



London Borough of Hammersmith & Fulham

LICENSING COMMITTEE 10th JULY 2013

DATE
10th July 2013

ANNUAL LICENSING TEAM UPDATE

Wards

SYNOPSIS

ALL

This report is to inform the Licensing Committee about the work of the Licensing Team over the last 15 months. It provides a summary of the Licensing Team's performance for the financial year 2012/13, an update on service improvements, the revised Licensing Policy and Statement of Gambling Principles, the Alcohol Licensing Strategy 2012 – 2015, the Licensing Team Service Review and legislative changes.

It has been submitted to provide an overview of the work of the Licensing Authority and to allow the Licensing Committee to recommend any improvements to the current way of working.

CONTRIBUTORS

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RECOMMENDATION(S):

It is recommended that the Licensing Committee note the report, and provide any comments.

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NEXT STEPS

Recommendations will be considered for inclusion in the Licensing Team's work plan.

1. EXECUTIVE SUMMARY

- 1.1 This report provides a summary update of the work and performance of the licensing team for the period between 1st April 2012 and 31st March 2013.
- 1.2 Details have been included about the service improvement work undertaken in relation to the licence information displayed on the public register and the facility to make online applications.
- 1.3 The report provides an update on the revised Licensing Statement of Licensing Policy 2011, the Statement of Gambling Principles 2013, and the Licensing Strategy 2012-2015 and priorities for 2013/14.
- 1.4 An overview of the Bi-Borough Service Review for the Licensing teams in the London Borough of Hammersmith and Fulham (LBHF) and the Royal Borough of Kensington and Chelsea (RBKC), has been provided. This overview, highlights the current differences and presents the preferred option for integrating the two services.
- 1.5 Additional information has also been included on recent legislative changes.

2. INTRODUCTION

- 2.1 The licensing team covers a wide range of statutory licensing, registration and enforcement functions in the London Borough of Hammersmith & Fulham. These functions cover premises which sell and supply alcohol or provide regulated entertainment or late night refreshment; gambling premises, gaming machines and lotteries; sex establishments and sexual entertainment venues, film classification; marriage venues; non medical poisons; scrap metal dealers and motor salvage dealers.
- 2.2 The Commercial Services team within the environmental health service, are responsible for the licensing/registration of explosives/fireworks, massage and special treatment premises and therapists and for all animal health/welfare related licensing functions within the division, namely: Riding Establishments, Animal Boarding Establishments, Pet Shops and Dangerous Wild Animals.
- 2.3 The licensing team work in partnership with others to promote the licensing objectives, improve public health and ensure that the Licensing Authority is fulfilling its functions efficiently.

3. REPORT

3.1 Staffing

The Licensing Team consists of three Licensing Officers and the Trading Standards and Licensing Manager (0.5 FTE).

Currently the processing of licences is carried out by officers in one of the departmental Technical Support teams, who have had specific licensing training as part of the in-house arrangements to provide technical administrative support for the licensing team.

An additional officer has been working with the team, since April 2013, on a temporary basis to improve the invoicing and debt management process.

3.2 Team performance, work activity and key achievements in 2012/13

Licensing Act 2003

The Authority has a statutory duty to carry out its function with a view to promoting the four licensing objectives. These are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm

The work of the Licensing Team involves policy implementation, processing, inspection, enforcement, preparing reports for licensing sub-committee and service improvement.

At 1 April 2013, the authority had 933 licensed premises and had granted 2,233 authorisations for personal licence holders under the Licensing Act 2003.

Tables 1 - 4 below illustrate the Licensing Authority's performance during 2012/13. Data from 2011/12 has been included for comparison purposes.

Applications

Table 1: Licence/authorisation type	No. of applications received	
	2011/12	2012/13
New premises licences applications	61	48
New personal licences applications	164	176
Premises licence Full variation applications	32	29
Premises licence Minor variation applications	18	24
Designated premises supervisor (DPS) variations applications	196	177
Transfers of premises licences applications	68	55
Temporary event notices (TENs) / Late Temporary event notices	564	626

The data in Table 1 shows that there was a reduction in the number of DPS variations, new and transfer applications received.

There has been an overall increase in the number of new personal licences and the number of Temporary Event Notices has increased by 10%.

In 2012/13, the new Late Temporary Event Notices provision took effect, and of the 626 Temporary Event Notices, 160 of these were for Late Temporary Event Notices.

