

# LICENSING COMMITTEE

Tuesday, 15 July 2014 at 6.15 p.m.

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

The meeting is open to the public to attend.

<b><u>Members:</u></b>	<b>Ward Represented</b>
<b>Chair:</b> Councillor Amy Whitelock Gibbs	Bethnal Green;
<b>Vice-Chair:</b>	
Councillor Khaled Uddin Ahmed	Bromley North;
Councillor Rajib Ahmed	Lansbury;
Councillor Suluk Ahmed	Spitalfields & Banglatown;
Councillor Mahbub Alam	St Dunstan's;
Councillor Shah Alam	Mile End;
Councillor Amina Ali	Bow East;
Councillor Rachel Blake	Bow East;
Councillor Gulam Kibria Choudhury	Poplar;
Councillor Andrew Cregan	Island Gardens;
Councillor Peter Golds	Island Gardens;
Councillor Clare Harrisson	St Peter's;
Councillor Mohammed Mufti Miah	Bromley North;
Councillor Ansar Mustaqim	St Peter's;
Councillor Helal Uddin	Bromley South;

[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  
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Web: <http://www.towerhamlets.gov.uk/committee>

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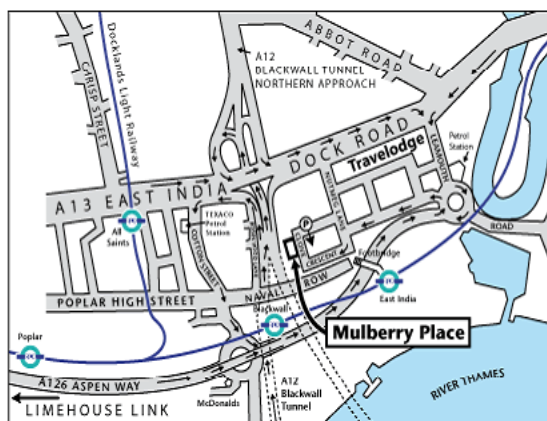
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## **APOLOGIES FOR ABSENCE**

### **1. ELECTION OF VICE-CHAIR FOR THE MUNICIPAL YEAR 2014/15**

To receive nominations for the election of the Vice-Chair.

### **2. 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.

	<b>PAGE NUMBER</b>	<b>WARD(S) AFFECTED</b>
<b>3. MINUTES OF THE PREVIOUS MEETING(S)</b>		
	<b>5 - 8</b>	
To confirm the minutes of the meeting of the Licensing Committee held on 11 March 2014 as an accurate record of the proceedings.		
<b>4. ITEMS FOR CONSIDERATION</b>		
<b>4 .1 Licensing Committee, Terms of Reference, Membership, and Quorum</b>	<b>9 - 16</b>	<b>All Wards</b>
<b>4 .2 Establishment of Licensing Sub Committees, Terms of Reference &amp; Schedule of Dates</b>	<b>17 - 36</b>	<b>All Wards</b>
<b>4 .3 Current Licensing Programs</b>	<b>37 - 42</b>	<b>All Wards</b>
<b>4 .4 Update in Relation to Prosecutions and Appeals - 2013/2014</b>	<b>43 - 52</b>	<b>All Wards</b>
<b>5. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT</b>		

**Next Meeting of the Licensing Committee**  
Tuesday, 14 October 2014 at 6.30 p.m.

# Agenda Item 2

## **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:-

Meic Sullivan-Gould, Monitoring Officer, Telephone Number: 020 7364 4801

## 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 6.30 P.M. ON TUESDAY, 11 MARCH 2014

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

#### Members Present:

Councillor Carli Harper-Penman (Chair)

Councillor Khaled Uddin Ahmed  
Councillor Peter Golds (Vice-Chair)  
Councillor Ann Jackson  
Councillor Denise Jones  
Councillor David Snowdon

#### 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)

#### APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Members;

- Councillor Rajib Ahmed
- Councillor David Edgar
- Councillor Marc Francis
- Councillor Joshua Peck

#### 1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of disclosable pecuniary interests.

**2. MINUTES****RESOLVED**

That the minutes of the Licensing Committee meeting held on 8<sup>th</sup> October 2013 and the Extraordinary Licensing Committee held on 8<sup>th</sup> January 2014 were confirmed and agreed as a correct record.

**3. ITEMS FOR CONSIDERATION****3.1 Application to Increase Licence Fee for the London Tattoo Convention**

Mr David Tolley, Head of Consumer and Business Regulations Service introduced the report explaining that the Tattoo Convention had been taking place in Tobacco Dock for the last 6 years. That a Special Treatment Licence was required for tattooing to be provided and an increase in the licensing fee was 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.

It was noted that there was a typographical error in the report and the proposed licence fee should be £2852.86 as detailed correctly in the appendix.

The Committee noted the rationale for the determination of the fee and it was:-

**RESOLVED**

1. That the application fee for a massage and special treatment licence for the London Tattoo Convention be set at £2852.86.

**3.2 Licensing Team - Review of Activity 2013/14**

Mr John McCrohan, Trading Standards & Licensing Manager introduced the report which detailed the Licensing Team's enforcement and administration work this financial year. He explained that the Licensing Team conduct regular night time visits with Police Licensing Officers and Operation Creek continues to target the problematic touting by the restaurants in Brick Lane as well as this Operation Dymock had been running since March 2013, which involves weekend late night visits to monitor the terminal hours for late night refreshments and off sales of alcohol.

It was noted that the Scrap Metal Dealers Act 2013 had set up a new rigorous regime for the licensing of scrap metal dealers and motor salvage business, which the Licensing Team have had to administer. It was also noted that a

mandatory condition is to be introduced in April that will set a minimum price for a unit of alcohol.

After a short discussion the following points were raised;

- That premises which breach their suspension conditions should be dealt with in way of enforcement action or a review of the licence.
- Follow up action and regular visits should be made during suspension periods.
- That record keeping requirements are used when licensing Scrap Metal Dealers.
- That there should be more enforcement action taken by Licensing staff and that Senior Managers should look to resource the Licensing Team further in order to carry out licensing visits and enforcement actions.

