


Non-Executive Report of the: Licensing Committee Name 13 September 2017	 TOWER HAMLETS
Report of: Corporate Director - Governance	Classification: Unrestricted
Update in relation to Prosecutions and Appeals – Quarters 1-4 2016/2017 and Quarter 1 2017/18	

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

Summary

- 1.1 At its meeting on 4th June 2013, the Licensing Committee requested that regular reports should be prepared for the Licensing Committee giving details of licensing enforcement activity and specifically as to outcomes of prosecutions and appeals.
- 1.2 This report provides details of completed licensing related prosecutions and appeals for Quarter 1- 4 2016/2017 (April 2016 to March 2017) and Quarter 1- 2017/18 (April to June 2017).

Recommendations:

The Licensing Committee is recommended to:

1. Consider and comment upon the information provided in the report.

1. **REASONS FOR THE DECISIONS**

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

2. **ALTERNATIVE OPTIONS**

- 2.1 N/A

3. **DETAILS OF REPORT**

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

Prosecutions

3.4 During Quarter 1, 2016/2017, no prosecutions were concluded. In Quarters 2 to 4, three (3) prosecutions were concluded as follows:

No	Offences	Outcome
1	Shampan Restaurant Limited and Rukeya HAQUE 79 Brick Lane, London E1 Breach Section 136(1), S137(1) and S138(1) Licencing act 2003. Exposing and supplying alcohol for sale without a licence.	26.5.2016 Quarter 2 Fine Company: £2,000.00, Director £400.00 Victim Surcharge : Company: £120.00 Director: £20.00 Costs -Company: £1,637.50, Director £800.00
2	QADIR, Munir – Shahwali Ltd at 319 Bethnal Green Road, E2 - Breach of S136(1) Licensing Act 2003 Sale of alcohol outside of permitted hours	18.10.2016 Quarter 3 Fine £1500 (£750 per offence) Victim Surcharge £75 Costs £900
3	Star Grill -131a Roman Rd – Failure to keep a copy of the Licence at the premises failure to display a summary of the premises licence and failure to produce a copy of the Licence. Additionally, selling hot food outside of the licencing hours	30.3.2017 Quarter 4 Proceedings withdrawn on review of evidence

Appeals

During Quarter 1, 2016/2017, three (3) appeals were concluded.

The outcome of the appeals are set out as follows:

No	Case Details	Outcome
		Quarter 1
1	Straight & Narrow –Appeal against the decision of LBTH licensing sub-committee in respect of the grant of a new premises license.	(25.4.2016) Appeal withdrawn by Applicant one day before contested hearing. Costs awarded £3500.
2	5B Urban Bar – (26.4.2016) A review of the premises licence triggered by the Police.	Appellant withdrew appeal. Consent Order . New closure times agreed for Thursday/Friday. No drinks sold within the premises to be consumed outside the front of the premises and a noise limiter to be fitted to the musical amplification system. Drinks which are sold off sale must be in a sealed container. An incident report book to be kept and to record all incidents of ASB
3	Niyazi Kaya Kivre Food Centre - 497 Cambridge Heath Rd (29.6.2016)– Application for a new premises licence	Appellant withdrew appeal . Consent Order agreed with new conditions. Permitted to sell alcohol between 8am – 12 midnight. No alcoholic goods to be purchased or taken from persons calling to the shop, no spirits to be purchased in a resealed box, without checking to ensure that it is legal to sell. Any caller to the shop attempting to sell to be reported to trading Standards. A stock control system to be introduced with an ultra-violet light to be made available to check the UK stamp duty on spirits as soon as practicable after purchase etc Costs £4,500

During Quarters 2 to 4 2016/17 three (3) Appeals were concluded as follows:

	Case Details	Outcome
1	Sharwama - 84 Brick Lane Appeal against the decision of the Licensing sub-committee in respect of a new premises licence	15.9.2016 Quarter 2 Appeal dismissed. Appellant failed to attend first hearing
2	Shiraz Food & Wine -178 Hackney Rd – A review of the premises licence triggered by the Police.	13.10.2016 Quarter 3 Appellant withdrew appeal. New conditions agreed by Consent Order Permitted to sell alcohol between 8am- 11pmm. Premises Licence holder to ensure all notices prominently displayed , to ensure that people outside the premises disperse quickly, to ensure that training of staff is undertaken and recorded. Premises to install CCTV which records whilst the premises are open etc Costs £1500
3	Metropolis – Appeal against the refusal of a new premises license and refusal against variation of an SEV license.	16.2.2017 Quarter 4 Settled by Consent Order. New Premises licence granted. Capacity increased for premises to 500 people, capacity for smoking area restricted to 40 people and the area for the SEV restricted to the basement, ground and first floor (instead of ground, first and second floors).

Prosecutions

In Quarter 1 2017/18 one (1) prosecution matter was concluded as follows:

M. Asghar T/A Shahi Karahi Restaurant Breach of S57(3) Licensing Act 2003 – failure to display a summary of the premises licence and S136(1) Licensing Act. Selling hot food outside of the licensable hours	1.6.2017 Quarter 1 Fine £200 Costs £912.00 Victim Surcharge £30
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Appeal

For Quarter 1 (April-June) 2017/18, one (1) Appeals was concluded:

Time Out Market Ltd – 106 Commercial Road Appeal against the refusal of a new premises licence	12.6.2017 Quarter 1 Appeal against refusal of new premises license. Appeal withdrawn. No order as to costs
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4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report describes the Council's licensing enforcement activity and the outcomes of prosecutions and appeals for Quarters 1-4 2016/17 and Quarter 1 2017/18.
- 4.2 The revenue realised from the imposition of costs by the court is received by the Council in order to offset the costs incurred in bringing and defending prosecutions. However, it should be noted that costs are at the discretion of the court and full costs recovery orders may not always be made.

5. LEGAL COMMENTS

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

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 An equality analysis was conducted prior to approval of the revised enforcement policy by Cabinet on 3 October 2012. A further equality analysis was done on 16th September 2011 in relation to touting prosecutions. It is

recognised that Enforcement action may lead to indirect discrimination in limited circumstances but prior to taking any proceedings, an assessment as to whether the case meets the two stages in the Code for Crown Prosecutors is undertaken so that there is both a realistic prospect of a conviction and that it is in the public interest to prosecute. Further, proceedings are kept under review once initiated.

7. BEST VALUE (BV) IMPLICATIONS

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

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.

Linked Reports, Appendices and Background Documents

Linked Report

- **None**

Appendices

- **None**

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

List of “Background Papers” used in the preparation of this report

- **None**

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