

## **LICENSING AND SAFETY COMMITTEE**

**27 AUGUST 2019**

### **LICENSING COMPLIANCE AND ENFORCEMENT ANNUAL REPORT**

Report from: Perry Holmes - Chief Legal Officer

Author: Mandy Francis - Licensing Manager, Gravesham and  
Medway Shared Licensing Service  
Mark Lees – Regulatory Services Manager,  
Gravesham Borough Council, Gravesham and  
Medway Shared Licensing Service

#### **Summary**

The purpose of this report is to enable the Licensing Authority to present their annual report in respect of licensing compliance and enforcement.

#### **1. Budget and Policy Framework**

- 1.1 The Council's Statement of Licensing Policy in respect of its functions under the Licensing Act 2003 refers to the licensing objective of the prevention of crime and disorder and associated compliance and enforcement.
- 1.2 The Council also has in place policies in respect of Gambling, Taxi Licensing, Scrap Metal and Sexual Entertainment Venues.

#### **2. Background**

- 2.1 The Council's Licensing Team works closely in partnership with other responsible authorities, agencies and internal partners to deliver the statutory requirements of the various pieces of legislation in respect of licensing matters.
- 2.2 The Council has established protocols on licensing compliance and enforcement issues. These provide for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated. All licence holders are expected to co-operate in order to promote the licensing objectives. Evidence of non-compliance may be considered sufficient grounds for formal action where efforts to resolve problems informally have failed or whether a matter is so severe that informal action would be inappropriate.

- 2.3 The licensing officers work well with other partners, including the Police, Gambling Commission and Trading Standards.
- 2.4 The Compliance and Enforcement Annual Report for April 2018 to March 2019 is attached at Appendix A for Members' consideration.
- 2.5 Currently we have a Service Level Agreement with the Council's Environmental Enforcement Team, whereby they are responsible for all compliance and enforcement work in respect of scrap metal dealers/collectors and street trading.
- 2.6 An enforcement report from the Environmental Services Manager is attached at Appendix B.

### **3. Risk Management**

- 3.1 It is important that the Licensing and Safety Committee is kept fully informed of relevant work being carried out in respect of all licensing matters.

### **4. Financial and legal implications**

- 4.1 There are no direct financial implications arising from this report.
- 4.2 The Council has produced effective policies in respect of licensing matters.

### **5. Recommendation**

- 5.1 That the Committee notes and comments on the Licensing Compliance and Enforcement annual report and the Environmental Enforcement annual report, at Appendices A and B respectively, covering the period April 2018 to March 2019.

### **Lead officer contact**

Mandy Francis, Licensing Manager for the Gravesham and Medway Shared Licensing Service

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### **Background papers**

None

### **Appendices**

Appendix A – Licensing Compliance & Enforcement Annual Report, April 2018 to March 2019

Appendix B – Environmental Services Annual Enforcement Report

APPENDIX A



**Licensing Compliance and Enforcement  
Annual Report**

**April 2018 to March 2019**

## Application for licence/consent

The Licensing Team deals with the application process and determination is made in line with the required legislation. This is followed by checks, visits and inspections to ensure that there is compliance with the relevant legislation and conditions relating to the licences, permits and notifications that are granted by the Council.

The areas we are responsible for:-

- **Licensing** – People responsible for premises that hold any of the following activities are required to apply for the relevant licences under the Licensing Act 2003 - the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to a member of the club, the provision of regulated entertainment (plays, films, live music, recorded music, dancing, boxing and wrestling, indoor sporting events), the provision of late night refreshment (hot food or drink between 11pm and 5am). Applications are received for a Premises Licence, Club Premises Certificate or Temporary Event Notice and Personal Licence.
- **Taxis** – The Council has a responsibility to licence vehicles, drivers and operators that provide a transport service (for up to eight passengers) for hire and reward. The relevant licences are: Hackney Carriage Vehicle, Hackney Carriage Driver, Private Hire Vehicle, Private Hire Driver and Operators.
- **Gambling** - The Gambling Commission is responsible for granting operating and personal licences to commercial gambling operators and people working in the industry. It will also regulate certain lottery managers and promoters.

