


Non-Executive Report of the: Licensing Committee 19 December 2019	 TOWER HAMLETS
Report of: Corporate Director - Governance	Classification: Unrestricted
Update in relation to Prosecutions and Appeals – Quarters 3- 4 2018/2019 Quarters 1- 2 2019/2020	

Originating Officer(s)	Agnes Adrien- Head of 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 **Quarters 3 - 4 2018/2019 (October to December and January to March 2019)** ,**Quarters 1 – 2 2019/20 (April to June 2019 and July to September 2019)** .

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 **Quarters 3 -4 2018/2019 and Quarters 1-2 2019/2020** the following prosecutions were concluded:

No	Offences	Outcome
	Quarter 1 2018/19 (omitted from previous report)	
1	Mohammed Miah Burdett Road S187 Licensing Act 2003 –offence by corporate body	Fine £233.00 Costs £350.00 Victim surcharge £30.
2	Lime Grill Ltd S136 Licensing Act 2003	Fine £233.00 Costs £350.00 Victim surcharge £30
	Quarter 3 2018/19	
3	VKS Supermarket Ltd &M Singh Arora Roman Rd Sections 137 and S146 Licensing Act 2003 Exposing alcohol for unauthorised sale. Allowing the sale of alcohol to children	Fine £201.00 Costs £1800 Victim surcharge £30
	Quarter 4 2018/19	
	Lusty Benjamin	Fine £710

	<p>Pickled Fred, Hanbury Street, London E1 6PU</p> <p>Sections 33 and 136 of the Licensing Act 2003</p> <p>Failure to notify of change of address</p>	<p>Costs £375</p> <p>Victim Surcharge £66</p>
4	<p>Mr Wai Ming Yau Gunthorpe Street</p> <p>Section 6(1) London Local Authorities Act 1991 - Breach of licence condition</p>	<p>Fine £750</p> <p>Costs 3,526.90</p> <p>Victim surcharge £75</p>
5	<p>Mrs Chak Wa Yiu Gunthorpe Street</p> <p>Section6(1) London Local Authorities Act 1991 Breach of licence condition</p>	<p>Fine £400</p> <p>Costs £980.</p> <p>Victim surcharge £40</p>
6	<p>Mrs Hong Zhang Wentworth Street</p> <p>Section 14 London Local Authorities Act 1991 - using premises as an establishment for special treatment without a licence</p>	<p>Fine £1500</p> <p>Costs £2763.16</p> <p>Victim surcharge £150</p>
7	<p>Primo Remedy Ltd Wentworth Street</p> <p>Section 14 London Local Authorities Act 1991- using premises as an establishment for special treatment without a licence</p>	<p>Fine £3000 (costs and victim surcharge imposed against Mrs Hoang)</p>
8	<p>Rinesh Navitkumar Patel The Lighthouse 421 Wick Lane</p> <p>Section 136 Licensing Act 2003- breach of licence condition</p>	<p>Fine £293</p> <p>Costs £1373.48</p> <p>Victim surcharge £30</p>
Quarter 1 2019/20		
9	<p>39 Beauty Ltd</p> <p>Diamond Thai Massage & Beauty Toynbee Street</p> <p>Section 14(2) London Local Authorities Act 1991</p>	<p>Fine £3000</p> <p>Costs 3006.35</p> <p>Victim surcharge £170</p>
10	<p>Sunflower London Ltd</p>	<p>Fine £500</p>

	Healthcare Massage and Reflexology Wentworth Street Section 14(2) London Local Authorities Act 1991	Costs £2500 Victim surcharge £50 Case previously dealt with under Single Justice Procedure. Defendant made an application to re-open case. Pled not guilty, then changed plea.
11	Mohammed Shamim Brick Lane Brasserie Brick Lane Section 136 Licensing Act 2003 (touting)	Fine £250 Costs £250 Victim surcharge £30
12	Mohammed Salim Brick Lane Brasserie Section 136 Licensing Act 2003	Fine £250 Costs £250 Victim surcharge £30
13	Mir Mostak Ahmed Brick Lane Brasserie Section 136 Licensing Act 2003	Fine £250 Costs £250 Victim surcharge £30
14	Alex Benson t/a Bloc/Autumn Street Studios , Unit 3, 39 Autumn Street Section 136 Licensing Act 2003	12 month conditional discharge, Costs £3215.78 costs
15	Hitendra Das Gupta Wapping Fish Bar Wapping Lane Section 136 Licensing Act 2003	Fine £182 Costs £675 Victim Surcharge £30

Appeals

During Quarter 3 2018/2019 one (1) appeal was concluded. During Quarter 4 2018/2019 two (2) appeals were concluded.

During Quarter 1 2019/20, two (2) appeals were concluded and three (3) appeals were concluded in Quarter 2 2019/2020.

The outcome of the appeals are set out as follows:

No	Case Details	Outcome
	Quarter 3 2018/19	

1	Open Market Space, Old Spitalfields Market	Appeal withdrawn. No order for costs 15.11.2018
Quarter 4 2018/19		
2	Mailinda Mellish Street	Appeal withdrawn 17.1.2019
3	AEG Presents Ltd	Appeal allowed, following court hearing. Council to pay costs of £35,000 22.1.2019
Quarter 1 2019/20		
4	China Health Spa Ltd	Appeal discontinued. No order for costs 9.5.2019
5	Poplar Union	Appeal allowed. Costs awarded £5400
Quarter 2 2019/20		
6	Flight Club Darts Ltd t/a Electric Shuffle Steward Street & Gun Street	Appeal withdrawn. Appellant to pay costs of £5575
7	MHD Ltd Mama Shelter Hotel	Appeal allowed. Consent Order agreed. Condition of the premises licence to be varied in relation to the number of people permitted to leave the premises to smoke between 8pm and 7am – increased to a max of 10 people. No order for costs. 29.8.19
8	Electric Star Ltd Lord Napier White Post Lane	Variation to terms of licence agreed by Consent. Costs £800 +VAT

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 3 to 4 of 2018/19 and Quarters 1 to 2 of 2019/20.
- 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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