



City of Westminster

Committee Agenda

Title: **Licensing Committee**

Meeting Date: **Wednesday 11th March, 2015**

Time: **10.00 am**

Venue: **Rooms 5, 6 & 7 - 17th Floor, City Hall**

Members: **Councillors:**

Tim Mitchell (Chairman)	Peter Freeman
Heather Acton	Angela Harvey
Nickie Aiken	Louise Hyams
Rita Begum	Patricia McAllister
Susie Burbridge	Jan Prendergast
Melvyn Caplan	Shamim Talukder
Nick Evans	Aziz Toki
Jean Paul Floru	

Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda

Admission to the public gallery is by ticket, issued from the ground floor reception at City Hall from 9.00am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Jonathan Deacon.

**Email: jdeacon@westminster.gov.uk Tel: 020 7641 2783
Corporate Website: www.westminster.gov.uk**

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 1, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. DECLARATIONS OF INTEREST

To receive any declarations by Members and Officers of any personal or prejudicial interests in Matters on this agenda.

2. MINUTES

To approve the minutes of the meeting held on 19 November 2014.

(Pages 1 - 8)

3. REVIEW OF LICENSING SUB-COMMITTEE REPORTS, FREQUENCY OF MEETINGS AND HEARING PROCESSES

Report of the Operational Director, Premises Management.

(Pages 9 - 24)

4. GENERAL LICENSING FEES (EXCLUDING SEX ESTABLISHMENTS, MARRIAGE AND SPECIAL TREATMENTS) REVIEW 2015/2016

Report of the Operational Director, Premises Management

(Pages 25 - 44)

5. DEREGULATION - IMPLEMENTATION OF THE ENTERTAINMENT LICENSING LEGISLATIVE REFORM ORDER 2014

Report of the Director of Policy, Performance and Communications

(Pages 45 - 52)

6. LICENSING APPEALS

Report of the Head of Legal and Democratic Services

(Pages 53 - 62)

7. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

8. FUTURE LICENSING COMMITTEE DATES

15 July 2015, 18 November 2015 and 9 March 2016

Peter Large
Head of Legal & Democratic Services
6 March 2015

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City of Westminster

Minutes

Meeting:

Licensing Committee

Time and date of meeting:

**10:00 hours on Wednesday 19 November 2014 at
City Hall, 64 Victoria Street, London, SW1E 6QP**

Attendees:

Councillors:

- Tim Mitchell (Chairman)**
- Heather Acton**
- Rita Begum**
- Melvyn Caplan**
- Nicholas Evans**
- Peter Freeman**
- Louise Hyams**
- Patricia McAllister**
- Jan Prendergast**
- Shamim Talukder**
- Aziz Toki**

Apologies:

Councillors Nickie Aiken, Susie Burbridge, Jean-Paul Floru and Angela Harvey.

Contact:

**Jonathan Deacon
Senior Committee and Governance Officer**

Details:

**Tel: 020 7641 2783
Email: jdeacon@westminster.gov.uk**

1. **DECLARATIONS OF INTEREST**

1.1 There were no declarations of interest.

2. **MINUTES**

2.1 The minutes of the Licensing Committee meeting held in open session on 9 July 2014 were agreed as a correct record and were signed by the Chairman.

3. **GUIDANCE ON THE FILMING OF LICENSING SUB-COMMITTEE MEETINGS AND THE EXCLUSION OF THE PUBLIC FROM LICENSING SUB-COMMITTEE MEETINGS**

3.1 Barry Panto, Senior Assistant Solicitor, introduced the report, addressing Members initially regarding guidance on the filming of Licensing Sub-Committee meetings. There had been requests received in written weeks to film the proceedings of Licensing Sub-Committee meetings. The Openness of Local Bodies Regulations 2014 that came into force on 6 August 2014 had caused some confusion in asserting that there is a right to film all local authority meetings. However, as set out in the appended guidance document to the report, the regulations do not apply to meetings which are dealing with applications under the Licensing Act 2003. Special rules needed to apply whenever a Sub-Committee was conducting a public hearing where evidence is given by the parties involved.

