


Non-Executive Report of the: Licensing Committee 13 th June 2024	 TOWER HAMLETS
Report of: Interim Director of Legal & Monitoring Officer	Classification: Unrestricted
Update in relation to Prosecutions and Appeals – Quarter 4 2022/23 Quarters 1-3 2023/24	

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 2022/23 (January to March 2023 and Quarters 1 – 3 2023/24 (April to June 2023, July to September 2023 and October to December 2023).**

Recommendations:

The Licensing Committee is asked to:

1. Note the information provided in the report.

1. REASONS FOR THE DECISION

- 1.1 This report is for the information of the Committee. No specific decision is required.

2. ALTERNATIVE OPTIONS

- 2.1 N/A

3. DETAILS OF REPORT

- 3.1 The London Borough of Tower Hamlets is responsible for granting licences under a number of different statutory regimes. Licences will frequently have conditions imposed upon them, whether by statute or by the Licensing Committee (or Sub-Committee). Among the Authority's functions are requirements to ensure compliance with any such conditions imposed on the licences that it grants and to consider taking appropriate action against such breaches or where premises operate without the requisite licence. The Authority 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 under that Act 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, special treatment licences granted under the London Local Authorities Act 1991, and sexual entertainment venue (SEV) licences under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
- 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 22/23 one prosecution was concluded.

During Quarters 1, 2 & 3 23/24 three prosecutions were concluded.

	Quarter 4 2022/23	Outcome:
1	<p>MS Ltd. Underage sale of alcohol, exposing alcohol for unauthorised sale, failure to display statutory tobacco notice</p> <p>HSG (director and seller) Underage sale of alcohol, exposing alcohol for unauthorised sale, failure to display statutory tobacco notice</p>	<p>Guilty pleas Fined £461 (underage sale, no separate penalty on other offences) Victim surcharge £34.00 Costs £2,561.70</p> <p>Guilty pleas Fined £153.00 (underage sale, no separate penalty on other offences) Victim surcharge £34.00 No order as to costs</p>
	Quarter 1 2023/24	Outcome
1	<p>DB Ltd. Underage sale of alcohol, exposing alcohol for unauthorised sale (x2), failure to display statutory tobacco notice</p> <p>DK (director) Underage sale of alcohol, exposing alcohol for unauthorised sale (x2), failure to display statutory tobacco notice</p> <p>MS (director) Underage sale of alcohol, exposing alcohol for unauthorised sale (x2), failure to display statutory tobacco notice</p>	<p>Guilty pleas Fined £9,305.00 (underage sale, no separate penalty on others) Victim surcharge £2,000.00 Costs £1,655.00</p> <p>Guilty pleas Fined £471.00 (underage sale, no separate penalty on others) Costs £1,655.00</p> <p>Guilty plea to tobacco notice (no evidence offered on remainder) Fined £100.00</p>

	Quarter 2 2023/24	Outcome
1	GNWA Ltd. Breach of special treatment licence x2 CKK Breach of special treatment licence x2	No evidence offered (company dissolved before trial) Convicted after trial Fined £500.00 per offence Victim surcharge £50.00 Costs £6,961.25
	Quarter 3 2023/24	Outcome
1	HH Unauthorised licensable activity (late night refreshment) IH Unauthorised licensable activity (late night refreshment)	Guilty plea Fined £126.00 Victim surcharge £34.00 Costs £500.00 Acquitted after trial

Appeals

During Quarter four 2022/23 three appeals were concluded.

During Quarters one, two and three 2023/24 three appeals were concluded.

	Quarter 4 2022/23	Outcome
1	Oval Space Ltd. Oval Studios 29-32 The Oval London E2 9DT	Appeal against decision of LSC to revoke premises licence following expedited review. Appeal withdrawn 24 th January 2023
2	Huq Neighbours Ltd. 117A Parnell Road London E3 2RT	Appeal against decision of LSC to revoke premises licence following under age sales. Appeal dismissed 28 th February 2023. Appellant to pay Council's costs of £7,800.00
3	Raj Singh Jani Old Ford Supermarket 389 Roman Road London	Appeal against decision of LSC to revoke premises licence following out-of-hours sales and use of

	E3 2LU	premises for storage of illicit tobacco. Appeal withdrawn on 14 th March 2023. Appellant to pay Council's costs of £1,500.00.
	Quarter 1 2023/24	Outcome
1	Recep Turhan Jack the Chipper 96 Whitechapel High Street London E1 7RA	Appeal against decision of LSC to refuse premises licence for sale of alcohol and provision of late night refreshment. Settled by consent on 26 th May 2023 following hearing. Licence granted with additional conditions and restriction on sales after 22:00 hours. No order as to costs.
	Quarter 2 2023/24	Outcome
1	Human Health Ltd. 56 Skylines Village London E14 9TS	Appeal against decision to refuse special treatment licence. Appeal withdrawn on 11 th July 2023.
2	Hamlets Pizza Ltd. 479 Cambridge Heath Road London E2 9BU	Appeal against decision to refuse premises licence. Appeal withdrawn on 25 th July 2023. Appellant to pay Council's costs of £1,725.00.
	Quarter 3 2023/24	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 four of 2022/23 and Quarters one to three of 2023/24.
- 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. All sums ordered to be paid on conviction are collected by HM Courts and Tribunals Service. Costs are then paid to the Council. Costs ordered in respect of appeals are payable between the parties.

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 (1st June 2023), the backlog of cases in the magistrates' courts, which had increased substantially during the coronavirus pandemic, had been reduced. There are now no appeals or prosecutions outstanding which had commenced during the pandemic.
- 5.3 Licensing appeals continue to be treated as a low priority by the court. Unlike prosecutions, which are commenced by us and in respect of which we have control over the first hearing date, we have no control over the listing of appeals. 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. These issues are taken up with the court as and when possible, but these are systemic issues within the court system and not isolated within the borough.

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. The enforcement policy makes clear the need to target enforcement action towards 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, Legal Services assess each individual case against each potential defendant against the test set out in the Code for Crown Prosecutors. These are an evidential test i.e. that the evidence is such that a bench of magistrates or a District Judge (or jury) is more likely than not to convict the offender, and the public interest test. Further, proceedings are kept under continuous review once instituted and are discontinued in the event that either or both tests cease to be met.

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 of the four licensing objectives under the 2003 Act is the prevention of crime and disorder. Enforcement promotes that 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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