Sub Committee Hearings

In 2012/13 a total of 32 licensing sub committee sittings took place for new, variation and review applications, in comparison to 38 in 2011/12. A breakdown is provided below:

Where a representation is made following an application for a **new licence**, or a **full variation** of a premises licence a sub-committee is arranged.

Table 2: Total number of Licensing Sub Committee hearings	New Premises Licence	Variation of a Premises Licence	TOTAL
2011/12	10	4	14
2012/13	12	6*	18

** 1 of the variation of premises licence applications was withdrawn in 2012/13*

Table 2 illustrates the total number of sub committees for new and variation applications. A summary of the decisions made at sub committee can be seen in Table 3 below which illustrates an increase in refusals to new premises licences.

Table 3: Licensing Sub Committee outcomes	New Premises Licence				Variation of a Premises Licence			
	Granted/Agreed	Agreed in part	Refused	Total	Granted/Agreed	Agreed in part	Refused	Total
2011/12	0	7	3	10	1	1	2	4
2012/13	0	6	6	12	0	2	3	5

Similarly, where the service receives a valid representation for a **review** of a licence a licensing review committee hearing is arranged.

Table 4: Licensing Review Applications and outcomes	Total	No Action	Modify Conditions	Remove DPS	Exclude Licensable Activity	Licence Suspended	Licence Revoked
2011/12	24*	0	14	3	1	3	8
2012/13	15*	0	8	4	0	3	4

** the totals, reflect the number of actual reviews. Some reviews had more than one outcome*

Table 4 above provides details about the nature of the decisions taken by the Licensing Sub-Committee. It is clear from the comparison with 2011/12 that the number of reviews has decreased in 2012/13. This is partly due to the increased pressure on the Police and other responsible authorities during the Olympics. This is in addition to the fact that the review work in 2011/12 has been very effective in dealing with many of the problems associated with licensed premises.

The 2012/13 reviews were in the main called by the Metropolitan Police and supported by Environmental Protection and Trading Standards.

A full report on all applications that went to Sub Committee has been produced by Committee Services and can be seen at Appendix 1.

Appeals

Appeals against the decision of the Licensing Sub-Committee can be brought by a number of parties involved in the application and licensing process e.g. the applicant, responsible authorities and other persons who have objected, or a licence holder in the case of reviews. This area of work can take up a considerable amount of time and it is therefore important that the service monitors this area of work in light of the decisions made and the facts of each case.

A summary of the appeals is provided below, however a comprehensive report on the appeals and reviews has been produced by Legal Services and can be seen at Appendix 2.

- **Vintage, 563 Fulham Road, SW6** (July 2012) - Appeal against decision to revoke premises licence following serious disorder at the premises. The appeal was withdrawn with each party settling their own costs.
- **Euro's, 140 North End Road, W14** (July 2012) - Appeal against decision to revoke premises licence following breaches of licence, after hours sales, sales to underage and raids by HMRC. The appeal was dismissed and costs of £2,500 were awarded to the council.
- **North End Supermarket, 134-136 North End Road, W14** (July 2012) - Appeal against decision to revoke premises licence following breaches of conditions and raids by HMRC. The appeal was dismissed and costs of £12,478 were awarded to the council.
- **Maremoto, 562 Kings Road, SW6** (September 2012) - An appeal was lodged against the decision of the licensing committee to reduce the hours of operation and attach a number of conditions to promote the four licensing objectives. Following an agreement with the licence holder the appeal was subsequently withdrawn.
- **Roosters Grill, 206 Uxbridge Road, W12** (January 2013) – Appeal against decision to refuse a new premises licence in June 2012 for late night refreshments following valid representations from local residents, Environmental Protection and Planning. Due to an admin error within the Magistrates Court the Council were not informed of the appeal until 23rd October 2012. The appellant agreed to reduce their licensed hours to midnight, seven days a week. They also agreed to all of the conditions proposed by Environmental Protection. A consent order was signed off by the Magistrates Court on the 28th January 2013.
- **Eroma, 182 Uxbridge Road, W12** (May 2013) – Appeal against the decision of the Sub-Committee to reduce licensable hours following a review application submitted by the Metropolitan Police in October 2012. The Police evidence outlined a history of violence at the premises, including three stabbings and several violent assaults in 2012. These included a customer being stabbed at the café with a knife from the premises' own kitchen.

The applicant appealed this decision, and then withdrew their appeal the day before the hearing and as such the premises now operate in accordance with the committee's original decision. Both parties covered their own costs.

