

Non-Executive Report of the: Licensing Committee 17 th December 2020	 TOWER HAMLETS
Report of: David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	Classification: Unrestricted
Night-Time Economy Enforcement Update	

Originating Officer(s)	Tom Lewis, Team Leader – Licensing and Safety
Wards affected	Whole Borough

1. Summary

- 1.1 This report reviews late night economy in relation to licensed premises undertaken by the Environmental Health and Trading Standards Service. The objective was to manage the late-night premises where intelligence received alleged a contravention of the Licensing Act 2003 and other supporting legislation. The programme utilised Officers from across Environmental Health and Trading Standards. A number of the actions included test purchasing to investigate compliance.
- 1.2 The operation was run biweekly on Friday and Saturday evenings between the hours of 22:00 and 03:00 hours.
- 1.3 These late night visits investigated a variety of alleged breaches, such as:
- premises undertaking licensable activities without a Licence.
 - premises alleged to be breaching with 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 yet have been identified as continuing to carry out licensable activities.
 - premises alleged to be undermining one or more of the Licensing Objectives
- 1.4 This report is concerned with the activities undertaken in 2019/20 and 2020 to date (end of October 2020) and the achievements of these actions.
- 1.5 Due to the ongoing coronavirus pandemic that took hold at the beginning of 2020 these late night activities were suspended during the initial national restrictions period between end of March and end of June 2020. After this date the late night visits recommenced but not on a regular biweekly basis as would normally be the case.

2. Recommendations:

The Licensing Committee is recommended to:-

- 2.1 Note the activity that has been undertaken by the Environmental Health and Trading Standards Service with regards to regulating Late Night Licensed Premises.

3 Reasons for Decisions:

- 3.1 This is a noting report to advise the Licensing Committee on the management of the late-night economy, no decision is required.

- 3 **Alternative Options:** We could decide not to carry out any enforcement activity, but this could lead to widespread non-compliance.

5. Background

- 5.1 There are approximately 1,196 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 also have conditions, in addition to the mandatory conditions, specific to the individual premises. All such matters detailed on the licence are to ensure the promotion of the four Licensing Objectives. The late night visits are to 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 compliance history of the premises, attitude of Licensee, extent and seriousness of the breach.
- 5.4 As well as formal action these visits 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 visits outcomes

- 5.5 A total of 425 inspections were undertaken in 2019/20 with 35 premises receiving warning letters for non-compliance and 3 receiving a verbal warning. Therefore 8.9% of the premises visited were non-compliant. There were 8 successful prosecutions in 2019/20 and 1 unsuccessful prosecution. Appendix 1 provides a breakdown of visits per ward and Appendix 2 provides a breakdown of warning letters sent per ward.
- 5.6 The non-compliance rate for 2020/21 to date (31st October 2020) is 15% with 8 premises given warnings for Smoke Free, Coronavirus Restrictions, and Licensing out of 53 inspections. Appendix 3 provides a breakdown of visits per ward and Appendix 4 provides a breakdown of warning letters sent per ward.
- 5.7 In 2020/21 there were considerably less visits, though a higher rate of warnings issued in comparison to 2019/20. These visits have not been undertaken in the same frequency as we would normally carry out. This again is due to the restrictions in place in relation to the 10pm curfew which has generally seen good compliance across the borough.
- 5.8 Intelligence gathered as an outcome of these visits has resulted in further investigations for licensing offences and evidence obtained in relation to an ongoing Smoke Free investigation relating to a Shisha bar. There were seven premises prosecuted for licensing offences and one prosecuted for gambling offences.
- 5.9 Appendix 5 demonstrates the number of prosecutions and outcomes during 2019/20 as a result of the late-night inspections.
- 5.10 Appendix 6 demonstrates the number of prosecutions and outcomes during 2020/21 as a result of the late-night inspections.
- 5.11 Appendix 7 shows the current prosecutions that are being worked through in relation to recent late night inspection non compliances.

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: premises may employ underage persons or vulnerable adults. Therefore there is a positive safeguarding impact by the Service carrying out these inspections.. 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 There are no financial implications emanating from this report which provides an update on the performance of managing the night time economy in relation to contraventions of the Licensing Act 2003 and other supporting legislation. Any costs of inspections and prosecutions are contained within existing budgetary provision managed by the Environmental Health and Trading Standards services.

