Non-Executive Report of the: **Licensing Committee** 15th March 2022	
Report of: Corporate Director - Governance	**Classification:** Unrestricted
Update in relation to Prosecutions and Appeals – Quarter 4 2021/22 Quarters 1-3 2022/23	

Originating Officer(s)	Jonathan Melnick – Principal Lawyer – Enforcement
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 4 2021/22 (January to March 2022 and Quarters 1 – 3 2022/23 (April to June 2022, July to September 2022 and October to December 2022).**

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 the Licensing Authority and amongst its functions are requirements to ensure compliance with conditions imposed on the licences that it grants and to consider taking appropriate action against unlicensed premises. It will also be the respondent to any appeal against a decision of the Licensing Committee or its Sub-Committee.

3.2 Where the Council 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 statutory guidance issued pursuant to section 182 of the Licensing Act 2003.

3.4 This report does not deal only with Licensing Act 2003 matters but also those under the Gambling Act 2005 and Special Treatment Licences granted under the London Local Authorities Act 1991.

3.5 Members are asked to note that licensing enforcement activity will often reveal contraventions of other legislation such as that relating to tobacco, which will not itself be licensable. However, where such offences have been charged in addition to licensing offences, these are included in the table below in order to give members the full context of offending as well as the outcome.

Prosecutions

3.4 During **Quarter 4 2020/2021 and Quarters 1-3 2021/20221** the following prosecutions were concluded:

During Quarter 4 21/22 four prosecutions were concluded.

During Quarters 1, 2 & 3 22/23, eleven prosecutions were concluded.

	Quarter 4 20/21	**Outcome:**
1	SFB Retailing Ltd. (Ince Supermarket) Underage sale of alcohol & carrying on unauthorised licensable activity Fateh Ince Underage sale of alcohol & carrying on unauthorised licensable activity Ibrahim Erdem Underage sale of alcohol	Fined £920.00 Victim surcharge £92.00 Costs £1,000.00 No separate penalty Fined £92.00 Victim surcharge £34.00 No order as to costs
2	Songul Food Ltd. (Elegant Food) Underage sale of alcohol Ibrahim Celik Underage sale of alcohol Bektas Celik Underage sale of alcohol	Fined £101.00 Victim surcharge £32.00 Costs £232.00 Fined £237.00 Victim surcharge £32.00 Costs £232.00 Fined £162.00 Victim surcharge £32.00 Costs £232.00
3	Cinar Irmak Ltd. Underage sale of tobacco, failure to display tobacco notice (x2), carrying on unauthorised licensable activity Seyho Gurgur Failure to display tobacco notice (x2), carrying on unauthorised licensable activity Suleyman Gurgur Underage sale of tobacco	Fined £340.00 Victim surcharge £34.00 Costs £1,000.00 Fined £180.00 Victim surcharge £34.00 No order as to costs Fined £50.00 Victim surcharge £34.00 No order as to costs

4	Ash Store Ltd. Display of tobacco products, exposing alcohol for unauthorised sale (x2), underage sale of alcohol, carrying on unauthorised licensable activity, failure to display tobacco notice Ashok Uddin Choudhury Display of tobacco products, exposing alcohol for unauthorised sale (x2), underage sale of alcohol, carrying on unauthorised licensable activity, failure to display tobacco notice Mohammed Maher Baksh Exposing alcohol for unauthorised sale, underage sale of alcohol	Fined £680.00 Victim surcharge £68.00 Costs £1,500.00 Fined £560.00 Victim surcharge £56.00 No order as to costs Fined £100.00 Victim surcharge £34.00 No order as to costs
	Quarter 1 22/23	**Outcome**
1	Winehouse Ltd. Underage sale of alcohol Olga Milusauskiene Underage sale of alcohol Pavel Ratner Underage sale of alcohol	Acquitted after trial Acquitted after trial Fined £300.00 Victim surcharge £34.00 Costs £300.00
2	KD Food N Wine Ltd. Underage sale of alcohol, failure to display tobacco notice Dinojan Balakrishnan Underage sale of alcohol, failure to display tobacco notice Ainkaran Jeyasingam Failure to display tobacco notice Angur Miah Underage sale of alcohol	Fined 840.00 (UAS, no separate penalty for tobacco notice) Victim surcharge £84.00 Costs £1,858.00 Fined £257.00 (UAS, no separate penalty for tobacco notice) Victim surcharge £34.00 Costs 200.00 Fined £100.00 Victim surcharge £34.00 Costs £100.00 Fined £80.00 Victim surcharge £34.00 Costs £100.00
	Quarter 2 22/23	**Outcome**

