



London Borough of Hammersmith & Fulham

LICENSING COMMITTEE

9 July 2014

TITLE OF REPORT: ANNUAL LICENSING TEAM UPDATE

Report of the Divisional Director

Open Report

Classification - For Information and Comment

Key Decision: No

Wards Affected: All

Accountable Executive Director: Nigel Pallace, Executive Director, Transport and Technical Services

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1. EXECUTIVE SUMMARY

- 1.1 This report is to inform the Licensing Committee about the work of the Licensing Team over the last 12 months. It provides a summary of the Licensing Team's staffing levels and performance for the financial year 2013/14, an update on service improvements, the Alcohol Licensing Strategy 2012 – 2015, the Licensing Team Service Review and legislative changes.
- 1.2 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.

2. RECOMMENDATIONS

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

3. NEXT STEPS

- 3.1 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 2013 and 31st March 2014.
- 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 An update on 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).
- 1.4 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 Group, 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 structure consists of three Licensing Officers and the Bi-borough Licensing Manager. Since the end of December 2013 there has been one vacancy for a Licensing Officer and difficulties in replacing him have led us to agreeing a secondment from the Royal Borough of Kensington and Chelsea to assist the two remaining Licensing Officers for a twelve month period. At the end of this period we anticipate recruiting a full time Licensing Officer.

Currently the processing of licences is carried out by two 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. These two officers will be incorporated into the Licensing Team during 2014 and co-located with the RBKC Licensing Team in the Kensington and Chelsea offices in Pembroke Road. This will allow the Licensing Team to move to a structure, whereby the Licensing Officers, will reduce the level of administration that they currently carry out and allow them to focus on committee meetings, enforcement and supporting businesses to achieve compliance.

The team also employs one officer as part of the Council's 'intern' scheme dealing with invoicing and debt recovery of annual licensing fees.

3.2 Team performance, work activity and key achievements in 2013/14

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 2014, the authority had 980 licensed premises and had granted 2446 authorisations for personal licence holders under the Licensing Act 2003.

Tables 1 - 4 below illustrate the Licensing Authority's performance during 2013/14. Data from 2012/13 has been included for comparison purposes.

Applications

Table 1: Licence/authorisation type	No. of applications received	
	2012/13	2013/14
New premises licences applications	48	58
New personal licences applications	176	193
Premises licence Full variation applications	29	29
Premises licence Minor variation applications	24	24
Designated premises supervisor (DPS) variations applications	177	192
Transfers of premises licences applications	55	54
Temporary event notices (TENs) / Late Temporary event notices	626	525

The data in Table 1 shows that there was a 16% reduction in the number of temporary event notices received from the previous year 2012/13.

There has been an overall increase of approximately 10% in the number of new personal licences and a 21% increase in the number of new premises licences.

Of the 525 Temporary Event Notices 135 were submitted under the Late Temporary Event Notice provisions.

Sub Committee Hearings

In 2013/14 a total of 24 licensing sub committee sittings took place for new, variation and review applications, in comparison to 32 in 2012/13. 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
2012/13	12	6*	18
2013/14	6	9	15

*one of the variation applications was withdrawn

Table 2 illustrates the total number of sub committees for new and variation applications. A summary of the decisions made by the sub committee can be seen in Table 3 below.

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
2012/13	0	6	6	12	0	2	3	5
2013/14	0	6	0	6	6	0	3	9

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
2012/13	15*	0	8	4	0	3	4
2013/14	8*	0	6	1	1	1	1

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

In 2013/14, there was an additional hearing to consider a representation against interim steps which were imposed on an expedited review

Table 4 above provides details about the nature of the decisions taken by the Licensing Sub-Committee. It is clear from the comparison with 2012/13 that the number of reviews has decreased in 2013/14. This is due to the fact that the work of the team in 2013/14 was more targeted and focussed and was very effective in dealing with many of the problems associated with licensed premises.

The 2013/14 reviews were in the main called by the Metropolitan Police and supported by the Noise and Nuisance Team and Trading Standards.

There were an additional 4 sub-committee hearings in 2013/14, 3 in relation to opposed temporary event notices and 1 in relation to the renewal of a sex entertainment venue.

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.

- **Raving Buddah, 77 Goldhawk Road**

Appeal received against the decision to attach conditions to the premises licence following a review application made by the Police. Previous tenants of the premises were removed and the premises reverted back into a pub called the Prince. An agreement was subsequently reached between the Council and the new licensee and in June 2013 a consent order was signed, without the need for an appeal hearing.

