

Licensing Committee

Monday 23 March 2020 at 10.00 am

**To be held at at the Town Hall,
Pinstone Street, Sheffield, S1 2HH**

The Press and Public are Welcome to Attend

Membership

Councillors Andy Bainbridge (Chair), Karen McGowan (Chair), Dawn Dale, Roger Davison, Adam Hurst, Douglas Johnson, Ruth Mersereau, Joe Otten, Josie Paszek, Vickie Priestley, Bob Pullin, Mick Rooney, Cliff Woodcraft, Vacancy and Vacancy

PUBLIC ACCESS TO THE MEETING

The Licensing Committee carries out a statutory licensing role, including licensing for taxis and public entertainment.

A copy of the agenda and reports is available on the Council's website at www.sheffield.gov.uk. You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday.

You may not be allowed to see some reports because they contain confidential information. These items are usually marked * on the agenda.

Recording is allowed at Licensing Committee meetings under the direction of the Chair of the meeting. Please see the website or contact Democratic Services for details of the Council's protocol on audio/visual recording and photography at council meetings.

If you would like to attend the meeting please report to the First Point Reception desk where you will be directed to the meeting room.

If you require any further information please contact John Turner on 0114 273 4122 or email john.turner@sheffield.gov.uk

FACILITIES

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

**LICENSING COMMITTEE AGENDA
23 MARCH 2020**

Order of Business

- 1. Welcome and Housekeeping Arrangements**
- 2. Apologies for Absence**
- 3. Exclusion of Public and Press**
To identify items where resolutions may be moved to exclude the press and public
- 4. Declarations of Interest**
Members to declare any interests they have in the business to be considered at the meeting
- 5. Licensing Act 2003 - Spearmint Rhino - Quarterly CCTV Inspection Report**
Report of the Chief Licensing Officer
- 6. Gambling Act 2005 - Sheffield Joint Test Purchasing Strategy**
Report of the Chief Licensing Officer

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ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

If you are present at a meeting of the Council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and you have a **Disclosable Pecuniary Interest (DPI)** relating to any business that will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

You **must**:

- leave the room (in accordance with the Members' Code of Conduct)
- make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.
- declare it to the meeting and notify the Council's Monitoring Officer within 28 days, if the DPI is not already registered.

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. You have a pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period* in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

*The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests.

- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.

- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either -
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

If you attend a meeting at which any item of business is to be considered and you are aware that you have a **personal interest** in the matter which does not amount to a DPI, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent. You should leave the room if your continued presence is incompatible with the 7 Principles of Public Life (selflessness; integrity; objectivity; accountability; openness; honesty; and leadership).

You have a personal interest where –

- a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or
- it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously.

You should identify any potential interest you may have relating to business to be considered at the meeting. This will help you and anyone that you ask for advice to fully consider all the circumstances before deciding what action you should take.

In certain circumstances the Council may grant a **dispensation** to permit a Member to take part in the business of the Authority even if the member has a Disclosable Pecuniary Interest relating to that business.

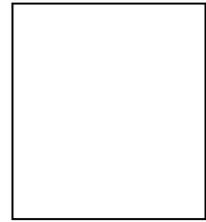
To obtain a dispensation, you must write to the Monitoring Officer at least 48 hours before the meeting in question, explaining why a dispensation is sought and desirable, and specifying the period of time for which it is sought. The Monitoring Officer may consult with the Independent Person or the Council's Audit and Standards Committee in relation to a request for dispensation.

Further advice can be obtained from Gillian Duckworth, Director of Legal and Governance on 0114 2734018 or email gillian.duckworth@sheffield.gov.uk.

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SHEFFIELD CITY COUNCIL Committee Report



Report of: Chief Licensing Officer, Head of Licensing

Date: 23rd March 2020

Subject: Quarterly CCTV Inspection Report

Author of Report: Claire Bower

Summary: To present to the Licensing Committee the findings of the Officer inspection of CCTV at a Sexual Entertainment Venue

Background Papers: Not applicable

Category of Report: OPEN

Inspection report

1.0 Purpose

1.1 To provide Licensing Committee with a report on the inspection of CCTV at Spearmint Rhino, 60 Brown Street, Sheffield, S1 2BS.

