

# LICENSING COMMITTEE

Tuesday, 11 March 2014 at 6.30 p.m.

Committee Room C1, 1st Floor, Town Hall, Mulberry Place, 5 Clove  
Crescent, London, E14 2BG

The meeting is open to the public to attend.

| Members:                                     | Ward Represented          |
|--|---------------------------|
| <b>Chair:</b> Councillor Carli Harper-Penman | Bow East;                 |
| <b>Vice-Chair:</b> Councillor Peter Golds    | Blackwall & Cubitt Town;  |
| Councillor Khaled Uddin Ahmed                | Bromley-By-Bow;           |
| Councillor Rajib Ahmed                       | East India & Lansbury;    |
| Councillor David Edgar                       | Limehouse;                |
| Councillor Marc Francis                      | Bow East;                 |
| Councillor Ann Jackson                       | Bow West;                 |
| Councillor Denise Jones                      | St Katharine's & Wapping; |
| Councillor Md. Maium Miah                    | Millwall;                 |
| Councillor Joshua Peck                       | Bow West;                 |
| Councillor David Snowdon                     | Millwall;                 |
| 4 Vacancies                                  |                           |

The quorum for this body is 3 Members.

Contact for further enquiries:

Simmi Yesmin, Democratic Services,  
1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, E14 2BG  
Tel: 020 7364 4120  
E-mail: [simmi.yesmin@towerhamlets.gov.uk](mailto:simmi.yesmin@towerhamlets.gov.uk)  
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## **APOLOGIES FOR ABSENCE**

### **1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST (Pages 1 - 4)**

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Monitoring Officer.

### **2. MINUTES (Pages 5 - 20)**

To confirm the minutes of the meeting of the Licensing Committee held on 8<sup>th</sup> October 2013 and the Extraordinary Licensing Committee held on 8<sup>th</sup> January 2014 as an accurate record of the proceedings.

|   | <b>PAGE<br/>NUMBER</b> | <b>WARD(S)<br/>AFFECTED</b>         |
|---|------------------------|-------------------------------------|
| <b>3. ITEMS FOR CONSIDERATION</b>   |                        |                                     |
| <b>3 .1 Application to Increase Licence Fee for the London Tattoo Convention</b>              | <b>21 - 28</b>         | <b>St Katharine's &amp; Wapping</b> |
| <b>3 .2 Licensing Team - Review of Activity 2013/14</b>                                       | <b>29 - 34</b>         | <b>All Wards</b>                    |
| <b>3 .3 Update in Relation to Prosecutions and Appeals - Quarter 1 to Quarter 3 2013/2014</b> | <b>35 - 42</b>         | <b>All Wards</b>                    |
| <b>4. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT</b>                                  |                        |                                     |

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# Agenda Item 1

## **DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER**

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

### **Interests and Disclosable Pecuniary Interests (DPIs)**

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

### **Effect of a Disclosable Pecuniary Interest on participation at meetings**

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

**Further advice**

For further advice please contact:-

John Williams, Service Head, Democratic Services, 020 7364 4204

## APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

| Subject   | Prescribed description  |
|---|---|
| Employment, office, trade, profession or vacation | Any employment, office, trade, profession or vocation carried on for profit or gain.  |
| Sponsorship                                       | <p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>   |
| Contracts   | <p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>   |
| Land  | Any beneficial interest in land which is within the area of the relevant authority.   |
| Licences  | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.  |
| Corporate tenancies                               | <p>Any tenancy where (to the Member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>  |
| Securities  | <p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) 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 the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> |

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## LONDON BOROUGH OF TOWER HAMLETS

### MINUTES OF THE LICENSING COMMITTEE

HELD AT 7.00 P.M. ON TUESDAY, 8 OCTOBER 2013

COMMITTEE ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5  
CLOVE CRESCENT, LONDON, E14 2BG

#### Members Present:

Councillor Carli Harper-Penman (Chair)

Councillor Peter Golds (Vice-Chair)

Councillor Khaled Uddin Ahmed

Councillor Rajib Ahmed

Councillor Denise Jones

Councillor David Snowdon

Councillor Ann Jackson

#### Other Councillors Present:

Nil

#### Speakers

Gareth Hughes

- Barrister, attending for agenda item 4.1

David Dadds

- Barrister, attending for agenda item 4.1

Insp. Kevin Wheeden

- Metropolitan Police, attending for agenda item 4.3

PC Mark Perry

- Metropolitan Police, attending for agenda item 4.3

#### Officers Present:

Paul Greeno

- (Senior Advocate, Legal Services, Chief Executive's)

Andy Bamber

- (Service Head Safer Communities, Crime Reduction Services, Communities, Localities and Culture)

Kathy Driver

- (Principal Licensing Officer)

Chris Lovitt

- (Associate Director of Public Health)

Andrew Weaver

- (Head of Environmental Protection, Communities Localities and Culture)

David Tolley

- (Head of Consumer and Business Regulations Service, Safer Communities, Communities Localities & Culture)

Alan Ingram

- (Democratic Services)

**COUNCILLOR CARLI HARPER-PENMAN (CHAIR), IN THE CHAIR**

## 1. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of the following Members:

- § Councillor David Edgar
- § Councillor Marc Francis
- § Councillor Md. Maium Miah
- § Councillor Joshua Peck

Apologies for lateness were submitted on behalf of Councillor Denise Jones.

## 2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of Disclosable Pecuniary Interests.

The Chair declared a personal interest in that she had received multiple representations regarding agenda item 4.1 – “Adoption of the Sexual Entertainment Licensing Regime, Policing and Crime Act 2009”, specifically in favour of adopting the new regime, although she had also received some representations against its adoption. However, whilst noting the representations her opinion had not been influenced by them.

Councillor Peter Golds declared a personal interest in the same agenda item on the basis that he would be speaking in favour of the White Swan Public House, 556 Commercial Road, and had visited the premises on occasion.

## 3. MINUTES

### RESOLVED

That the minutes of the Licensing Committee meeting held on 4 June 2013 be confirmed and signed as a correct record by the Chair.

## 4. ITEMS FOR CONSIDERATION

The Chair indicated that the order of business of the meeting would be varied so as to consider agenda item 4.4 after item 4.2. However, for ease of reference the order of business in these minutes remains as set out on the original agenda.

### 4.1 Adoption of the Sexual Entertainment Licensing Regime, Policing and Crime Act 2009

At the request of the Chair, David Tolley, Head of Consumer and Business Regulations, introduced the report requesting the Committee to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009, which would allow the licensing of sexual entertainment venues (SEVs) and bring into effect the

policy for control of sexual entertainment premises as adopted by Cabinet on 11 September 2013.

Mr Tolley pointed out that 11 existing businesses held premises licences under the Licensing Act 2003 with permissions that would be affected by the adoption of the SEV legislation and these businesses could submit applications to operate under the new legislation. Such licences would be reviewed annually.

The Chair indicated that she would allow two persons, who had requested speaking rights, to address the Committee. The speakers would be allowed three minutes each, in line with the time limits for speaking at full Council meetings.