- **Lala, Blacks Road, W6**

Appeal received against the decision to reduce the hours, remove regulated entertainment and attach conditions. The review was brought by the police following several violent incidents. After the first day of the hearing negotiations were entered into and an agreement was made and a consent order drafted. Neither party were to receive costs. However, during the review process the licence holder continuously made enquiries to the Council submitting that the review application was invalid. This accusation was eventually dropped prior to the hearing, however, having reviewed all the correspondence between the Council and the applicant the Judge awarded the Council costs of £6445.00

- **Wilton Arms, 203 Dawes Road, SW6**

Appeal submitted by the licence holder following the revocation of the licence by Committee after hearing a summary review application submitted by the police. The licence holder later withdrew the Appeal prior to the first date of hearing.

- **Pepe Piri Piri, 607 Fulham Road, SW6**

Appeal submitted following the Committee's decision to refuse the variation of the premises licence. Negotiations were entered into and an agreement was reached to allow a licence for late night refreshment until 01:00 Friday and Saturday, the application for Thursday night was dropped. A Consent Order confirming the terms of the agreement was signed by the Court without the need for an appeal hearing.

- **Olympia Food and Wine, 9 Hammersmith Road**

The premises licence was revoked following 32 separate licensing offences and a sale of alcohol to a child, all in the space of 6 months. An appeal was lodged at the Magistrates Court and scheduled for a two day. In light of a new application for similar licence which was granted

without objection the Appeal was withdrawn. The licence holder agreed to pay £1700 towards the Council's costs.

- **Eroma, 182 Uxbridge Road, W12**

Appeal against the decision of the Committee to reduce the 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 the decision and then withdrew the 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**

Appeal against the decision to refuse an application for a 24/7 licence. The Committee did however grant a licence 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 the first day in court the applicant decided to withdraw the appeal, and costs of £13,5000 were awarded to the Council.

Inspection and Enforcement

Table 5: Inspection and Enforcement	Total Number	
	2012/13	2013/14
Number of visits to businesses	200	170
Number of complaints received / investigated	143	131
Number of commenced investigations	88	63
Number of prosecution cases sent to Legal Services	2	5
Number of S19 Closure Notices	7	7
Number of S161 Closure Orders	2	0
Number of simple cautions	2	3
Number of letters of warning	77	40

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 since it was launched in February 2012 to tackle unlicensed activity around the capital, and to crack down on licensing issues affecting the borough.

Operation Condor - 13th /14th September 2013, and 23rd/24th May

This Met-wide Police operation took place on the 13th and 14th September. Licensing officers assisted the Police with visits to licensed premises across the borough. Licensing officers visited 31 premises on Friday 13th September. These premises included off licences, pubs, restaurants and late night refreshment premises. 8 warning letters were issued for breaches of licensing conditions.

On the 23rd May a further 12 high risk premises were visited. Licensing officers also assisted the Police with two drugs warrants at licensed premises which resulted in two arrests for the possession of drugs, one of the persons arrested was the manager of the premises.

Other Enforcement work

The licensing team were present during an operation on one of the Borough's problem premises. In April 2013 a drugs warrant was executed at the premises, officers then entered the premises and undertook a licensing inspection. During the operation the licence holder was arrested and numerous breaches of the licence conditions were witnessed. A Section 19 Closure Notice was issued and the premises licence was later revoked by Committee.

In total between March 2013 and April 2014 the licensing team conducted a total of 63 investigations, of which 40 resulted in warning letters, 8 licence holders were issued verbal warnings, 3 premises received simple cautions, 7 premises received a Section 19 Closure Notice and five investigations resulted in a formal prosecution.

A total of 4 prosecution's were concluded in 2013/14, the results of which are summarised below

- **Hair of the Dog, 401 North End Road,**

Joint Trading Standards and Licensing prosecution case. The defendant was prosecuted for trademark offences (in relation to 80 bottles of counterfeit Jacob's Creek wine) and breaches of licensing conditions. On 1st October 2013 this case was heard at Hammersmith Magistrates Court. The licence holder was in attendance, represented by Counsel. The defendant entered a Guilty Plea to all the offences - 15 in total. The Defendant was ordered to pay the prosecution's costs in the sum of £3000. A fine of £2350 was also imposed.