Medway Council as a licensing authority issues premises licences (this includes casinos, bingo halls, adult gaming centres, family entertainment centres, race tracks and betting shops), permits (licensed premises gaming machine permits, club permits, prize gaming permits, notification of two or less machines); and lotteries (small society lotteries, incidental non-commercial lotteries, private lotteries and customer lotteries).

- **Sexual Entertainment Venues** - Premises licensed as a Sexual Entertainment Venue include Sex Shops, Sex Cinemas and Sex Entertainment Venues.
- **Charity Collections** - A permit is required by anyone collecting money or selling articles for charitable purposes in a public place and it is an offence to hold a collection without one. There are two types of permits – for House to House Collections and Street Collection. House to House collections typically involve door to door collections of money, clothes or bric-a-brac etc. from homes. Street Collections involve the collection of money for the benefit of charitable purposes in a street or public place.

- **Street Trading** - Anyone selling or offering for sale any item in a street within Medway needs a street trading consent. A Street for these purposes includes any road, footway, beach or other area to which the public has access without payment, including highway service areas. Medway Council has designated two types of street - Prohibited Street, where no street trading is allowed, and Consent Street, where no street trading is allowed without consent.
- **Scrap Metal Dealers** – Site Licences and Collector Licences are required by people/business who wish to trade in scrap metal.

## **Compliance and Enforcement Statistics**

### **Licensing Act 2003**

Visits are undertaken to licensed premises, either by way of a spot check, responding to a complaint received from a member of the public or as part of a joint operation with other responsible authorities and/or organisations, looking at specific types of premises, e.g. with the immigration team and/or food safety team to take-aways and restaurants.

Officers also work closely with the finance team in order to have the right information to hand when carrying out checks on payments of the premises licence annual fee. Visits are undertaken to explain to the licence holder that if they fails to pay the annual fee their licence must be suspended until such time as the payment has been made.

### **Taxis**

Officers inspect Medway Hackney Carriage and Private Hire Vehicles by visiting ranks, schools, supermarkets and licensed premises during the day and at night. The most common issues we find are damage to the vehicle – failing to notify us of an accident, not displaying door signs, not displaying the plates correctly and dirty vehicles.

Officers have built up good partnership working with the other local authorities on our boundaries, especially Tonbridge and Malling and have carried out joint inspections in Medway. Any drivers licensed by Tonbridge and Malling working illegally in Medway (e.g. plying their trade as a hackney, picking up when hailed on the street) are reported to Tonbridge and Malling who take the necessary actions in line with their policies and procedures. Where we are able to provide full details of where the car has been trading illegally, make, model, plate number, time and place, drivers have been taken before their committee and either the licence suspended or revoked.

### **Gambling**

The most common gambling offences are not having the correct permits for gaming machines, holding illegal lotteries mainly because of having rollovers, no controls on games such as bingo, poker and card games. These premises are highly regulated

by the Gambling Commission, who are always on hand to provide advice or assist with joint visits to premises in Medway.

### **Sex Establishments**

We only have two sex establishments in Medway; a sex shop in Chatham and a sexual entertainment venue (SEV) in Rochester. No complaints have been received in respect of either of these establishments and both licences are renewed on an annual basis.

### **Charity Collectors**

Officers have been informed of instances in the past where fraudsters have used the name, logo and charity registration number of a genuine charity to appeal for donations and keep the profits. We require a letter from the relevant charity confirming the applicant is collecting on their behalf and with their authority before we will accept any application.

To ensure that donations reach those most in need, we have compiled some tips to help members of the public determine if they are bogus or not. If a collection is for a registered charity, legally this must be stated on any document advertising the collection on behalf of the charity. Genuine leaflets will usually provide a charity registration number. Most door to door collections will leave their bags at least two days before they collect any donations, allowing time to check the Charity Commission's online register of charities.

### **Street Trading and Scrap Metal**

The compliance and enforcement of these areas are covered by the Environmental Enforcement team on licensing's behalf. This currently benefits our customers as officers are out and about in Medway all day every day and able to carry out spot checks on a regular basis and respond to customer complaints more quickly.

The Environmental Services Annual Enforcement report is at Appendix B.