At this point the Chair mentioned the issue raised by SPIRE (Spitalfields Residents Group) regarding the Special Cumulative Impact Zone. It was noted that the residents wished to meet with members of the Licensing Committee to discuss their concerns. Mr Paul Greeno, Senior Advocate advised that such meeting would be inappropriate as it may be seen as encouraging residents to object to applications and could be seen as pre-determination of forthcoming applications.

Following a short discussion, Members suggested that more information such as a list of frequently asked questions, the licensing objectives and grounds for objection is made available for residents and other potential objectors on the Tower Hamlets website, Licensing Agendas, etc. It was agreed that SPIRE would also receive information on the Licensing Committee's role and responsibility and clarity on what the Committee's function is in order to alleviate some of their concerns.

Members welcomed the report and thanked Mr McCrohan for the information provided.

### **RESOLVED**

That the report be noted.

### **3.3 Update in Relation to Prosecutions and Appeals - Quarter 1 to Quarter 3 2013/2014**

Mr Paul Greeno, Senior Advocate briefly introduced the report which detailed licensing related prosecutions and appeals for the first three quarters of 2013/2014.

Members noted the results of the prosecutions and appeals detailed in the report and thanked Mr Greeno for the information provided.

### **RESOLVED**

That the report be noted.

**4. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT**

The Chair extended her thanks to all Officers from Licensing and Legal for all the hard work over the years and in particular thanked Simmi Yesmin, Senior Committee Officer for her hard work, dedication and support to Members of the Licensing Committee over the past years.

Councillor Peter Golds, on behalf of the Committee and Officers thanked Councillor Carli Harper-Penman, for Chairing the Licensing Committee over the past seven years with commitment, dedication, and hard work and that she would be missed at future meetings.

The meeting ended at 7.25 p.m.

Chair, Councillor Carli Harper-Penman  
Licensing Committee

# Agenda Item 4.1

<b>Committee</b>	<b>Date</b>	<b>Classification</b>	<b>Report No.</b>	<b>Agenda Item.</b>
Licensing Committee	15 July 2014	Unrestricted	LC 01/145	
<b>Report of:</b> Service Head, Democratic Services		<b>Title</b>		
<b>Originating Officer:</b> Simmi Yesmin Senior Committee Officer		<b>Licensing Committee, Terms of Reference, Membership, and Quorum</b>  <b>Ward(s) affected : All</b>		

## 1. SUMMARY

- 1.1 This report sets out the Terms of Reference, Membership, and Quorum of the Licensing Committee and the Schedule of Dates for the Municipal Year 2014/2015 for Members' information.

## 2. RECOMMENDATIONS

The Licensing Committee is recommended to:-

- 2.1 Note its Terms of Reference, Membership, and Quorum as set out in Appendices 1 and 2 to this report;

### **3. BACKGROUND**

- 3.1 At the Annual Meeting of the Full Council held on 11<sup>th</sup> June 2014, Council re-established the Licensing Committee and delegated to this body, a range of duties and responsibilities relating to the licensing function in accordance with relevant legislation.

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

- 4.1 It is traditional that following the Annual Meeting of the Full Council at the start of the Municipal Year, at which various committees are established, that those committees note their terms of reference for the forthcoming Municipal Year.

- 4.2 Council, on 11<sup>th</sup> June 2014, agreed a schedule of dates for Committees/Panels for the Municipal Year 2014/2015. The dates agreed for the Licensing Committee are as follows:-

- 15 July 2014
- 14 October 2014
- 09 December 2014
- 10 March 2015

- 4.3 It may be necessary to convene additional meetings of the Committee should urgent business arise. Officers will keep the position under review and consult with the Chair and Members as appropriate.

- 4.4 Meetings of the Licensing Committee are scheduled to take place at 7.00pm in the Town Hall, Mulberry Place in accordance with the programme of meetings. However for several years, meetings of the Licensing Committee have started at 6.30pm as Members had previously expressed concern that a starting time of 7.00 pm did not always allow sufficient time for reports and applications to be considered in one evening, particularly if there were a number of items to consider. Experience has shown that a 6.30 p.m. start time for meetings has achieved the best compromise in giving all parties reasonable time to attend and allow potentially long meetings to end at a reasonable time.

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

There are no immediate finance implications arising out of this report.

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

The information provided for the Committee to note is in line with the Council's Constitution and the resolutions made by Full Council on 11<sup>th</sup> June 2014.

**7. ONE TOWER HAMLETS CONSIDERATIONS**

In drawing up the schedule of dates, consideration was given to avoiding school holiday dates and known dates of religious holidays and other important dates where at all possible.

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

There are no immediate SAGE implications arising from the report.

**9. RISK MANAGEMENT IMPLICATIONS**

The Council needs to have a programme of meetings in place to ensure effective and efficient decision making arrangements.

**10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

There are no immediate crime and disorder implications arising out of this report.

**11. EFFICIENCY STATEMENT**

There are no immediate efficiency implications arising out of this report.

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**LOCAL GOVERNMENT ACT, 1972 Section 100D (as amended)  
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