- **Nisa Local, 94 North End Road, W14** (May 2013) - Appeal against the decision to refuse an application for a 24/7 licence. The committee instead decided to grant from 11am-11pm. Various visits were made to the premises and on each occasion they were found to be in breach of their licence. After 1 day in court they decided to withdraw their appeal, and costs of £13,5000 were awarded to the council.

Inspection and Enforcement

Table 5: Inspection and Enforcement	Total Number	
	2011/12	2012/13
Number of visits to businesses	339	200
Number of complaints received / investigated	359	143
Number of commenced investigations	127	88
Number of prosecution cases sent to Legal Services	6	2
Number of S19 Closure Notices	16	7
Number of S161 Closure Orders	2	2
Number of simple cautions	3	2
Number of letters of warning	102	77

Table 5 illustrates the change in our approach to tackling and detecting non compliance in licensed premises by acting on intelligence.

Officers work closely with the Licensing Police Sergeant and have been involved in Operation Condor which was launched in February 2012 to tackle unlicensed activity around the capital, and to crack down on licensing issues affecting the borough.

During Operation Condor, officers are deployed from the police to carry out condition checks and support licensing officers during their inspections. During 2012/13, Operation Condor took place over 4 weekends and approximately 800 visits were carried out to a wide range of businesses which included, approximately 400 comprehensive inspections conducted at licensed premises including testing spirits for adulteration and counterfeits and 9 Inspections at Shisha premises

Officers observed 22 minor breaches of licence conditions, and breaches of the smoking ban. This resulted in a number of warning letters, including five warning letters in connection with the smoking ban, one prohibition notice, five Section 19 Closure Orders, 176 Controlled Drinking Zone (CDZ) seizures and one review application.

In total the licensing team conducted a total of 81 investigations, of which 77 resulted in warning letters, two premises received simple cautions and two investigations resulted in a formal prosecution.

A total of 6 prosecution's were concluded in 2012/13, the results of which are summarised below

- **La Reserve, 422-428 Fulham Road, SW6** (February 2012) Seven offences for breach of match day conditions on three separate occasions. The defendant pleaded guilty and in summing up the Judge stated, the defendant had fallen on these standards and the systems were not enforced when the conditions were imposed. The defendant was fined £250 for each offence making a total of £1,750 and ordered to pay the prosecution costs in the sum of £3,170.
- **Raving Buddha, 77 Goldhawk Road, W12** (July 2012) After hours regulated entertainment and various breaches of condition. Premises has been subject to numerous complaints from residents about noise when they should not have been open. Defendant was fined £1000 and was ordered to pay costs of £3734.
- **Morrison Public House, 648 King's Road, SW6** (October 2012) Three offences for the sale of alcohol and regulated entertainment outside of the permitted hours, and breach of mandatory conditions. The defendant pleaded guilty and was sentenced to a total of 60 hours community service to be served in 12 months as the District Judge felt a financial penalty would not be adequate. In addition the defendant was ordered to pay costs of £8000.

- **Mix Food and Wine Ltd, 299 North End Road, W14** (November 2012) This was a large case between Licensing and Trading Standards - After hours sale of alcohol, breaches of condition, sale of alcohol to a minor, sale of counterfeit wine and vodka, non duty paid tobacco, shisha, and vodka. One director received a fine of £400 and costs of £2915. The other director was found guilty of 24 offences and was sentenced to a 6 month community order including 3 months curfew on an electronic tag. He was also ordered to pay £10,210 in costs.
- **Supersave, 94-96 North End Road, W14** (November 2012) After hours sale of alcohol. Licence holder left the country and was made to come to court upon his return. The defendant pleaded guilty and was given a conditional discharge.
- **Putney News and Food, 1 Putney Bridge Approach, SW6** (December 2012) After hours sale of alcohol where the seller acknowledged he should not be selling but did it anyway by helping the test purchaser conceal alcohol in his rack sack. Also one condition breach. Fine of £800 and £1418 costs.

Gambling Act 2005

The Authority has a statutory duty to carry out functions with a view to promoting the licensing objectives. These are:

- 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; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The team issues premises licences for the following; bingo halls, betting shops, adult gaming centres, family entertainment centres, casino and horse racing/dog tracks.

Applications

Table 6 below details the types of gambling premises in the borough. The number of betting shops and those categorised as bingo halls have increased in 2012/13.

Table 6: Types of gambling premises	Total	
	2011/12	2012/13
Adult Gaming Centres	11	11
Betting Shops/ Track Betting	53	61
Bingo	1	4
Total	65	76

There was an increase in new betting shop applications, in 2012/13 which were all granted. However the Authority received two objections for one application: Ladbrokes Betting and Gaming Limited at 173 Uxbridge Road, following consultation.