### **Conclusion**

A breakdown of the percentage of time spent on all areas of licensing in respect of Compliance, Complaints and Enforcement is as follows: -

	2018/19	2017/18	2016/17
Compliance	67%	73%	71%
Complaints	8%	9%	10%
Enforcement	19%	18%	19%

A breakdown of the monthly figures for the above are on the following pages of this report.

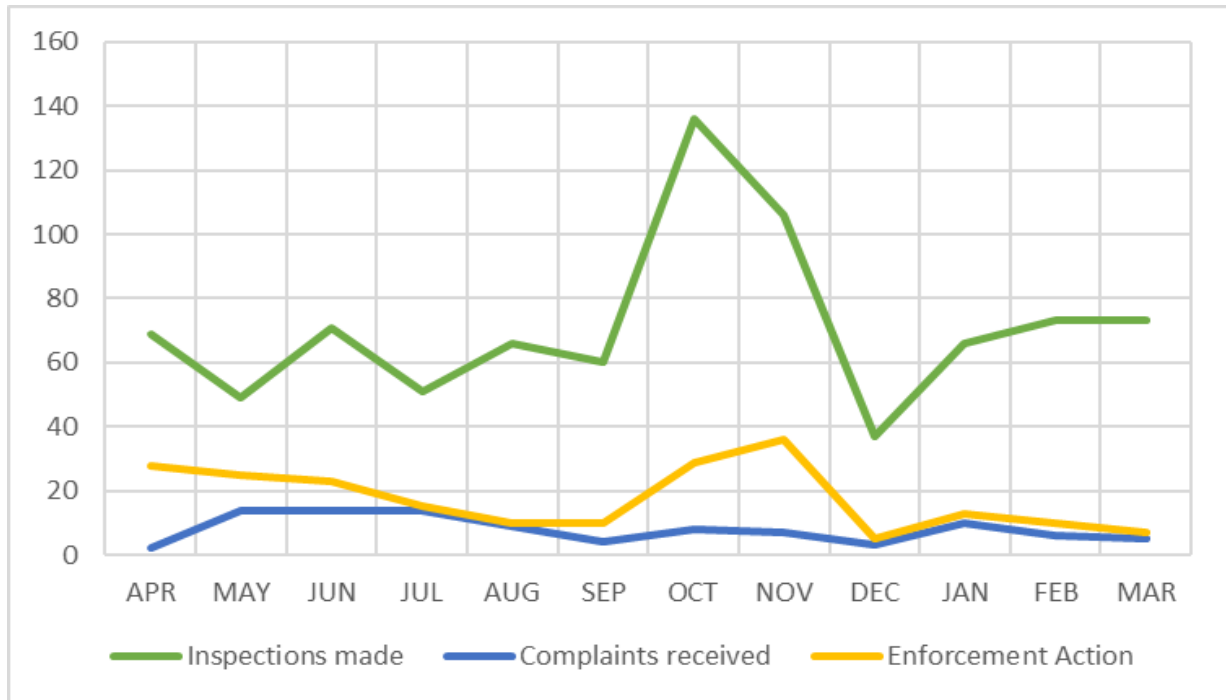
Every year is challenging for the licensing team as a whole due to the volume of applications, ongoing need to adapt to change, and need for meaningful ongoing compliance and enforcement work.

Due to staff losses (retirement), the Christmas period, and additional workload associated with setting up the shared service, as fully expected, the number of proactive inspections/compliance visits dropped in the latter part of 2018/19.





## Licensing Enforcement for Apr 17 to Mar 18



APR    MAY    JUN    JUL    AUG    SEP    OCT    NOV    DEC    JAN    FEB    MAR

### Compliance

<b>Taxi Vehicle Inspections</b>	16	12	8	13	13	6	29	24	11	10	2	8	<b>152</b>
<b>Taxi Speck Checks</b>	7	11	18	17	15	14	25	22	12	26	15	22	<b>204</b>
<b>Taxi Operator Inspections</b>	0	0	0	1	0	0	0	0	0	0	0	0	<b>1</b>
<b>Licensing Inspections</b>	33	22	27	8	20	20	30	48	10	14	34	7	<b>273</b>
<b>TENs Inspections</b>	0	0	0	0	0	0	0	0	0	0	0	3	<b>3</b>
<b>SEV Inspections</b>	0	0	0	0	0	0	0	0	0	0	0	2	<b>2</b>
<b>Gambling Inspections</b>	7	2	8	6	2	7	7	5	0	5	12	3	<b>64</b>
<b>Assorted Notice checks</b>	6	2	10	6	16	13	45	7	4	11	10	28	<b>158</b>

