

Licensing Committee Minutes

Monday 15 February 2021

1. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Frances Stainton and Tom Stewart, Metropolitan Police.

2. **ROLL-CALL AND DECLARATIONS OF INTEREST**

Present: Councillors Natalia Perez (Chair), Fiona Smith (Vice-Chair), Colin Aherne, Wesley Harcourt, Rachel Leighton, David Morton, Zarar Qayyum, Matt Uberoi, Asif Siddique, Victoria Brocklebank-Fowler and Matt Thorley

There were no declarations of interest.

Officers: Valerie Simpson, Strategic Lead, Environment, Overton Adrian, Licensing Policy & Enforcement Manager, Lisa White, Licensing Administration & Enforcement Manager, Cristina Perez-Trillo, Licensing Enforcement Officer, Adesuwa Omoregie, Head of Law and Charles Francis, Committee Coordinator.

3. **MINUTES**

The minutes of the meeting held on 25 June 2019 were agreed as an accurate record.

4. **ANNUAL LICENSING COMMITTEE REPORT APRIL 2019 TO MARCH 2020**

Adrian Overton, Licensing Policy & Enforcement Manager, introduced the members of the Licensing Team to the Committee. He explained the presentation would cover a range of topics, including the Council's (Licensing) response to the pandemic, which was the primary reason the Annual Licensing Committee meeting had been delayed. Adrian explained that as a result of the pandemic, the Licensing Service had undergone significant changes, which included the way it operated. Members were encouraged to ask questions throughout the presentation.

Lisa White, Licensing Administration & Enforcement Manager, provided an overview of the work and performance of the Licensing Team between April 2019 and March 2020. The following key points were noted:

- Broader and more flexible roles within the team had been introduced, which had helped to multi-skill staff and support personal development / provide better team cover.
- The internal career progression within the Team.
- The new management structure, which enabled the Team to be more efficient and flexible.

Councillor Victoria Brocklebank-Fowler asked if the Licensing Service still comprised of North and South Teams or whether the Service had amalgamated into a borough wide approach. In response, Lisa White confirmed that the Service had amalgamated into a one borough approach.

An overview was provided on a variety of performance statistics for 2019/20. It was noted that overall, the service had processed a total of 1582 applications / notifications under the Licensing Act 2003, compared to 1298 in 2018/19, which was an increase of 22%. Twenty-five Committees were convened, and four reviews had been submitted by the Metropolitan Police.

In terms of gambling activities, it was noted that there had been a significant reduction in the number of betting shops from 42 to 26 in 2019/20 which represented a 38% decrease. The numbers of Adult Gaming Centres (3), sex establishments (2) and scrap metal site licences (5) all remained unchanged. Details were provided on the financial management of the team, including the finance project work and it was noted that as a result of enforcement activities, 279 suspension letters had been issued.

The Chair, Councillor Natalia Perez, noted that 36 premises licences had been suspended and asked for further clarification about the licence suspension process. In response, Lisa White confirmed that the Service worked with the premises, but if there was still non-payment (of licensing fees) a suspension notice would be issued, followed by formal suspension (pre covid only), if payment was not received by the agreed termination date. The Chair confirmed that the financial information which had been provided in the report was extremely useful and the committee requested that this was included in future Annual Licensing Committee reports.

Action – That the Annual Licensing Committee report include a Financial Management section in future reports.

Details were provided on the service improvement work which had been undertaken, including those procedures which had needed to be changed and adapted in response to the pandemic.

Councillor Natalia Perez noted that my account was no longer working? and asked for further information to be provided on how applications were processed and what had replaced the old system? In response, Lisa White confirmed that online application forms were being processed on Firmstep and forms were being designed by officers which was taking some time.

Councillor Asif Siddique asked about pre-application advice fees and what steps were being taken to improve this revenue stream. In response, Lisa White

explained that fees for small businesses would remain frozen but there were opportunities to look at increasing fees when large scale events were held in the borough or where larger premises were being used. However, any changes would be phased in after the worst of the pandemic had passed.

Appendix 5 – Covid-19 – Licensing Service Update

Adrian Overton, Licensing Policy & Enforcement Manager, explained that at the start of the pandemic all Licensing Sub-Committees were suspended. Meetings were then moved online several months later with great success and it was hoped these could continue in this way. In response, Adesuwa Omoregie, Head of Law confirmed that the need for online meetings was governed by temporary legislation and that at the moment, discussions were ongoing to determine what mechanism would be used to hold public meetings safely (socially distanced) in the future. Councillor Asif Siddique commented that he thought virtual or hybrid meetings were the preferred way forward.

