


Non-Executive Report of the:  <b>Licensing Committee</b>  19 <sup>th</sup> December 2019	 <b>TOWER HAMLETS</b>
<b>Report of:</b> David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	<b>Classification:</b> Unrestricted
<b>Night Time Economy visits and Enforcement Update</b>	

<b>Originating Officer(s)</b>	Samantha Neale, Licensing Officer – Licensing and Safety
<b>Wards affected</b>	Whole Borough

## 1. Summary

- 1.1 This report reviews late night inspections to licensed premises undertaken by the Environmental Health and Trading Standards Service. The objective was to carry out late night visits to premises where intelligence received alleged a contravention of the Licensing Act 2003. The programme utilised Officers from across Environmental Health and Trading Standards. Many of the enforcement visits included test purchasing to investigate compliance.
- 1.2 The operation was run biweekly on Friday and Saturday evenings between the hours of 22:00 and 03:00 hours.
- 1.3 These late night visits investigated a variety of alleged issues relating to licensed premises, such as:-
  - premises undertaking licensable activities without a Licence.
  - premises alleged to be breaching with conditions and restrictions detailed in their licence.
  - licensed premises that have failed to pay the annual Licence fee and/or Late Night Levy Charge and have had their Licence suspended yet have been identified as continuing to carrying out licensable activities.
  - premises alleged to undermining the one or more of the Licensing Objectives
- 1.4 This report is concerned with the enforcement visits undertaken in 2018/19 and 2019 to date (end of October 2019) and the achievements of these visits.

## **2. Recommendations:**

The Licensing Committee is recommended to:-

- 2.1 Note the activity that has been undertaken by the Environmental Health and Trading Standards Service with regards to regulating Late Night Licensed Premises.

## **3 Reasons for Decisions:**

- 3.1 This is a noting report to advise the Licensing Committee of the outcome of the inspections and no decision is required.

## **4 Alternative Options:**

- 4.1 We could decide not to carry out any enforcement activity but this could lead to widespread non-compliance.

## **5. Background**

- 5.1 There are approximately 1,179 licensed premises within the London Borough of Tower Hamlets. Licensed premises include bars, pubs, clubs, restaurants, off-licenses, late night takeaway, and café type premises. Premises undertaking licensable activities must have a licence under the Licensing Act 2003 authorising them to carry out one or more licensable activities. The licence will state the times they are permitted to carry out these licensable activities and may also have conditions, in addition to the mandatory conditions, specific to the individual premises. All such matters detailed on the licence are to ensure the promotion of the four Licensing Objectives. The late night visits are to check on compliance with the Licensing Act 2003, in respect of premises where intelligence received suggests non-compliance.
- 5.2 Where non-compliance is witnessed and a breach of the Licensing Act 2003 is established, appropriate and proportionate action is taken in line with the Council's Enforcement Policy. This action can include:
  - Warning Letters,
  - Application to review of premises licence,
  - Investigation for prosecution.
- 5.3 Such formal action is a graduated approach and the type of action will depend on such matters as compliance history of the premises, attitude of Licensee, extent and seriousness of the breach.
- 5.4 As well as formal action as highlighted above these visits have provided evidence to the Licensing Authority (Acting as a Responsible Authority) to make representations against the granting of applications in respect of the Licensing Act 2003.

### Late Night visits outcomes

- 5.5 A total of 235 inspections were undertaken in 2018/19 with 26 premises receiving warning letters for non-compliance. Therefore 11% of the premises visited were non-compliant. There were 6 successful prosecutions in 2018/19. Appendix 1 provides a breakdown of visits per ward and Appendix 2 provides a breakdown of warning letters sent per ward.
- 5.6 The non-compliance rate for 2019/20 to date (31<sup>st</sup> October 2019) is 13.33% with 27 premises being non-compliant out of 210 inspections. Appendix 3 provides a breakdown of visits per ward and Appendix 4 provides a breakdown of warning letters sent per ward.
- 5.7 As can be seen, there is little difference in the number of non-complaint premises found during these late night enforcement visits between 2018/19 and this current year (2019/20). Furthermore as there are approximately 5 months left of 2019/20 this percentage could increase. It is estimated that this increase could be due to more premises having their licences suspended due to non-payment of annual fee and/or Late Night Levy charge (if applicable). There have also been some premises looked at in regards to unlicensed Gambling that could be a cause for this increase.
- 5.8 The intelligence gathered as an outcome of these visits has also resulted in two reviews of premises licences, one of which resulted in the revocation of a licence connected with the Sale of Nitrous Oxide (Laughing Gas) for consumption. The intelligence gathered has also given clearer evidence in respect of representations against the granting of certain applications.
- 5.9 Appendix 5 demonstrates the number of prosecutions and outcomes during 2018/19 as a result of the late night inspections.
- 5.10 Appendix 6 demonstrates the number of prosecutions and outcomes during 2018/19 as a result of the late night inspections.
- 5.11 Appendix 7 shows the current prosecutions that are being worked through in relation to recent late night inspection non-compliances.