- **Mix Food & Wine, 299 North End Road, W14 9NS** (September 2013) The licence holder has a history of Trading Standards and Licensing Offences, and was prosecuted in October 2012 for various offences including out of hours sales and an underage sale. He was given a community order, a 3 month tag and curfew and a conditional discharge for the underage sale. His personal licence was suspended for 3 months.

In September 2013 he was found guilty in his absence of the sale of alcohol to a minor by a member of his staff, and was sentenced in his absence on Tuesday 28th January. For the offence of selling alcohol to an underage person, Mr Shamal was fined £1,000, and for the offence of selling alcohol without a responsible person being present he was fined £200. Costs of £3,200 were awarded to London Borough of Hammersmith & Fulham and Mr Shamal's personal licence was revoked.

- **Supersave, 94-96 North End Road, W14** (April 2013) 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.
- **Maremoto, 562 King's Road, SW6** (August 2013) Six breaches of conditions and an offence relating of a Regulation from unfair Trading, Regulation 2008. Licence holder pleaded guilty to all offences, and was fined £450 and ordered to pay £5470 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.

Table 6: Types of gambling premises	Total	
	2012/13	2013/14
Adult Gaming Centres	11	6
Betting Shops/ Track Betting	61	51
Bingo	4	4
Total	76	61

As can be seen there has been a decrease in the number of betting shops and adult gaming centres in the borough in the past 12 months.

3 new Betting Premises Licences were issued in 2013/14. These applications were advertised in accordance with the Gambling Act 2005 and no representations were received.

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 should 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 the licensing authority 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.

There were no reviews of any Gambling Premises Licences in 2013/14.

3.3 Service Improvements

Updated Public Access System

In 2013/14, improvements were made to the Council's Public Access system to allow users to view premises licence details and current licence applications online. This involved significant changes to the system to ensure that current data is being displayed, changes to the licensing procedures and processes and further training for 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, 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 2014/15 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. For temporary event notices the data completed online is automatically populated into the licensing database, providing convenience and a more efficient way of working.

The project to implement further integration between the online applications and licensing database is on-going and we expect that the majority of Premises Licence application forms will be fully integrated with the licensing database in the coming year.

3.4 Policy Update

Statement of Licensing Policy 2011 (revised July 2012)

There have been no changes since the last committee. 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

There have been no changes since the last committee. 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 2013/14	Target	Actual number of attempts	Number of sales
Underage Sales Alcohol	10	71	16
Underage Sales Knives	10	5	0
Underage Sales Tobacco	10	13	0

In addition, 6 spirit measures were checked, all of which were found to be correct, and 5 Fixed Penalty Notices (FPNs) were issued for underage sales of alcohol,

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 Bi-borough Licensing Manager role has worked well and some of the benefits above have begun to be realised. Further benefits and service improvements will be able to be progressed when the integrated Licensing Admin team is in place and officers are co-located.

4. LEGISLATION CHANGES

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

This Order came into effect on 27 June 2013 and deregulates 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.

The Licensing Act (Mandatory Conditions) Order 2014

This order came into effect on 28 May 2014 and introduced a ban on the sale of alcohol at a price which is less than the cost of the Duty paid plus VAT on that alcohol. The condition applies to every Premises Licence and Club Premises Certificate in England and Wales that permits the sale or supply of alcohol, whether on or off the premises.

Different rates of duty apply to different types of alcohol and the Home Office have produced Guidance Notes and a 'calculator' to assist licensees in ensuring that the price at which alcohol is sold will not breach this licence. A link to the Guidance Note and calculator can be found here: [Guidance Note and Calculator](#)

A list of current mandatory conditions is attached as Appendix 2.

Further deregulation

It is anticipated that further legislative changes and consultation may take place over the next 12 months. Proposed changes are summarised below although some may not take place:

- 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. The appeal is due to be heard in the Supreme Court over 2 days in January 2015.

5. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES

- 5.1 There are approximately 980 licensed premises and LBHF has granted 2446 authorisations for personal licence holders under Licensing Act 2003 since 2005.

Funding of £20,500 has been provided to fund an intern to undertake Licensing debt management responsibilities in-house. This has resulted in improved debt recovery processes for the annual invoicing and collection of annual premises licences fees.

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 2013/14
Appendix 2	List of current mandatory conditions under the Licensing Act 2003.

LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS

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