9 LEGAL COMMENTS

- 9.1 The Licensing Act 2003 objectives are; the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The monitoring of and regulation of activities on licensed premises is a function of the Council (*Guidance issued under section 182 the Act*) and appropriate action, including issuing warnings, seeking reviews of the licenses of errant premises and prosecution are all options open to the Council by reference to its enforcement policy.
- 9.2 Other relevant legal considerations are contained in the body of the report

Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

Appendix 1: 2019/20 No. of visits per ward

Appendix 2: 2019/20 No. of warning letters per ward

Appendix 3: 2020/21 to date (31st October 2020) No. of visits per ward

Appendix 4: 2020/21 to date (31st October 2020) No. of warning letters per ward

Appendix 5: 2019/20 Successful Prosecutions and outcomes

Appendix 6: 2020/21 to date (31st October 2019) Successful Prosecutions and outcomes

Appendix 7: Total pending investigations per Ward

Appendix 1

2019/20 - No. of visits per ward

Inspections 2019/20	
Ward	No. of visits
Blackwall and Cubitt Town	16
Bethnal Green	40
Bromley North	17
Bromley South	3
Bow East	22
Bow West	7
Canary Wharf	15
Island Gardens	1
Lansbury	9
Limehouse	13
Mile End	22
Poplar	3
St. Dunstan's	13
Shadwell	14
St. Katherine's and Wapping	9
Spitalfields and Banglatown	57
St. Peter's	79
Stepney Green	5
Whitechapel	36
Weavers	41
(blank)	3
Grand Total	425

Appendix 2

2019/20 - No. of warning letters per ward

Warnings 2019/20	
Ward	No. Warning Letters
Bethnal Green	5
Bow East (1 verbal)	2
Bow West	1
Bromley North (1 verbal)	2
Bromley South	1
Canary Wharf	1
Limehouse	2
Mile End	2
Stepney Green	1
Spitalfields and Banglatown	6
St Peter's (1 verbal)	8
Whitechapel	4
Weavers	5
Grand Total	38

Appendix 3

2020/21 to date (end October 2020) - No. of visits per ward

Inspections 2020/21 to date	
Ward	No. Visits
Bethnal Green	6
Bow East	2
Bow West	3
Island Gardens	2
Lansbury	2
Limehouse	1
Mile End	1
St. Dunstan's	6
Shadwell	5
St. Katherine's and Wapping	3
Spitalfields and Banglatown	11
St. Peter's	5
Whitechapel	3
Weavers	2
(blank)	1
Grand Total	53

Appendix 4

2019/20 to date (end October 2020) - No. of warning letters per ward

2019/20 to date	
Ward	No. Warning
St Katherine's Dock and Wapping	2 (1 = Covid Secure, 1 Allowing Household Mixing indoors)
St Dunstan's	1 (Covid Secure Warning)
Shadwell	1 (10pm Curfew Warning)
Mile End	1(Smoke Free Warning)
Whitechapel	2 (1 = Covid 10pm Curfew Warning, 1 = licensing Warning)
Weavers	1 (Licensing Warning)
Grand Total	8

Appendix 5

Premises Prosecuted for breach of Licensing Act 2003:

Hearings Held in 2019-20

1. Super Kebab, 240 Cambridge Heath Road

Offence date: 10th November 2018

Paradise Organic Limited T/A Super Kebab
Breach of Licensing Act 2003 - Section 136

Found carrying out Licensable activities (late Night Refreshment) beyond permitted hours on the Premises Licence on 2nd February 2018 and were subsequently warned. They were then found carrying out licensable activities (late Night Refreshment) beyond permitted hours on the Premises Licence again on the date of the offence.

Registered Licence Holder (Company Prosecuted)

Result:

Fine: £250
Costs: £1,100
Victim surcharge: £30
The total £1,380

2. Bloc/Autumn Street Studios , Unit 3, 39 Autumn Street, E3

Offence Date: 1st April 2018

Mr. Alex Benson (Registered Licence Holder)
Breach of Licensing Act 2003 - Section 136(1)(a)

Sale of alcohol and providing regulated entertainment beyond permitted hours on the Premises Licence. Defendant failed to submit a Temporary Event Notice to carry out licensable activities beyond licensed hours permitted by the Premises Licence.