None

**12. APPENDICES**

Appendix 1 – Terms of Reference

Appendix 2 - Membership of the Licensing Committee

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**APPENDIX 1**

**Licensing Committee – Terms of Reference (Extract from the Council’s Constitution)**

<b>Membership:</b> Fifteen Members of the Council.	
<b>Functions</b>	<b>Delegation of Functions</b>
<p>1. To consider and determine applications for the grant or variation of the following:</p> <ul style="list-style-type: none"> <li>a) Premises Licenses, Personal Licences, Temporary Events Notices and Club Premises Certificates pursuant to the Licensing Act 2003 where relevant representations have been received;</li> <li>b) Special treatment licenses in respect of premises within the borough where objections have been received;</li> <li>c) Gaming permits, as defined by Schedule 9 (6) of the Gaming Act 1968, where objections have been received;</li> <li>d) Small lotteries registration, where objections have been received;</li> <li>e) Competitive bidding licenses, where objections have been received;</li> <li>f) Pools promotion registration, where objections have been received.</li> <li>g) Granting “hypnotism waivers” in accordance with Council policy.</li> <li>h) Any other application which the Corporate Director, Environment and Culture considers should be referred to the Committee for determination</li> </ul> <p>2. To consider and determine applications for revocation and/or review of any licences which fall to be determined by the Committee in accordance with paragraph 1 a) to h) above</p> <p>3. To resolve not to issue a casino premises licence pursuant to section 166 Gambling Act 2005.</p> <p>4. To determine fees and charges for the issue, approval, consent, license, permit or other registration for functions for which the Committee has responsibility.</p> <p>5. To determine all aspects of licensing policy/procedure (excluding the determination of the Council’s Statement of Licensing Policy) and miscellaneous licensing matters, including the creation of Sub Committees for the purposes of the Licensing Act 2003.</p> <p>6. To consider the Council’s statement of licensing policy.</p>	<p>The Corporate Director, Communities, Localities and Culture (or any officer authorised by her/him) has the authority to consider and determine any applications for licenses not specifically reserved to the Licensing Committee by these terms of reference and all applications for licences where no objections have been received.</p>
<b>Quorum:</b> Three Members of the Committee	

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## MEMBERSHIP OF THE LICENSING COMMITTEE

<b>LICENSING COMMITTEE</b> (Fifteen Members of the Council) (No Deputies permitted)		
<b><i>Labour Group (8)</i></b>	<b><i>Tower Hamlets First Group (6)</i></b>	<b><i>Conservative Group (1)</i></b>
Cllr Amy Whitelock Gibbs (Chair) Cllr Khales Uddin Ahmed Cllr Rajib Ahmed Cllr Amina Ali Cllr Rachel Blake Cllr Andrew Cregan Cllr Clare Harrison Cllr Helal Uddin	Cllr Suluk Ahmed Cllr Mahbub Alam Cllr Shah Alam Cllr Gulam Kibria Choudhury Cllr Md. Mufti Miah Cllr Ansar Mustaquim	Cllr Peter Golds

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# Agenda Item 4.2

<b>Committee:</b> Licensing Committee	<b>Date:</b> 15 July 2014	<b>Classification:</b> Unrestricted	<b>Report No:</b> LC 02/145	<b>Agenda Item:</b>
<b>Report of:</b> Service Head, Democratic Services <b>Originating officer(s):</b> Simmi Yesmin Senior Committee Officer		<b>Title:</b> <b>Establishment of Licensing Sub Committees, Terms of Reference &amp; Schedule of Dates</b>  <b>Wards Affected:</b> All		

## 1. **SUMMARY**

- 1.1 The purpose of this report is to establish Licensing Sub Committees, appoint their membership and to note the proposed Terms of Reference, Schedule of Dates and Rules of Procedure.

## 2. **RECOMMENDATIONS**

The Licensing Committee is recommended to:-

- 2.1 Consider and note the contents of the report and;
- i) resolve that the functions in respect of determination of applications where representations have been made be discharged by Sub Committees established by the Licensing Committee;
  - ii) determine how many Sub Committees to establish;
  - iii) determine, if so wished, how many Sub Committee Chairs to appoint
  - iv) determine whether to appoint membership of the Sub Committees
- 2.2 Note the Licensing Sub Committee's Terms of Reference, Schedule of Dates and Rules of Procedure attached as Appendices 1, 2 and 3 of the report.

### **3. BACKGROUND**

- 3.1 In accordance with the Licensing Act 2003, full Council at its meeting held on 11<sup>th</sup> June 2014 agreed that the Licensing Committee would consist of 15 Members and noted that the Committee would exercise its powers to appoint Sub Committees with the power to consider and determine Licensing applications. It was also noted that, under the Licensing Act 2003, proportionality rules are not applicable to Licensing Sub Committees.

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

- 4.1 The Licensing Act 2003 allows a Sub Committee to consist of three Members with the quorum also being three; it is not therefore possible to consider increasing the membership beyond that number. This also means that it is imperative that Members attend meetings as arranged and that the Committee needs to give careful consideration to the number of Sub Committees to establish so as to allow the greatest degree of Member participation, whilst sharing the workload.
- 4.2 It is entirely within the remit of the Licensing Committee to determine the number and operation of its Sub Committees. The previous Licensing Committee decided that all Members of the Licensing Committee would serve on its Sub Committees and elected to appoint six Members of the Committee to act as Sub Committee Chairs: the Chair, Vice Chair and four other Members.
- 4.3 As stated above, proportionality rules do not apply to the Sub Committees and this, together with what is proposed, means that a Sub Committee could be formed with one named Chair and any other two Members. This would allow considerable flexibility and ensure that workloads could be distributed amongst the membership. Where possible, and in line with Licensing Guidance, Members would not be asked to consider applications for premises within their Ward, thus ensuring an open and transparent decision making process. Alternatively, the Committee may wish to consider making fixed appointments to an agreed number of Sub Committees.
- 4.4 Members should also be aware that the 2003 Act provides that where it is not possible to determine an application within one hearing, hearings must continue on consecutive days. Whilst it is unlikely that this scenario will occur with any frequency, officers will ensure that the possibility of this occurring will be taken into account when establishing Member availability. In addition, Members will be asked to indicate if they are available for daytime meetings as it may be possible to hold a number of meetings during the day and thus reducing the number of meetings that would need to be scheduled during the evening.
- 4.5 Council has approved a schedule of dates for Licensing Sub Committees, and whilst it will be necessary to look to these dates in the first instance, whether or not they can be utilised will depend on member availability and the period of time within which an application will have to be considered. Officers will

advise as to the current position regarding the number of applications received and the likely impact of this, at the meeting.

- 4.6 Members are also asked to note the proposed Terms of Reference attached as Appendix 1, the Schedules of Dates for the Licensing Sub Committee meetings attached as Appendix 2 and the Rules of Procedure attached as Appendix 3, to this report.