Gareth Hughes, speaking on behalf of Aston's Champagne and Wine Bar, 187 Marsh wall, London, E14 9SH, stated that supporters of the premises had experienced difficulties during the consultation on SEV legislation in obtaining paper copies of documents to allow representations. There had also been problems in sending electronic representations from premises where there was only one computer.

Mr Hughes added that the report indicated that 4,973 responses had been received, with 1,400 being submitted from one establishment in the Borough. However, his Clients considered this perfectly acceptable as the forms garnered were signed by local residents or people who visited the premises regularly. This also meant that some 3,500 responses had been received indicating that the SEV regulations should not be adopted and these had been raised as a result of a doorstep campaign by premises operating in the Borough. He made the point that supporters of the SEV legislation (the group "Object") had also led their own campaign in favour of adopting the legislation. He expressed the view that the amount of replies submitted supported non-adoption of the legislation and there had been no hint of foul play in conducting the campaign. There had been no abuse of the consultation process and the Committee should take account of the resulting outcome. Whilst the "no" response did not prevent the Committee from adopting the SEV legislation, there was no evidence to suggest it should be adopted.

David Dadds, speaking on behalf of White's Gentleman's Club, 32-38 Leman Street, London, E1 8EW, stated that he supported all the previous speaker's comments and felt that the Officer request in the report to support adopting the legislation was an undemocratic approach, as the Committee should take account of the results of consultation and give this appropriate weight. In addition, there was an issue relating to staff and job protection, as some 2,000 people in the Borough were employed by establishments affected by the legislation. Businesses should not have to apply annually for licences, as proposed if the new regime were adopted. Mr Dadds expressed concern that the SEV policy had already been adopted and there could be pre-determination of the matter accordingly. He referred to the Chair's remarks that she had not been unduly influenced by representations and asked whether the Committee might have been influenced by the policy.

The Chair stated that it was not unusual for councillors to receive representations from residents on many issues. She had received representations from both sides of the argument but this had not influenced her responsibilities under the Councillor Code of Conduct.

Paul Greeno, Senior Advocate, legal Services, added that the SEV policy had been adopted by Cabinet but none of the Licensing Committee was a Cabinet Member and it was confirmed that none had spoken in favour of the legislation at the Cabinet meeting.

The Chair then invited Members to put questions to the speakers, who responded that:

- § The consultation representations were very significant in that almost 5,000 people felt aggrieved enough by the proposals to say that the legislation should not be adopted. This far outweighed the number in favour.
- § No specific details of claimed negative impact of the premises affected by the SEV legislation had been given.
- § The Cabinet report had raised concerns over women's safety but contained no further details and the current Licensing Act provisions provided satisfactory regulation of licensed premises.

The Chair invited Members to put questions to Officers, who responded that:

- § There had been initial problems in the consultation problem with no more than one response being allowed from any individual computer. However, people had been advised that paper documents were available and the computer bar had been removed later. No complaints had been received from retirement home or care home residents in this connection.
- § There was no way of knowing whether responses had been made by Tower Hamlets residents.
- § The consultation had contained no reference to adverse impacts of SEV premises and simply asked whether or not the legislation should be adopted.
- § The Committee was not obliged to follow the results of the public consultation but must be satisfied in their own minds that it would be appropriate to adopt the SEV legislation. There could be challenge by judicial review, should the legislation be adopted and this could eventually be referred to the European Court of Appeal. However, a decision not to adopt could likewise be challenged.

Councillor Peter Golds asked why the White Swan Public House was included as a SEV establishment as it provided no entertainment such as lap dancing or pole dancing. An amateur strip night was held once per week and people disrobed to their underwear – this was simply burlesque. Like many gay venues in the Borough, the White Swan was experiencing hard times and the proposed £9,000 annual licence fee could put it out of business. The inclusion of the White Swan in this legislation had elicited a world-wide response.

Mr Tolley commented that this pub had been included with all premises that had existing licences containing the provision for regulated sexual entertainment. All such premises would be assessed to see whether they would be covered by the SEV regime. If it were determined that they were not covered, they would only be monitored as usual. There would be an all-encompassing process to examine whether businesses were affected by the legislation and the White Swan was included in this process due to the terms of its current licence.

Councillor Golds expressed concern that the consultation procedure had been launched originally at the London Mosque, where there was unlikely to be much favour for SEV establishments. He felt that the White Swan should be excluded from the SEV policy as it was by no means such a venue. There had never been any complaints about the premises made by responsible authorities or residents during its existence for the best part of a quarter of a century. It was being put forward to be included in the policy on the basis of an event lasting about an hour and a half each Wednesday night. The White Swan was one of the last gay venues in the Borough and he was convinced that the SEV policy would put it out of business. There had been discussions about the premises a year and a half ago and he could not understand why it was included unless due to latent homophobia.

Mr Tolley replied that relevant conditions were already on the premises licence but if sexual entertainment were not offered, it would not be included in the proposed new regime.

Mr Greeno added that the Committee did not have the remit to decide the SEV policy, which had already been decided by Cabinet, but had to consider whether or not to adopt the legislation under which the policy could be implemented. The Committee could not place any premises outside the SEV policy and Officers would have to carry out an assessment to determine whether or not the White Swan was included in that policy.

Councillor Peter Golds then proposed a motion, seconded by Councillor David Snowdon: "That the White Swan Public House be excluded from the proposed SEV policy."

The motion was put to the vote and was **agreed** unanimously. The Chair indicated that she would confer with Councillor Golds on how best to bring this decision before full Council.

Discussion then ensued on the proposed level of SEV licence fees, with Councillor David Snowdon asking how the proposed £9,000 fee had been decided.

Mr Tolley replied that this had been benchmarked with other London Councils who already operated the SEV regime. The fee included compliance time, incorporating premises visits and assessing applications, legal costs and bringing such matters to committee. This was a new fee and could be reviewed, including a downward adjustment. There was a potential for work equivalent to an additional one to one-and-a-half full time posts. In response

to queries, Mr Tolley added that the current liquor licensing fee was in the region of £300.

Councillor Khaled Ahmed felt that an increase from £300 to £9,000 could not be justified, especially when there had only been 5,000 consultation responses, and felt that there should be a cap on the 11 SEV premises which were proposed and these should be excluded from the new policy. If this were done, an annual licence review should not be needed.

The Chair commented that the SEV policy would have the effect of applying a cap and the annual review was required by the new legislation.

Members put forward the view that the proposed fee was very high compared to other annual fees that were already charged and no financial analysis was contained in the report to justify this. Mr Tolley referred to his previous comments on matters that had been taken into consideration in deciding the licence fee and stated that benchmarking showed that the proposal was about on parity with neighbouring local authorities that had adopted the policy. The Licensing Committee could review the fee annually and the next review would allow more details of the elements comprising it.

The Chair indicated that a decision on the actual licence fee could be deferred but this would have an impact on the start date for the SEV policy and would potentially require an extraordinary meeting of the Committee. If there were to be further discussion on the proposed fee, members were not best placed to try and set an alternative amount at this meeting.

Councillor David Snowdon proposed a motion, seconded by Councillor Peter Golds: "That any decision on a fee level for a SEV licence be deferred for consideration at an extraordinary meeting of the Licensing Committee to be held prior to a Licensing Sub-Committee this year and contain details of a breakdown of related costs and the outcome of the benchmarking process."