The local resident's objection was on the grounds that there were too many betting shops in the area. The Police objection was on the grounds of crime and disorder, but this was withdrawn, when the applicant agreed to specific conditions related to crime and disorder. After hearing the evidence, the sub committee granted the licence, with the conditions suggested by the Police.

Unlike the Licensing Act 2003 the Gambling Act 2005 does not include any provision to take into account the cumulative impact of a number of licensed premises in one area. As such, when making their decision, the members treated this application on its own merits and were unable to consider the possible impact of a number of similar premises in one location.

The Gambling Act 2005 states that licensing authorities should aim to permit the use of a premises for gambling in so far as it thinks it is in accordance with the relevant codes of practice, guidance and reasonably consistent with the licensing objectives. As such the Council, and ultimately the members who made the decision for this application, must look to grant a licence unless there is clear evidence that to do so would be detrimental to one or more of the Gambling Act's objectives.

An interested party or a responsible authority may apply to the council to review a premises licence where the operator has failed to meet one or more of the licensing objectives. The decision will be based on whether the request for the review:

- raises an issue relevant to any relevant code of practice, any relevant guidance issued by the Gambling Commission, the licensing objectives for the Gambling Act, or the Statement of Gambling Principles;
- is frivolous or vexatious;
- will cause us to alter, revoke (withdraw) or suspend the licence; or
- raises grounds that are substantially the same as, or different from, grounds within an earlier request for a review or from representations made in relation to the application for the premises licence.

3.3 **Service Improvements**

Updated Public Access System

In 2012/13, improvements to the Council's public access system to allow users to view premises licence details and current licence applications online, took place. To ensure data was displayed correctly required significant changes to the system, as well as amending procedures and training officers.

The improvements have resulted in the following:

- Users can submit comments online relating to a current application;
- Users can also view details of granted licences, such as the activities, licence conditions, times granted, contact information for the licence holder and any important dates such as the date of hearing or closing date for consultation; and
- The current licensing database system was adapted to capture all the required data for integration.

The project was challenging for the team, however the public access system is now live and users can currently view 42 types of licence application online. In addition, processes and procedures have been updated to ensure that a more streamlined and efficient service is provided. The project is ongoing and will continue throughout 2013/14 to improve our online service and in-house processes.

On-line applications

Applicants can now apply and pay online for 9 types of licence applications. The data completed online is automatically populated into the licensing database, providing convenience and a more efficient way of working.

The project to implement online applications has been carried out in conjunction with the public access project, and the team have undertaken extensive testing to implement the new online application system.

This project is still ongoing and further improvements will be made to the applications throughout 2013/14.

3.4 Policy Update

Statement of Licensing Policy 2011 (revised July 2012)

The revised Statement of Licensing Policy was adopted by Full Council on the 4th July 2012 and took immediate effect. The Policy can be found on the licensing pages on the council website. A link to the policy can be found here: [Statement of Licensing Policy](#)

Statement of Gambling Principles 2013

The revised Statement of Gambling Principles was adopted by Full Council on the 24th October 2012 and took effect on the 31st January 2013. The Statement of Gambling Principles can be found on the licensing pages on the council website. A link to the Statement of Gambling Principles can be found here: [Statement of Gambling Principles](#)

3.5 Update on Alcohol Licensing Strategy 2012 – 2015

This alcohol licensing strategy sets out our proactive approach towards the prevention and reduction of alcohol related violent crime, disorder and antisocial behaviour and the negative impact on public health.

Working with our partners, we will always strive to adopt best practice around:

- Interventions to tackle the alcohol-fuelled disorder, using enforcement powers to tackle problem premises and problem individuals; and
- Managing the night time economy using partnership approaches.

The reduction of the level of alcohol related crime, disorder and anti-social behaviour and the negative impact on public health will continue to be tackled through the **four** strategic goals below:

- Building an Evidence Base;
- Providing Advice and Education;
- Regulation and enforcement; and
- Improving Public Health.

A link to the Alcohol Licensing Strategy can be found here: [Alcohol Licensing Strategy](#)

A summary of the work activities that have been carried out by Trading Standards, in support of the strategy is detailed below:

Table 7: Trading Standards underage sales work in 2012/13	Target	Actual number of attempts	Number of sales
Underage Sales Alcohol	40	76	14
Underage Sales Knives	10	10	0
Underage Sales Tobacco	20	24	0

In addition, 8 Fixed Penalty Notices (FPNs) were issued for underage sales of alcohol, and 25 spirit measures were checked for accuracy.