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

No material financial implications, such as additional Allowances, are proposed as a result of introducing Sub-Committees. Any minor incidental expenditure that may arise will be contained within the existing Chief Executive Directorate's budget.

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

- 6.1 Section 6 of the Licensing Act 2003 ("the 2003 Act") provides that each licensing authority must establish a Licensing Committee consisting of at least ten, but not more than fifteen, members of the authority.
- 6.2 The overwhelming majority of contested licence applications will be heard by Licensing Sub Committees. Pursuant to section 9(1) of 2003 Act, a Licensing Committee may establish one or more sub-committees consisting of three members of the committee. Section 10 of the 2003 Act then allows for the Licensing Committee to arrange for its functions relating to contested hearings to be delegated to the sub committees. In order that the Council can deal with the potential large number of contested applications it will be preferable if the Licensing Committee does delegate this function. Further, due to the nature of the hearing Regulations, Sub Committees will be better able to consider applications much more quickly than the main Licensing Committee.
- 6.3 The delegation of functions not only applies to licensing authority functions under the 2003 Act but also to licensing authority functions under the Gambling Act 2005 ("the 2005 Act"). Section 154(1) of the 2005 Act provides that licensing authority functions under that part of the 2005 Act (that is part 8) are delegated to a Licensing Committee of the licensing authority established under section 6 of the 2003 Act. Section 154(3) of the 2005 Act provides that section 10 of the 2003 Act applies in relation to functions delegated to the Licensing Committee by virtue of section 154(1) of the 2005 Act.
- 6.4 As the Sub Committee is appointed pursuant to the powers in Section 9 of the Licensing Act 2003, then it is not classed as an advisory or an ordinary Committee/Sub Committee of the Council. Further, as the Sub Committee does not fall within one of the other named categories of bodies for the purposes of section 15 to and schedule 1 of the Local Government and Housing Act 1989 then the Sub Committees do not have to reflect the political

make up of the Council and therefore the proportionality principles do not apply.

- 6.5 Finally, as to the Licensing Committee, section 9(3) of the Licensing Act 2003 gives power to the Licensing Committee, subject to any Regulations made by Government, that the Committee may regulate its own procedure and that of its Sub Committees.

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

In drawing up the schedule of dates, consideration was given to avoiding school holiday dates and known dates of religious holidays and other important dates where at all possible.

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

There are no immediate SAGE implications arising from the report.

## **9. RISK MANAGEMENT IMPLICATIONS**

The Council needs to have a programme of meetings in place to ensure effective and efficient decision making arrangements.

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

There are no immediate crime and disorder implications arising out of this report.

## **11. EFFICIENCY STATEMENT**

There are no immediate efficiency implications arising out of this report.

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### **LOCAL GOVERNMENT ACT, 1972 Section 100D (as amended) LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

None

## **12. APPENDICES**

Appendix 1 – Terms of Reference  
Appendix 2 – Schedule of Dates for the Licensing Sub Committees  
Appendix 3 – Rules of Procedure



**LICENSING SUB COMMITTEE**

**Terms of Reference**

1. The Licensing Sub Committee will consist of 3 Members of the Licensing Committee and the quorum of the Sub Committee shall be 3 Members.
2. The Sub Committee(s) shall consider applications submitted in accordance with the requirements of the Licensing Act 2003, including:
  - i) Determination of applications for a premises licence where representations have been made (Section 18(3) of the Licensing Act 2003)
  - ii) Determination of applications for provisional statements where representations have been made (Section 31(3) of the Licensing Act 2003)
  - iii) Determination of applications to vary a premises licence where representations have been made (Section 35(3) of the Licensing Act 2003)
  - iv) Determination of applications to vary a premises licence to specify an individual as premises supervisor following police objection (Section 39(3) of the Licensing Act 2003)
  - v) Determination of applications for transfer of a premises licence following police objection (Section 44(5) of the Licensing Act 2003)
  - vi) Consideration of police objection made to interim authority notice (Section 48(3) of the Licensing Act 2003)
  - vii) Determination of applications for a review of a premises licence (Section 52(2) of the Licensing Act 2003)
  - viii) Determination of interim steps pending summary review (Section 53A(2)(a) or 53B Licensing Act 2003)
  - ix) Determination of applications for club premises certificate where representations have been made (Section 72(3) of the Licensing Act 2003)
  - x) Determination of applications to vary a club premises certificate where representations have been made (Section 85(3) of the Licensing Act 2003)

- xi) Determination of applications for review of a club premises certificate (Section 88(3) of the Licensing Act 2003)
- xii) Determination of counter notice following objection to a temporary event notice (Section 105(2) of the Licensing Act 2003)
- xiii) Determination of applications for grant of a personal licence following police objection (Section 120(7) of the Licensing Act 2003)
- xiv) Determination of applications for the renewal of a personal licence following police objection (Section 121(6) of the Licensing Act 2003)
- xv) Determination of personal licence where convictions come to light after the grant or renewal of the personal licence (Section 124(4) of the Licensing Act 2003)
- xvi) Determination of the review of a premises licence following a closure order (Section 167(5) of the Licensing Act 2003)

**SCHEDULE OF DATES 2014 - 2015****LICENSING SUB COMMITTEE(S)**

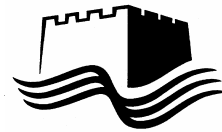
<b>2014</b>	<b>2015</b>
Thursday 26 June Tuesday 08 July (5.30pm) Tuesday 22 July (5.30pm) Tuesday 05 August Tuesday 19 August Tuesday 02 September Tuesday 16 September Tuesday 30 September Tuesday 07 October Tuesday 21 October Tuesday 04 November Tuesday 18 November Tuesday 02 December Tuesday 16 December	Thursday 08 January Tuesday 20 January Tuesday 03 February Tuesday 17 February Tuesday 03 March Tuesday 17 March Tuesday 31 March Tuesday 14 April Tuesday 28 April Tuesday 12 May Tuesday 26 May Tuesday 09 June

Meetings are scheduled to take place at 6.30pm in the Town Hall, Mulberry Place, in accordance with the programme of meetings except where indicated above.