## **6 EQUALITIES IMPLICATIONS**

- 6.1 There are no equalities implications.

## **7 OTHER STATUTORY IMPLICATIONS**

- 7.1 Best Value implications: Ensuring that fees are obtained from regulated commercial activity.
- 7.2 Environmental considerations: There are no environmental implications
- 7.3 Crime reduction: One of the key licensing objectives of the Council ensure that it does not licence premises that are liable to be a source of crime and disorder. The Council supports and assists with crime and disorder reduction

by controlling those who manage premises open to members of the public and imposing conditions on relevant premises licences. Illegal activity has been proven to occur at the premises.

- 7.4 Safeguarding: There are no proven safeguarding impacts; however premises that are managed in this way may employ underage persons or vulnerable adults. Therefore there may be a positive safeguarding impact. We also identify premises that may be selling to underage customers and are then able to take preventative measures.
- 7.5 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.

## **8 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 8.1 There are no direct financial implications emanating from this report which provides an update on the outcomes of late night inspections to licensed premises undertaken by the Environmental Health and Trading Standards Service.
- 8.2 The costs associated with undertaking the inspections and any prosecutions are met from within existing budget resources. Any future expansion of the inspection regime would either require a growth bid as part of the medium financial planning process or be met from savings within other areas of the budget.

## **9 LEGAL COMMENTS**

- 9.1 The Licensing Act 2003 ('the 2003 Act') established a single integrated system for licensing premises that are used for alcohol, entertainment and late night refreshment. Under this legislation, each local authority is known as the 'licensing authority' and is responsible for licensing alcohol, entertainment and late night refreshment in its geographical area.
- 9.2 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.
- 9.3 Section 4 of the 2003 Act requires the Council to carry out its licensing functions with a view to promoting the licensing objectives. Such functions include the carrying out of enforcement functions. In carrying out such functions, regard must also be had to the Council's own statement of licensing policy and the licensing guidance issued by the Secretary of State.
- 9.4 Where the Council takes enforcement action then it also has to do 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; and
- targeting of enforcement action.

9.5 When making decisions, the Council must have due regard to the need to eliminate unlawful discrimination, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). This includes when taking decisions regarding enforcement including enforcement visits. It is recognised that enforcement action may lead to indirect discrimination in limited circumstances..

### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- NONE.

#### **Appendices**

Appendix 1: 2018/19 No. of visits per ward

Appendix 2: 2018/19 No. of warning letters per ward

Appendix 3: 2019/20 to date (31<sup>st</sup> October 2019) No. of visits per ward

Appendix 4: 2019/20 to date (31<sup>st</sup> October 2019) No. of warning letters per ward

Appendix 5: 2018/19 Successful Prosecutions and outcomes

Appendix 6: 2019/20 to date (31<sup>st</sup> October 2019) Successful Prosecutions and outcomes

Appendix 7: Total pending investigations per Ward

## Appendix 1

### 2018/19 - No. of visits per ward

Inspections 2018/19	
Ward	No. Visits
Blackwall and Cubitt Town	6
Bethnal Green	16
Bromley South	1
Bow East	24
Bow West	18
Canary Wharf	5
Island Gardens	1
Lansbury	10
Limehouse	4
Mile End	7
Poplar	2
St. Dunstan's	9
Shadwell	18
St. Katherine's and Wapping	8
Spitalfields and Banglatown	32
St. Peter's	22
Stepney Green	4
Whitechapel	19
Weavers	29
<b>Grand Total</b>	<b>235</b>

## Appendix 2

### 2018/19 - No. of warning letters per ward

2018/19	
Ward	No. Warning Letters Sent
Blackwall and Cubitt Town	1
Bethnal Green	2
Bow West	1
Canary Wharf	2
St Dunstan's	1
Shadwell	3
St Katherine's and Wapping	1
Spitalfields and Banglatown	3
St Peter's	3
Whitechapel	4
Weavers	5
<b>Grand Total</b>	<b>26</b>

