to an appropriate standard.			
<b>Property:</b>	None.			
<b>Policy:</b>	The Licensing regime is covered by the policies arising from the Licensing Act 2003 and the Gambling Act 2005. In other areas the Council has a range of powers to set licence conditions and adopt sector specific policy positions.			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		✓		There are no decisions in this report
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		✓		There are no decisions within this report, any policies or actions referred to will have already undergone and EIA when considered previously by committees
<b>Environmental Impact:</b>		✓		This report has no environmental impacts.

<b>Health Impact:</b>	✓		There are no health impacts
<b>ICT Impact:</b>	✓		None
<b>Digital Services Impact:</b>	✓		None
<b>Council Strategy Priorities:</b>	✓		This report covers the business as usual work of the Licensing Committee, Licensing Sub-Committee and the Licensing functions provided by the PPP.
<b>Core Business:</b>	✓		This report covers the business as usual work of the licensing committee and the Licensing functions provided by the PPP.
<b>Data Impact:</b>	✓		All data reported is open data and any addresses detailed are in the public domain following hearings open to the public.
<b>Consultation and Engagement:</b>	None the report is to note only.		

## 4 Supporting Information

### Introduction

- 4.1 The shared Public Protection Partnership (PPP) delivers a range of regulatory functions. Licensing however is distinct in the way that activities are overseen and policy is set. Whilst all decisions related to the PPP go through the Joint Public Protection Committee, each partner authority retains its individual licensing committee to set licensing related policy and monitor performance. This requires careful co-ordination and clear governance arrangements have been put in place to ensure that this happens.
- 4.2 The shared Licensing Service considers and issues a range of licences, consents, notices and permits required by businesses in order that they can deliver a range of services and goods to residents and visitors to West Berkshire. Legislation requiring a licence/consent/notice/permit for a business activity is generally enacted in order to protect users of a service or the wider community such as those that might be affected due to their proximity to the licensed premises or their interaction with an individual licence holder. Animal Welfare licensing provisions are there to protect the health and wellbeing of animals in regulated settings such as kennels or performances. Good regulation, properly implemented also provides a level playing field for the licensed sector.

- 4.3 It is acknowledged by the licensed sector that an effective licensing regime, soundly administered and founded on sensible and effective policies creates consumer confidence which in turn is positive for licence holders. The service is aware that the licensing function, whilst offering protection, can also act as a barrier to others who wish to deliver services or supply goods and every effort is made to assist businesses to understand and progress rapidly through the licensing process. The service therefore has a number of functions including business advice, processing of applications, monitoring compliance and where necessary taking enforcement action.
- 4.4 As part of the work to streamline the service and in order to add resilience to the teams the Applications Team was merged with Licensing Operations during 2021/22. In addition Licensing Liaison Officers (LLOs) have been engaged on a temporary basis to assist all licence sectors with recovery during and after the Covid pandemic. The LLOs worked across all three authorities, whilst Wokingham was in the partnership. They acted as the first point of contact for the trade-hospitality and taxi/private hire sectors answering queries or feeding matters raised back to obtain answers as well as checking statutory notices and assisting in monitoring events.

### **The Licensing Committee**

- 4.5 The Licensing Committee is responsible for setting the policy direction that forms the basis of licensing activity in the District. Under the Licensing Act 2003 and the Gambling Act 2005 there is a legal obligation for the Council to set key policies. In other areas the Council has a range of powers to set licence conditions and adopt sector specific policy positions. There is also a requirement for the Council to have a Licensing Committee of between 12 and 15 Members.
- 4.6 The Licensing Committee comprises 12 Members and the 2021/22 membership is set out below:

Conservative Group (seven Members)	Steve Ardagh-Walter, Jeff Beck, Graham Bridgman, Clive Hooker, Rick Jones (Chairman), Tony Linden and Graham Pask
Liberal Democrat Group (four Members)	Adrian Abbs, Phil Barnett (Vice-Chairman), Billy Drummond and Martha Vickers
Green Group (one Member)	David Marsh

- 4.7 Over the 2021/22 period the Licensing Committee met on 04<sup>th</sup> May 2021 (annual meeting), 21<sup>st</sup> June 2021, 06<sup>th</sup> September 2021 (Special), 08<sup>th</sup> November 2021 and 31<sup>st</sup> January 2022. The Committee considered a number of matters including: the draft Statement of Gambling Principles (SoGP), the ensuing consultation and post consultation document, the Committee oversaw the statutory process for varying Hackney Carriage Tariffs making recommendations to the Executive about modifications, proposed and adopted amendments to the Scheme of Delegation in relation to both the Licensing Act 2003 and the Gambling Act 2005 and considered the

Licensing Fees and Charges for 2022/23 including considering the outcome of the consultation on the statutory element of these fees.