1	Jahnavi Patel Underage sale of alcohol Mehulkumar Patel Underage sale of alcohol, exposing alcohol for unauthorised sale	Fined £127.00 Victim surcharge £34.00 Costs £750.00 Fined £142.00 (1st offence), £200.00 (2nd offence) Victim surcharge £34.00 Costs £750.00
2	Ismail Tuncay Corbaci Underage sale of alcohol Hakan Sezer Underage sale of alcohol	Fined £660.00 Victim surcharge £66.00 Costs £750.00 Fined £660.00 Victim surcharge £66.00 Costs £750.00
3	Acu & Herbs Ltd. Failure to comply with MST licence conditions Li Wa Hodgkinson Failure to comply with MST licence conditions	Fined £600.00 Victim surcharge £60.00 Costs £1,924.74 Fined £400.00 Victim surcharge £40.00 No order as to costs
4	BFC Retail Ltd. Underage sale of alcohol Oya Doldur Husseyin Doldur Underage sale of alcohol	Fined £5,000.00 Victim surcharge £200.00 Costs £1,311.89 Fined £800.00 Victim surcharge £34.00 No order as to costs Fined £50.00 Victim surcharge £34.00 No order as to costs
5	Diya 112 Ltd. Underage sale of alcohol Riza Er Underage sale of alcohol Tolgur Selkan Underage sale of alcohol	Fined £1,500.00 Victim surcharge £150,00 Costs £1,537.22 Fined £500.00 Victim surcharge £50.00 No order as to costs Fined £300.00 Victim surcharge £34.00 No order as to costs
6	Mohammed Rabin	Fined £40.00

	Underage sale of tobacco Linked to Huq Neighbours (below)	Victim surcharge £34.00 Costs £300.00
7	Mohammad Mehedi Hasan Underage sale of alcohol Linked to Huq Neighbours (below)	Fined £80.00 Victim surcharge £34.00 Costs £300.00
	Quarter 3 2022/23	**Outcome**
1	Huq Neighbours Ltd. Underage sale of alcohol, underage sale of tobacco, display of tobacco, carrying on unauthorised licensable activity Mohammed Al Manamul Huq Underage sale of alcohol, display of tobacco, carrying on unauthorised licensable activity	Fined £1,000.00 per underage sale offences, fined £500.00 per offence (display and unauthorised licensable activity) Victim surcharge £180.00 Costs £2,000.00 Acquitted of all offences. LBTH to pay defence costs £12,040.00
2	Yani Wang t/a Natural Treatment Ltd. Failure to comply with MST licence conditions	Fined £300.00 Victim surcharge £34.00 Costs £300.00

Appeals

During Quarter 4 21/22 three appeals were concluded.

During Quarters 1, 2 & 3 22/23, four appeals were concluded.

The outcome of the appeals are as follows:

No	Case Details	**Outcome**
	Quarter 4 2021/22	**Outcome**
1	White's Venues Ltd. 32-38 Leman Street London E1 SEW	Appeal against refusal of SEV licence (2019/20) allowed on 28th January 2022 (following hearing on 19th and 20th January 2022). Additional CCTV condition imposed. Decision 7th March 2022 - No order as to costs

2	Sunflower London Ltd. Healthcare 21 Wentworth Street London E1 7TB	Appeal against refusal of renewal of special treatment licence. Appeal deemed abandoned on 31st January 2022. Appellant to pay Council's costs of £5,370.00
3	White's Venues Ltd. 32-38 Leman Street London E1 SEW	Appeals against refusal of SEV licences (2020/21 and 2021/22) allowed by consent on 7th March 2022.
	Quarter 1 22/23	**Outcome**
1	Oval Venues Ltd. Oval Café 11-12 The Oval London E2 9DU	Appeal against grant of licence with reduced hours. Appeal allowed by consent on 3rd May 2022 and remitted to the Sub-Committee for determination (licence holder confirmed 10th March 2023 that the licence was accepted)
2	Oval Venues Ltd. 29-32 The Oval London E2 9DT	Appeal against decision on review to reduce hours and impose additional conditions. Appeal allowed by consent on 9th May 2022
3	Cabby's Rum Bar Arch 411 St. Paul's Way London E3 3AG	Appeal against decision on review to revoke premises licence Appeal dismissed on 26th July 2022. Appellant to pay Council's costs of £750.00
	Quarter 2 22/23	**Outcome**
1	Yani Wang t/a Natural Treatment 35 Artillery Lane London E1 7LP	Appeal against decision to revoke special treatment licence. Appeal withdrawn on 20th September 2022

	Quarter 3 22/23	Outcome
		No appeals were concluded during this period.

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 Quarter 4 of 2021/22 and Quarters 1 to 3 of 2022/23.

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 and appeals. However, it should be noted that costs are at the discretion of the court and full costs orders may not always be made. Fines and costs are paid over to HM Treasury.

5. LEGAL COMMENTS

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

5.2 At the time of the last report (15th March 2022), the coronavirus pandemic was continuing to have some impact on the court process. A huge backlog of cases had built up in the magistrates' courts, which is where all prosecutions will start and where licensing appeals are heard. The backlog has reduced considerably in respect of prosecutions. However, as will be noted above, there was still some impact in respect of licensing appeals although there are now no appeals outstanding that commenced prior to or during the pandemic.

5.3 Licensing appeals, however, continue to be treated as a low priority by the court and, unlike prosecutions, which are commenced by us and in respect of which we have control over the first hearing date. It is still not uncommon for the first hearing of a licensing appeal to be listed several months after the appeal has been lodged at court (a scenario which was usual prior to the pandemic). Similarly, it is not uncommon for the court to fail to inform the Council promptly that an appeal has been lodged or, when a query is made by us, to incorrectly inform us that there is no appeal, often due to the fact that the court has failed to register the appeal.
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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**
- **None**

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