It may be necessary to convene additional meetings of the Committee should urgent business arise. Officers will keep the position under review and consult with the Chair and Members as appropriate.



**TOWER HAMLETS**



**LICENSING COMMITTEE**

**RULES OF PROCEDURE  
GOVERNING APPLICATIONS FOR  
PREMISES LICENCES  
AND OTHER PERMISSIONS  
UNDER THE LICENSING ACT 2003**

## **1. Interpretation**

- 1.1 These Procedures describe the way in which hearings will be conducted under the Licensing Act 2003, as set out in the Licensing Act 2003 (Hearings) Regulations 2005 (as amended). The Procedures take into account the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2005. The Procedures also include the time limits within which a hearing must commence (see Appendix A) and will be used by the Licensing Committee and Licensing Sub-Committee when conducting hearings.
- 1.2 The Hearings Regulations provide (Regulation 21) that a Licensing Authority shall, subject to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.
- 1.3 These Procedures, therefore, set out the way in which Licensing Sub-Committee Meetings will be conducted under the Licensing Act 2003, following the requirements of the Hearings Regulations. Wherever appropriate they have included the procedures followed successfully when determining licence applications under previous legislation.
- 1.4 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations (Regulation 31) save that in any case of such an irregularity, the Licensing Committee or Licensing Sub-committee shall, if it considers that any person may have been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure the irregularity before reaching its determination (Regulation 32).

## **2. Composition of Sub-Committee**

- 2.1 The Sub-Committee will consist of three members and no business shall be transacted unless three members of the Licensing Committee are present and able to form a properly constituted Licensing Sub-Committee. In such cases the Chair shall have a second or casting vote.

## **3. Timescales**

- 3.1 Subject to regulation 13, the Licensing Committee or Licensing Sub-committee may extend a time limit provided for in these Regulations for a specified period where it considers this to be necessary in the public interest.
- 3.2 Most hearings must take place within 20 working days from the last date for representations to be made with the following exceptions:

Within 10 working days from the last date for the police to object to:

- conversion of an existing licence;
  - conversion of an existing club certificate;
  - an application for a personal licence by an existing justices licence holder;
- and

Within 10 working days from the date the Licensing Authority receives the notice for a review of the premises licence following a closure order.

Within 7 working days from the last date for the police to object to:

- a temporary event notice.

Within 5 working days from the last date for the police to object to:

- an interim authority notice (Note: the police must give notice of their objection within 48 hours of being given a copy of the notice).

**Note:** Where a hearing is likely to take longer than one day, the Authority must arrange for the hearing to take place on consecutive days.

### **3.3 Timescale for notice of hearings to be given**

In most cases, the Authority shall give notice of a hearing no later than 10 working days before the first day on which the hearing is to be held. The following are exceptions to that rule:

At least five working days notice must be given to the parties of the date of a hearing for determination of:

- conversion of an existing licence
- conversion of an existing club certificate
- application for a personal licence by the holder of a justices licence
- review of a premises licence following a closure order
- section 53C (review of premises licence following review notice)

At least two days notice must be given to the parties to a hearing for determination of:

- police objection to an interim authority notice
- police objection to a temporary event notice

### **3.4 Persons who must be notified of a hearing**

The persons who must be notified of a hearing are set out below as a summary:

- any applicant for any licence or certificate or a temporary event notice.
- any person who has made relevant representations about an application for a licence or for review of a licence (note for any representations deemed frivolous, vexatious or repetitious under Section 18(7)(c) or similar sections of the Licensing Act 2003 the objector must be notified of

the Authority's decision as soon as possible and in any event before any hearing).

- Any police officer who has given notice of objection to:
  - a person specified as a Designated Premises Supervisor
  - an interim authority
  - transfer of a premises licence
  - a temporary event notice
  - a personal licence
  
- Any holder of a premises licence or club premises certificate where:
  - application is made for review

**Note:** Anyone given notice of a hearing is a party and that is how that expression is used in these Rules of Procedure. Information to be provided in a notice of hearing

### **3.5 The information that must be included in a notice of hearing includes:**

- The procedure to be followed at the hearing;
- The right of the party to attend and to be assisted or represented by any person whether legally qualified or not;
- The ability to give further information in support of their application where the Authority has sought clarification;
- The right to question any other party if given permission by the Authority;
- The right to address the Authority;
- Notice of any particular points on which the Authority will want clarification at the hearing;
- The consequences if a party does not attend or is not represented at the hearing;
- For certain hearings particular documents must accompany the notice which is sent to parties informing them of the hearing. Reference must be made to Schedule 3 of the Hearings Regulations for this purpose.

### **3.6 Failure of Parties to Attend the Hearing**

If a party has informed the Authority that they will not be attending or be represented at the hearing, it may proceed in their absence.

If a party does not give notice that they will not be attending but fails to attend and is not represented, the Authority may either:

- a) adjourn the hearing if it considers it to be necessary in the public interest  
or
- b) hold the hearing in the party's absence



If the Authority holds the hearing in the absence of a party, it will consider at the hearing the application, representation or notice given by the party.

If the Authority adjourns the hearing to a specified date it must forthwith the parties of the date, time and place to which the hearing has been adjourned.

**Note:** Transition hearings cannot be adjourned to a date beyond the date that which causes an application to be deemed as determined by default.

#### **4. Procedure at the Hearing**

**4.1** The usual order of proceedings will be as set out below. The Sub-Committee will allow the parties an equal maximum time period in which to give further information in support of their application, representation or response. Where the Authority has given notice that it will seek clarification on that point at the hearing or where permission has been given to call any further persons to give supporting evidence, the Sub-Committee may allow the parties to question any other party and to address the Licensing Sub-Committee. The Sub-Committee will seek, in all cases, to avoid repetition of points (whether included in written material or otherwise), irrelevancy, or any abuse of the procedure.