3.2 Mr Panto advised that the Openness of Local Bodies Regulations 2014 would technically apply to hearings in front of the Sub-Committee when Members were considering applications under any other legislation than the Licensing Act 2003, including the Gambling Act and sex establishment licences under the Local Government (Miscellaneous Provisions) Act 1982. Mr Panto explained that although the objectors to a sex establishment licence application were not entitled as of right to be heard under the 1982 Act, in practice they were usually heard if they wished to give evidence. However, the licensing authority is not allowed to reveal the name or address of any objector to the applicant without his or her consent. There would be considerable concern if anyone attempted to film such persons on the basis that they are free to do so in accordance with the Openness of Local Government Bodies Regulations 2014.

3.3 Mr Panto referred to the recommendation in the report that the Committee agree paragraph 16 of the guidance document to amend the Council's rules of procedure that apply to hearings before the Sub-Committee so as to include a detailed rules on the process for the determination of requests to film the proceedings. Paragraph 16 set out a number of points including that the filming and taking of photographs at any hearing of the Sub-Committee would not be allowed without the express permission of the Chairman, a request to film or take photographs or make a sound recording should be made as early as possible in advance of the hearing and all parties would be consulted regarding such requests.

- 3.4 The Chairman stated that he could see no problems in terms of councillors being filmed as they had been elected and were publically accountable. The dilemma related to the filming of other parties for Licensing Sub-Committee meetings. He had received an e-mail from Councillor Floru who was not able to attend the current meeting. Councillor Floru had chaired a recent application for a restaurant in Berkeley Street which had been filmed apart from the representations of the applicant who had specifically requested not to be filmed. Councillor Floru's particular concern was in the event that an unscrupulous production company edited footage in such a way that it appeared as though Members had not taken into account representations at a hearing. He questioned whether it was possible to view material before it was broadcast. The Chairman made the point that this would be complicated and would be out of keeping with rights to free speech. Councillor Floru had added that in his view if all parties to the application did not agree that it should be filmed then having cameras in the room should be avoided. The Chairman considered that one way to avoid the problem if certain parties did not want to be filmed was to only film Members of the Sub-Committee. Mr Panto responded on the point in Councillor Floru's e-mail that the parties had been consulted on the filming of the Berkeley Street application. He commented that where there could be some difficulty was if a party to an application under the Licensing Act 2003 legislation not only objected to their own representation being filmed but also objected to the entire hearing being filmed. Ultimately discretion, if Members were minded to amend the rules of procedure as recommended in Appendix A, would rest with the Chairman. Members had concerns regarding the potential filming of sex establishment licence applications where parties had a right to remain anonymous. This was an anomaly that DCLG needed to address.
- 3.5 Mr Panto addressed Members on the second part of the report, the exclusion of the public from meetings and exempt information. The default position was that all Sub-Committee meetings are open to the public and that reports can be seen by the public. It was recognised however that there are some applications before the Sub-Committee where the Police may request that the public are excluded so as not to prejudice their investigation. These cases may involve possible prosecution of criminal activity by persons who are connected in some way with the premises under consideration. Mr Panto made the point that requests were most likely to be received from the Police in respect of review hearings and particularly expedited review hearings. The Police had in many cases in relation to expedited review hearings begun criminal investigations but not had sufficient time to complete them.
- 3.6 Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 states that the hearing shall take place in public but that the licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. Mr Panto expressed the view from a legal standpoint that it should not be the case that the public should be excluded simply because of the nature of the evidence. The Regulations did not apply to sex establishment licences or gambling hearings. It was considerably less likely that the Police would request these applications to be

heard in private but if such a request was made the Sub-Committee would have regard to the exempt information provisions contained in the Local Government Act 1972.

