

Non-Executive Report of the: Licensing Committee 13 December 2018	
Report of: Corporate Director - Governance	Classification: Unrestricted
Update in relation to Prosecutions and Appeals – Quarter 4 2017/2018 Quarters 1- 2 2018/2019	

Originating Officer(s)	Agnes Adrien- Team Leader- Enforcement & Litigation
Wards affected	All wards

1. Summary

- 1.1 At its meeting on 4th June 2013, the Licensing Committee requested that regular reports should be prepared for the Licensing Committee giving details of licensing enforcement activity and specifically as to outcomes of prosecutions and appeals.
- 1.2 This report provides details of completed licensing related prosecutions and appeals for **Quarter 4 2017/2018 (January to March 2018) Quarters 1–2 (April to June 2018, July to September)**

2. Recommendations:

The Licensing Committee is recommended to:

- 2.1 Consider and comment upon the information provided in the report.

3. REASONS FOR THE DECISIONS

- 3.1 This report is for the information of the Committee and no specific decisions are required.

4. ALTERNATIVE OPTIONS

- 4.1 N/A

5. DETAILS OF REPORT

- 5.1 The London Borough of Tower Hamlets is a Licensing Authority and amongst its functions it is required to ensure compliance with conditions imposed on Premises Licences; take action against unlicensed premises; and act as a respondent on Appeals against decisions of the Licensing Sub-committee in respect of applications that come before it.

5.2 Where the Licensing Authority takes enforcement action to ensure compliance with conditions etc. then it does so in accordance with the Council's Enforcement Policy. The Enforcement Policy provides that the Council's approach to enforcement is founded on firm but fair regulation, around the principles of:

- raising awareness of the law and its requirements
- proportionality in applying the law and securing compliance
- consistency of approach
- transparency about the actions of the Council and its officers
- targeting of enforcement action.

5.3 Further, as a Licensing Authority the Council has a duty under section 4 of the Licensing Act 2003 to carry out its Licensing functions with a view to promoting the Licensing Objectives and in carrying out such functions must also have regard to its own statement of licensing policy and the Licensing Guidance issued pursuant to section 182 of the Licensing Act 2003.

Prosecutions

5.4 During **Quarters 4 2017/2018 and Quarters 1-3** the following prosecutions were concluded as follows:

No	Offences	Outcome
1	Sunflower London Ltd two charges against it under the London Local Authorities Act 1991	Quarter 4 24.1.2018 Fine: £1000 Costs: £1,668.15 Victim surcharge: £88
2	Quality Grilled Chicken Ltd S136(1) Licensing Act 2003	Quarter 1 April 2018. Did not proceed as company dissolved. Insufficient evidence to proceed against director
3	Cheng Xiang Chinese Medicine t/a Health One 66 Middlesex Street	Quarter 1 19.6.2018 Cheng Xiang Chinese Medicine Ltd found guilty. Mr. Haijin Zuo was found not guilty by reason of not being found to be negligent, as the Bench found he had a written staff policy and training in place. Company fined £1250 Costs £2000 Victim surcharge £125
4.	Refine London Ltd Breach of conditions on special treatment licence	Quarter 2 2.7.2018 Fine £2000 Costs £3000 Victim Surcharge £100
	There were no prosecutions in quarter	

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Appeals

During Quarter 4 2017/2018 three (3) appeals were concluded. During Quarter 1 - 2018/2019 one appeal was concluded.

The outcome of the appeals are set out as follows:

No	Case Details	Outcome
1	Bar 212 Brick Lane E1 Masum Miah	11.01.2018 – Quarter 4 Appeal against revocation of licence dismissed. LBTH awarded costs. Costs of £1,350 awarded.
2	Grill & Spice 5 Osborn Street E1	27.2.2018 Quarter 4 Appeal against refusal to extend hours for late night refreshment. Appeal allowed with conditions LBTH to pay Appellants costs £1000 plus VAT
3	Arthur Knight Wood Mangal 329 Bethnal Green Road	3.4.2018 Quarter 4 Appeal against decision refusing variation of premises licence. Appeal withdrawn. Costs of £1,000 to LBTH.
4	Patrick Walsh Redon Railway Arch 289 Cambridge Heath Road	4.5.2018 – Quarter 1 2018/19 Appeal against revocation of licence and interim steps decision. Consent Order agreed. Each party to bear their own costs. Operating schedule complied with including additional conditions imposed by court.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report describes the Council's licensing enforcement activity and the outcomes of prosecutions and appeals for Quarter 4 of 2017/18 and Quarters 1 to 3 of 2018/19.