Priorities for the next 6 months (in addition to bi-borough, current investigations and enforcement)

- Ongoing work to improve local pubwatch schemes.
- Licensing officers to receive training about being more intelligence led.
- Residents associations to be contacted, so that they can be better informed about licensing issues.
- Pursue the accreditation of Trading Standards Officers, so that they can issue FPNs for the illegal sale of alcohol to underage children.
- Further develop relationships with public health contacts for alcohol.
- Monitor existing action plans.
- Make improvements to the intel crime report.
- Make slight improvements to the licensing information displayed on Public access.

3.6 Service Review

The Licensing teams in the London Borough of Hammersmith and Fulham and the Royal Borough of Kensington and Chelsea have compared respective services in depth, which has highlighted a number of opportunities:

- for reducing overall operational costs to residents in both boroughs;
- for building in resilience to cater for future demand;
- for making service improvements;
- for maximising licensing income;
- for operating best practice: and
- for pooling professional technical expertise and competence.

The current proposal is that the two licensing teams become an integrated service that is aligned as far as possible whilst having regard to any sovereign differences and specific licensing policies. This option allows for savings to be achieved without reducing front line services and offers improvement in terms of administration and legal process.

The full details of this service review have been reported to the Bi-Borough Programme Board, the Members Steering Group and most recently at the Transport, Environment and Residents Services Select Committee. An overview of the service review can be seen at Appendix 3.

4. LEGISLATION CHANGES

The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013.

This Order was laid in Parliament in April 2013. The order, if approved will deregulate the following:

- Plays and Dance for audiences not exceeding 500, between the hours of 08:00 and 23:00 (save for dancing covered by the Local Government (Miscellaneous Provisions) Act 1982).
- Indoor sports for audiences not exceeding 1000 between 08:00 and 23:00
- Combined fighting sports will continue to be regulated.

Further deregulation

It is anticipated that further legislative changes and consultation will take place over the next 12 months. Anticipated changes are summarised below:

- The Live Music licensing suspension will be extended from 200 to 500 persons in licensed premises and workplaces.
- A recorded music licensing suspension will be implemented for up to 500 persons in licensed premises.
- All Schedule 1 events run by local authorities on local authority premises will be de regulated (no audience threshold)
- All Schedule 1 events run by schools, nurseries and hospitals on their own premises will be deregulated (no audience threshold)
- Live and recorded music in community venues (church halls, village halls and community centres) will be suspended subject to a 500 person limit.
- Live music and recorded music to be deregulated in premises owned by local authorities, schools, nurseries and hospitals with the specific permission of that authority.
- Live Music, Performance of Dance, Performance of Plays and Indoor sports will be deregulated for circuses.
- A consultation in 2013/14 concerning the possible deregulation of films in community premises.

Should any changes be required, this will be delivered by primary legislation.

The Local Government (Miscellaneous Provisions) Act 1982

The Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") provides that the operators of sex establishments (a term including sex shops) in the areas of local authorities which have resolved that Schedule 3 of the Act is to apply to their area must have a licence. Schedule 3 of the Act empowers local authorities to determine and charge a reasonable fee for the licence. It was intended that the fee for licences for sex establishments should cover the cost of the licensing operation and its enforcement.

A recent licensing case in the Court of Appeal has reinforced the fact that since the implementation in the United Kingdom of Directive 2006/123/EC ("the Services Directive") on 28 December 2009, the Council can only charge for the costs of processing the application itself and the costs of monitoring compliance by licence-holders. The Council is not entitled to include the costs of enforcement against unlicensed operators.

The licensing team reviews all fees annually and will continue to do so in light of this recent judgement, which is still subject to appeal.

5. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES

- 5.1 There are approximately 933 licensed premises and LBHF has granted 2,233 authorisations for personal licence holders under Licensing Act 2003 in 2012/13.

Funding of £20,500 has been provided to fund an intern to undertake debt management responsibilities in Licensing. This will improve debt recovery across licensing activities.

6. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

- 6.1 There are no legal implications arising from the body of this report

7. CONCLUSION

- 7.1 Officers will continue to work in partnership with all statutory agencies to develop new procedures and enforcement policies to facilitate the effective operation of new and existing legislation and to promote the selling of alcohol responsibly.

List of Appendices

Appendix Number	Description
Appendix 1	Applications heard at Sub Committee in 2012/13
Appendix 2	Legal report on appeals in 2012/13
Appendix 3	Overview of the bi-borough licensing service review

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	None		