- 3.7 The Chairman stated that it was very much up to the parties concerned whether to make an application for the public to be excluded and for all Members of the Sub-Committee to consider it. In two recent cases, the Police had brought reviews which included graphic detail and criminal investigations were still continuing. Councillors had then questioned whether the evidence should be in the public domain, including on the Council's website. The Police had subsequently submitted a request for the applications to be heard in private and this request had been approved by the Sub-Committee. In theory an attempt could have been made for part or perhaps all of the hearings to have been dealt with in public without the papers being in the public domain. If the material was challenged, however, when it was not in the public domain then it would have been necessary for it to be heard in closed session. Going forward, it was recommended that the licensing service would seek to ascertain from the Police whether any of the evidence supporting the application needs to be excluded from public access. If the licensing service was not able to ascertain the views of the Police, the grounds for the review would be included in the licensing register but the application for review would not be attached. In addition, the report to the Sub-Committee would not be placed on the Council's website until the hearing or first hearing of the matter before the Sub-Committee so as to give the Police the opportunity to ask for the hearing to be conducted in private.
- 3.8 Councillor Caplan commented that it appeared to Members as lay people that there was always the potential for criminal investigations arising from expedited reviews. There were concerns about adding reports to the website. This should however be a Police decision rather than a Member or officer decision. Councillor Caplan and Councillor Acton both referred to the serious concerns raised by the disclosure of the name of the victim in one of the review cases. Peter Large, Head of Legal and Democratic Services, stated that it was particularly serious that the name of the victim was disclosed and officers would be as able as the Police to ensure this was avoided. The proposed protocol was designed to prevent this happening again. The issue of whether future criminal proceedings would be prejudiced was more difficult to judge. Police licensing officers needed to get guidance on this from their colleagues who were responsible for prosecutions. Councillor Caplan recommended that when the licensing service consulted the Police as to whether any of the evidence supporting the application should be excluded from public access, this should be a written request.
- 3.9 The Committee approved the recommendations in paragraph 16 and 25 of the guidance document relating to the filming of meetings and exempt information respectively. Councillor Evans also raised the point that papers for a review hearing often included a large number of pages of CRIS reports which were in most cases heavily redacted and not comprehensible. He questioned the value of including some of this information in the papers. The Chairman responded that it would be useful to Members if the Police were able to

summarise the important information contained in these submissions for the Sub-Committee so that it was understandable. Councillor Evans added that having a large number of pages of CRIS reports increased the potential for the name of a victim to be disclosed publically if an error was made and information was not redacted.

3.10 **RESOLVED:** (i) That the recommendation in paragraph 16 of the guidance document be approved (to amend all the rules of procedure that apply to hearings before the Licensing Sub-Committee so as to include a detailed rule on the process for the determination of requests to film the proceedings);

(ii) That the recommendation in paragraph 25 of the guidance document be approved (to adopt a protocol for the exclusion of the public when the Licensing Sub-Committee is dealing with a review application under the Licensing Act 2003 or any other applications where the Police express concern that public disclosure may prejudice the investigation or prosecution of crime); and,

(iii) That the contents of the report be noted.

4. LICENSING ACT 2003 – STATEMENT OF POLICY REVIEW

4.1 Chris Wroe, Licensing Policy and Strategy Manager, introduced the report. A policy seminar had taken place in October setting out some of the themes of the statement of policy review. The meeting had been well attended by Members of the Licensing Committee and he had received positive feedback. The report for the current meeting included the proposed timetable leading to the publication of the revised statement of policy document in June 2015. Mr Wroe was due to meet initially with interested parties, including amenity societies. The policy review was an item that would be discussed at the Entertainment Forum in December. There would be a drafting of consultation documents in November and December which would need to be signed off by Councillor Aiken, Cabinet Member for Cabinet Member for Public Protection, Licensing and Community Services in consultation with the Chairman of the Licensing Committee and Cabinet. The intention was to begin the formal public consultation in January 2015 and this would be for a twelve week period. A month had been scheduled to assess consultation responses, prepare a draft statement of the policy and arrange follow-up meetings. The draft statement of policy would then need the approval of Councillor Aiken in consultation with Councillor Mitchell and the Cabinet prior to Council considering whether to adopt the revised statement of policy. Mr Wroe informed Members that it was hoped that this would be an agenda item for the meeting of Council on 20 May 2015.