At the beginning of the hearing the procedure to be followed will be explained to the parties. The hearing will, so far as is possible, take the form of a discussion, led by the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee considers it necessary.

- i) The Chair will begin by explaining how the proceedings will be conducted, and indicate any time limits that may apply to the parties to the application.
- ii) The report will be briefly introduced by an Officer of the Licensing Section summarising the application.
- iii) The Sub-Committee will then consider any requests by a party for any other person to be heard at the hearing in accordance with the Regulations. Permission will not be unreasonably withheld provided proper notice has been given.
- iv) A summary of the nature and extent of the application by the applicant or their representative. This should be brief, avoid repetition of material already available to the Committee in the Officer's report or otherwise, and include any reasons why an exception should be made to the Council's Licensing Policy, where appropriate. The submission may be followed by the evidence of any person who has been given permission by the Committee to give supporting evidence on behalf of the applicant.

- v) A summary of the reasons for making representations about the application by any interested party. This should be brief and avoid any repetition of information already made available to the Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the objectors.
- vi) A summary of the reasons for making representations by or on behalf of any Responsible Authority. This should be brief and avoid any repetition of information already made available to the Licensing Sub-Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the Responsible Authority.
- vii) Members of the Sub-Committee may ask any questions of any party or other person appearing at the hearing.

**4.2** The following requirements of the Hearing Regulations will also be followed by the Licensing Sub-Committee:

- a) The Sub-Committee will be guided by legal principles in determining whether evidence is relevant and fairly admissible. In particular, hearsay evidence may be admitted before the Sub-Committee but consideration will always be given to the degree of weight, if any, to be attached to such evidence in all the relevant circumstances.
- b) The Sub-Committee may impose a time limit on the oral representations to be made by any party. In considering whether to do so, and in considering the length of any such time limit, the Sub-Committee will take into account the importance of ensuring that all parties receive a fair hearing, and the importance of ensuring that all applications are determined expeditiously and without undue delay.
- c) In considering the time limits referred to in (b) above, regard must be had to the requirement to allow each party an equal amount of time.

**4.3** When considering any representations or notice made by a party, the Authority may take into account documentary or other information produced by a party in support of their application, representation or notice, either:

- a) before the hearing, or
- b) with the consent of all other parties, by the Sub-Committee at the hearing

The Authority will disregard any information given by a party, or any other person appearing at the hearing, which is not relevant to:

- a) their application, representation or notice; and

- b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the police.

4.4 All hearings shall take place in public save that:

- a) The Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that, on balance, it is in the public interest to do so.
- b) The parties and any person representing them may be excluded in the same way as another member of the public
- c) The Licensing Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:
  - refuse to permit the person to return; or
  - allow them to return only on such conditions as the authority may specify.

4.5 Any person so excluded may, before the end of the hearing, submit to the Authority in writing, any information which, they would have been entitled to give orally had they not been required to leave. Where there are a number of items on the agenda, the adjournment of that item for a short period, whilst another item is heard, may allow this process to be carried out effectively.

## **5. Determination of Application – Time Limits**

5.1 The Licensing Sub-Committee must make its determination at the conclusion of the hearing where the application is for:

- a) Conversion or variation of an existing licence during transition
- b) Conversion or variation of an existing club certificate during transition
- c) A review of a premises licence following a closure order
- d) A personal licence by the holder of a justices licence
- e) A counter notice following police objection to a temporary event notice
- f) section 53B (interim steps pending review)
- g) section 53C (review of premises licence following review notice)

5.2 In any other case the Authority must make its determination within the period of five working days, beginning with the day, or the last day, on which the hearing was held.

5.3 Where a hearing has been dispensed with because all of the parties have agreed that a hearing is unnecessary (and the Authority has agreed, giving notice to the parties in writing), then the Authority must make its determination within 10 working days beginning with the day the authority gives such notices to the parties. The Team Leader (Licensing) shall be authorised to make the determination on behalf of the Authority.

## **6. Record of Proceedings**

- 6.1 The Authority must arrange for a record to be taken of the hearing in a permanent and intelligible form and for that record to be kept for six years from the date of determination. Where an appeal is brought against a determination by the Authority, the record must be kept for six years from the date of disposal of the appeal.

## **7. Irregularities**

- 7.1 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations.
- 7.2 Clerical mistakes in any document recording a determination of the Authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the Authority.

## **8. Notices**

- 8.1 In accordance with the Regulations, any notices must be given in writing. Such a notice may be sent electronically, providing:
- a) it can be accessed by the recipient in a legible form;
  - b) it is capable of being reproduced as a document for future reference;
  - c) the recipient has agreed in advance to receive it in such form;
  - d) a copy is sent in documentary form forthwith to the recipient.

## **9. Appeals**

- 9.1 Either those who have made an application or those who have made representations on an application may appeal to the Magistrates Court.

**Note:** An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the Licensing Authority of their decision.

## APPENDIX A

Application Type	Period of Time within which Hearing to be Held (after reps have closed)	Notice Period of Hearing	Notice Sent To	Attendee Reply Form Back In
Section 18 (3)(a) (determination of application for premises licence)	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 35(3)(a) (determination of application to vary premises licence).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days	10 working days	Applicant (premises holder); Chief Officer of Police who has given notice; The proposed premises supervisor	5 working days
Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice; The present holder of the premises licence	5 working days
Section 52(2) (determination of application for review of premises licence).	20 working days	10 working days	The holder of the premises licence in respect of which the application applies; People who have made representations; Applicant	5 working days
Section 120(7)(a) (determination of application for grant of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days

Application Type	Period of Time within which Hearing to be Held (after reps have closed)	Notice Period of Hearing	Notice Sent To	Attendee Reply Form Back In
Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days	10 working days	The holder of the licence; Chief Officer of Police who has given Notice	5 working days
Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days
Section 31(3)(a) (determination of application for a provisional statement).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days	2 working days	The person who has given Notice; Chief Officer of Police who has given Notice	1 working day
Section 72(3)(a) (determination of application for club premises certificate).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 85(3) (determination of application to vary club premises certificate).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 88(2) (determination of application for review of club premises certificate).	20 working days	10 working days	Club that holds club premises certificate; People who have made representations; Applicant	5 working days