The motion was put to the vote and was **agreed** unanimously.

The Chair indicated that she would confer with Officers on how best to proceed with the matter and added that it would be necessary to hold the extraordinary meeting within the next few weeks to allow a policy implementation date of 1 January 2014.

Councillor Rajib Ahmed referred to the earlier comments of Councillor Khaled Ahmed relating to the capping of the number of premises allowed by excluding the 11 premises mentioned in the report. Mr Greeno stated that it would not be possible to adopt new legislation whilst excluding some premises that were affected. He added that, if the Committee did not adopt the legislation, SEV licensing would not apply in Tower Hamlets and premises would continue to be regulated under existing Licensing Act provisions.

The Chair then put to the vote the Officer recommendation to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended

by section 27 of the Policing and Crime Act 2009, whilst excluding a decision on the licence fee to be charged.

On being put to the vote, with three votes for and four against, it was –

### **RESOLVED**

That the Officer recommendation in the report to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009, be **NOT AGREED**.

The Chair indicated that the report, therefore, fell.

## **4.2 Fees Review - London Local Authorities Act 1991& Gambling Act 2005**

At the request of the Chair, David Tolley, Head of Consumer and Business Regulations, introduced the report advising Members of a review that had taken place regarding licence fees that could be set locally and proposing revised levels thereto.

After a short discussion, it was unanimously –

### **RESOLVED**

1. That the fee for Massage and Special Treatment Fees be increased by RPIX 3.1%.
2. That the fee for both a new application and an application for Renewal for Intense Pulse Light laser treatment shall be £500.
3. That the fee for a Betting Shop Licence shall be £500.
4. That the fee for an Adult Gaming Centre Licence shall be £650.
5. That all fees are non refundable once an application has been submitted due to the commencement of processing the licence.
6. That, where a business operates a selection of beauty treatments, only the higher fee is payable.
7. That these fees will commence on the 1<sup>st</sup> November 2013 and will apply to all new and renewed licences applications received from on or after that date.

### 4.3 Licensing Act 2003 - Responsible Authorities

The Chair indicated that a document from the Metropolitan Police had been provided for the meeting on a restricted basis and might result in Members asking follow-up questions of the Police in the next few days. Inspector Kevin Wheeden confirmed that Members could retain the paper but asked that its contents be regarded as confidential.

In introducing the report, David Tolley, Head of Consumer and Business Regulations, indicated that relevant Service Heads and Metropolitan Police representatives were in attendance to provide details of the evidential basis on which representations or reviews were brought to the Licensing Sub-Committee.

The Chair then invited those present to address the Committee.

Inspector Wheeden commented that his report showed that:

- § 500 calls complaining of anti-social behaviour were being made each week, although these were not necessarily related to licensed premises.
- § A tri-borough partnership was being set up to include the Tower Hamlets wards of Spitalfields & Banglatown and Weavers. This was currently in the planning stage. He invited suggestions for the best way to present information so as to be of most use to councillors.
- § Theft from the person cases in those wards were very high and much of this related to licensed premises.
- § A monthly licensing visit was undertaken, that included all licensed premises, not only liquor licences. Checks were made that numbers SIA staff were provided in accordance with licence requirements.

Andrew Weaver, Service Head Environmental Protection, presented the information contained in the circulated agenda pack and stated that a 10 year database was available concerning complaints and requests for intervention. When a new application was received, its management plan was examined and Members advised accordingly.

Chris Lovitt, Associate Director of Public Health, presented the information contained in the circulated agenda pack and added that, whilst only the Director of Public Health was able to make representations, bodies such as Barts NHS Trust were invited to make contributions. He added that:

- § Health was not yet a licensing objective, with its closest link being to the public safety objective.
- § London Ambulance Service data around binge drinking callouts was provided in the report, showing a substantial increase over the last year. LBTH had the 5<sup>th</sup> highest such callout of all London Boroughs and all wards except four had higher such callouts than the average in England.
- § The service was looking at means of highlighting possible problems such as the situation of licensed premises near homeless hostels and the NHS was very supportive of the saturation policy around the Brick Lane area.



Kathy Driver, Principal Licensing Officer, presented the information contained in the circulated agenda pack and indicated that:

- § Her service acted to provide evidence at such time as licence reviews were triggered and it was unlikely they would object to a licence unless another Responsible Authority did so. However, more activity was expected as the saturation policy came into play.
- § Operation Dimmock was an enforcement operation that had started in August this year and targeted instances of complaints from residents and other Responsible Authorities.

The Chair commented that she was particularly interested in noise complaints against pub and takeaways and was staggered by the incidence of such report in the Bow East ward, which had relatively few such premises. She felt that it would be helpful to differentiate between domestic and other premises.

Replies to questions from Members, included the following Officer comments:

- § The location of the Shoreditch triangle resulted in drunken people from other areas entering Tower Hamlets.
- § Operation Dimmock used Officers from other services for test purchases, etc., as Licensing staff were well known locally.
- § Premises selling food were almost exempt from framework hours and any proposal for policy change in this respect would need to be heavily evidence-based.

The Chair then thanked those present for their contributions to the report.

#### **4.4 Legal Review**

At the request of the Chair, Paul Greeno, Senior Advocate, Legal Services, introduced the first quarterly report setting out details of prosecutions and appeals relating to licensing enforcement activity.

The Chair thanked Mr Greeno for the information provided.

Councillor Golds thanked Mr Greeno particularly for information regarding 93 Feet East, which demonstrated that decisions made by members at Licensing Sub-Committee were fully justified.

#### **RESOLVED**

That the report be noted.

#### **5. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT**

Nil items.

The meeting ended at 9.00 p.m.

Chair, Councillor Carli Harper-Penman  
Licensing Committee

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE LICENSING COMMITTEE**

**HELD AT 6.30 P.M. ON WEDNESDAY, 8 JANUARY 2014**

**ROOM MP701, 7TH FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG**

**Members Present:**

Councillor Peter Golds (Vice-Chair, in the Chair)  
Councillor David Edgar  
Councillor Marc Francis  
Councillor Ann Jackson  
Councillor Denise Jones  
Councillor David Snowdon

**Other Councillors Present:**

None

**Officers Present:**

Paul Greeno – (Senior Advocate, Legal Services)  
John McCrohan – (Trading Standards & Licensing Manager)  
David Tolley – (Head of Consumer and Business Regulations  
Service, Safer Communities, Communities  
Localities & Culture)  
  
Simmi Yesmin – (Senior Committee Officer, Democratic Services)

**Guests Present:**

Gareth Hughes – (Jeffery Green Solicitors)  
David Dadds – (Dadds Solicitors)  
Julian Skeens – (Jeffery Green Solicitors)

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of the following Members:

- § Councillor Carli Harper-Penman
- § Councillor Khaled Ahmed
- § Councillor Rajib Ahmed
- § Councillor Md. Maium Miah
- § Councillor Joshua Peck

## **2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST**

There were no declarations of Disclosable Pecuniary Interests.