4.2 The Chairman advised the Committee that there was some flexibility built into the scheduling as the existing Statement of Licensing Policy was effective until January 2016. He added that the review of gambling policy would take place in the second half of 2015 after the updated Statement of Licensing Policy was due to be published.

4.3 **RESOLVED:** That the contents of the report be noted.

5. LICENSING APPEALS

5.1 The Committee received a report with the latest information in respect of the appeals that had been submitted in relation to decisions taken by the Licensing Sub-Committee. Mr Large, Head of Legal and Democratic Services, provided a summary of some of the significant decisions taken since the previous meeting of the Committee in July. The first was Avalon at Shaftesbury Avenue where the appeal was submitted by the landlord. The landlord had accepted that the Sub-Committee's original decision was correct at the time but now sought to run a restaurant at the premises until 1am rather than as a nightclub where a fatal shooting had taken place. The District Judge dismissed the appeal and the landlord had agreed to pay costs. The second was La Bodega Negra in Moor Street/Old Compton Street. This involved a bar area where alcohol was not ancillary to food within a restaurant for up to 12 people until 11pm. The Sub-Committee had found that there was not an exception to policy but at the appeal the District Judge had decided that it was an exception to policy taking into account that the premises was exceptionally well run and the numbers were limited to 12. The Chairman made the point that this was a matter to take into account when reviewing the licensing policy.

5.2 Mr Large also referred to the Amika case in South Molton Street. This had particular relevance in terms of what happens to the interim steps at an expedited review when the Sub-Committee decides to suspend the licence at the initial hearing and then subsequently revokes the licence at the full review hearing. The Appellant's legal advice was that the interim steps ceased to have effect after the Sub-Committee hearing where the decision was taken to revoke the licence. Amika was found to be operating and selling alcohol after the revocation of the licence which led to the Police seeking a Closure Order. The District Judge granted the Closure Order. The Appellant subsequently withdrew their appeal against the Sub-Committee's decision. The Gambling Act application submitted by Paddy Power at 195-197 Edgware Road was discussed. The Sub-Committee had received evidence which appeared to demonstrate that granting the application would add to vulnerable persons being harmed or exploited by gambling and had refused the application. A number of inconsistencies had been found in the evidence in the preparation for the appeal hearing, following a notice of appeal being lodged by Paddy Power. Counsel's advice was sought based on correspondence with the Appellant and the matter was referred back to the Sub-Committee for consideration. The Sub-Committee authorised settling the appeal on the terms proposed, including no costs being claimed by the Appellant. The Committee noted the weaknesses in the academic research and that as stated by the Chairman, academic gambling research was being commissioned over a five to six month period, being financed by Public Health, Manchester City Council and the Local Government Association which would feed into the next policy review. Councillor Acton stated that there had been a number of residents' representations for the original Sub-Committee hearing and concerns had been expressed to local ward councillors when the

matter had subsequently been settled. She requested that an advisory note was produced to inform of the facts of the case. Hayley Davies, Litigation Appeals Manager, agreed to produce the advisory note.

5.3 Mr Large addressed Members on the Supreme Court hearing relating to the sex establishment licensing fees case. This had been scheduled for 13 and 14 January 2015. The Council would be represented by Nathalie Lieven QC with the involvement of David Matthias QC.

5.4 **RESOLVED:** That an advisory note be produced on the facts of the Paddy Power case at 195-197 Edgware Road.

6. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

6.1 The Chairman consented to a matter being raised by Councillor McAllister. She expressed concerns that the Licensing Sub-Committee meeting on 13 November had been cancelled due to lack of items and yet there were a number of applications on the agenda for the meeting on 20 November, including two reviews. The Chairman and Deirdre Hayes, Service Manager, Environmental Health Consultation & Licensing, advised that the Council was bound by statutory timetables. There had been a number of applications listed originally for the 11 November meeting. However, it was likely that the issues which had caused objectors to make representations had been resolved and there had therefore been no need for the applications to be considered at the meeting. The Chairman commented that occasionally applications were moved several weeks in advance to avoid them being considered by Members in their own wards or if it was likely that there would be a large number of applications that were not resolved prior to a specific Sub-Committee meeting. Applications did not tend to be moved at a very late stage, particularly as applicants and residents would not necessarily be available on a different date. Councillor Caplan added that the cancellation of a Sub-Committee meeting, as had happened on 13 November, was a rare event. The Chairman also made the point that whilst there were two reviews scheduled for 20 November, Madame JoJo's and Escape Nightclub in Brewer Street were likely to be heard together.

7. FUTURE LICENSING COMMITTEE MEETING DATES

7.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 11 March 2015, Wednesday 15 July 2015 and Wednesday 18 November 2015. All meetings are scheduled for 10.00am.

8. EXEMPT REPORT UNDER REGULATION 14 OF THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

8.1 **RESOLVED:** That under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the following item of business on the grounds that the report contains legal advice to the Authority which outweighs the public interest in the matter taking place in public.

9. MINUTES

9.1 The confidential minutes of the Licensing Committee meeting held on 9 July 2014 were agreed as a correct record and were signed by the Chairman.

10. CLOSE OF MEETING

10.1 The meeting ended at 11.05am.

Chairman

Date



Executive Summary and Recommendations

	Licensing Committee
Date:	11 th March 2015
Subject:	Review of Licensing Sub-Committee Reports, Frequency of Meetings and Hearing Processes

Summary

This report sets out the proposals to undertake a review of the Licensing Sub-Committee process, why such a review is deemed necessary and what that review will consist of. The main elements of the review will be the Licensing Sub-Committee report format and documents; the frequency of hearings and the development of new customer focused guidance on how the Sub-Committee hearings are run.

The proposals will involve trialling the proposals during the first quarter of the 2015/2016 financial year. The results of these trials and the feedback gained from them will be put before the Licensing Committee at the July 2015 hearing.

Recommendations

The Committee is recommended:

1. to approve the objectives of the review (paragraph 3.1)
2. to approve the proposed Licensing Sub-Committee report revision trial (paragraphs 3.6)
3. to approve a trial for a change to the way applications are listed for Licensing Sub-Committee hearings and the frequency of those hearings during May and June 2015 (Paragraphs 3.8).
4. approve the proposals to trial a cap of 4:30pm for each Licensing Sub-Committee hearing and the implementation of a set 30 minute lunch period at the discretion of the Chairman for that Licensing Sub-Committee based on applications numbers (paragraph 3.10)
5. that the results from the approved trials along with feedback and recommendations whether to adopt these new approaches as part of the Licensing Sub-Committee process is put before the Licensing Committee in July 2015.
6. approve the proposal for officers to develop guidance and a rules document

for the Licensing Sub-Committee process and that the final draft of that document is brought before the Licensing Committee in July 2015 for approval (Paragraphs 3.14).



City of Westminster

Committee report

Date:	11th March 2015
Classification:	For General Release
Title of Report:	Review of Licensing Sub-Committee Reports, Frequency of Meetings and Hearing Processes
Report of:	The Operational Director of Premises Management
Wards involved:	All
Policy context:	N/A
Financial summary:	None
Report Author:	Mr Kerry Simpkin, Assistant Service Manager, EH Consultation and Licensing
Contact details	Mr Kerry Simpkin Telephone 020 7641 1840 ksimpkin@westminster.gov.uk