## Appendix 3

2019/20 to date (end October 2019) - No. of visits per ward

Inspections 2019/20 to date	
Ward	No. Visits
Blackwall and Cubitt Town	7
Bethnal Green	24
Bromley North	6
Bow East	13
Bow West	5
Canary Wharf	11
Lansbury	7
Limehouse	5
Mile End	7
St Dunstan's	7
Shadwell	7
St Katherine's and Wapping	6
Spitalfields and Banglatown	24
St Peter's	36
Stepney Green	2
Whitechapel	19
Weavers	23
<b>Grand Total</b>	<b>210</b>



## Appendix 4

2019/20 to date (end October 2019) - No. of warning letters per ward

2019/20 to date	
Ward	No. Warning Letters sent
Bethnal Green	4
Bow West	1
Limehouse	2
Mile End	1
Spitalfields and Banglatown	6
St Peter's	6
Whitechapel	3
Weavers	4
<b>Grand Total</b>	<b>27</b>

## **Appendix 5**

### **Premises Prosecuted for breach of Licensing Act 2003:**

Court Hearings Held in 2018-19

#### **1. The Lighthouse, 421 Wick Lane**

Offence date: 6<sup>th</sup> May 2018

Rinesh Navitkumar Patel  
Breach of Licensing Act 2003 - Section 136(1)

The reason for this breach was that allegations were made that the premises were operating beyond the permitted licensable hours contrary to the Premises Licence.

The DPS who committed the breach of licence was prosecuted.

Result:

The DPS was sentenced on 28<sup>th</sup> March 2019 as follows:

Fine: £293

Costs: £1,373.48

Victim surcharge: £30

The total £1,696.48

#### **2. Pickled Fred, 61 Hanbury Street**

Offence Date: 6<sup>th</sup> April 2018

Mr Benjamin Lusty  
Breach of Licensing Act 2003 - Section 136(1)(a)

The reason for this breach was due to Pickled Fred serving alcohol whilst their Licence was suspended. Other LA 2003 offences include not having a licence/summary not being displayed, and 4 conditions broken

The person who made the sale of alcohol (the business owner) was prosecuted.

Result:

Business owner was sentenced as follows:

Fine: £660 on charge 1 and £50 on charge 2

Victim surcharge: £66

Costs: £375

Total of £1,151 payable within 28 days.

### **3. Lime Grill, 332 Burdett Road**

Date of Offence: 19<sup>th</sup> August 2016 & 31<sup>th</sup> March 2017

Prosecution for unlicensed activity contrary to S136(1)(a) of the Licensing Act 2003

The company, Lime Grill Limited was prosecuted for the sale of hot food without a late night refreshment licence, contrary to S136(1)(a) and S136(4) of the Licensing Act 2003. Mr. Mohammed Sumon Miah, the company director was prosecuted for the same matter, in that the company's offence was committed with his consent or connivance, or attributable to neglect on his part, contrary to S187(1) of the Licensing Act 2003.

Result:

Both defendants pleaded guilty by post and was sentenced on 5<sup>th</sup> May 2018 as follows:

Fine: £233.00

Costs: £350.00

Victim Surcharge: £30:00

All due at £20 per fortnight.

## **Appendix 6**

### **Premises Prosecuted for breach of Licensing Act 2003:**

Hearings Heard April 2019 - present

#### **1. Wapping Fish Bar**

Date of Offence: 8<sup>th</sup> September 2017

Prosecution for unlicensed activity contrary to S136(1)(a) of the Licensing Act 2003

The person who made the sale (business owner) was prosecuted for the sale of hot food without a late night refreshment licence, contrary to S136(1)(a) and S136(4) of the Licensing Act 2003.

Result:

The business owner was sentenced on 15<sup>th</sup> August 2019 as follows:

Fine: £182

Costs: £675

Victim surcharge: £30

The total £887 is payable by 12 September 2019. A collection order was attached.

## Appendix 7

Total pending potential prosecutions per Ward:

<b>Ward</b>	<b>Ongoing Investigations for Breach of Potential Licensing Act 2003</b>
Shadwell	1
Spitalfields & Banglatown	4
St Peter's	2
Weavers	3
<b>Grand Total</b>	<b>10</b>