## **3. ITEMS FOR CONSIDERATION**

### **3.1 Consideration of the Adoption of the Sexual Entertainment Licensing Regime, Policing and Crime Act 2009 -Update**

At the request of the Chair, David Tolley, Head of Consumer and Business Regulations, introduced the report and explained that the Licensing Committee on 8<sup>th</sup> October 2013, had requested for an extraordinary meeting to be held to discuss the proposed fees structure for Sexual Entertainment Venues (SEV). It was noted that the report covered a cost analysis of the fees structure and gave the Licensing Committee the option of reconsidering its decision not to adopt the legal framework to licence sexual entertainment venues by proposing recommendations to Full Council.

It was noted that the issues which were of concern were the exclusion of the White Swan Public House from the Sexual Entertainment Policy, the reconsideration of the fees and not to adopt the framework legislation to permit a licensing regime for SEVs.

It was further noted that there was no specific licensing regime in place for SEV's and therefore there is currently no control on the number of venues permitted in the Borough. Mr Tolley explained that 11 existing businesses held premises licences under the Licensing Act 2003 with permissions that would be affected by the adoption of the SEV legislation and these businesses could submit applications to operate under the new legislation and such licences would be reviewed annually.

It was noted that venues including the White Swan as an existing operator would benefit from the exemption of the "nil limit" provided for existing premises in the SEV policy. Mr Tolley stated that it was not possible to withdraw or waiver the White Swan from the policy. However it would benefit from the nil limit as an existing premises.

Mr Tolley then explained the breakdown of the £9000 fee and detailed the costs in relation to compliance visits. He explained that the Council must determine its fees on a cost recovery basis so comparison with fees in other boroughs was not a relevant consideration. However it was noted that compared to 13 other London boroughs there was 5 boroughs charging below Tower Hamlets and 8 boroughs charging higher than Tower Hamlets ranging from £10,000 - £22,523.

Mr Tolley concluded by highlighting the consultation process that took place and was noted that the overall consultation response represented only a small percentage of those who worked and lived in the borough.

The Chair indicated that he would allow three persons, who had requested speaking rights, to address the Committee. The speakers were allowed three minutes each, in line with the time limits for speaking at full Council meetings.

Mr Gareth Hughes, speaking on behalf of Metropolis and Aston's Champagne and Wine Bar, stated that the decision made at the previous Licensing Committee on 8<sup>th</sup> October 2013 was a valid decision and still stands, he explained that there had been an attempt to take a report to full Council on this matter, which was withdrawn on the night due to legalities.

Mr Hughes questioned the procedure and process which was followed to call the extraordinary meeting as he believed that an extraordinary meeting was not requested at the previous meeting and that the consideration of fees did not allow discussion for the adoption of the legislation. He concluded by asking Members to consider his previous concerns stated in his representations.

Mr David Dadds, speaking on behalf of White's Gentleman's Club, stated that he supported all comments made by the previous speaker. He highlighted the findings from the consultation process and expressed concerns around the fees. He stated that a decision was made on 8<sup>th</sup> October 2013 not to adopt the legislation and this was valid.

Mr Dadds believed to have had concerns of pre-determination as this meeting was to re-visit the previous decision and to re-open that decision to reconsider the option to adopt the legislation.

Members then heard from Mr Julian Skeens, representing Nag's Head, he also supported the comments made by his colleague Mr Gareth Hughes and added that the agenda papers recorded that Council had delegated power to the Licensing Committee to decide whether or not to adopt the legislative scheme to licence sexual entertainment in the Borough and the Committee had decided that following due process it should not be adopted, therefore the decision was valid.

The Chair then invited Members to put questions to the speakers. There were no questions for the speakers.

The Chair asked Mr Paul Greeno, Senior Advocate to provide legal advice to Members in response to the concerns raised. Mr Greeno explained that issues had been raised in relation to the lawfulness of the Licensing Committee in considering this matter.

It had been stated that the Licensing Committee on 8<sup>th</sup> October 2013 did not request an extraordinary meeting. This was not correct. He explained that the extraordinary meeting had not been called as a result of that request. It had been called by the Monitoring Officer. This was following the report that

was to go to full Council on 27<sup>th</sup> November 2013. That report was pulled and following that, the Monitoring Officer advised that a report be re-submitted to full Council dealing with the same matters raised in the full Council report but via an extraordinary meeting of the Licensing Committee.

In respect of calling of an Extraordinary Meeting, Mr Greeno stated that Part 4 of the Council's Constitution set out the Rules of Procedure and which includes the Council Procedure Rules. Paragraph 3.1 of those Rules lists those persons who can request an Extraordinary Meeting. This list is to be read disjunctively as opposed to conjunctively. Paragraph 3.1.3 referred to the Monitoring Officer and the Chair. Following the Monitoring Officer's advice, contact was made with the Chair of the Licensing Committee and he had been advised that The Chair was happy for an extraordinary meeting to be called to consider this matter.

As the Monitoring Officer and the Chair were engaged in the context of the pulled report to full Council then the business on the agenda was not just restricted to merely fees and charges. Further as the Monitoring Officer and Chair were involved there is no need for a requisition document to be signed by five Members of the Council.

It was correct that the mechanism of calling the meeting was not addressed within the report but it was not realised that this was an issue until the representations were received.

It has also been stated that the Licensing Committee had no power to deal with the matters in the report. This was incorrect. Part 3 of the Council's Constitution deals with responsibility of functions and 3.1.1.2B provides for Licensing and Registration Functions. Paragraph 15 provides that the functions under The Local Government (Miscellaneous Provisions) Act 1982, section 2 and schedule 3 have been delegated to the Licensing Committee.

Part 3.7.7 sets out the Terms of Reference of the Licensing Committee and paragraph 4 gives to the Licensing Committee the power to determine fees and charges for the issue, approval, consent, license, permit or other registration for functions for which the Committee has responsibility. Pursuant to Part 3.1.1.2B paragraph 15, this is a function for which the Licensing Committee has responsibility.

Given the matters for which the Committee has responsibility it is reasonable for the Committee to be consulted before a report is then presented to full Council.

As to the fact that the Licensing Committee previously decided not to adopt the framework legislation does not stop the Committee from considering this matter afresh. A decision not to adopt a regime, or not to take some other administrative action, is not binding in the sense that the Council is stopped from revisiting it. At the end of the day, all Members are being asked to do is recommend to full Council and it will be for full Council to take the final decision whether to adopt.

As to the reasons why Members made their decision on the last occasion, as members did not give reasons for their decision (and are not required to do so) to suggest what was in Members minds when they made the decision is speculation. At the end of the day, Members were entitled to consider the matter afresh.

Mr Greeno concluded that there was no need for the matter to go firstly to the Mayor in Cabinet. The decision to adopt and in relation to fees and conditions was a non-executive function and as to notice of the meeting, the statutory time limits were met.