1. Background Information

- 1.1 The Council is going through significant transformation to achieve its goals for reducing its expenditure. The Premises Management Delivery Unit has now been through this transformation process and from the 1st April the new Public Protection and Licensing operating model will commence. As part of that new operating model there is a significant focus on driving out inefficiencies within processes.
- 1.2 As part of the transformation process the current Environmental Health Case Officer role has been deleted and has been replaced by the Senior Licensing Officer role within this new operating model. The Senior Licensing Officers will be responsible for processing, determining unopposed or non-contentious applications as well as bringing applications with objections or representations to Licensing Sub-Committee.
- 1.3 As the Senior Licensing Officer role will now take on the licensing process from receipt to determination officers are undertaking a review to assess the internal processes in order to streamline existing procedures to produce a more efficient process. As part of that assessment the use of new or improved technology will be considered alongside changes to processes.
- 1.4 In order to enable an end to end solution of the licensing process there is a need to review the procedures for listing applications for Licensing Sub-Committee hearings, the amount of time and information contained with the reports for those hearings and the way that hearings are conducted.
- 1.5 The Licensing Sub-Committee processes haven't been reviewed in a pro-active way for a number of years. There have been a number of smaller changes to report templates, timeframes for submission of additional material and room layout. However, these minor changes have often been triggered as a result of specific concerns that may have been raised during a hearing.
- 1.6 Views have been expressed that the reports put before the Licensing Sub-Committee contain a lot of duplication and as a result are larger than they need to be. The wording within the report itself has been significantly reduced over the years with a reliance on attaching a large number of different documents as appendices. Unfortunately this provides the Licensing Sub-Committee with a vast amount of reading and interpretation prior to each hearing. Through the removal of some of the duplication of information, reduction in the number of appendices and more emphasis on the main body of the report to set out the key issues the total report size could be significantly reduced.
- 1.7 The Licensing Sub-Committee process is also something which can seem daunting to local residents or other parties who have not attended a hearing before. The current Rules of Procedure for the Licensing Sub-Committees were written to meet the statutory requirements of the Licensing Act 2003 and Gambling Act 2005. There is also a separate Rules of Procedure document for Sex Establishments under the requirements of the Local Government (Miscellaneous Provisions) Act 1982. These two documents cover the majority of applications that are determined by Licensing Sub-Committees. These

documents are sent out to applicants and objectors prior to the hearing as part of the notification of the hearing requirements. They have also been written in a way that meets the statutory obligations on the Council by the relevant licensing regimes but as a result are not user friendly and do not support local residents in explaining the hearing process.

- 1.8 One of the more pressing concerns for Members of the Licensing Sub-Committee is about how applications are listed for hearings. The vast majority of applications that are considered by Licensing Sub-Committees are applications made under the Licensing Act 2003. Due to regulations 4 and 5 of the Licensing Act 2003 (Hearings) Regulations 2005 the Licensing Authority must arrange a hearing to commence within the period specified within Schedule 1 of those regulations. For new premises applications and variations to existing premises licences this is 20 working days beginning with the day after the end of the consultation period.

2. Analysis of Licensing Sub-Committee Hearings

- 2.1 In order to identify whether there is any scope in reducing the frequency of Licensing Sub-Committee hearings an assessment has been carried out on the applications that went before Licensing Sub-Committees in 2013, 2014 and the first two months of 2015. Officers did not consider the data from 2012 due to the effect that the Olympics had on applications numbers and that the data would have not represented a normal operating year.
- 2.2 To identify whether there was any possibility of reducing the frequency of Sub-Committee hearings officers assessed the spread of applications across the five Licensing Sub-Committees, the number and type of applications determined by those Sub-Committees and also whether there were any indications that there were seasonal trends in the number of applications going before them.
- 2.3 As stated above the vast majority of the applications that Licensing Sub-Committees determine are applications made under the Licensing Act 2003. Figure 1 shows the number of Licensing Act 2003 and all other applications that was determined by the Licensing Sub-Committees in 2013 and 2014.