- 4.8 The SoGP was adopted by full Council at the 02 December 2021 meeting and the revised Statement was published ahead of the 31<sup>st</sup> January 2022 deadline. The revised Hackney Carriage Tariffs (an uplift of circa 5%) came into effect on the 19 November 2021 following Executive approval at the 18<sup>th</sup> November 2021 meeting.
- 4.9 In terms of forward planning, in addition to the annual fees and charges cycle, a number of policies including the following are scheduled for consideration during the 2022/23 cycle:
- The Draft Hackney Carriage and Private Hire Licensing Policy (July 2022);
  - Response to the Helping West Berkshire Taxi Trade Go Greener Motion (July 2022);
  - Consideration of Revised Hackney Carriage Tariffs (July and November 2022)
  - The Draft Licensing Policy (January 2023);
  - Charity Collections Policy (January 2023).
- 4.10 At each meeting Committee Members are asked to consider if there are any additional items that they wish to include on the Forward Plan.

### **Licensing Sub-Committees**

- 4.11 While the Licensing Committee carries out functions relating to licensing and registration the Licensing Sub-Committee considers gambling and licensing applications where representations are received. These meetings are arranged on an ad-hoc basis. Each Sub-Committee comprises three Members drawn from the membership of the Licensing Committee. A substitute is also appointed in the event that, for whatever reason, one of the Sub-Committee Members has to withdraw from the panel.
- 4.12 During the 2021/22 financial year the sub-committee met on six occasions and a summary of the matters are set out in the table below:

Type of Application	Premise	Outcome
Premise Licence	3 Market Place, Lambourn, RG17 8XU	Licence Granted
Premise License	The Breeze Drinks Company Ltd, Hawkridge House, Hawkridge Hill, Frilsham, RG18 9XA	Licence Granted
Vary an Existing Premise Licence	Aldi Foodstores, London Road, Newbury, RG14 1LA	Variation Granted
Review of Premise Licence	Pinchington Hall, Crookham Hill Crookham Common Thatcham RG19 8DQ	Licence Revoked
Review of Premise Licence	Newbury Real Ale Festival, Land between Northcroft	New Additional Conditions Imposed

	Leisure Centre & Newbury Cricket Club, Northcroft Lane, RG14 1RS	
Application to Vary a Premise License	Spoons Coffee Shop Ltd, Unit 7, The Colonnade, Overdown Road, Tilehurst, Reading, RG31 6PR	Approved in Part

- 4.13 Two further meetings for Aldi (Bath Road, Calcot) and Falkland Cricket Club were cancelled following successful mediation.
- 4.14 The Pinchington Hall Review decision, under the Licensing Act 2003, was originally appealed to the Magistrates' Court but the applicant withdraw their appeal against the decision prior to the matter being heard.
- 4.15 The number of sub-committee meetings held each year remains relatively low albeit that there was a relatively big increase in the numbers in 2021/22 which could be indicative of the changes in Covid regulations during the year. In 2020/21 two meetings were held, 2019/20 six applications were heard, three sub-committees took place in 2018/19 and three in 2017/18.
- 4.16 The cessation of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 ("the Regulations") in May 2021 which permitted meetings to take place in a virtual format has meant that both the Licensing Committee meetings and Licensing Sub-Committees meetings have taken place in a hybrid format. This format required Members to be present in the face to face meetings whilst Officers and attendees or interested parties could join remotely or in person. Members that attended the Licensing Committee meetings remotely were able to take part in the debate but were not permitted to vote on relevant items.