The Chair invited Members to put questions to Officers, who responded that:

- The Licensing Committee was not making a decision but had the option to refer recommendations to Full Council.
- That the minutes of the meeting held on 8<sup>th</sup> October 2013 would be available on the agenda of the Full Licensing Committee meeting scheduled for 11<sup>th</sup> March 2014.
- That case law provided that one could look forward in relation to fees that would be needed therefore the costs of monitoring an applicant's continued suitability can be included in the calculation for the fee for the licence.
- That costs for compliance can often be very costly as test purchases were necessary.
- That the proposed fee had been benchmarked with other London Councils who already operated the SEV regime. The fee included compliance time, incorporating premises visits and assessing applications, legal costs and bringing such matters to committee. This was a new fee and could be reviewed.

On being put to the vote, with five votes for and one vote against, it was –

### **RESOLVED**

1. That Full Council is recommended that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended, shall apply in the London Borough of Tower Hamlets in the London Borough of Tower Hamlets with regards to sexual entertainment venues.
2. That Full Council is recommended that the said Schedule 3 shall apply in the London Borough of Tower Hamlets from 31<sup>st</sup> March 2014, with regard to sexual entertainment venues.
3. That the proposed Standard Conditions for Sexual Entertainment Venues set out in Appendix 2 of the report is recommended to Full Council.

4. That the Sexual Entertainment Fee Structure set out in Appendix 3 of the report is recommended to Full Council.
5. That the Sex Establishment Licensing Policy set out in Appendix 1 be noted and applied in the application of Schedule 3 in London Borough of Tower Hamlets and supports continued operation of existing premises.

The meeting ended at 7.15 p.m.

Vice Chair, Councillor Peter Golds  
Licensing Committee



# Agenda Item 3.1

|   |   |  |                                |                     |
|---|---|--|--------------------------------|---------------------|
| <b>Committee:</b><br>Licensing Committee  | <b>Date:</b><br>11 <sup>th</sup> March 2014 | <b>Classification:</b><br>UNRESTRICTED   | <b>Report No:</b><br>LC 09/134 | <b>Agenda Item:</b> |
| <b>REPORT OF –</b><br>David Tolley<br>Head of Consumer and Business Regulations Service<br><br><b>Originating Officer –</b><br>Sandra Edmeade-Walters<br>Team Leader- Health and Safety |   | <b>TITLE</b> London Local Authorities Act 1991<br>Application to Increase Licence Fee for the London Tattoo Convention<br><br><b>Ward(s) affected</b> St Katherine's & Wapping |                                |                     |

## 1. **SUMMARY**

- 1.1 The Tattoo Convention is a 3 day event which has taken place in Tobacco Dock for the last 6 years. A Special Treatment licence is required for tattooing to be provided and an increase in the licensing fee is requested so that Officers can carry out the relevant checks, inspections, and if needed, corrective actions to ensure that the event is safe and the risk associated with blood borne viruses are managed. The convention will take place on 26<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> September 2014 and Officers will be liaising with the organiser and Tattooists to assess their plans and risk assessments leading up to the event.
- 1.2 The reason for the increase in the licence fee is to recover the costs of the administration and enforcement on the licence conditions. If the fee increase is not agreed then the Council could seek to Licence each individual tattooist but this would be an inefficient way to proceed.
- 1.3 A decision of the Licensing Committee is required to increase the standard Massage and Special Treatment Licence fee from £311 to £2840.86 following an approach to hold the London Tattoo Convention at Tobacco Dock from the 26<sup>th</sup> September 2014 to 28<sup>th</sup> September 2014.

## 2. **RECOMMENDATIONS**

The Licensing Committee is recommended to –.

- 2.1 Agree that the application fee for a massage and special treatment licence for the London Tattoo Convention be set at £2840.86.

### **3. BACKGROUND**

- 3.1 The Policy Strategy Committee on the 13th October 1992 adopted the provisions of the London Local Authorities Act 1991 relating to Special Treatment premises. Section 10 (1) allows the Local Authority to make regulations prescribing standard conditions applicable to all classes of its special treatment licences, (Appendix 1).
- 3.2 The Act enables a system of licensing by borough councils to be applied to establishments used for Special Treatments. Such establishments are defined as premises used, intended to be used or represented as being used, for gain or reward, and for the reception or treatment of persons requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light electric or other Special Treatments of a like kind, or vapour, sauna or other baths, and where the special treatment is not carried out by or under the supervision of a medical practitioner or a bona fide member of a body of health practitioners.
- 3.3 The purpose of the legislation is to allow controls to be applied to such premises through enforceable terms and conditions relating to public order, safety, cleanliness, hygiene and the qualifications of staff. Applications for licences must be made in the manner prescribed by the Council.
- 3.4 No premises shall be used as an establishment for Special Treatment without holding a Special Treatment Licence, and in accordance with any conditions attached to such a Licence. Further an applicant for the grant, renewal or transfer of a license shall pay such a reasonable fee as determined by the Council.

### **4. BODY OF REPORT**

- 4.1 An initial enquiry has been made to hold an international Tattoo Convention in Tobacco Dock. Officers have carried out preliminary discussions to discuss the event and to outline safety considerations.
- 4.2 A Special Treatment Licence will be required to hold the event and which will enable conditions to be placed along with health and safety guidelines to be imposed. An application has now been received.
- 4.3 Officers have worked with the applicant and Health Protection Agency to determine guidelines.
- 4.4 The Convention will attract in excess of 200 tattooists from various countries, who will be offering tattoos to members of the public, mainly by appointment. The Convention is over three days and will be opened for about 10 hours a day on the 26<sup>th</sup>, 27<sup>th</sup> and 8.5 hours on the 28<sup>th</sup> September 2014.

- 4.5 The capacity of the venue is approximately 3000 persons. The event will also have commercial stalls, art shows and exhibitions of artwork.
- 4.6 Food outlets will be located in two separate areas within the venue and there will be a central food production area in the car park located across the road in Wapping Lane.
- 4.7 This is the ninth time that the applicant has hosted this event. It is the sixth time the event will be held at Tobacco Dock.
- 4.8 It has been estimated that the Council's time commitment for determining the licence and monitoring the event will be 60.5 hours to include pre planning and post event meetings and advice, administration and vetting the paperwork and a considerable amount of hours of attending and monitoring the event. This equates to a total cost of £2840.86. This considerable amount of monitoring is required due to the high-risk nature of the event in controlling blood borne diseases, the control of clinical waste and the general public safety at the event.

## **5. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 5.1 This report seeks approval to recover the administrative and enforcement costs associated with the proposed International Tattoo Convention in Tobacco Dock. The increase sought will increase the standard Massage and Special Treatment Licence fee from £311 to £2,852.86. The amount of £311 is the normal standard fee for an establishment of this type. The £2,852.66 represents the additional work involved in the event along with the increased number of tattooist at the convention. The total charge will be credited to the Environmental Health Budget to offset the costs. When this matter was considered at their meeting in June 2013, the Committee agreed to an increase in the charge from £302 to £2,817.

## **6. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 6.1. This report is seeking to have the Licensing Committee set the application fee for a massage and special treatment licence for the London Tattoo Convention at £2840.86.
- 6.2. Special treatments licences are granted in accordance with Part II of the London Local Authorities Act 1991 (as amended). Section 7(6) of that Act provides that an applicant for the grant, renewal or transfer of a license shall pay such a reasonable fee as determined by the Council.
- 6.3. Pursuant to its terms of reference, a function of the Licensing Committee is "To determine fees and charges for the issue, approval, consent, license, permit or other registration for functions for which the Committee has responsibility" and whilst the Council has determined standard fees, such standard fee is not

reasonable based upon the time commitment required for officers to properly process the application; monitor the event and the event clear up; and provide advice both during and after the event. Based on these reasons, the increase of the fee for this application is reasonable in all circumstances.

