


Non-Executive Report of the:  <b>Licensing Committee</b>  16 <sup>th</sup> January 2024	
<b>Report of:</b> Tom Lewis, Service Manager, Regulatory Services (Commercial) Directorate of Communities	<b>Classification:</b> Unrestricted
<b>Night-Time Economy visits and Enforcement Update for 2023/24 and 2024/25 (October 2024)</b>	

<b>Originating Officer(s)</b>	Ibrahim Hussain, Licensing Officer – Trading Standards and Licensing Team
<b>Wards affected</b>	All Wards

## 1. Summary

- 1.1 This report reviews the outcomes of late-night inspections and enforcement in connection with licensed premises undertaken by Regulatory Services (Commercial). These inspections are carried out late at night to premises where intelligence is received alleging a contravention of the Licensing Act 2003. The service also has a programme of enforcement visits that included test purchasing of age restricted products.
- 1.2 These late-night inspections investigate a variety of alleged issues relating to licensed premises, such as:-
- premises undertaking licensable activities without a licence.
  - premises alleged to be breaching 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 but have been identified as continuing to carry out licensable activities.
  - premises alleged to be undermining one or more of the licensing objectives.
- 1.3 This report is concerned with the enforcement visits undertaken from 1<sup>st</sup> April 2023 to 1<sup>st</sup> April 2024, and 1<sup>st</sup> April 2024 to 31<sup>st</sup> October 2024 and the outcomes of these visits.

## **2. Recommendations:**

The Licensing Committee is recommended to:-

- 1.4 Note the activity that has been undertaken by Regulatory Services (Commercial) 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.

## **4 Alternative Options:**

- 3.1 We could decide not to carry out any enforcement activity but this could lead to widespread non-compliance.

## **5. Detailed Report**

- 5.1 There are approximately 1,315 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 have binding conditions, specific to the individual premises. All such matters detailed on the licence are to ensure the promotion of the four licensing objectives:
  - Prevention of crime and disorder.
  - Public safety,
  - Prevention of public nuisance,
  - Protection of children from harm.

The late-night inspections 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),
  - 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 the compliance history of the premises, the attitude of licensee, and the extent and seriousness of the breach.

- 5.4 As well as formal action as highlighted above these inspections 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 inspection outcomes

- 5.5 In 2023/24 48 inspections were completed, 29 of which were completed by Park Guard who operate the Out of Hours Noise Service. A total of 76 warning letters were sent by the Team during this period. A breakdown by ward of total inspections, warning letters can be found in Appendix 1. As can be seen there have been more warning letters than inspections made this year; this is due to duplications. For example, many of the letters are sent to the licence holders, designated premises supervisor (DPS), and in some cases the premises address, because the DPS and licence holder may not have the same address as the premises.
- 5.6 In 2024/25 (up to October 2024) 91 inspections were completed, 3 of which were carried out by Park Guard. A total of 38 warning letters were sent by the Team during this period. A breakdown by ward of total inspections, warning letters can be found in Appendix 2.

The relatively low number of warning letters (38) compared to the total inspections (91) are due to several factors:

- *Compliance During Inspections:* Many individuals or businesses inspected may have complied immediately, making warning letters unnecessary, though an onsite report would normally have been left at the premises.
  - *Nature of the Cases:* Some inspections might not have revealed significant breaches, or the issues identified were minor and addressed informally without the need for formal warnings. Again, onsite reports would normally have been left at the premises.
  - *Effectiveness of Out of Hours Service:* Park Guard's involvement may have deterred potential breaches, reducing the need for subsequent warnings.
  - *Case Complexity:* Some cases may still be under investigation, delaying the issuance of warning letters within the reported period.
  - *Delays in sending:* The Principal Licensing Officer was taken away from normal duties from quarter 4 of 2023/24 to focus on delivery of a new database. This meant the focus on the team, rightly, was on processing of applications and objecting to applications which failed to promote the licensing objectives.
- 5.7 In 2023/24 4 formal enforcement investigations were opened, and in 2024/25 (October 2024) there were 7 formal enforcement investigations opened. Appendix 3 lists these formal enforcement investigations and the outcomes.

- 5.8 As can be seen from the number of inspections carried out in 2023/24 and 2024/25 (October 2024) are lower than 2022/23, and previous years prior to the pandemic. Ignoring the pandemic years where restrictions prevented many types of enforcement visits, it is worth noting that in the previous years the Team had two additional officers: one funded by Public Health and the other on secondment from Community Safety. This allowed officers to focus on enforcement without adversely affecting processing applications. Furthermore, since the end of 2021 where restrictions associated with the pandemic were lifted, more applicants seem to not be using licensing agents/solicitors to advise them on applications. This has caused additional work for the team either via chasing applicants for additional information, receiving an increase in enquiries about completing applications, and finally making objections to applications.