<b>Application Type</b>	<b>Period of Time within which Hearing to be Held (after reps have closed)</b>	<b>Notice Period of Hearing</b>	<b>Notice Sent To</b>	<b>Attendee Reply Form Back In</b>
<b>Section 105(2)(a) (counter notice following police objection to temporary event notice)</b>	<b>7 working days</b>	<b>2 working days</b>	<b>The premises user; Chief Officer who has given Notice</b>	<b>1 working day</b>
<b>Section 167(5)(a) (review of premises licence following closure order).</b>	<b>10 working days</b>	<b>5 working days</b>	<b>The holder of the premises licence; People who have made representations</b>	<b>2 working days</b>
<b>Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).</b>	<b>10 working days</b>	<b>5 working days</b>	<b>Applicant; Chief Officer of Police who has given Notice</b>	<b>2 working days</b>
<b>Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).</b>	<b>10 working days</b>	<b>5 working days</b>	<b>Applicant (club) Chief Officer who has given Notice</b>	<b>2 working days</b>

## APPENDIX B

### Regulation 8

#### **Action Following receipt of notice of hearing**

1. A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating:
  - (a) whether he/she intends to attend or be represented at the hearing;
  - (b) whether he/she considers a hearing to be unnecessary.
2. In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
3. In the case of a hearing under:
  - (a) section 48(3)(a) (cancellation of interim authority notice following objection), or
  - (b) section 105(2)(a) (counter notice following objection to temporary event notice),the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
4. In the case of a hearing under:
  - (a) section 167(5)(a) (review of premises licence following closure order),
  - (b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
  - (c) paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
  - (d) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
5. In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.



# Agenda Item 4.3

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Committee</b>	<b>15th July 2014</b>	<b>Unclassified</b>	<b>LC 03/145</b>	

Report of <b>Consumer and Business Regulations</b>  Originating Officer: <b>David Tolley – Head of Consumer and Business Regulations</b>	Title <b>Licensing Act 2003 – Current Licensing Programs</b>  <b>Wards affected: All</b>
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## 1 SUMMARY

- 1.1 This report updates the Licensing Committee on current work programs that are planned for the municipal year 2014/15. These programs are predominately non statutory and work along-side the licensing processes.
- 1.2 These programs are organised across the Consumer and Business Regulations Service and involve staff from the Trading Standards, Food Safety and Health and Safety disciplines.
- 1.3 The report also details the effective dates relating to the Sexual Entertainment Venues Licensing agreed by full Council on the 26<sup>th</sup> March 2014. Members will receive separate training in relation to SEVs prior to any applications being considered.

## 2. RECOMMENDATIONS

- 2.1 That the Licensing Committee note, consider and comment on the on the current work programs of the Service that have an impact on licensed premises.
- 2.2 That the Licensing Committee note the effective dates for the Sexual Entertainment Venue Licensing.

### 3. **BACKGROUND**

3.1 The Licensing Act 2003 requires that the Licensing Authority carries out its various functions to promote the four licensing objectives.

3.2 The licensing objectives are:

The prevention of crime and disorder

Public safety

The prevention of public nuisance

The protection of children from harm

3.3 However, it is possible for the Council to embark on schemes that are voluntarily and fall outside the scope of the licensing process but support legislative frameworks elsewhere and promote the general spirit of the licensing objectives.

3.4 As background, there are approximately 2,600 premises in the Borough that sell food, of these approximately 1000 hold a licence to sell alcohol and a fifth of these premises are within the Brick Lane Cumulative Impact Zone. Therefore it is expected that a considerable amount of our activity is within this area.

#### Current Work Programs

3.5 Our current proactive work programs cover:

- a) Reducing the high strength alcohol offering across the Borough. This program encourages retailers to agree to a voluntary condition on their licence not to sell alcohol above 6.5 ABV. This is targeted around areas where there are complaints of street drinkers.
- b) Responsible Retailer Scheme – encouraging sign up to a best practice scheme that prevent the sale of age restricted products to minors.
- c) Pub Watch – we co-ordinate meetings, to promote best practice to achieve a safer drinking environment across licensed premises. This is the coming together of licence holders to discuss ideas and share problems.
- d) Best Bar None scheme – this scheme is aimed at premises currently in the Brick Lane area. It is a national scheme that recognises responsible management and operations within bars, clubs and pubs. Its aim is to tackle alcohol related crime and disorder which result from excessive alcohol consumption. This is an award based scheme and the premises are formally assessed to ensure that standards are maintained.

- e) Tasking Meeting – every two weeks, we meet with the Metropolitan Police and Council Anti-Social Behaviour (ASB) Teams to discuss ASB complaints in relation to licensed premises, tasking's are allocated accordingly.
- f) Licensing Enforcement Forum- the forum consists of responsible authorities where problem premises are highlighted with regards to inspections and complaints. Relevant actions plans are devised to address the issues highlighted by partners.
- g) Community Alcohol Partnership – this is a partnership project to tackle underage drinking and associated ASB within the Bethnal Green and St Peter's wards.
- h) Late Night Inspections – Officers from the Consumer and Business Regulations Service undertake regular late night visits to licensed premises to ensure that conditions are being maintained and that premises are not operating without the appropriate licences.

### Sexual Entertainment Venues

3.6 The Sexual Entertainment Venues licensing was agreed at full Council on the 26<sup>th</sup> March 2014. As a result the following effective dates became active;

1<sup>st</sup> June 2014 – the first date when existing operators can make an application under the new sexual entertainments licensing regime.

1<sup>st</sup> December 2014 – All applications made on or after the 1<sup>st</sup> June but before the 1<sup>st</sup> December will be considered together. Thus applications will be determined on their merit and not on a first come first served basis. If a new applicant is granted a licence, it will take effect immediately. If an existing operator is granted a licence, it will not take effect until the 1<sup>st</sup> June 2015.