- 6.4. Members are also advised that the London Tattoo Convention has become an annual event within Tower Hamlets and an exceptional increase in the fee for its special treatment licence has been approved for previous events. The estimate of the costs incurred for this particular application is considered a realistic estimate based on previous experience.
- 6.5. Before taking the decision to increase the fee, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't.

## 7. **ONE TOWER HAMLETS CONSIDERATIONS**

- 7.1 An increase in charge will have an effect on the event promoter but it will not have a detrimental impact or accessibility to members of the public. The increase in cost is a fair reflection on Officer time to monitor the event.

## 8. **SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no environmental implications for the proposal to increase the Special Treatment fee for this one of event.

## 9. **RISK MANAGEMENT IMPLICATIONS**

- 9.1 If the proposals in the report are accepted then there are no risks to the Council. If enforcement of the licence conditions is reduced then there could be a reputational risk for the Council

## 10. **CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 The enforcement of licence conditions should contribute to the reduction of crime and disorder within the event.

## 11. **EFFICIENCY STATEMENT**

- 11.1 By agreeing to a single fee for the event rather than the Council considering issuing a licence to each individual tattooist then this would allow officer time to be used more efficiently in respect of the oversight of the event.

12. **APPENDICES**

12.1 Appendix 1 - Calculation to show how costs have been determined.

13. **REFERENCES**

13.1 Her Majesty's Stationery Office (HMSO), 'London Local Authorities Act 1991'  
accessed on 21/5/2014 at;  
<http://www.legislation.gov.uk/ukla/1991/13/contents/enacted>

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**Local Government Act, 1972 Section 100D (As amended)  
List of "Background Papers" used in the preparation of this report**

| Brief description of "background papers" | Name and telephone number of holder<br>and address where background papers<br>are open to inspection |
|--|--|
| <b>NONE</b>                              | N/A  |

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## Appendix 1

### Tattoo Convention - Massage and Special Treatment Licence Fee

It is estimated that there will be in excess of 200 tattooists operating at the tattoo convention over the 3 days. The cost of administration of the Licensing process is estimated at:

|                                      |                 |
|--------------------------------------|-----------------|
| Cost of Training and consistency     | £290.12         |
| Management                           | £187.78         |
| Licensing Committee and Policy       | £239.12         |
| IT Support                           | £187.20         |
| Officer time and related enforcement | £1948.64        |
| <b>Total</b>                         | <b>£2852.86</b> |

| <b>Process</b>   | <b>Officer</b>  | <b>Administration Officer</b>          |
|--|---|--|
| Receipt of application, dealing with the fee   |   | <b>(Officer rate £27.37)</b><br>1 hour |
| Application Review (approx 200 risk assessments, qualification and experience documentation, Organisers procedural documentation and food outlets HACCP documentation.<br><br>Pre Event planning Meetings / post event debrief | <b>(Officer 1 rate £31.61<br/>Officer 2 rate £27.91)</b><br><br>20 hours (Officer 1)<br><br>5 hours (Officer 1)                           |  |
| Consultation – (Emergency Service)   | 1 hour (Officer 1)  |  |
| Inspection (over 3 days)   | <b>Day 1</b><br>5 hrs (Officer 2)<br>11hrs (Officer 1)<br><br><b>Day 2</b><br>9.5 hours (Officer 1)<br><b>Day 3</b><br>4hours (Officer 1) |  |
| Officer Administration<br>Issue Licence<br>Inform consultees   | 3 hours (Officer 1)<br>1 hour (Officer 1)<br>1hour (Officer 1)  |  |
| Administration of licence  |   | 1 hour                                 |
| <b>Total</b>   | <b>55.5 hours( Officer1)<br/>5 hours (Officer 2)</b>  | <b>2 hours</b>                         |

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# Agenda Item 3.2

|                            |                             |                |            |                 |
|----------------------------|-----------------------------|----------------|------------|-----------------|
| Committee :                | Date                        | Classification | Report No. | Agenda Item No. |
| <b>Licensing Committee</b> | 11 <sup>th</sup> March 2014 | Unclassified   | LC 10/134  |                 |

|   |   |
|---|---|
| <b>Report of:</b><br>David Tolley<br>Head of Consumer and Business<br>Regulations Service | Title<br><b>Licensing Team – Review of Activity<br/>2013/14</b> |
| <b>Originating Officer:</b><br>John McCrohan – Trading Standards<br>and Licensing Manager | Ward affected<br><br>All  |

## 1.0 SUMMARY

This is an information item briefing the committee about the Licensing Team's enforcement and administration work this financial year.

## 2.0 RECOMMENDATIONS

That the Licensing Committee note and comment on the report.

## 3.0 BACKGROUND

- 3.1 The licensing team deals with the administration principally of the Licensing regimes under the Licensing Act 2003 and Gambling Act 2005, although it does cover scrap metal dealers and explosives (fireworks) registration.
- 3.2 The Scrap Metal Dealers Act 2013 has set up a new more rigorous regime for the licensing of scrap metal dealers and motor salvage businesses, which the Licensing Team has had to administer.
- 3.3 The team carries out enforcement, but is supported in this by other enforcement staff, principally Trading Standards and Environmental Health Officers from Consumer and Business Regulation.

## 4. REPORT

4.1 The vast majority of its work relates to the Licensing Act 2003 and this financial year the Licensing Team:–

- Issued 84 new Premises Licence;
- Issued 269 New personal licences;
- Dealt with 248 Variation of Premises Licence and Designated Premises Supervisors;
- Issued 954 Temporary Events Notices (TENS);
- Issued 11 Time Limited Premises Licence;
- Administered 17 Reviews of Premises licence;
- Administered 77 Transfers of licence;
- Administered 8 Provisional statements

In addition the team:-

- issued 15 Explosives registrations;
- administered 11 scrap metal site licence applications;
- administered 7 scrap metal mobile collector applications
- Classified 5 Films;

4.2 Also this financial year 647 visits were undertaken by Licensing and Trading Standards Staff to Licensed premises.

4.3 The Provisional Statements applications relate to 8 premises that are under construction at the Canary Wharf Cross Rail site. Sections 29 to 32 of the Licensing Act 2003 sets out the provisional statement procedure. Even where a provisional statement is granted, there is no certainty a Premises Licence will be granted in the future.

4.4 Two under-age test purchase operations have been undertaken with Police support at Betting Shops and Adult Gaming Centres.

4.5 There are programmed visits by Trading Standards, Police Licensing and HMRC officers to off licence premises, inspecting for illicit alcohol.

4.6 Licensing Staff conduct regular night time visits with Police Licensing Officers.

4.7 Operation Creek, continues targeting the problematic touting by the restaurants in Brick Lane.

4.8 Operation Dymock has been running since March 2013 and which involves weekend late night visits to monitor the terminal hours for late night refreshment and off-sales of alcohol.

