

# Tower Hamlets Licensing Committee Professional Training

- Licensing Authority - David Tolley — Tom Lewis
- Police - PC Mark Perry
  - Environmental Protection - Nicola Cadzow  
Simon O'Toole - Barrister

# Introduction

- Training v education.
- The roles of the licensing authority, police, environmental protection and legal in the licensing process.
- Interactive - Q&A.

# Licensing Policy

The Council's Statement of Licensing Policy is determined by the Council acting as the Licensing Authority.

# Licensing Authority

David Tolley — Tom Lewis

# Licensing Committee

The most important duties are

- to establish a Sub-Committee to undertake the determination of many functions, eg review and approval of alcohol licence applications; and
- in Committee, to determine applications for SEVs.

# Main statutes & guidance

- Local Government (Miscellaneous Provisions) Act 1982 (as amended) Section 2 of and Schedule 3
- London Local Authorities Act 1991
- Licensing Act 2003
- Gambling Act 2005
- Section 182 Guidance

# Licensing Act 2003

Premises licence - the licensing objectives

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance; and
- The protection of children from harm.

# Licensing Objectives

The prevention of crime OR disorder.



# Licensing Objectives

Public safety

# Licensing Objectives

The prevention of public nuisance.

- A public nuisance arises from an act that endangers the life, health, property, morals or comfort of the public or obstructs the public in the exercise or enjoyment of rights common to all. A public nuisance is can be the subject of a civil claim and can also be a criminal offence.

# Licensing Objectives

- Examples of public nuisance include obstructing the highway and allowing land to be used in a way that creates a dangerous or noxious environment.
- A public nuisance can arise from a single act.
- Does not require the person complaining to have a property interest that is affected.
- Much of what was previously considered under the common law as public nuisance can now be dealt with under specific statutory offences.
- Section 182 Guidance, para 2.15.

# Police, Crime, Sentencing and Courts Bill

## 2021 - 1

- Replace the existing common law offence of public nuisance with a new statutory offence as recommended by the Law Commission in 2015.
- Restate the common law offence of public nuisance in statute.
- The Bill will implement a recommendation by the Law Commission to introduce a statutory offence of public nuisance and abolish the existing common law offence. This will provide clarity to the police and potential offenders, giving clear notice of what conduct is forbidden.

# Police, Crime, Sentencing and Courts Bill

## 2021 - 2

- Public nuisance causes the public or a section of the public to suffer serious annoyance — more than merely feeling annoyed.
  - Allowing a field to be used for holding an all-night rave;
  - Conspiring to switch off the floodlights at a football match so as to cause it to be abandoned; and
  - Noise, dirt, fumes, noxious smells and vibrations.

# Licensing Objectives

The protection of children from harm.

- A child is a person under 18 years of age.
- The protection of children from harm includes the protection of children from moral, psychological and physical harm.
- This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).

# Environmental Protection

Police - PC Mark Perry

Environmental Protection - Nicola Cadzow

# Conditions

- Mandatory conditions.
- An application must include an operating schedule that sets out how the applicant intends to promote the licensing objectives.
- The applicant may offer conditions as a means to promoting the licensing objectives.
- The Committee has power to delete or amend an operating condition, or add a new operating condition.



# Conditions

- The importance of conditions on the licence.
- Members must clearly identify and describe the issue that it is aimed to prevent, and why they consider it appropriate (and proportionate) to impose.
- Must be well drafted so that everyone knows what the condition means — premises licence holder, council officers and police whose duty it is to enforce the conditions, responsible authorities, local residents and the courts.

# Conditions

- Section 182 Guidance, para 1.16
- Section 182 Guidance, chapter 10

# Conditions

Tower Hamlets standard conditions

# Hearings - 1

- Role of the Committee, on behalf of the Council as the Licensing Authority, is to promote the licensing objectives when granting a premises licence.
- Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy.
- Each Party is to be given an equal period of time in which to present their case (consolidated if necessary).
- Provocative representatives!

# Hearings - 2

- Members may ask questions of either Party or seek clarification from Officers (or, in exceptional cases, of any other person present).
- Parties are not permitted to ask questions of another party unless Members consider that such 'cross-examination' is required to enable them to properly consider the case.
- Committee decision must be evidence based.
- Full reasons for the decision must be given.

# Hearings

## Pre-disposition v pre- determination

- Predisposition is where you form a provisional view and remain prepared to consider and weigh relevant factors in reaching the final decision.
- That predisposition can be strong and can be publicly voiced. You may even have been elected specifically because of your views on a particular issue. Yet you must be open to persuasion and the possibility that, however unlikely, you will hear arguments during the debate about the issue that will change your mind about how you intend to vote.
- Predetermination is where your mind is closed to the merits of any arguments which differ from your own about a particular issue on which you are making a decision. You make a decision on the issue, without taking all the merits of any arguments into account. You should avoid giving the appearance that you have conclusively decided how you will vote at the meeting, such as quotes given in the press, and what you have said at meetings or written in correspondence.

# Disgruntled applicants

- Appeal.
- Judicial Review.
- Costs, and Council's resources defending decision.
- Reputational damage.