## Training

- 4.17 Joint Licensing Act training for Members from all three partner authorities, prior to Wokingham's exit from the Partnership, was undertaken on the 25th and 26th May 2021 via Zoom. The training was delivered by PPP staff and Legal and Democratic Services Officers from all three authorities. The aim of the sessions was to help Members identify licence types and authorisation processes, note the legal framework that underpins the licensing regime; grasp the licensing objectives; understand the licensing process and the councillors' role in it; recognise valid representations and who can make them and be informed about the way hearings are conducted in each authority.
- 4.18 The sessions were held in two parts firstly a general session on Licensing for all Members and then Members were placed in individual break out rooms for each authority with their own Solicitor to cover Sub-Committee/hearing procedures.
- 4.19 In addition Officers from the PPP were invited to attend a Newbury Town Council meeting in January 2022 to explain the role of the town council in licensing hearings and identify the type of information that should be included in a licensing representation. It is hoped that this session could be replicated for other town and parish councils during the 2022/23 municipal year.

4.20 Training on the Gambling Act 2005 was undertaken by an external provided in June 2021. The training was again attended by Members from all three partner organisations.

### **Taxi and Private Hire Liaison Group Meetings**

4.21 The Group was set up to provide a forum to meet with and consider comments from representatives of the taxi trade and seek advice from Licensing Officers on a range of issues that affect existing and proposed licences, policies, tariffs, fees and other matters of common interest. The Group is also tasked with reporting back to the Licensing Committee with any recommendations for alterations to the existing or proposed licences, policies, tariffs and fees.

4.22 The Group comprises the Chairman and Vice Chairman of the Licencing Committee, Members of the Licensing Committee, the Public Protection Manager, the Licensing Manager and representatives from the Hackney Carriage and Private Hire Trade. The number of attendees from the Trade remains relatively low albeit that there has been a slight improvement in attendance at the meetings throughout the year. Officers continue to encourage trade representatives to attend the meetings and the minutes are circulated to the trade and Licensing Committee to keep them abreast of discussions that have taken place.

4.23 During the 2021/22 financial year the Group met on the 02 June 2021, 26 October 2021 and the 17 January 2022. A range of issues were discussed including the impact that COVID-19 had had on the trade, discussions on tariffs for the forthcoming year and fees for the 2022/23 budget. We also had colleagues attend the meeting to provide presentations and facilitate discussions on electric vehicles and updates on the air quality (anti idling) campaign.

4.24 PPP Officers continue to work with the Environment Delivery Team to raise awareness with the trade about the use of electric vehicles and a workshop to discuss barriers to using these vehicles was held on the 17 November 2021. This session also provided an opportunity for the trade to test drive electric vehicles. While the turnout at this session was disappointing those that attended commented that they had found it very useful and that the presenters had been very knowledgeable. Officers will continue to seek out opportunities to deliver these types of events for the trade. A report setting out some options to incentivise the taxi trade to 'go greener' is included on this agenda.

### **Impact of COVID- 19 on the PPP Licensing functions**

4.25 The PPP including officers from the Licensing Service, have had a significant role to play in investigating, managing and preventing outbreaks during the 2021/22 financial year. This work came to an end in March 2022.

4.26 The Licensing Service has engaged with the trade throughout Covid and has responded to suggestions from the taxi trade and have also provided other West Berkshire Council services with information from the trade.

4.27 The Licensing Service provided information to go onto the PPP website that the licensed trade could access in respect of Covid matters and set out the help available as well as conducting visits to advise businesses and undertook various webinars with the trade.

- 4.28 The applications team have been resourceful in finding ways that licences could be issued in a timely manner despite having to find new ways of working as the trade were no longer able to access the offices as a matter of course.