Result:

Conditional discharge
Costs: £3215.78
Total of £3215.78

3. Brick Lane Brasserie, 67 Brick Lane

Date of Offence: 29th June 2018

SHAMIM, Mohammed, AHMED, Mir Mostak & SALIM, Mohammed (Registered Licence Holders)

Breach of Licensing Act 2003 – Section 136(1)(a) and 136(4)

Test purchase found breach of Touting Condition that prohibits them to tout for business.

Result:

Each defendant fined £250 each.

Total Fine: £750

Costs: £1,590

Victim Surcharge: £30:00/defendant Total: £90

4. The Monsoon, 78 Brick Lane

Date of Offence: 27th July 2018

UDDIN, Shams (Registered Licence Holder)

Breach of Licensing Act 2003 – Section 136(1)(a) and 136(4)

Test purchase found breach of Touting Condition that prohibits them to tout for business.

Result:

Case dismissed as court ruled case should not have been brought before court.

Council to pay defendants cost of £4,100.

5. Wapping Fish Bar, 89 Wapping Lane

Offence Date: 8th June 2018

Mr Das Gupta (Owner of business)

Breach of Licensing Act 2003 - Section 136

Carrying out licensed activity (provision of late night refreshment) without a licence. Premises previously warned and this was the second test purchase where found breaching the Licensing Act 2003.

Result:

Fine: £182

Costs: £675

Victim Surcharge: £30

Total of £887

6. Stop N Shop, 59 Commercial Street

Offence Date: 23rd September 2018

THAKUR, Ashok (Registered Licence Holders)
Breach of Licensing Act 2003 – Section 136(1)(a) and 136(4)

Carrying out licensed activity (sale of alcohol) other than in accordance with the Premises Licence, i.e. selling alcohol beyond permitted hours and at a strength (beer/cider above 5.6% ABV) not permitted by condition of the Premises Licence.

Result:

Fine: £650
Costs: £1,000
Victim Surcharge: £55
Total of £1,705

Further to the above it was noted that Mr THAKUR held a Personal Licence with the London Borough of Hounslow. Therefore the Licensing Team wrote to their counterparts in the London Borough of Hounslow to advise them of the above conviction and that they may wish to revoke his Personal Licence.

7. Food Giant Express, 129 Whitechapel High Street

Offence Date: 5th October 2018

Muhammed Farooq Qureshi (Registered Licence Holders)
Breach of Licensing Act 2003 – Section 136(1)(a) and 136(4) – 3 Charges

Carrying out licensed activity (sale of alcohol) other than in accordance with the Premises Licence, i.e. selling alcohol at a strength (beer/cider above 6.5% ABV) not permitted by condition of the Premises Licence. Failing to ensure at all times when the premises was open that a person who could operate the CCTV system was present as per condition of Premises Licence. Failing to ensure that all training records were retained for 12 months and made available to local authority officers upon reasonable request as per condition of Premises Licence.

Result:

Charged only in relation to selling alcohol at a strength (beer/cider above 6.5% ABV) not permitted by condition of the Premises Licence. Not separate charges for the other two offences.

Fine: £500
Costs: £1,654
Victim Surcharge: £50
Total of £2, 204

8. 1-5 Batty Street

Offence Date: 22nd June 2018

Nijam Miah
Breach of Gambling Act 2005 – Section 33

Allowing unlicensed gambling to take place on the premises.

Result:

Fine: £500
Costs: £500
Victim Surcharge: £50
Total of £1,050

9. Redon, 289 Cambridge Heath Road

Offence Date: 1st January 2019 and 15th June 2019

WALSH, Patrick (Registered Licence Holder)
Breach of Licensing Act 2003 – Section 136 (2 offences)

First offence was allowing licensable activities to take place beyond permitted hour on Premises Licence despite knowing that the Temporary Event Notice (TEN) had been refused. Second offence again allowing licensable activities to take place beyond permitted hours on Premises Licence.

Result:

Fine: £500
Costs: £500
Victim Surcharge: £50
Total of £1,050

Appendix 6

Premises Prosecuted for breach of Licensing Act 2003:

Hearings Heard April 2020 - present

None. The Coronavirus Pandemic has caused the courts to adjourn cases such as those brought under the Licensing Act 2003. As such not hearings have taken place.

Appendix 7

Total pending potential investigations for possible prosecution per Ward:

Ward	Ongoing Investigations for Breach of Potential Licensing Act 2003
Spitalfields & Banglatown	2
Mile End	1
Weavers	2
Whitechapel	1
Grand Total	6