

Non-Executive Report of the: Licensing Committee 18 th January 2024	 TOWER HAMLETS
Report of: David Tolley, Head of Environmental Health and Trading Standards Directorate of Communities	Classification: Unrestricted
Night-Time Economy visits and Enforcement Update for 2022/23 and 2023/24 (November 2023)	

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

1. Summary

- 1.1 This report reviews the outcomes of late-night inspections and enforcement in connection with licensed premises undertaken by the Environmental Health and Trading Standards Service. 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 undermining one or more of the licensing objectives.
- 1.3 This report is concerned with the enforcement visits undertaken from 1st April 2022 to 30th November 2023 and the outcomes of these visits.

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 of the outcome of the inspections.

4 Alternative Options:

- 4.1 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 1,303 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),
- Representations against licence applications
- 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 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 2022/23 218 inspections were completed, 3 of which were completed by Park Guard who operate the Out of Hours Noise Service. A total of 102 warning letters were sent during this period. A breakdown by ward of inspections and warning letters can be found in Appendix 1.
- 5.6 In 2023/24 (up to November 2023) 40 inspections were completed, 22 of which were carried out by Park Guard who operate the Out of Hours Noise Service. . A total of 65 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. As can be seen there have been more warning letters than inspections made this year, this is because there have been more duplications in 2023/24 to November 2023. Depending on circumstances of each case we may send letters to the Licence Holders and Designated Premises Supervisor (DPS), and in cases where neither of these addresses relate to the premises address, we send a third letter to the premises. This seems to have caused the issue seen here where warning letters sent exceed the inspections completed.
- 5.7 In 2022/23 11 formal enforcement investigations were opened. In 2023/24 (to November 2023) 1 formal investigation was opened. Appendix 3 lists these formal enforcement investigations and the outcomes.
- 5.8 The number of inspections completed in 2022/23 is comparable to pre pandemic years, e.g., in 2017/18 there were 254 inspections and 2018/19, 235 inspections. Formal enforcement investigations in 2017/18 and 2018/19 had an average of 3 premises receiving a conviction with an average of 10 being investigated. In 2022/23 there has been 2 convictions with a further 9 being investigated. However, 4 of these have been closed, with 3 receiving formal warnings and one (a sexual entertainment venue (SEV)) having its licence revoked. In 2023/24 (to November 2023) there is only 1 formal enforcement investigation. This is a reduction from previous years 2017/18 and 2018/19. It is worth noting that in these 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 effecting processing applications. Since the pandemic applicants have not been 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 of enquiries about completing applications, and finally making objections to applications. It would appear that the reason for not using Licensing Agents/Solicitors could be linked to the cost-of-living crisis which in terms of energy cost have hit the business sector harder. This it would seem is one of the perceived increases in non-compliance (mainly in the late night refreshment sector). Again 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 as undoubtedly some is likely to be due to lack of knowledge.
- 5.9 Further to the above the Licensing Team objected to 50 out of 182 premises licence and variation of premises licence applications within the borough in 2022/23. In 2023/24 (to November 2023) the Licensing Team objected to 30 out of 137 premises licence and variation of premises licence applications within the borough.

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 There are no financial implications emanating from this report which provides an update on the outcomes of late-night inspections and enforcement in connection with licensed premises undertaken by the Environmental Health and Trading Standards Service. Any costs associated with undertaking these inspection and enforcement activities and income received are contained within existing budget provision.

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.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

Appendix 1: 2022/23 Table of visits per ward and warning letters per ward

Appendix 2: 2023 to Nov 2023 Table of visits per ward and warning letters per ward

Appendix 3: Formal Enforcement Investigations 2022/23 and 2023 to Nov 2023

Appendix 1

Licensing Visits per ward 2022/23	
Ward	No. of visits
Blackwall and Cubitt Town	5
Bethnal Green East	11
Bethnal Green South	1
Bromley North	1
Bromley South	6
Bow East	22
Bow West	6
Canary Wharf	5
Island Gardens	1
Lansbury	2
Limehouse	2
Mile End	4
St. Dunstan's	2
Shadwell	7
St. Katharine's and Wapping	7
Spitalfields and Banglatown	46
Bethnal Green West	37
Whitechapel	32
Weavers	19
(blank)	2
Grand Total	218

Warning Letters 2022/23	
Ward	Number of warning letters sent
Blackwall and Cubitt Town	4
Bethnal Green East	5
Bromley North	1
Bromley South	4
Bow East	11
Bow West	1
Canary Wharf	1
Island Gardens	2
Limehouse	2
Mile End	1
Poplar	1
Shadwell	5
St. Katharine's and Wapping	2
Spitalfields and Banglatown	23

Bethnal Green West	10
Whitechapel	14
Weavers	12
(blank)	3
Grand Total	102

Appendix 2

Licensing visits per ward 2023/24 (to November 2023)	
Ward	No. of visits
Blackwall and Cubitt Town	3
Bethnal Green East	3
Bow East	5
Bow West	2
Island Gardens	1
Mile End	1
St. Dunstan's	1
Shadwell	2
Spitalfields and Banglatown	7
Bethnal Green West	5
Whitechapel	4
Weavers	4
(blank)	2
Grand Total	40

Warning Letters 2023/24 (to November 2023)	
Ward	No. warning letter sent
Blackwall and Cubitt Town	7
Bethnal Green East	1
Bow East	10
Bow West	3
Canary Wharf	1
Island Gardens	1
Mile End	1
Poplar	1
Shadwell	2
St. Katharine's and Wapping	2
Spitalfields and Banglatown	13
Bethnal Green West	7
Whitechapel	9
Weavers	7
(blank)	
Grand Total	65

Appendix 3

Formal Enforcement Investigations Commenced 2022/23		
Offence/Date	Type of Premises	Current Action/Result
Breach of licensed hours / 02.04.2022	Take Away/Pizza	Conviction, awaiting sentence. Premises Licence Revoked
Breach of licensed hours / 05.06.2022	Take Away/Pizza	Summons laid
Unlicensed Late Night Refreshment 28.05.2022	Take Away/Pizza	Conviction: Fined: £126.00 Victim surcharge: £34.00 Legal Cost Awarded: £500.00 Premises Licence Revoked
Breach of SEV Licence Conditions 20/08/2022	SEV Premises	Formal Warning issued
Breach of SEV Licence Conditions 20/08/2022.	SEV Premises	Formal Warning issued, Licence Revoked/renewal refused
Unlicensed Late Night Refreshment 15.10.2022	Take Away	File referred to Legal Services
Unlicensed Late Night Refreshment 18.12.2022	Take Away/Pizza	Company – discontinued insufficient evidence (conviction secured against individuals).
Unlicensed Late Night Refreshment 07/01/2023	Café/Pool Premises	File referred to legal services
Unlicensed Late Night Refreshment 26/02/2023	Restaurant	Investigation ongoing
Unlicensed Late Night Refreshment 06.01.2023	Restaurant/Café	Formal warning issued
Unlicensed Late Night Refreshment 27.01.2023	Take Away	Investigation ongoing

Formal Enforcement Investigations Commenced 2023/24 (to November 2023)		
Offence/Date	Type of Premises	Current Action/Result
Unlicensed Late Night Refreshment 21.10.2023	Take Away	Investigation ongoing