6.2 The revenue realised from the imposition of costs by the court is received by the Council in order to offset the costs incurred in bringing and defending prosecutions. However, it should be noted that costs are at the discretion of the court and full costs recovery orders may not always be made.

7. LEGAL COMMENTS

7.1 Any legal implications are addressed in the body of the report.

8. ONE TOWER HAMLETS CONSIDERATIONS

8.1 Enforcement action that complies with the five principles expressed in the Council's enforcement policy should help to achieve the objectives of equality and personal responsibility inherent in One Tower Hamlets.

8.2 The enforcement policy should enhance Council efforts to align its enforcement action with its overall objectives disclosed in the Community Plan and other key documents such as the local area agreement and the Local Development Framework. For example, one of the key Community Plan themes is A Great Place to Live. Within this theme there are objectives such as reducing graffiti and litter. The enforcement policy makes clear the need to target enforcement action towards such perceived problems. At the same time, the enforcement policy should discourage enforcement action that is inconsistent with the Council's objectives.

8.3 The exercise of the Council's various enforcement functions consistent with the enforcement policy and its principles should also help achieve the following key Community Plan themes-

- A Safe and Cohesive Community. This means a safer place where feel safer, get on better together and difference is not seen as a threat but a core strength of the borough.
- A Great Place to Live. This reflects the aspiration that Tower Hamlets will be a place where people live in quality affordable housing, located in clean and safe neighbourhoods served by well-connected and easy to access services and community facilities.
- A Prosperous Community. This encompasses the objective that Tower Hamlets will be a place where everyone, regardless of their background and circumstances, has the aspiration and opportunity to achieve their full potential.

8.4 An equality analysis was conducted prior to approval of the revised enforcement policy by Cabinet on 3 October 2012. A further equality analysis was done on 16th September 2011 in relation to touting prosecutions. It is recognised that Enforcement action may lead to indirect discrimination in limited circumstances but prior to taking any proceedings, an assessment as to whether the case meets the two stages in the Code for Crown Prosecutors is undertaken so that there is both a realistic prospect of a conviction and that it is in the public interest to prosecute. Further, proceedings are kept under review once initiated.

9. BEST VALUE (BV) IMPLICATIONS

9.1 There are no specific best value implications arising from this noting report

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

10.1 The enforcement policy seeks to target the Council's enforcement action in accordance with the Community Plan. The Community Plan contains the Council's sustainable community strategy for promoting or improving the economic, social and environmental well-being of Tower Hamlets and contributing to the achievement of sustainable development in the United Kingdom. To the extent that the enforcement policy aligns enforcement action with the Community Plan it will tend to promote sustainable action for a greener environment.

11. RISK MANAGEMENT IMPLICATIONS

11.1 Enforcement action carries with it a variety of inherent risks, including the potential for allegations of over- or under-enforcement, discrimination, adverse costs orders and damage to the Council's reputation. It is considered that proper adherence to the Council's policies, the Licensing Objectives, the Council's Statement of Licensing Policy and the section 182 guidance will ensure that risks are properly managed. .

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 One (1) of the four (4) Licensing Objectives is Crime and Disorder and enforcement promotes that Licensing Objective. Enforcement will also play its part in helping to drive down crime and which in turn will reduce fear of crime and ASB levels helping to promote a healthier, happier and more cohesive community. This will have efficiency benefits for adult social care and public health costs by keeping people healthier and more active for longer.

Linked Reports, Appendices and Background Documents

Linked Report

- **None**

Appendices

- **None**

Local Government Act, 1972 Section 100D (As amended)

List of "Background Papers" used in the preparation of this report

- **None**

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