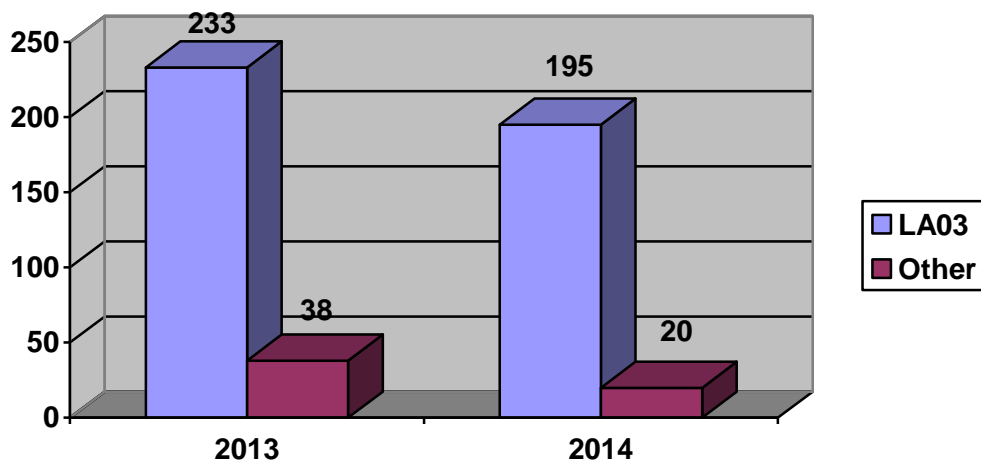


Figure 1 – Licensing Act 2003 and Other Applications Heard at Licensing Sub-Committee

2.4 A comparison was also carried out on the number of applications determined by the different Licensing Sub-Committees. Figure 2 and 3 show the percentage of applications heard by each Licensing Sub-Committee during 2013 and 2014. For both years, Licensing Sub-Committee number 1 had an elevated number of applications compared to the other four Sub-Committees. In 2013 Sub-Committee 2, 3, 4 and 5 had an even distribution of applications between them. However, in 2014 the percentage of applications determined by Sub-Committee number 1 increased with a subsequent decrease in applications heard by Sub-Committees 4 and 5. It should be noted that this is a limited amount of data to identify which year was the norm.

2.5 The increase in applications heard by Sub-Committee 1 in 2014 is not due to any increase in the number of times it sat versus the other four Sub-Committees. Figure 4 shows the 2013 and 2014 were reasonably similar in the number of times that each Licensing Sub-Committee sat.