It would appear that the reason for not using licensing agents or solicitors could be linked to the cost-of-living crisis, which has particularly affected the hospitality business sector. This is particularly so with regard to energy costs, where the commercial sector was not given the same level of government help as domestic customers. This may be one reason for the perceived increase in non-compliance in 2023/24 (mainly in the late night refreshment sector) and likely due to shops wanting to increase their hours of sale to combat the increased costs. However, this cannot all be linked to wilful non-compliance; undoubtedly some is likely to be due to lack of knowledge or mistakes.

Further to this, officer overtime payments have not changed in monetary value since 2018. Though this did not seem to have an effect in 2021, there has since been a more significant increase in inflation. As a result, the number of officers volunteering for out of hours inspections have reduced. Though we have not yet been able to secure an increase in the overtime payments, we have been able to provide more flexibility in the timings of the shifts sometimes allowing them to finish earlier. Hence an increase in inspections can be seen in 2024/24 (October 2024).

- 5.9 Further to the above the Licensing Team objected to 57 out of 196 premises licence and variation of premises licence applications in 2023/24. In 2024/25 (to October 2024) the Licensing Team has objected to 45 out of 94 premises licence and variation of premises licence applications within the borough. This increase in objections is likely attributable to the issues mentioned above in relation to non-licensing professional completing application forms due to costs.

## **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 This report provides an update on the outcomes of late-night inspections to licensed premises, undertaken by the Environmental Regulatory Services during 2023/24 and year to date 2024/25 (up to the end of October 2024). There are no financial implications arising directly from this noting report.
- 8.2 Costs associated with inspections and prosecutions are contained within existing net expenditure budgets totalling £1.6m in 2024/25, which forms part of the overall Communities Directorate. Income arising from licensing fees and enforcement activities contribute towards the cost of managing this service.

## **9 LEGAL COMMENTS**

- 9.1 As this is a noting report, no specific legal considerations arise. 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.
- 9.3 Section 17 of the Crime and Disorder Act 1998 imposes a duty on local authorities to exercise their various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent in the borough (among other things), crime and disorder (which includes anti-social behaviour and other behaviour which has an adverse effect on the local environment), the misuse of alcohol, and serious violence. Enforcement visits of premises licensed under the Licensing Act 2003 or which are not licensed but need to be so licensed will help to ensure that the authority fulfils its functions under s.17.

9.4 Section 149 of the Equality Act 2010 requires public authorities, when carrying out its functions, to have “due regard” to this duty. This requires the authority to have due regard to the need:

- to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010;
- to advance equality of opportunity between persons sharing a relevant protected characteristic (such as age, race, or disability) and those that do not;
- to foster good relations between persons sharing a relevant protected characteristic and those that do not.

9.5 The duty does not require the authority to achieve a particular result. The duty must be considered at the time that the decision is made and must be conducted with rigour, with an open mind, and not considered to be merely a box-ticking exercise. No specific issues appear to arise as a result of this report.

## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- NONE.

### **Appendices**

Appendix 1: 2023/24 Table of visits per ward and warning letters per ward

Appendix 2: 2024/25 (to 31<sup>st</sup> October 2024) Table of visits per ward and warning letters per ward

Appendix 3: Formal Enforcement Investigations 2023/24 and 2024/25 (to October 2024)

## Appendix 1

<b>Licensing Visits per ward 2023/24</b>	
<b>Ward</b>	<b>No. of visits</b>
Blackwall and Cubitt Town	1
Bethnal Green East	3
Bow East	10
Bow West	3
Canary Wharf	1
Island Gardens	1
Lansbury	1
Mile End	1
St. Dunstan's	1
Shadwell	2
Spitalfields and Banglatown	13
Bethnal Green West	5
Whitechapel	4
Weavers	3
(blank)	2
<b>Grand Total</b>	<b>48</b>

<b>Warning Letters 2023/24</b>	
<b>Ward</b>	<b>No. of Warning Letters</b>
Blackwall and Cubitt Town	3
Bethnal Green East	2
Bow East	11
Bow West	5
Canary Wharf	3
Island Gardens	1
Mile End	1
Poplar	1
Shadwell	3
St. Katharine's and Wapping	4
Spitalfields and Banglatown	18
Bethnal Green West	6
Whitechapel	10
Weavers	8
(blank)	0
<b>Grand Total</b>	<b>76</b>

## Appendix 2

<b>Licensing Visits per ward 2024/25 (October 2024)</b>	
<b>Ward</b>	<b>No. of visits</b>
Bethnal Green East	2
Bromley South	1
Bow East	16
Bow West	3
Canary Wharf	1
Island Gardens	2
Lansbury	1
Limehouse	1
Mile End	2
Shadwell	3
St. Katharine's and Wapping	6
Spitalfields and Banglatown	17
Bethnal Green West	10
Whitechapel	13
Weavers	12
(blank)	1
<b>Grand Total</b>	<b>91</b>

