

Non-Executive Report of the:  <b>Licensing Committee</b>  13 September 2016	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Service Head – Legal Services	<b>Classification:</b> [Unrestricted or Exempt]
<b>Update in relation to Prosecutions and Appeals- Quarter 1 2016/2017</b>	

<b>Originating Officer(s)</b>	Agnes Adrien
<b>Wards affected</b>	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 1 2016/2017 (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 N/A

#### 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 1, 2016/2017, proceedings were taken against one (1) business establishment and one (1) individual. Please see the results of the prosecution below

3.5 The results of the Prosecutions are as set out below:

No.	Offences	Outcome
1	<p>Shampan Restaurant , London, Breach s136(1) and (4) of the Licensing Act 2003 (breach of Condition 1 in Annex 3 of the Premises Licence - carrying out a licensable activity or from premises otherwise than in accordance with a licence</p> <p>Director 1 x S137(1) and (3) exposing for sale, by retail any alcohol where the sale is an unauthorised activity 1 x s138(1) and (4) has in his possession or under his control which he intends to sell for retail or supply in circumstances where the sale is an unauthorised activity.</p>	<p>Fine £2000 Costs £1637.50 Victim Surcharge £120.00 Total £3757.50</p> <p>Fine £400 Costs £800 Victim Surcharge £20 Total £1220.00</p>

### Appeals

3.6 During quarter 1, 2016/2017, three (3) Appeals were concluded.

The Outcome of the Appeal is set out below:

No	Outcome
1	Hearing scheduled for 25.4.2016 .Appeal withdrawn. Costs awarded £3,500
2	<p>Consent Order agreed 26.4.2016.No drinks (alcoholic or soft) sold within the premises to be consumed on Three Colt Street outside the front of the premises at any time.</p> <p>Noise limiter must be fitted to the musical amplification system set a level determined by and to the satisfaction of an authorised Environmental Health and Designated Premises Supervisor. The noise limiter shall be secured by key or password and accessed only by persons authorised by the Premises License Holder</p> <p>Drinks (either alcoholic or soft) sold as an off sale must be in a sealed container.</p> <p>An incident book must be kept and all incidents of crime and disorder associated with the premises recorded. The report book must be available at all times for inspection by responsible authorities.</p>
3	<p>Consent Order agreed 29.6.2016. Off sales only agreed. No alcoholic goods to be purchased or taken from persons calling to the shop. No spirits shall be purchased in a resealed box without thorough checks being made as to whether it is legal to sell. Trading Standards to be informed immediately of any attempts to sell alcohol by any caller to the shop. Stock control system to be introduced so that the licensee can identify where and when alcohol purchased. Staff are trained on age restricted products and records of training maintained. Any refusals to sell to young persons are kept in a log. An ultra- violet light will be available at the premises for the purpose of checking the UK Stamp Duty on spirits.</p> <p>Costs £4,500</p>

The first Appeal was in respect of a new premises licence. The other Appeals were in respect of reviews.

#### **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 1 2016/2017.
- 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 people 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.

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

### **Linked Report**

- [List any linked reports, for example those that went to other Committees on
- State NONE if none.

### **Appendices**

None

### **Local Government Act, 1972 Section 100D (As amended)**

#### **List of "Background Papers" used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

None.

**Officer contact details for documents:** Agnes Adrien 0207 364 4972