


Non-Executive Report of the: Licensing Committee 21 July 2015	 TOWER HAMLETS
Report of: Service Head - Legal Services	Classification: Unrestricted
Update in relation to Prosecutions and Appeals - Quarter 4 2014/2015 & Quarter 1 2015/16	

Originating Officer(s)	Agnes Adrien, Team Leader – Enforcement & Litigation
Wards affected	All wards

Summary

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.

This report provides details of completed licensing related prosecutions and appeals for Quarter 4 2014/2015 (January to March) and Quarter 1 2015/16 (April to June).

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 Not applicable to noting reports.

3. DETAILS OF REPORT

- 3.1 The London Borough of Tower Hamlets is a Licensing Authority and amongst its functions it is required to ensure compliance with conditions imposed on Premises Licences; take action against unlicensed premises; and act as a respondent on Appeals against decisions of the Licensing Sub-committee in respect of applications that come before it.

- 3.2 Where the Licensing Authority 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 Licensing Guidance issued pursuant to section 182 of the Licensing Act 2003.

Prosecutions

- 3.4 In **Quarter 4 2014/2015**, proceedings were taken against one (1) business establishments and two (2) individuals. Please see the results of the prosecutions below:

- 3.4 The results of the Prosecutions are as set out below:

No.	Offences	Outcome
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1.	Café Bangla – 128 Brick Lane s.136(1)(a) Licensing Act 2003 (Breach of condition 1 in Annex 3 of the Premises Licence) 1 offence under section 57(7) of the Licensing Act 2003 (failure to produce premises licence to a constable or an authorised person when required)	Guilty– Fine £300, costs £250 – Victim Surcharge £20.
2	Brick Lane Brasserie – 67 Brick Lane	Case discontinued. Insufficient evidence of touting.
Quarter 1 2015-16 April –June		
1	Brick Lane Brasserie – 67 Brick Lane 1 x s.136(1) Licensing Act 2003 (Breach of condition 1 in Annex 3 of the Premises Licence)	Guilty Pleas Mr. Salim Fine: £250.00 Victim Surcharge: £25.00 Costs: 400.00 Mr. Shamim Fine: £300.00 Victim Surcharge: 30.00 Costs: £400 A Fine Collection Order was also imposed.

Appeals

3.5 During quarter 4 2014/2015, no Appeals were concluded.

During Quarter 1 2015/16 three (3) Appeals were concluded.

Two (2) were in respect of reviews that were conducted.

One (1) was in respect of a new premises licence.

No	Outcome
1	Appeal withdrawn. Appellant selling business and did not find appeal necessary.
2	Appeal dismissed. Appellant failed to attend court.
3.	Decision of the Members adopted but 2 conditions varied. No order for costs.

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 2014/2015 and Quarter 1 2015/16.
- 4.2 There are no financial implications arising from the recommendations in this Report.

5. LEGAL COMMENTS

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

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.
- 10.2 The report does not propose any direct expenditure. Rather, it is concerned with advises as to outcomes in areas in which the Council is already active.

The enforcement policy seeks to ensure that enforcement action is targeted to the Council's policy objectives. This is more likely to lead to efficient enforcement action than a less-controlled enforcement effort

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- None

Local Government Act, 1972 Section 100D (As amended) List of "Background Papers" used in the preparation of this report

- None

Officer contact details for documents:

- N/A