2.0 Background

2.1 The above premises was granted a sexual entertainment venue licence in September 2019, subject to the following condition:

- A random sample of the premises CCTV is to be inspected by Officers on a minimum of a monthly basis and an inspection report to be presented to the Licensing Committee quarterly.

2.2 CCTV footage from the following dates was requested from the Company Director of Sonfield Developments Ltd (the licence holder of Spearmint Rhino) and it was provided to Licensing Officers on 22nd January 2020:

November:

Saturday 16th to Sunday 17th until close of business (am) – All cameras
Thursday 14th to Friday 15th until close of business (am) - Booths 1,3,5,7
Friday 29th to Saturday 30th until close of business (am) - Booths 2,4,6,8

December:

Tuesday 3rd to Wednesday 4th until close of business (am) – Booths 1,2,3,4
Saturday 7th to Sunday 8th until close of business (am) – All cameras
Wednesday 11th to Thursday 12th until close of business (am) – Booths 3,4,5,6
Friday 20th to Saturday 21st until close of business (am) – All cameras
Saturday 21st to Sunday 22nd until close of business (am) – Booths 2,3,6,8.

2.3 Licensing Officers have viewed a random sample of the CCTV footage and compared it against the licence conditions and the Spearmint Rhino Code of Conduct for Dancers.

2.4 Footage of 35 dances has been viewed as well as spot checks throughout the footage.

2.5 Spearmint Rhino management carry out checks on dances as they are happening and produce their own log. This has been cross referenced as part of our checks to ensure their logging is accurate.

3.0 The Findings

3.4 Officers found the following issues:

○ **Dancers hugging customers at the end of the performance:**

- Standard SEV condition 2 under the Protection of those Engaged in Relevant Entertainment / Prevention of Crime and Disorder section states:

“During any performance of relevant entertainment there must be no physical contact between the performer and any member of the viewing public, except for the placing of money / tokens in an item of clothing worn by a performer or into the performer’s hand before or at the end of the performance and a customary kiss on the cheek of the patron by the performer at the conclusion of the performance. A brief handshake before or at the end of a performance is permitted.”

Page 6

The footage shows 3 occasions of dancers hugging customers at the end of a dance.

- **Issues relating to customer behaviour:**

- customers attempting to touch the dancers during performances; and
- customers not positioning hands correctly (hands should be by their sides).

Where these issues were observed, the footage shows them being addressed during the performance by either the dancer stopping the performance and providing verbal advice to the customer or by door staff intervention.

On a few occasions the performance has been stopped due to customers repeatedly not complying with instructions.

- **Issues relating to positioning of performance within the booths:**

- performances in the far side of the booth where viewing is more difficult.

- **Issues relating to distance between dancer and customer:**

- dancers brushing customers legs. This appears to be accidental due to the proximity of the dancer to the customer.

3.5 With regard to the logs being completed by Spearmint Rhino Management, Officers found that logs were not fully completed, times and camera detail was missing or insufficient detail regarding any issues.

4.0 Enforcement Action (if applicable)

4.1 Officers consider the findings to show minor issues and therefore, advice has been provided in writing to the Company Director of Sonfield Developments Ltd.

4.2 A premises visit will be scheduled following this meeting to directly discuss the issues identified with management working at the premises.

4.3 Officers do not consider the log being produced by Spearmint Rhino to be adequate, therefore an example of the viewing log used by Licensing Officers has been provided to ensure more detailed information is logged.

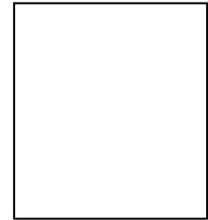
5.0 Options

5.1 This report is for information only.

5.2 The next report will be presented in May 2020.

Stephen Lonnia
Chief Licensing Officer
Head of Licensing Service
January 2020

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**SHEFFIELD CITY COUNCIL
Committee Report**

Report of: Chief Licensing Officer, Head of Licensing

Date: Monday 23rd March 2020 at 11am

Subject: Sheffield Joint Test Purchasing Strategy under the
Gambling Act 2005

Author of Report: Shimla Finch

Summary: To note the implementation of a new joint multi-agency test
purchase strategy in gambling premises.