1<sup>st</sup> June 2015 – existing operators should have their applications determined by this date and operating under the new sexual entertainment licensing regime.

3.7 It is expected that from the 1<sup>st</sup> December 2014 Members will be asked to determine applications for sexual entertainment venues.

3.8 Members will be given training in relation to sexual entertainment venue licences in later this year.

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

- 4.1 The report sets out for consideration and comments the current work programs for the service during the current financial year. There are no specific financial implications emanating from this report. There is sufficient provision within the Licensing Services Budgets to meet the cost of the program in 2014/15.

**5 CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 5.1 The report sets out for consideration and comments the current work programs for the service during the current financial year. There are no specific legal implications arising out of this report.
- 5.2 In respect of Sexual Entertainment Venue Licensing, Members will receive specific training in respect of this prior to being asked to consider any applications.

**6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 No adverse impacts have been identified

**7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 There are no adverse impacts identified.

**8. RISK MANAGEMENT IMPLICATIONS**

- 8.1 The Council will be at risk of legal challenge if its decision making process on determining applications is not transparent and evidentially based.

**9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 9.1 One of the key licensing objectives is to prevent licensed premises from being a source of crime and disorder. The current work programs support and assist with crime and disorder reduction.

**10. EFFICIENCY STATEMENT**

10.1 There are no efficiency elements to this report.

**11. APPENDICES**

None

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Background Papers: Section 100D of the Local Government Act 1972

NONE

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# Agenda Item 4.4

<b>Committee:</b> Licensing Committee	<b>Date:</b> 15 <sup>th</sup> July 2014	<b>Classification:</b> Unrestricted	<b>Report No:</b> LC 04/145	<b>Agenda Item:</b>
<b>Report of:</b> Service Head - Legal Services Originating officer(s) Paul Greeno Senior Advocate		<b>Title:</b> Update in relation to Prosecutions and Appeals - 2013/2014  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 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 2013/2014, there were proceedings taken against twenty-one (21) individuals and one (1) Company in respect of nineteen (19) 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 eight (8) 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;  
 one (1) was in the Bethnal Green area and related to the selling of counterfeit alcohol;  
 one (1) was also in the Bethnal Green area and related to the sale of tobacco to a person aged under 18;  
 one (1) was in the Whitechapel area and related to the sale of tobacco to a person aged under 18; and  
 one (1) was a pub in the Poplar area and related to being open beyond the prescribed hours.

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

No.	Offences	Outcome
1.	s.136(1)(a) Licensing Act 2003 (Breach of condition 10 in Annex 2)	Guilty – Fine, costs etc. £764
2.	s.136(1)(a) Licensing Act 2003 (Breach of condition 1 in Annex 3)	Withdrawn following representations from defendant
3.	s.136(1)(a) Licensing Act 2003 (Breach of condition 5 in Annex 2)	Guilty – Fine, costs etc. £565
4.	s.136(1)(a) Licensing Act 2003 (Breach of condition 1 in Annex 3)	Guilty – Fine, costs etc. £465
5.	s.136(1)(a) Licensing Act 2003 (Breach of condition 10 in Annex 2)	Guilty – Fine, costs etc. £764
6.	s.136(1)(b) Licensing Act 2003 (Breach of condition 1 in Annex 2)	Guilty – Fine, costs etc. £420
7.	s.136(1)(a) Licensing Act 2003	Guilty – Fine, costs etc. £1,515

8.	<p>s.57(7) &amp; (8) Licensing Act 2003 (failure to produce Premises Licence)</p> <p>s.136(1)(b) Licensing Act 2003 (Breach of condition 1 in Annex 2)</p>	<p>Guilty – sentence</p> <p>12 month Conditional Discharge</p> <p>Costs £300</p> <p>Acquitted of breach of Premises Licence</p>
9.	<p>s.136(1)(a) Licensing Act 2003 (Breach of condition 10 in Annex 2)</p>	<p>Guilty – Fine, costs etc.</p> <p>£6.295</p> <p>Offender's Personal Licence also suspended for 6 months</p>
10.	<p>s.136(1)(b) Licensing Act 2003 (Breach of condition 1 in Annex 3)</p> <p>s.57(7) Licensing Act 2003 (failure to produce Premises Licence)</p>	<p>Guilty – Fine, costs etc.</p> <p>£470</p>
11.	<p>s.136(1)(b) Licensing Act 2003 (Breach of condition 1 in Annex 3) (x2)</p>	<p>Guilty – Fine, costs etc.</p> <p>£695</p>
12.	<p>s.237 Local Government Act 1972 (Breach of Byelaw 5 of London Borough of Tower Hamlets Byelaws for Good Rule &amp; Government)</p>	<p>Guilty – Fine, costs etc.</p> <p>£470</p>

13.	s.92(1)(b) Trade Marks Act 1994	Guilty – Fine, costs etc. £2,991.19 Offender's Personal Licence also suspended for 6 months
14.	s.136(1)(b) Licensing Act 2003	Guilty – Fine, costs etc. £385 Offender's Personal Licence also suspended for 1 month
15.	s.136(1)(a) Licensing Act 2003 s.137(1) Licensing Act 2003	Guilty – Fine, costs etc. £570 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 s.137(1) Licensing Act 2003	Guilty – Fine, costs etc. £1,400
18.	s.136(1)(a) Licensing Act 2003 s.137(1) Licensing Act 2003	Guilty – Fine, costs etc. £370
19.	s.136(1)(b) Licensing Act 2003 (x2)	Guilty – 6 month Conditional Discharge – Costs etc. £415
20.	s.7(1) Children and Young Persons Act 1933	Guilty – Fine, costs etc. £1,120
21.	s.7(1) Children and Young Persons Act 1933	Guilty – Fine, costs etc. £1,552.17
22.	s.136(1)(a) Licensing Act 2003	Withdrawn as Simple Caution administered

### Appeals

4.4 During quarters 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:

<b>No.</b>	<b>Outcome</b>
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 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

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