### Complaints

<b>Taxi complaints</b>	1	6	8	10	5	1	5	5	0	6	6	4	<b>57</b>
<b>Out of town complaints</b>	1	1	0	0	0	0	1	0	1	2	0	0	<b>6</b>
<b>Licensing complaints</b>	0	6	6	4	4	3	2	2	1	1	0	1	<b>30</b>
<b>SEV complaints</b>	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Gambling complaints</b>	0	1	0	0	0	0	0	0	1	1	0	0	<b>3</b>

### Enforcement

<b>Taxi related</b>	15	19	17	15	6	9	19	27	5	10	2	7	<b>151</b>
<b>Taxi simple cautions</b>	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Licensing related</b>	12	6	5	0	4	1	10	9	0	3	7	0	<b>57</b>
<b>Licensing Cautions</b>	0	0	1	0	0	0	0	0	0	0	1	0	<b>2</b>
<b>SEV related</b>	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Gambling related</b>	1	0	0	0	0	0	0	0	0	0	0	0	<b>1</b>
<b>Prosecutions</b>	0	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>



## Environmental Services Annual Enforcement Report

Report from: Richard Hicks, Director, Regeneration, Culture, Environment & Transformation & Deputy Chief Executive

Author: Mark Lawson, Environmental Services Manager

### Summary

This report details the action taken by the Environmental Enforcement Team (EET) with regard to licensing issues in the year 2018/19.

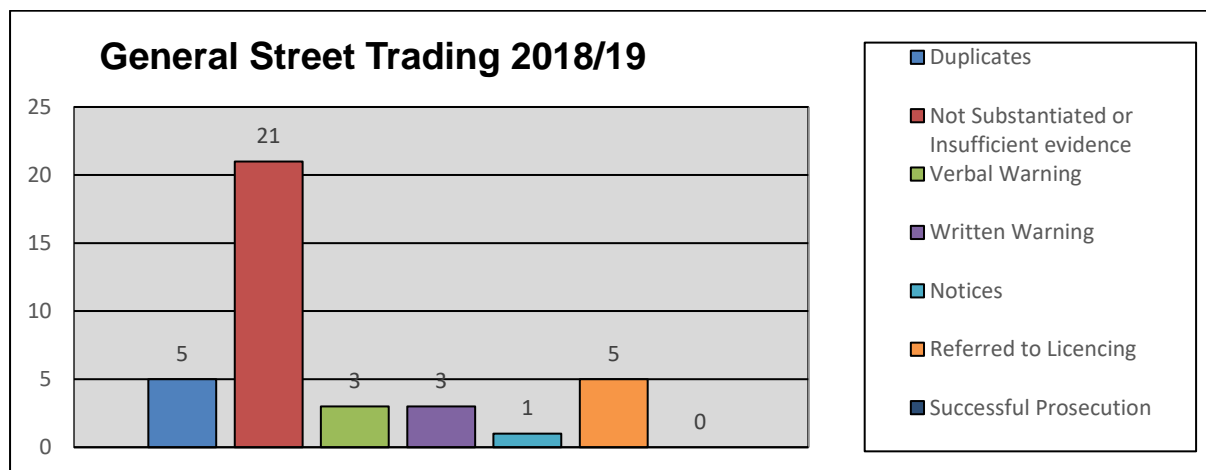
### Breakdown of enquiries received

Between the months of April 2018 and March 2019, the team received a total of 56 public enquiries relating to licensing issues.

These are broken down into two areas;

- i. General Street Trading
- ii. Scrap Metal Dealers

### Responses and Outcomes



The team received a total of 38 public enquiries relating to general street trading.

Of these, 5 were duplicate jobs, representing 13% of the total. These are cases where the team has received more than one enquiry about the same issue.

A further 21 cases were closed as unsubstantiated due to insufficient evidence. This figure represents 55% of the total.