Background Papers: Not applicable

Category of Report: OPEN

Sheffield Joint Test Purchase Strategy under the Gambling Act 2005

1.0 PURPOSE AND OBJECTIVES

- 1.1 The purpose of this report is to note the implementation of a new joint multi-agency test purchase strategy in gambling premises. The full strategy document is attached at Appendix 'A' of this report.
- 1.2 Our objectives are:
- to protect children and other vulnerable persons from being harmed or exploited by gambling (an objective under the Gambling Act 2005)
 - tackling issues regarding underage persons in licensed premises
 - to offer support and training to Licence Holders and staff that fail test purchases
 - to promote and improve partnerships with the licensed trade.

2.0 BACKGROUND

- 2.1 In 2018 the Gambling Commission worked in conjunction with Licensing Authorities across England to test the compliance of pubs with the requirement to prevent children from playing on 18+ machines. The [results published a failure rate of 89%](#) which was a cause of concern to the Gambling Commission and Local Authorities.
- 2.2. In response to these statistics that highlight that there is a risk of children and young persons gambling illegally in pubs, a multi-agency task group was formed which include representatives from the Gambling Commission, Sheffield Safeguarding Children's Board, South Yorkshire Police, Sheffield Trading Standards and the Licensing Authority to agree to run local test purchase operations. This is to ensure that the above objectives listed in paragraph 1.2 are met in a proactive manner.

3.0 THE LAW

- 3.1 Under section 46 of the Gambling Act 2005:

"A person commits an offence if he invites, causes or permits a child or young person to gamble"

- 3.2 Under section 47 of the Gambling Act 2005:

"A person commits an offence if he invites or permits a child or young person to enter premises"

- 3.3 Under the Act, a 'child' means an individual who is less than 16 years old, a 'young person' means an individual who is not a child but who is less than 18 years old.

- 3.4 To assist the trade, the Gambling Commission has published [Codes of Practice](#) which licence holders must adhere to; these codes set out good practice in relation to access to gambling by children and young people.

4.0 TEST PURCHASING

- 4.1 The aim of the Test Purchase Operation's is to address any issues that arise and to act as a training device to raise awareness across the industry in Sheffield; to work with trades and if necessary raise operational standards regarding the prevention of underage gambling. This is in line with the Gambling Commissions guidance.
- 4.2 Under this strategy test purchasing is carried out by South Yorkshire Police and Sheffield Trading Standards using South Yorkshire Police cadets and volunteers.
- 4.3 This multi-agency strategy will provide a clear framework of how premises that persistently fail test purchases will be dealt with. However each individual case will be dealt with on its own individual merits.
- 4.4 The strategy is to cover all gambling premises where there can be a prevention of underage gambling.
- 4.5 A letter has been sent out to all premises that have an authorisation under the Gambling Act 2005 that compliance assessments maybe carried out in their premises. This allows licence holders to review the effectiveness of any policies and procedures they may have. A copy of this letter is attached at Appendix 'B'.

5.0 PROPOSED GAMBLING TEST PURCHASE STRATEGY

- 5.1 On the first failure, we will advise the licence holder of this in writing and provide measures to assist in tackling underage gambling, examples of possible measures are provided on the strategy document. A safeguarding and [Gambling Awareness Session](#) will also be offered which is run by the Sheffield Safeguarding Children's Board.
- 5.2 If there is a second test purchase failure at the same premises, we would look at implementing a multi-agency action plan to address issues and place greater emphasis on the premises management taking positive action. We would also at this stage place a 'requirement' to attend the Safeguarding and Gambling awareness session.
- 5.3 If a third test purchase failure occurs within a 12 month period we would implement review proceedings before the Licensing Sub-Committee who could decide amongst other decisions to cancel the permit or impose conditions. Each case will be considered on its own individual merits and will be determined by the Licensing Committee.

6.0 FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications for the Council arising from this report.

7.0 RECOMMENDATIONS

- 7.1 That Members consider and note the strategy.