4.9 Each fortnight, there is a Licensing Enforcement forum where the Police Licensing, London Fire Brigade, Licensing Officers and Environmental Health Environmental Protection meet to discuss Licensing matters, including possible problem premises.

4.10 *Key Strategic issues and impacts on 2013 /14 operations*

#### 4.10.1 **The Scrap Metal Dealers Act 2013**

The Scrap Metal Dealers Act 2013 came into force on 1st December 2013, with transitional arrangements commencing from 1<sup>st</sup> October. The Act introduced a fully-fledged, industry-funded licensing regime for scrap metal dealers, including new regulatory offences and enforcement tools for police and local authorities.

The new Act is considerably more ambitious than the Scrap Metal Dealers Act 1964, which is repealed. The new Act brought in specific powers to enforce the cashless model for dealing in scrap metal and the introduction of closure orders. The Act is a response to problem of metal theft plaguing the country.

The licensing regime will require Site Licences as well as mobile traders to be licensed.

The main provisions of the 2013 Act are:

- a) An extended regime to include a wide range of businesses.
- b) Amend the definition of scrap metal.
- c) The introduction of a national register of licenses to be held by the Environment Agency.
- d) The introduction of two different types of licences, Site and Collector
- e) The introduction of a suitability test for applications and licensees
- f) The introduction of a licence fee to be determined by the Council
- g) The introduction of the power to revoke a licence.
- h) The introduction of entry and inspection powers
- i) The power to obtain closure notices for unlicensed traders
- j) The introduction of increased record keeping requirements
- k) The introduction of a requirement to display licenses.
- l) The continuation of the offence of buying scrap metal for cash and additional offences relating to each of the powers and duties contained in the 2013 Act.
- m) There is no public consultation with this Licensing Scheme

#### 4.10.2 **Sexual Entertainment Venues**

In 2009 the Government brought In legislation allowing Local Authorities the discretion to adopt provisions to regulate sexual entertainment venues., such as lap dancing clubs.

The Council is in the process of deciding whether to adopt the legislation. It will allow the Council through licencing processes to:

- (a) Control the number of premises
- (b) Control the location of premises
- (c) Give local people a greater say over sexual entertainment venues in their area.

#### **4.10.3 Night Time Economy**

There is a vibrant night time economy in the Brick Lane area, which can be viewed as a continuation of neighbouring Hackney's Shoreditch and Hoxton where there is also adense and growing concentration of pubs, late-night clubs, bars, off-licences, late night food outlets and restaurants.

The Council has introduced a cumulative impact policy in the Brick Lane area in an effort to limit the growth of the Licensed premises in the vicinity of Brick Lane.

Hackney Council had introduced a similar policy in the Shoreditch area.

#### **4.10.4 Trends in Licencing volumes and complexity**

The Fish Island area close to the Olympic Park is showing signs of developing elements of a night time economy.

There is both a deregulatory drive and a policy of tightening the Licencing regime. For example restrictions have been loosened about playing music. The Government are proposing the abolition the personal licence regime.

In the opposite vein, a mandatory condition is to be introduced in April that will set a minimum price for a unit of alcohol.

The Home Office are set to revisit introducing locally set fees, which will mean that the Licencing Team must maintain detailed records to account for the fees charged. The fees regime can only be costs recovery and cannot operate at a profit.

Since 2012, the Licencing Team can suspend a premises licence where the annual fee is owed. There has been a remarkable improvement in payment. Previously, non-payment was a civil debt and a number of businesses had failed to pay regularly.

## **5 COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 5.1 No specific financial implications emanate from this report which provides a review of the Council's Licensing Team's enforcement and administration activities during 2013/14.

## **6 LEGAL COMMENTS**

- 6.1. The Licensing Team exercises the Council's regulatory functions under the Licensing Act 2003 and the Scrap Metal Dealers Act 2013. This report reviews the work over the last financial year and provides information upon the various activities undertaken in fulfilment of the Council's obligations. Additional duties will fall on this team if the Council adopts the statutory licensing regime for sexual entertainment venues.
- 6.2 There are no immediate legal implications arising from this report.

## **7 ONETOWERHAMLETSCONSIDERATIONS**

- 7.1 No adverse impacts have been identified

## **8 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no adverse impacts identified.

## **9 RISKMANAGEMENT IMPLICATIONS**

- 9.1 The Council will be at risk of legal challenge if its decision making process on determining applications is not transparent and evidentially based.
- 9.2 Also the Council will be at risk where a decision to take, or not to take, enforcement action does not follow the Authority's published enforcement policy.

## **10 CRIME AND DISORDER REDUCTIONIMPLICATIONS**

- 10.1 One of the key licensing objectives is to prevent licensed premises from being a source of crime and disorder. The Licensing team inspects licensed premises and takes formal enforcement action in accordance with the Council's enforcement policy. Thus the Licensing team plays 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.

**11 EFFICIENCY STATEMENT**

11.1 None

**12 APPENDICES**

12.1 None

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**Local Government Act, 1972 Section 100D (As amended)  
List of "Background Papers" used in the preparation of this report**

| Brief description of "background papers" | Name and telephone number of holder and address where background papers are open to inspection |
|--|--|
| <b>NONE</b>                              | N/A  |

# Agenda Item 3.3

|   |   |   |                                |                     |
|---|---|---|--------------------------------|---------------------|
| <b>Committee:</b><br>Licensing Committee  | <b>Date:</b><br>11 <sup>th</sup> March 2014 | <b>Classification:</b><br>Unrestricted  | <b>Report No:</b><br>LC 11/134 | <b>Agenda Item:</b> |
| <b>Report of:</b><br>Service Head - Legal Services<br>Originating officer(s) Paul Greeno<br>Senior Advocate |   | <b>Title:</b><br>Update in Relation to Prosecutions and Appeals - Q1 to Q3 2013/2014<br><br>Wards Affected: All |                                |                     |

## 1. **SUMMARY**

- 1.1 At its meeting on 4<sup>th</sup> June 2013, the Licensing Committee requested if regular reports could be brought giving details of licensing enforcement activity and specifically as to outcomes of prosecutions and appeals.
- 1.2 This report and gives details of completed licensing related prosecutions and appeals for the first three (3) quarters of 2013/2014.

## 2. **RECOMMENDATIONS**

The Licensing Committee is recommended to:-

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

### 3. **BACKGROUND**

3.1 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.

3.2 Where the Licensing Authority takes enforcement action to ensure compliance with conditions etc. then it does so in accordance with the Council's has in place an 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.

3.3 Further, as a Licensing Authority the Council as 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.

### 4. **BODY OF REPORT**

#### Prosecutions

4.1 In quarters 1, 2 and 3 of 2013/2014, there were proceedings taken against nineteen (19) individuals in respect of sixteen (16) businesses. Eleven (11) of the business were in the Brick Lane area and eight (8) of the Prosecutions related to breach of the "no touting" condition; one (1) was a prosecution against the tout for breach of the "touting" byelaw; one (1) related to selling alcohol without a licence; and one (1) related to operating as a late night refreshment establishment without a Premises Licence.