The Chair, Councillor Natalia Perez, raised the issue of digital exclusion and the ramifications this had on potential public participation at hearings. She commented it was important that the Licensing Service remained flexible and officers explored options to ensure accessibility issues did not impact upon the ability of residents to make representations.

Adrian Overton provided details of the new processes and procedures which had been developed during the pandemic and several examples were cited such as the digital procedures for signing new licenses. In terms of enforcement activities, it was noted that during the lock downs, most inspections were conducted by a drive by. However, when hospitality reopened over the summer of 2020 and the tier system of restrictions were introduced nationally, this made enforcement more complex (such as providing guidance as this evolved and conducting risk assessments).

Councillor Colin Aherne enquired what specific lessons had been learnt throughout the various lock downs regarding mask wearing and maintaining social distance. And what processes were in place to ensure Council staff were not put in danger when conducting their enforcement duties. In response, Adrian Overton explained that ultimately the Police were responsible for enforcing mask wearing, however, he assured committee that proactive risk assessments were always made before officers entered any premises to mitigate risk as much as possible.

Lisa White provided a summary of the key statistics from this period. The following points were noted:

- Processed 873 applications and notifications. Decrease of 44% on 2019/20. Significant decrease in TEN's 822 in 2019/20 now only 235 from 2020 to date.
- Surprisingly licensed premises have increased – in total the Authority now has 947 premises.
- Reduction in income – approximately £9000 a month.
- New income streams – specialist training, revision of pre application advice service.

- Current debt from non-payment of annual fees is £23,555
- 31 premises currently suspended for non-payment of annual fees – ceased suspending premises during full lockdowns
- Increase in expenditure – Covid enforcement

The presentation also covered the help to businesses which the Licensing Service had provided during the pandemic and the following points were noted:

- The Licensing Service had provided a free pre-application service for up to one hour.
- Officers were actively involved in the outside space project to promote the use of any outside local space for trading.
- Officers had provided regular updates to licensed premises on the changes in legislation and government guidance.
- A flexible approach to the payment of annual fees had been taken.
- Minor variations accepted for off sales before more recent changes in legislation.
- A pragmatic approach to the enforcement of conditions at licensed premises (in line with Kit Malthouse letter) except where the breach concerned Covid 19 non-compliance.

Cristina Perez-Trillo provided an overview of enforcement activities during the pandemic and the following salient points were raised:

- Review of licence for coronavirus offences. First licensing authority in the country to review and revoke a licence for Covid-19 offences.
- 4 Prohibitions notices ("PNs") served, formally advising operators on immediate measures to be implemented.
- From July 2020, 4 Fixed Penalty Notices ("FPNs") were issued for breaches of Covid-19 offences.
- Directions grant powers to local authorities to make directions which respond to a serious and imminent threat to public health.
- Operations led and carried out by licensing for Covid-19 visits. On 4 July 2020, approximately 60 licensed premises were visited to check the premises were Covid secure and to provide advice as necessary.
- The regulations affecting hospitality venues had changed several times which had been a challenge and firm, but proportionate action was being taken where breaches had occurred.

The Committee thanked officers for their flexible approach to assisting businesses and residents throughout the pandemic period.

Councillor Zarar Qayyum noted that there had been a considerable number of changes to regulations and restrictions throughout the pandemic and it was easy for businesses to become confused with all the guidance that had been circulated. He asked about the approach the Authority had taken towards those businesses which had breached regulations or Covid restrictions. In response, Adrian Overton confirmed that the Licensing Service had adopted a flexible approach where possible, but in those instances where there had been a clear and deliberate breach of regulations, then fixed penalty notices had been issued. Lisa White also confirmed that when the Government Tiers changed, the Licensing Service

conducted mail shots to all Licence holders advising them of the changes to the legislation.

5. POOL OF CONDITIONS - VERBAL UPDATE

Lisa White explained that following feedback from Members, the Licensing Service had revised its pool of conditions in consultation with the Police Authority, Noise and Nuisance, Trading Standards and Health and Safety. A draft of the proposed new conditions was then sent to the Licensing Authority Group (LAG partners). Referring to the pool of conditions which the Licensing Service had sent to the Committee outside the meeting, Lisa White highlighted that a new section had been included to cover the remote sales of alcohol.

Councillor Victoria Brocklebank-Fowler enquired if other Local Authorities had also changed their pool of conditions and asked for officers views on the legal basis of the proposed new conditions. In response, Lisa White confirmed that Licensing Service was confident that the new proposed conditions were enforceable and proportionate. Some other Local Authorities had changed or were in the processing of changing their current pool of conditions. The Chair welcomed the changes to the pool of conditions as they reflected current needs during the pandemic.