Steve Lonnia
Chief Licensing Officer, (Head of Licensing)
Licensing Service
Staniforth Road Depot
Sheffield, S9 3HD

APPENDIX 'A'

Sheffield Joint Gambling Test Purchase Strategy

OBJECTIVES

- To protect children and other vulnerable persons from being harmed or exploited by gambling
- Tackling issues regarding underage persons in licensed premises
- To offer support and training to Licence Holders and staff that fail test purchases
- To promote and improve partnerships with the licensed trade.

Multi Agency Task Group

Licensing Authority
Sheffield Children's Safeguarding Board
South Yorkshire Police
Trading Standards
Gambling Commission

Approach to Test Purchasing

Test purchasing is a means to measure the effectiveness of a licensee's efforts to control risks to the licensing objectives and to monitor the effectiveness of policies and procedures designed to prevent underage gambling.

Test purchasing will be carried out in accordance with the *Hampton Principles*, that regulatory outcomes can be achieved in a way that minimises burdens to businesses and reduces the risk of regulatory duplication.

Proportionate	Regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
Accountable	Regulators must be able to justify decisions, and be subject to public scrutiny;
Consistent	Rules and standards must be joined up and implemented fairly;
Transparent	Regulators should be open, and keep regulation simple and user friendly; and
Targeted	Regulation should be focused on the problem, and minimise side effects.

Any test purchase operation will be conducted in accordance with the *Better Regulation Delivery Office's (BRDO) Code of Practice on age Restricted Products*.

Section 64 of the Gambling Act 2005 (The Act) regulates the use of children in enforcement operations. It allows the Police, Gambling Commission, Local Authority Officers and authorised officers to use under 18s in enforcement operations.

Type of Authorisations to be covered under this Test Purchasing Strategy

All gambling authorisations issued under The Act where there can be a prevention of underage gambling.

Offences

Gambling Act 2005, Part 4, Protection of Children and Young Persons

- Section 46: A person commits an offence if he invites, causes or permits a child or young person to gamble.
- Section 47: A person commits an offence if he invites or permits a child or young person to enter premises.

Methodology

The test purchase operation consists of a young person attempting to enter a gambling premises and, if so able, attempting then to play a gaming machine for a short period of time before leaving the premises.

Each test purchase seeks to identify at what stage, if any, a challenge is made by the staff member at the gambling premises. The stages of challenge are as follows:

- Upon entry to the premises (betting, AGC and casino only – must be 18 years or over)
- Any time after crossing the premises threshold but before inserting monies into the gaming machine
- After having inserted stakes into the machine and whilst playing the machine
- Challenge between finishing gaming machine play and exiting the premises.
- No challenge (having departed premises).

Test Purchase Strategy Process

1st Failure

We will advise the licence holder of the failure in writing and provide measures to assist in tackling underage gambling. Example of measures to implement may include but are not limited to the following:

- **The Challenge 25 scheme:** All staff must be trained to operate this in relation to gambling, including managing confrontation, keeping a refusals log and knowledge of which types of identification are legitimate and acceptable.
- Staff training records must be maintained including the signature of trainees, details of the training delivered and dates, including refresher training.
- Signage to highlight the Challenge 25 scheme and to highlight the law in relation to children and gambling must be prominently displayed.
- **A safeguarding risk assessment** should be undertaken in relation to children and vulnerable adults and gambling and this should inform your operating policy and staff training. Assistance with the risk assessment process including a risk assessment tool is available from the Sheffield Children Safeguarding Partnership.
- Offer a **Safeguarding and Gambling Awareness Session**

2nd Failure

- Look at a multi-agency Action Plan to address issues
- Provide further training and advice
- Impose a requirement to attend the Safeguarding and Gambling awareness session
- Review any possible enforcement action

3rd Failure – within 12 months

Implement review proceedings before the Licensing Sub-Committee who could decide amongst other decisions to cancel the permit or impose conditions.

The Gambling Commission may consider taking formal regulatory action against the operator in addition to any action being taken by the Licensing Authority in relation to the premises licence.

Cancel Permits / Review Licences

Notification of up to two machines - Removal of entitlement by an order under s284.

