

LICENSING LEGISLATIVE UPDATE

Relevant Portfolio Holder	Councillor P Thomas
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Bromsgrove District Council is responsible for delivering a number of licensing functions regulating a broad range of businesses and activities undertaken in the Council's administrative area.

This report provides an update for Members of the Council's Licensing Committee on legislation that has been made or that is proposed, which impacts on the Council's licensing responsibilities.

2. RECOMMENDATIONS

That the Licensing Committee note the contents of the report.

3. KEY ISSUES

Financial Implications

- 3.1 There are no direct financial implications arising from the report. Any new licensing schemes introduced should enable local authorities to charge fees to enable them to recover their costs.

Legal Implications

- 3.2 The Council has statutory duties to carry out certain licensing functions that are the responsibility of local authorities. In carrying out these functions, the Council is obliged to comply with relevant legal requirements and to implement any changes to these requirements that are made from time to time.

Service / Operational Implications

- 3.3 Bromsgrove District Council is responsible for delivering a number of licensing functions regulating a broad range of businesses and activities undertaken in the Council's administrative area.
- 3.4 The Council's Licensing functions are carried out on its behalf by Worcestershire Regulatory Services under the existing shared service arrangements in place between the district Councils in Worcestershire.
- 3.5 This report has been prepared in order to highlight a number of changes to legislation that have been made or are proposed, and which impact on the delivery of the Council's Licensing functions.

Introduction of Tax Checks for Certain Licences

- 3.6 On 4th April 2022, provisions contained in the Finance Act 2021 came into force to introduce new requirements for those applying to local authorities for certain licences. These are:
- Hackney carriage and private hire driver licences
 - Private hire operator licences
 - Scrap metal site licences
 - Scrap metal collector licences
- 3.7 Applicants will be required to complete a tax check if they are:
- renewing a licence
 - applying for the same type of licence they previously held, that ceased to be valid less than a year ago
 - applying for the same type of licence they already hold with another licensing authority
- 3.8 A tax check confirms that the applicant is registered for tax, if necessary. It will ask questions about how they pay any tax that may be due on income they earn from their licensed trade.
- 3.9 After they complete their tax check the applicant is given a 9-character code. This is their tax check code. The applicant must give this code to the licensing authority with their licence application.
- 3.10 The licensing authority then use this code to confirm that a tax check has indeed been completed by the applicant using an online system that has been put in place by HMRC.

- 3.11 For those applicants who are not required to do a tax check (for example someone applying for a licence for the first time) there is a requirement for them to declare that they are aware of the HMRC guidance about their tax obligations.
- 3.12 If an applicant does not complete their tax check or (where applicable) make the relevant declaration, the Council is unable to grant them a licence.
- 3.13 The new tax checking requirements were implemented in April 2022 across Worcestershire and in the vast majority of cases they are not presenting any particular difficulty.

Taxis & Private Hire Vehicles (Safeguarding & Road Safety) Act 2022

- 3.14 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 received Royal Assent on 31st March 2022.
- 3.15 There are two main aspect of the legislation that impact on the Council taxi and private hire licensing functions.
- 3.16 Firstly, since 31st May 2022, if any licensing authority in England has information about a taxi or private hire driver licensed by another authority that is relevant to safeguarding or road safety concerns in its area, it must share that information with the authority that issued that driver's licence.
- 3.17 Any licensing authority provided with such information by another authority must consider whether to suspend or revoke the driver's licence and inform the authority that shared the information of its decision.
- 3.18 The second aspect of the legislation will, once commenced, require licensing authorities in England to input, into a central database, instances where the authority has refused, suspended, chosen not to renew or revoked a taxi or private hire driver's licence based wholly or in part on information relating to the driver concerning safeguarding or road safety.
- 3.19 Before a licensing authority in England decides whether to grant or renew a driver licence, it will be required to search the database for any entry relating to the applicant.
- 3.20 If there is a relevant entry, the authority must contact the recording authority to request the relevant information. The decision-making licensing authority must then have regard to the information provided when making their decision.

- 3.21 The Act gives the Secretary of State for Transport the power to provide or designate the database. The requirement that licensing authorities use the database will commence following regulations made by the Secretary of State for Transport.
- 3.22 Statutory guidance to local authorities on the first aspect of the legislation has been published online and further guidance on the second aspect will also be published in due course when those provisions are brought into force.

Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

- 3.23 The Act, originally introduced as a Private Members Bill, requires all local authorities to maintain and publish a list of all the wheelchair-accessible taxis and private hire vehicles in their area.
- 3.24 It also imposes new duties on drivers of vehicles that are not wheelchair-accessible to carry a disabled person and their mobility aid and provide “reasonable assistance”, without charging extra, for example if a wheelchair-user wants to transfer to the passenger seat and store their wheelchair in the boot of the vehicle.
- 3.25 The Act extends to England and Wales and Scotland, and came into force on 28th June 2022. The key changes include:
- Drivers are obliged to carry and provide fair service to all passengers, regardless of impairment, at no extra cost.
 - The new Bill extends existing laws to cover all disabled passengers, and imposes a fine of up to £1,000 for drivers who fail in their obligation to provide a fair, accessible service.
 - Drivers must provide as much mobility assistance as is reasonably required, including carrying mobility aids.
 - This may involve helping a passenger transfer to the vehicle, folding wheelchairs, adjusting seats, or any other reasonable modification to ensure the trip is safe and comfortable.
 - A new duty requiring that drivers assist disabled passengers to identify and find the vehicle they have booked, without making any additional charge for doing so. This would be on the condition that the driver is made aware before the start of the journey that the passenger requires assistance to identify or find the vehicle. This would be particularly helpful for visually impaired passengers and those with learning disabilities or cognitive impairments.

- Local authorities must keep a register of licensed wheelchair-accessible taxi and private hire vehicles, and must make these accessible to the public.

The Future of Pavement Licensing

- 3.26 In July 2020, in response to the impacts of coronavirus restrictions on the hospitality industry, the Government enacted provisions in the Business and Planning Act 2020 in order to introduce a temporary regime which streamlined the process that relevant businesses needed to follow to obtain permission to place tables and chairs on the highway for use by their customers.
- 3.27 This temporary “pavement licensing” regime become the responsibility of District Councils in areas like Worcestershire where there are both County and District Councils.
- 3.28 The pavement licensing regime was originally intended to be in place until the end of September 2021, but the Government subsequently extended the legal provisions until the end of September 2022 to try and support the economic recovery of the hospitality sector.
- 3.29 When it was published in May 2022, the Government’s Levelling Up and Regeneration Bill contained clauses that seek to put in place a permanent pavement licensing regime based on the temporary regime implemented in July 2020.
- 3.30 As the Levelling Up and Regeneration Bill is likely to take a considerable amount of time to make its way through the Parliamentary process, the Government has once again laid a statutory instrument in Parliament to extend the temporary licensing regime provided for in the Business and Planning Act 2020 until the end of September 2023.

Potential Transfer of Taxi and Private Hire Licensing Functions to Upper-Tier Authorities

- 3.31 In the Government’s White Paper entitled “Levelling Up the United Kingdom” under the heading “Local Transport” the following paragraph has been included:

The UK Government will also explore transferring control of taxi and private hire vehicle licensing to both combined authorities and upper-tier authorities. Taxis and private hire vehicles are a key part of local transport systems, so this would allow LTAs to fully integrate these modes into their Local Transport Plans.

- 3.32 The Levelling Up and Regeneration Bill that is before Parliament at the moment, appears to provide for this by including provisions which would allow the Secretary of State to make regulations to transfer county and district Council functions to a new type of body corporate that the Bill is looking to create called a Combined County Authority (CCA)

Licensing Scheme for Non-surgical Cosmetic Procedures

- 3.33 The Government has announced its intention to introduce a new licensing scheme to regulate certain non-surgical cosmetic procedures such as the injection of Botox and dermal fillers.
- 3.34 The Government has said that the licensing scheme will introduce consistent standards that individuals carrying out non-surgical cosmetic procedures will have to meet, as well as hygiene and safety standards for premises. It will focus on those cosmetic procedures which, if improperly performed, have the potential to cause harm such as Botox and fillers.
- 3.35 The implementation of a scheme has been facilitated by the inclusion of provisions in the Health and Care Act 2022 which enable the Secretary of State to use secondary legislation to introduce a scheme to licence specified cosmetic procedures.
- 3.36 It is anticipated that any licensing scheme that is introduced will be overseen by local authorities and that in two-tier areas like Worcestershire, the function will rest with the relevant district Council.
- 3.37 The Government has committed to carry out consultation on the form of the licensing scheme, including on what cosmetic procedures will require licences to be in place.
- 3.38 It is the intention of officers to bring further reports to the Licensing Committee in due course to provide updates on the implementation of the various legislative measures described in this report.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

5.1 None

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