### **Impact of COVID- 19 on the PPP Licensed Sector**

- 4.29 The impact of Covid continued to be felt by the licensed trade during the 2021/22 financial year. The data in Appendix A shows that there has been a decrease in all types of taxi trade licences issued when compared to 2019. Anecdotally the trade informed us that they had lost around 75% of their trade during the pandemic. Some of these licences are on a three year cycle which makes it difficult to ascertain the total impact.
- 4.30 The number of licensed animal boarding establishments and dog breeders has now returned to pre-covid levels, with the numbers almost doubling when compared to 2020/21. The number of licensed home boarders (33) is marginally higher than in 2019.
- 4.31 The number of personal and premises licences as at the 31 March 2022 is higher than in previous years. The number of temporary event notices have, understandably, increased dramatically compared to the previous year but has not yet reached pre-pandemic levels.
- 4.32 The impact on the licensed trade cannot be underestimated. The hospitality industry has had to cope with periods of closure whilst the taxi trade has been dealing with relatively few people being in our towns and needing vehicles to get about along with the down turn in airline travel as that itself was severely impacted.
- 4.33 This led to ingenuity from the trade and a massive diversification in their business-some have left their industry altogether while others have been able to survive due to their resourcefulness and hopefully things will continue on a more positive note in the future.

### **Development of Single Case Management System**

- 4.34 During the 2021/22 period officers have also been heavily involved in the work to streamline online interactions and reduce delivery costs to be able to pass on efficiency savings to the Licensing trades. For the first time data from West Berkshire and Bracknell will be stored in the same place, with improved customer management processes and less bureaucracy. This project is referred to as the Tascomi project and the new software is due to be implemented by the summer of 2022.

### **Communication and Engagement**

- 4.35 A further aspect of the Committee's role, supported by officers, is that of assisting businesses to grow whilst complying with the legal requirements and conditions. The Service provides a range of advice and information sheets via its [website](#). We have also expanded our social media presence with active Facebook and Twitter pages.

**Facebook:** [@PublicProtectionPartnershipUK](#)  
**Twitter:** [@PublicPP\\_UK](#)

- 4.36 Additionally officers regularly meet with applicants or licence holders to give guidance, such as attendance at Pubwatch meetings run by the trade, and meeting private hire

operators at their offices and taxi drivers at the ranks. Officers from the Licensing Service also attend Safety Advisory Group meetings to provide advice to event organisers to promote public safety at the large number of events that are held across the District each year.

- 4.37 A major joint initiative with Thames Valley Police (TVP) around Child Sexual Exploitation was undertaken in hotels in Newbury in Quarter 3 of 2021/22 whereby officers went out with police colleagues to see if the licensees had any concerns over a young person being with an older individual wishing to book a room etc. In addition this initiative was extended to testing for under age sales at the bar. Twelve hotels in total were visited, many of which were fully booked, however none of them challenged the officers or contacted the police. A follow up operation is to be arranged by Thames Valley Police due to the safeguarding concerns. The PPP will be involved with the operation and will continue to have these types of conversations with licensees during routine inspections.
- 4.38 A joint partnership operation with TVP, WBC Road Safety and PPP, Operation Holly, was conducted before Christmas in relation to drink driving, including checking vehicles for compliance in various areas for example- road worthiness, overweight, correctly licensed etc. Forty Four vehicles were stopped during the operation and 34 vehicles passed the inspection and returned negative breath tests. In addition the checks found a number of defects including mobile phone offences (3), seatbelt offences (10) and two vehicles were overweight and one vehicle had an insecure load. The checks also identified some vehicle defects including no sidelight bulb, no front number plate, one tyre below the legal limit and an issue with an exhaust.
- 4.39 Operation Coachman was conducted in February 2022, in partnership with Thames Valley Police, School Transport, Road Safety WBC and other partners. The check was organised to quality assure the safety measures implemented by transport companies employed to convey students to school and to check the roadworthiness of the vehicles used. Thirty four vehicles were checked during this operation and there were no issues arising from police checks of drivers or the chaperones. One vehicle was found to have no MOT and two other vehicles received delayed prohibition notices for a faulty seatbelt and a faulty rear washer. A fourth vehicle was subjected to an immediate prohibition due to corrosion and seatbelt condition.
- 4.40 There were four under age sales operations undertaken during the year in which 33 premises were visited and none of the premises failed the purchases.
- 4.41 The Licensing Service also meets and works closely with partner authority home to school transport teams to ensure closer working relationships to protect the safety of vulnerable children.
- 4.42 PPP Licensing data shows that it dealt with 229 requests for service in 2021/22 (compared with 265 in 2020/21, 168 in 2019/20, 199 in 2018/19 and 210 in 2017/18). These figures include some general telephone enquiries, due to the adaptions which have had to be made due to the remote home working of many staff due to COVID-19. The majority as shown have been logged for further response.
- 4.43 The work of the Licensing Service has always been a feature of the overall PPP customer satisfaction performance. Where issues have arisen there is a procedure for following these up. Service improvements are managed through the Quality Management System and recorded within our Improvement Action Logs.