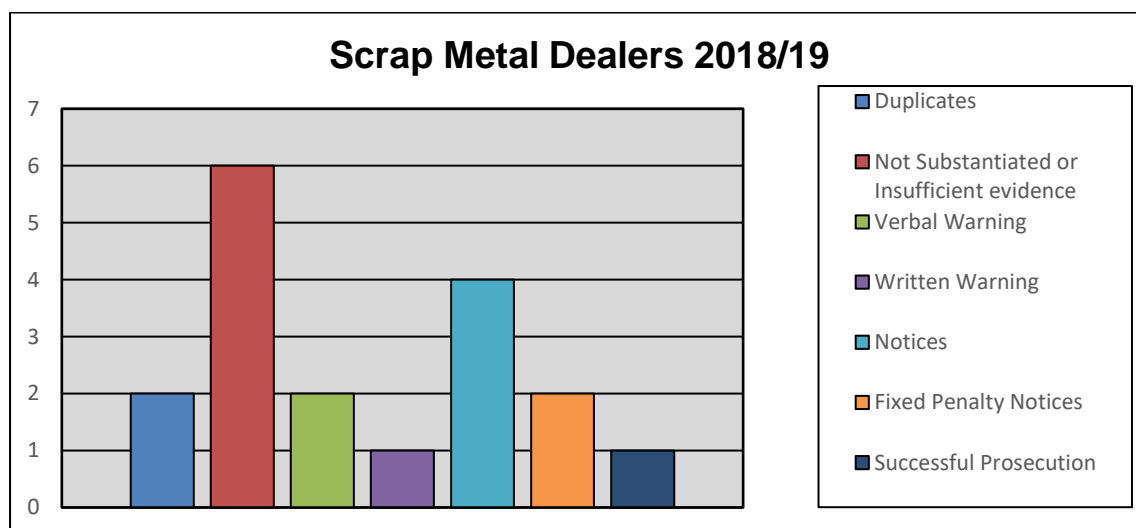
5 cases were referred to Licensing. In these cases, the street traders are in possession of a consent to trade and are trading on a consent street. Therefore, no offences are being committed. However, their actions are causing nuisance to local residents and so the cases are referred to licensing for their consent to be reviewed. This figure represents 13% of the total.

This left a total of 6 cases requiring enforcement action.

3 cases were resolved by verbal warning and a further 2 by written warning, meaning that the team managed to secure compliance from offenders in 83% of those cases requiring enforcement without the need to serve notice.

1 case was resolved by way of notice.

No prosecutions were necessary.



The team received 18 public enquiries relating to scrap metal dealers.

Of these, 2 were duplicate jobs, representing 11% of the total.

A further 6 cases were closed as unsubstantiated due to insufficient evidence. This figure represents 33% of the total.

This left 10 cases where enforcement action was required.

Compliance was secured in 2 cases by verbal warning and in 1 case by written warning (30%).

4 cases were resolved following service of notice, and 2 cases were resolved by way of fixed penalty notice (60%).

It was necessary to prosecute in 1 case.

The offender, a registered scrap metal collector, was taking metal containing items to his residential address in order to break and sort them. This had the effect of turning his rear garden into a scrap yard and caused significant disturbance to his neighbours.

He was served with a notice instructing him to desist. When the notice was not complied with, he was served with a fixed penalty notice.

Having failed to pay the fixed penalty, he was summonsed to appear before Medway Magistrates' Court where he was convicted. Fines and costs totaled £840.00.

## Man fined £400 for hoarding scrap

A man has been fined £400 after he hoarded scrap metal.

Medway Council visited Marcel Bucuresteanu, 52, of Canterbury Street, Gillingham, after a resident living in the same road complained.

An officer from the council's Environmental Enforcement Team visited the property and issued a Community Protection

Warning to all of the adult occupants, telling them to stop collecting, storing and dismantling scrap metals and to stop making loud noise, in January 2018.

A month later the officer revisited the property but there were still large amounts of scrap metal there.

The complaints continued until April.

Bucuresteanu was given a fixed penalty notice.

However, he failed to pay and was summonsed to court.

On Thursday, he admitted failing to comply with a community protection notice at Medway Magistrates' Court.

He was fined £400 and ordered to pay a £40 victim surcharge and £400 costs, totalling £840.