The order can only be made if:

s.284 (2)

- (a) the application of the section is not reasonably consistent with pursuit of the licensing objectives,
- (b) gaming has taken place on the premises in purported reliance on the section but in breach of a condition of that section,
- (c) the premises are mainly used or to be used for gaming, or
- (d) an offence under this Act has been committed on the premises.

Before an order can be made, the Licensing Authority must give the applicant at least 21 days' notice of the intention of making the order. The applicant can then make any representations which the licensing authority must consider.

The authority must hold a hearing should the applicant request and comply with any procedural requirements.

If there is no appeal, the order will take effect 21 days after the notice of intention was given.

Licensed Premises Gaming Machines Permit – Cancel a permit

The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include:

- if the premises are used wholly or mainly by children or young persons or
- if an offence under the Act has been committed.

Before it cancels a permit the Licensing Authority must notify the holder, giving 21 days' notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.

Club machine permits / Club Gaming Permits – Cancel a permit

The Licensing Authority may cancel the permit if:

- the premises are used wholly by children and/or young persons
- an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.

Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.

Before cancelling a permit, the Licensing Authority must give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make. The authority must hold a hearing if the permit holder so requests and must comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The authority must notify the permit holder, the Gambling Commission and the Police that the permit has been cancelled and the reasons for the cancellation.

Premises licences – Review

In relation to particular premises, the Licensing Authority may review the licence if:

- it has reason to suspect that premises licence conditions are not being observed
- the premises is operating outside of the principles set out in the licensing authority's statement of policy
- there is evidence to suggest that compliance with the licensing objectives is at risk
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party

The Licensing Authority may impose additional conditions or revoke the licence.

Possible conditions to place on premises licences:

- Challenge 21 or Challenge 25 Policy
- Regular test purchasing to be undertaken to ensure the licensee monitors the effectiveness of their controls
- Use of magnetic locks to restrict access to premises
- Use of infra-red beam system to alert staff to the presence of customers in age-restricted areas
- Barriers to reduce the risk of children crossing from family entertainment centre premises into adult gaming centre premises
- Re-positioning category D gaming machines away from entrances to adult gaming centre premises, to reduce the attraction of children to these areas
- Induction and refresher training for staff
- Maintain a written log of all attempted access by persons under the age of 18 years of age
- Above log to be produced on request to an authorised officer of the Licensing Authority or Gambling Commission
- Each entry in the log to be kept for a minimum period of 18 months
- For a period of 12 months, the premises will undergo independent monthly test purchases (by a company or organisation approved by the Licensing authority) in relation to the Challenge 21 (or 25) policy
- Records shall be kept and maintained of the monthly test purchase operations and those records will be provided on request to an authorised officer of the Licensing Authority or the Gambling Commission
- Record of each monthly test purchase to be kept for a minimum period of 18 months

APPENDIX 'B'

Licensing Service
Sheffield City Council
Block C Staniforth Road Depot
Staniforth Road
Sheffield, S9 3HD
Tel: 0114 2734264
E-mail: licensing@sheffield.gov.uk



Date 10th March 2020

Name
Address Line 1
Address Line 2
Address Line 3
Address Line 4
Postcode

Dear Sir/Madam

Gambling Act 2005 - Compliance Assessments

I am writing to notify you of future compliance assessments that the Licensing Authority will be undertaking with partner agencies under the Gambling Act 2005 which may include your premises. These assessments may consist of enforcement checks, test purchasing, or both.

The main objectives of these assessments are to establish compliance with the three licensing objectives:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable persons from being harmed or exploited by gambling

The aim is to achieve this by ensuring that the licensed activities provided are being carried out in accordance with:

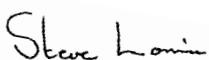
- The conditions attached to the Premises Licence
- The provisions of the Gambling Act 2005
- Relevant Codes of Practice (including gaming machines)
- Our Statement of Principles (policy) www.sheffield.gov.uk/gamblingpolicy

Further information and guidance regarding compliance can be found on the Gambling Commissions website: www.gamblingcommission.gov.uk.

Please ensure your premises have relevant policies and procedures in place to ensure compliance.

If you have any queries, questions or require advice, please do not hesitate to contact us.

Yours faithfully



Stephen Lonnie
**Chief Licensing Officer, Head of Licensing
Licensing Services
Sheffield City Council**