4.2 In respect of the remaining five (5) businesses: one (1) was a take-away restaurant in the Limehouse area and which was operating as a late night refreshment establishment without a Premises Licence; one (1) was a pub in the Limehouse area and related to being open beyond the prescribed hours; two (2) related to premises in the Aldgate/ Whitechapel area and related to selling alcohol beyond the prescribed hours; and one (1) was in the Bethnal Green area and related to the selling of counterfeit alcohol.



4.3 The results of the Prosecutions are as set out below:

| No. | Offences   | Outcome   |
|-----|--|---|
| 1.  | s.136(1)(a) Licensing Act 2003<br>(Breach of condition 10 in Annex 2)  | Guilty – Fine, costs etc.<br>£764   |
| 2.  | s.136(1)(a) Licensing Act 2003<br>(Breach of condition 1 in Annex 3)   | Withdrawn following representations<br>from defendant   |
| 3.  | s.136(1)(a) Licensing Act 2003<br>(Breach of condition 5 in Annex 2)   | Guilty – Fine, costs etc.<br>£565   |
| 4.  | s.136(1)(a) Licensing Act 2003<br>(Breach of condition 1 in Annex 3)   | Guilty – Fine, costs etc.<br>£465   |
| 5.  | s.136(1)(a) Licensing Act 2003<br>(Breach of condition 10 in Annex 2)  | Guilty – Fine, costs etc.<br>£764   |
| 6.  | s.136(1)(b) Licensing Act 2003<br>(Breach of condition 1 in Annex 2)   | Guilty – Fine, costs etc.<br>£420   |
| 7.  | s.136(1)(a) Licensing Act 2003   | Guilty – Fine, costs etc.<br>£1,515   |
| 8.  | s.57(7) & (8) Licensing Act 2003<br>(failure to produce Premises<br>Licence)<br><br>s.136(1)(b) Licensing Act 2003<br>(Breach of condition 1 in Annex 2) | Guilty – sentence<br><br>12 month Conditional Discharge<br><br>Costs £300<br><br>Acquitted of breach of Premises<br>Licence |

|     |   |   |
|-----|---|---|
| 9.  | s.136(1)(a) Licensing Act 2003<br>(Breach of condition 10 in Annex 2)   | Guilty – Fine, costs etc.<br>£6.295<br><br>Offender's Personal Licence also suspended for 6 months    |
| 10. | s.136(1)(b) Licensing Act 2003<br>(Breach of condition 1 in Annex 3)<br><br>s.57(7) Licensing Act 2003<br>(failure to produce Premises Licence) | Guilty – Fine, costs etc.<br>£470   |
| 11. | s.136(1)(b) Licensing Act 2003<br>(Breach of condition 1 in Annex 3)<br><br>(x2)  | Guilty – Fine, costs etc.<br>£695   |
| 12. | s.237 Local Government Act 1972<br><br>(Breach of Byelaw 5 of London Borough of Tower Hamlets Byelaws for Good Rule & Government)               | Guilty – Fine, costs etc.<br>£470   |
| 13. | s.92(1)(b) Trade Marks Act 1994   | Guilty – Fine, costs etc.<br>£2,991.19<br><br>Offender's Personal Licence also suspended for 6 months |
| 14. | s.136(1)(b) Licensing Act 2003  | Guilty – Fine, costs etc.<br>£385<br><br>Offender's Personal Licence also suspended for 1 month       |

|     |   |   |
|-----|---|---|
| 15. | s.136(1)(a) Licensing Act 2003<br>s.137(1) Licensing Act 2003 | Guilty – Fine, costs etc.<br>£570<br><br>Offender’s Personal Licence also suspended for 1 month |
| 16. | s.136(1)(a) Licensing Act 2003                                | Withdrawn as Simple Caution administered  |
| 17. | s.136(1)(a) Licensing Act 2003<br>s.137(1) Licensing Act 2003 | Guilty – Fine, costs etc.<br>£1,400   |
| 18. | s.136(1)(a) Licensing Act 2003<br>s.137(1) Licensing Act 2003 | Guilty – Fine, costs etc.<br>£370   |
| 19. | s.136(1)(b) Licensing Act 2003 (x2)                           | Guilty – 6 month Conditional Discharge – Costs etc. £415  |

#### Appeals

4.4 During quarters 1, 2 and 3 of 2013/2014, there were six (6) Appeals that were concluded. Three (3) were in respect of reviews: one (1) a section 53A summary review triggered by the Police and two (2) normal reviews triggered by Trading Standards for breach of Touting Condition/ operating during a suspension of the licence. Two (2) were in respect of Appeals in relation to the granting of Premises Licences: one (1) by the applicant in respect of conditions and one (1) by residents appealing the grant of a licence. The final appeal was against the refusal to grant a Temporary Event Notice (TEN).

4.5 The outcomes of the Appeals are as set out below:

| No. | Outcome   |
|-----|---|
| 1.  | Appeal settled by agreement – Police settled matter with Premises Licence holder and we therefore had no grounds for continuing to contest appeal |
| 2.  | Appeal withdrawn by Premises Licence holder and original decision by Sub-committee to suspend Premises Licence and remove DPS stands              |
| 3.  | Appeal withdrawn by Premises Licence holder and original decision by Sub-committee to revoke the Premises Licence stands                          |

|    |   |
|----|---|
| 4. | Appeal settled by agreement – This was a technical appeal regarding the wording of conditions and whether certain conditions were actually enforceable. Certain conditions were varied and certain conditions were deleted. There was no change to the hours of operation or the nature of the operation  |
| 5. | The Appeal was won as the Appellants withdrew the Appeal  |
| 6. | There were technically three (3) Appeals in 1 all in relation to refusals to grant TENs for 3 consecutive weekends. The Appeal was successful. The Court noted that the sale was for hot food and hot drink only and that there was no alcohol or other entertainment and accepted the argument advanced on behalf of the Appellant the the sale of hot food and hot drink was likely to reduce the problems caused by those who consume alcohol, not worsen it |

**5. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 5.1 This report describes the Council’s licensing enforcement activity and the outcomes of prosecutions and appeals for the period quarter 1 to 3 in 2013/2014.
- 5.2 There are no financial implications arising from the recommendations in this report.

**6. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 6.1 Any legal implications are addressed in the body of the report.

**7. ONE TOWER HAMLETS CONSIDERATIONS**

- 7.1 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.
- 7.2 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.

7.3 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.

7.4 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 16<sup>th</sup> 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.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

8.1 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.

**9. RISK MANAGEMENT IMPLICATIONS**

9.1 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. .

**10. 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.

**11. EFFICIENCY STATEMENT**

11.1 The report does not propose any direct expenditure. Rather, it is concerned with advises as to outcomes in areas in which the Council is already active. The enforcement policy seeks to ensure that enforcement action is targeted to the Council’s policy objectives. This is more likely to lead to efficient enforcement action than a less-controlled enforcement effort.

**12. APPENDICES**

None

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**Local Government Act, 1972 Section 100D (As amended)  
List of “Background Papers” used in the preparation of this report**

| Brief description of “background papers” | Name and telephone number of holder and address where open to inspection. |
|--|---|
| None                                     | N/A   |