<b>Warning Letters sent 2024/25 (October 2024)</b>	
<b>Ward</b>	<b>No. of Warning Letters</b>
Bethnal Green East	3
Bromley South	2
Bow East	4
Bow West	3
Canary Wharf	3
Island Gardens	3
Lansbury	1
St. Dunstan's	2
St. Katharine's and Wapping	1
Spitalfields and Banglatown	5
Bethnal Green West	1
Whitechapel	8
Weavers	1
(blank)	1
<b>Grand Total</b>	<b>38</b>



## Appendix 3

<b>Formal Enforcement Investigations Commenced 2023/2024</b>				
	<b>Offence</b>	<b>Date</b>	<b>Premises Type</b>	<b>Current Action /Results</b>
1.	S.136 Licensing Act 2003 offences (Late Night Refreshment)	14/04/2023	Take Away/Pizza	Test purchase (TP) carried out due to trading without a licence under Licensing Act 2023 S.136 (Late Night Refreshment), a warning letter was sent, and advice was given on how to obtain a licence; later, management changed, and an additional inspection was conducted, but no breach was discovered.
2.	S.136 Licensing Act 2003 offences (Late Night Refreshment)	02/05/2023	Take Away/Pizza	Test purchase (TP) carried out and first warning letter is issued. Breach of trading without a licence. the premises was given the option to apply for a new premises licence. When applied the licensing received and Objection from the Licensing Authority. Licensing Sub-Committee made the decision to granted the premises licence based on the evidence presented at the hearing.
3.	S.136 Licensing Act 2003 offences (Late Night Refreshment)	06/05/2023	Take Away/Pizza	A first-time test purchase (TP) was completed, which was successful since the premises did not have a premises licence under LA 2023 S.136 (LNR). A warning letter was sent out, and instructions on how to obtain a licence were provided. Further inspections indicated no offences. A new premises

				licence application was made, and the Licensing Sub-Committee granted a premises licence with conditions.
4.	S.136 Licensing Act 2003 offences	19/07/2023	Take Away/Pizza	Test purchase (TP) conducted due to trading without a licence under Licensing Act 2023, a warning letter was sent, and advice was given on how to obtain a licence. Additional inspection was conducted, but no breach found, and no application received for a new premises licence.

<b>Formal Enforcement Investigations Commenced 2024/25 to 31<sup>st</sup> October 2024</b>				
	<b>Offence</b>	<b>Date</b>	<b>Premises Type</b>	<b>Current Action /Results</b>
1.	S.136 Licensing Act 2003 offences (Breach of Conditions)	19/04/2024	Take Away/Pizza	Discontinued after investigation due to insufficient CCTV evidence.
2.	S.136 Licensing Act 2003 offences (Late Night Refreshment)	11/05/2024	Take Away/Pizza	Discontinued following an investigation due to premises closure; now not carrying out any licensable activity; previously was doing late-night refreshment; and is now selling stationary products throughout the day under new ownership.
3.	S.136 Licensing Act 2003 offences (Late Night Refreshment) and sell of illicit tobacco	04/06/2024	Take Away/Pizza	Multiple breaches of Licensing Act 2003, also 1600 cigarettes seized as part of the out of hours visits, with assistance from Trading Standards Officers. The new Trading Standards and Licensing Team is

				considering is investigating for potential formal legal action against the duty holder.
4.	S.136 Licensing Act 2003 offences (Unauthorised sales of alcohol)	14/06/2024	Take Away/Pizza	Discontinued following investigation licence holder in prison and business owner changed, and currently new owner is not carrying out licensable activity. Advice on how to apply for a licence given. No new application received to date.
5.	S.136 Licensing Act 2003 offences (Late Night Refreshment)	26/07/2024	Take Away/Pizza	The successful test was carried out, a warning letter was provided as a first offence, and Licensing Authority considered and give a chance to submit for a new application, which was subsequently done. Yet, the application was refused because one of the ID documents was not able to be supplied.
6.	S.136 Licensing Act 2003 offences (Late Night Refreshment)	21/09/2024	Take Away/Pizza	Under LA 2023 S.136 Late Night Refreshment (LNR), test purchases were undertaken and a warning letter issued. The premises were not prosecuted since the LA offered the opportunity to apply for a new licence. After receiving the warning letter, a new premises application was submitted. Currently, representation has been received from Licensing based on an offence of LA 2003 S.136 (LNR), as well as an objection from

				Environmental Health about noise and a Licensing police dispute based on C&D. A hearing of the Licensing Sub-Committee is due to take place to hear this matter.
7.	S.136 Licensing Act 2003 offences (Late Night Refreshment)	21/09/2024	Take Away/Pizza	The premises are only licensed to serve alcohol until 10:30pm daily. Complaints received trading late night refreshment (LNR) without a licence, warning letter and advice given, as well as part of Dymock visit verbal warning issued to the owner and still violating LA 2003 S.136 LNR therefore test purchase conducted and currently under investigation to proceed with prosecution.