## Looking Ahead

- 4.44 Recruitment and retention of staff will be a priority for the Service during the first half of 2022/23. It is anticipated that the implementation of the new IT system in the summer will start to deliver efficiencies for the service and provide a better experience for our businesses.
- 4.45 There are also a number of legislative changes which will have an impact on both the taxi trade and hospitality sector. Some examples are set out below.
- 4.46 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 (the act) received Royal Assent on 31 March 2022 (aka Sian's Law). The Act places a legal duty on licensing authorities to record certain information in a national database including decisions to refuse, refuse to renew, suspend and revoke licences of taxi and private hire drivers. This will be a major safeguard in stopping those, who for an adverse determination for safeguarding reasons, simply licensing in another local authority area.
- 4.47 In addition as of 04th April 2022, when renewing a taxi, private hire or scrap metal licence in England and Wales a 'tax check' must be completed first and the PPP are obligated as part of the licensing process to ensure it has been done. Information has been circulated to the trade, press releases and social media campaign information issued and information on the website has been updated to highlight this change.
- 4.48 On 28 June, the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 ("The 2022 Act") will take effect in England, Scotland, and Wales. It will amend the Equality Act 2010 to introduce new, and amend existing, duties for local authorities and taxi and private hire vehicle (PHV) drivers and operators. The 2022 Act aims to ensure that disabled people can use taxi and PHV services with confidence that they will not be discriminated against. It will be a requirement for all authorities to publish a list of licenced taxis and PHVs they designate as being wheelchair accessible. It should be noted that the PPP already does this but we will need to ensure that the content is 'accessible to disabled users and is easily discoverable.' We will also ensure that the trade is made aware of these changes and the procedures and criteria they will need to follow to apply for an exemption.
- 4.49 The enactment of this legislation will require taxi and PHV drivers to:
- Accept the carriage of any disabled person, provide them with reasonable mobility assistance, and carry their mobility aids, all without charging any more than they would for a non-disabled passenger.
  - Provide any disabled passenger who requests it with assistance to identify the vehicle, at no extra charge.
- 4.50 In addition PHV operators will be required to accept bookings for or on behalf of any disabled person, if they have a suitable vehicle available.
- 4.51 The Business and Planning Act 2020 introduced during the Covid pandemic modified provisions in the Licensing Act 2003 to provide automatic extensions to premises licences that only permitted sales of alcohol for consumption on the premises ("on-sales") to allow sales of alcohol for consumption off the premises ("off-sales"). This legislation was extended under the Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021 until the 30 September 2022 when it will lapse. This could impact on applications to vary existing premises licences later in

the year where businesses might wish to continue to make use of this operating model.

- 4.52 Clause 184 of the Levelling Up and Regeneration Bill which is currently making its way through parliamentary processes is seeking to introduce provisions for making pavement licensing permanent. It also seeks to introduce two new fee caps under which the local authority can charge a fee for a pavement licence, £350 in the case of a renewal application and £500 in the case of any other application. This replaces the previous fee cap of £100.
- 4.53 The Environment Bill enacted in November 2021 has implications for the hospitality sector which will require clearer labelling of products, reducing plastic use and requirements around separating food waste.

## 5 Other options considered

None the report is to note only.

## 6 Conclusion

The Licensing Committee has continued to meet throughout 2021/22 and held Sub-Committee hearings, albeit it in remote and latterly hybrid formats. They have met their requirements and discharged their duties appropriately and in accordance with the Constitution. Officers have reported issues to the Committee and worked to implement decisions alongside maintaining a high standard of service to the licensed trade. This report sets out the ways in which these objectives have been met.

## 7 Appendices

7.1 Appendix A – Number of Licences in the West Berkshire Area

7.2 Appendix B – Number of Applications Received

7.3 Appendix C – Licensing Service KPIs

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### Background Papers:

None.

### Subject to Call-In:

Yes:  No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

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Item is Urgent Key Decision

Report is to note only

**Wards affected:** All

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