6. LICENSING POLICY AND CIP POLICIES - VERBAL UPDATE

Adrian Overton introduced the report. He explained the evidence for both the Fulham and Shepherd's Bush cumulative impact policies (CIP) was due to expire on the 6th April 2021 and as a result, the Police and Crime Act required the Authority to renew its evidence for both CIPs. It was noted that the Licensing Service was due to carry out a review of both policies in 2020 to assess the evidence for renewals of both policies. However, this could not take place due to covid-19. Had evidence gathering been conducted during the pandemic, it would not have been representative of normal operating conditions. Adrian explained that as a result, the Licensing Service had decided to delay its evidence gathering until the summer of 2021 to assess the impact of the night-time economy. The current proposal was to let the evidence for both CIPs expire and carry out a consultation on this proposal.

Adrian explained that any Licensing decisions taken between 6 April 2021 and the implementation of the new CIPs would clearly state that CIP evidence had not been used in reaching the decision. Reiterating his previous point, Adrian confirmed that by allowing the current CIP evidence to expire, this would allow the Authority to assess how the night-time and day-time economies responded to covid-19 and ensured decision making was informed on the 'new normal' rather than relying on historic data.

Councillor Victoria Brocklebank-Fowler commented it was important that as soon as the consultation on the CIPs had been concluded, that the CIP policy was implemented to protect town centres. In response, Adrian Overton confirmed that the nature of town centres had changed in the last decade and any decision on the implementation of CIPs would be evidence led. The Chair, Councillor Natalia Perez

asked officers to provide further details on how the Licensing service worked with the Police on evidence gathering and how Licensing Action Groups worked. In response, Adrian Overton confirmed that at present, the Licensing Service was meeting twice a week with the Police to discuss Covid related issues and any actions arising would be taken as part of a multi-agency approach.

Turning to the Council's Licensing and Gambling policies, Adrian Overton highlighted that the Authorities' statement of licensing policy was due to expire in July 2022. He confirmed the Licensing Service had looked at several ideas such as possibly replicate planning regeneration areas. Other suggestions included possibly offering free pre-application advice to small businesses who wanted to provide live entertainment as part of their licensing application. It was noted that the Licensing Service would be working in partnership with the London Night Czar and the Head of the Night-time Commission about further opportunities to promote and support a 24-hour borough in Hammersmith and Fulham.

In relation to the Council's statement of Gambling Principles, Lisa White confirmed these were due to expire in January 2022 and a consultation on a new statement was scheduled to begin in the summer of 2021. The Committee were informed that the Gambling Commission were currently consulting on all forms of gambling and ascertaining views on tighter restrictions for all gambling. Lisa White confirmed the Authority would be supporting tighter restrictions on all forms of gambling.

The Committee learnt that the Council was participating in a pan-London group (which was still in its infancy) to address problem gambling and measures to protect the most vulnerable. Officers confirmed an update would be provided in due course on its progress.

7. ENFORCEMENT HISTORY IN SUB-COMMITTEE REPORTS - VERBAL UPDATE

Adrian Overton introduced the item and explained that historically, enforcement action had been included in reports. However, there were concerns that this information should not be available in the public domain, especially those details which pertained to ongoing investigations. Moving forwards, Adrian explained it was proposed that any enforcement history would be treated as an exempt agenda item (when appropriate) which would only be circulated to Members and the applicant.

Adrian sought Members views on two specific questions: Firstly, whether members found the enforcement history helpful and secondly, did Members agree to the exempt agenda suggestion?

In response, Councillor Rachel Leighton confirmed that enforcement histories were useful, and an exempt agenda was the correct mechanism to consider this information. Concerns were raised about enforcement history information and the likelihood of predetermination. In response, Adesuwa Omoregie, Head of Law, explained that enforcement histories needed to be considered on a case by case basis, but where reviews had been triggered by non-compliance for example; it was important the Committee was provided with this background information to

inform its decision making. Councillor Zarar Qayyum concurred that the providing enforcement history information as an exempt item would be beneficial.

Action – That enforcement history information be provided as an exempt agenda item (when appropriate) at future Licensing Sub-Committee meetings.

Closing the item, Adrian Overton and Lisa White expressed their thanks to the Licensing Team for all its hard work during the pandemic. The Chair, Councillor Natalia Perez, speaking on behalf of the Licensing Committee echoed these sentiments.

8. DISCUSSION OF EXEMPT ELEMENTS

The sub-committee agreed, under Section 100A (4) of the Local Government Act 1972, that the public and press be excluded from the meeting during the consideration of the following items of business, on the grounds that they contain the likely disclosure of exempt information, as defined in paragraph 3 of Schedule 12A of the said Act, and that the public interest in maintaining the exemption currently outweighs the public interest in disclosing the information.

Meeting started: 6.30 pm
Meeting ended: 8.27 pm

Chairman

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