

Non-Executive Report of the: Licensing Committee 15 th March 2022	
Report of: David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	Classification: Unrestricted
Night Time Economy visits and Enforcement Update	

Originating Officer(s)	Tom Lewis, Team Leader – Licensing and Safety
Wards affected	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 either 21:00 and 02:00 hours or 22:00 and 03:00 hours depending on service need.

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.

While Coronavirus Business Restrictions were in place these operations were used to check business compliance with these restrictions.

1.4 This report is concerned with the enforcement visits undertaken in 2020/21 and April 2021 to date (end of January 2022) and the achievements of these visits.

1.5 It is important to mention that due to the ongoing coronavirus pandemic that

took hold at the beginning of 2020 these late night visits were suspended during the initial national restrictions (lockdown) period between end of March and end of June 2020. These visits resume following the restrictions being lifted on 4th July 2020, but ceased again by the end of October due to the November Lockdown coming into force. Visits then did not resume until the Summer of 2021 because of the Tier Restrictions and National Lockdown that began in December 2020 until the start of the Summer 2021. We are now back to completing these visits on a bi-weekly basis.

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 would lead to widespread non-compliance.

5. Background

- 5.1 There are approximately 1,282 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 (including onsite report left),
 - Representations against licence applications
 - 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 94 inspections were undertaken in 2020/21 with 19 premises receiving warning letters. This gives a non-compliance rate of 20%. Further to this there were 37 premises were found to be non-compliant with Coronavirus Business Restrictions. Six of these being found non-compliant on more than one occasion. There was 1 successful prosecution in 2020/21. Appendix 1 provides a breakdown of visits per ward and Appendix 2 provides a breakdown of warning letters sent per ward.
- 5.6 In 2021/22 (up to 31st January 2022) there was a total of 126 visits with 12 premises receiving warning letters. This gives a non-compliance rate of 10%. Further to this there were 9 premises were found to be non-compliant with Coronavirus Business Restrictions. Two of these being found non-compliant on more than one occasion. Appendix 3 provides a breakdown of visits per ward and Appendix 4 provides a breakdown of warning letters sent per ward.
- 5.7 In 2020/21 there were considerably less visits than 2019/20, and though the 2021/22 figures only go up to end of January 2022, we won't get to similar numbers of visits as we have pre-pandemic. That said the figure between 2020/21 and 2021/22 have increased, which is directly related to the lifting of coronavirus business restrictions. Non-compliance has changed with a 12% drop to 10%, which is similar to pre-pandemic rates of non-compliance. It is also likely that the 20% non-compliance in 2020/21 is linked to the majority of the Coronavirus Restrictions occurring in this year. As such enforcement visits would, and have, increased given warnings for offences relating to non-compliance with Coronavirus Restrictions as well as Licensing Offences. It should also be mentioned that though the above show what may appear high figures for non-compliance with coronavirus business restrictions the Service found that the majority of Licensed Premises were fully compliant with the restrictions. Thus, this does not show that there was a large degree of non-compliance with coronavirus business restrictions with the licensed trade in the borough.
- 5.8 Despite the lower visits the intelligence gathered as an outcome of these visits has resulted in one prosecution for Licensing Offences and another for Smoke Free Offences. The latter relating to a Shisha bar.
- 5.9 Appendix 5 demonstrates the number of prosecutions and outcomes during 2020/21 as a result of the late-night inspections. It also should be noted that as a result of these visits 6 FPNs were served on Licensed Premises. Five for Offences under the All Tiers Coronavirus Business Restrictions and one for offences under the Step 2 Coronavirus Business Restrictions.

- 5.11 There are not any current prosecutions that are being worked through in relation to recent late night inspection non-compliances. This is due to visits focussing on ensuring licensed premises adhered to initially the Step 2 and then Step 3 Coronavirus Business Restrictions and promoting Vaccination and Testing.

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 decisions required and therefore no financial implications arising from this noting report, which provides an update on the outcomes of late night inspections to licensed premises, undertaken by the Environmental Health and Trading Standards Service during 2020-21 and 2021-22 (up to the end of January 2022).
- 8.2 The costs associated with inspections and prosecutions are contained within existing budget provision.
- 8.3 As a result of these inspections, in 2020-21 five fixed penalty notices totalling £5,000 were issued to licensed premises due to non-compliance with Coronavirus Business Restrictions, and in 2021-22 (up to the end of January) one has been issued at £1,000.

9 COMMENTS OF LEGAL SERVICES

- 9.1 The Council, when exercising its functions under the Licensing Act 2003, is required to do so with a view to the promotion of the licensing objectives. These are: the prevention of crime and disorder; the prevention of public nuisance; public safety; the protection of children from harm. Compliance visits and subsequent appropriate enforcement action, such as warnings, licence reviews, or prosecution, ensures that the four licensing objectives are promoted by licensed premises in the borough.
- 9.2 Other relevant legal considerations are contained in the body of the report.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

Appendix 1: 2019/20 No. of visits per ward

Appendix 2: 2019/20 No. of warning letters per ward

Appendix 3: 2020/21 to date (31st October 2020) No. of visits per ward

Appendix 4: 2020/21 to date (31st October 2020) No. of warning letters per ward

Appendix 5: 2019/20 Successful Prosecutions and outcomes

Appendix 6: 2020/21 to date (31st October 2019) Successful Prosecutions and outcomes

Appendix 1

2020/21 - No. of visits per ward

Inspections 2020/21	
Ward	No. of visits
Bethnal Green	6
Bromley South	1
Bow East	5
Bow West	3
Canary Wharf	2
Island Gardens	3
Lansbury	9
Limehouse	1
Mile End	5
St. Dunstan's	10
Shadwell	5
St. Katherine's and Wapping	3
Spitalfields and Banglatown	23
St. Peter's	5
Stepney Green	1
Whitechapel	6
Weavers	5
(blank)	1
Grand Total	94

Appendix 2

2020/21 - No. of warning letters per ward

Warning Letters 2021/21	
Ward	No. Warning Letters
Bow West	1
Canary Wharf	2
Lansbury	1
Mile End	1
Shadwell	1
St. Dunstan's	3
Spitalfields and Banglatown	2
St. Peter's	1
St Katherine's Dock and	
Wapping	2
Whitechapel	2
Weavers	3
(blank)	
Grand Total	19

Appendix 3

2021/22 to date (end January 2022) - No. of visits per ward

Inspections 2021/22 to date	
Ward	No. of Visits
Blackwall and Cubitt Town	1
Bethnal Green	4
Bow East	15
Bow West	2
Canary Wharf	4
Island Gardens	5
Lansbury	3
Mile End	1
St. Dunstan's	6
St. Katherine's and Wapping	7
Spitalfields and Banglatown	23
St. Peter's	23
Stepney Green	3
Whitechapel	4
Weavers	24
(blank)	1
Grand Total	126

Appendix 4

2021/22 to date (end January 2022) - No. of warning letters per ward

Warning Letters 2021/22 to date	
Ward	No. of Warning Letters
Lansbury	2
St. Peter's Spitalfields and Banglatown	3
Weavers	1
(blank)	6
Grand Total	12

Appendix 5

Premises Prosecuted:

Hearings Held in 2020-21

1. Pink Lemonade, 568 Mile End Road

Offence date: 14th August 2020

Pink Lemonade Lounge Limited & Mr Jonathan Rahim, Company Director:
Breach of the Health Act 2006

Company found allowing shisha to be smoked inside the above address. This premises for the purposes of the above Act is a Smoke Free Premises (i.e. one that is open to the public or used by more than one person for purposes of work, and is more than 50% substantially enclosed).

Premises was warned on more than one occasion and formally written to in relation to the Health Act 2006 and their duties under it to prevent smoking inside the premises. Visits were also made with the majority ending in no access being granted or a long delay of 10 to 20 minutes before being allowed in to the premises.

Despite this Officers, under a Warrant obtained from the Court, gained entry with the Met Police and found the Company was failing to prevent smoking of Shisha. In fact they were found providing and facilitating the use of shisha pipes to customers inside their premises.

Officers also seized 9 shisha pipes along with a couple of tubes of shisha flavours and a few shisha accessorises.

Case was heard under the Single Justice of the Peace.

Result:

Pink Lemonade Lounge Limited
Fine: £440
Costs: £2526.94
Victim surcharge: £44
The total £3010.94

Mr Jonathan Rahim, Company Director
Fine: £440
Victim surcharge: £44

An order was made for forfeiture regarding paraphernalia seized.

Appendix 6

Premises Prosecuted:

Hearings Heard April 2021 – present (31st January 2022)

1. La Cucina, 96 Brick Lane

Offence date: 28th August 2020

Mr Anamul ISLAM t/a La Cucina
Mr Mohammad SUZON
Breach of Licensing Act 2003 - Section 136

They were found carrying out licensable activities (provision of late night refreshment) beyond permitted hours on the Premises Licence again on the date of the offence. This was despite a formal written warning on 17th June 2020 and numerous verbal warnings. Mr Islam pleaded guilty to this offence on 4th October 2021 and was sentenced as follows:

Fine: £350

Costs: £730.20

Victim surcharge: £35

Total £1,115.20

The case against Mr. Suzon was adjourned to 1st November 2021 and he was convicted in his absence. He was sentenced as follows:

Fine: £500.00

Costs: £730.30

Victim surcharge £50.00

Total: £1,280.30