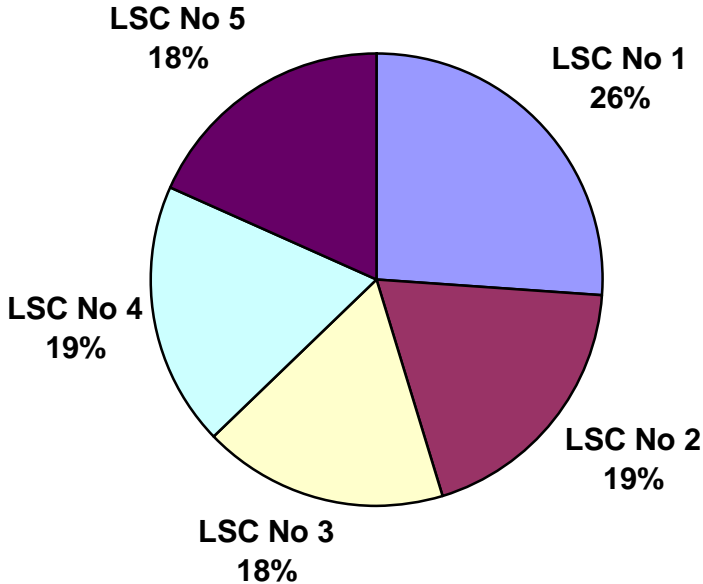


Figure 2 – Applications heard by each Licensing Sub-Committee in 2013

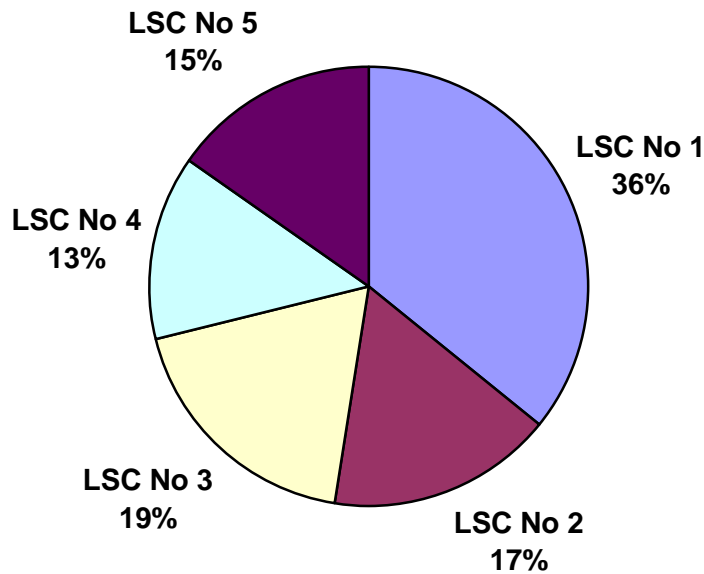


Figure 3 – Applications heard by each Licensing Sub-Committee in 2014

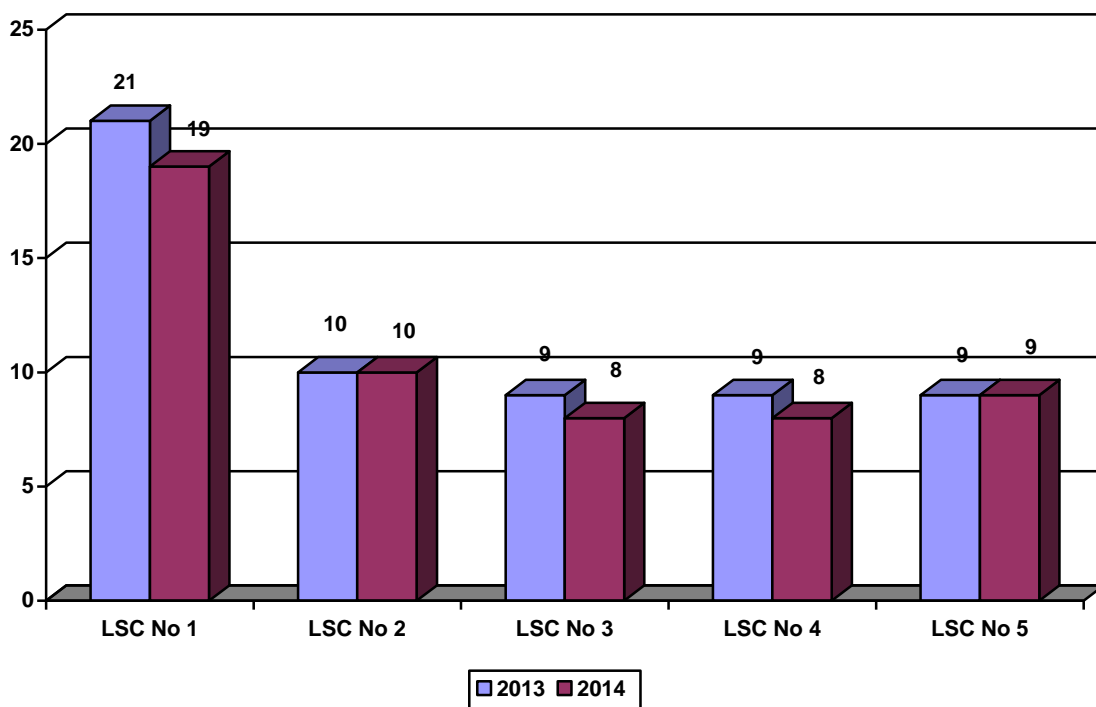


Figure 4 – Number of times all Licensing Sub-Committees sat during 2013 and 2014.

2.6 An analysis of 2013, 2014 and the first two months of 2015 application data was undertaken to identify any trends in the number of applications going before Members each year. Figure 5 sets out the pattern of applications during those years. There were distinct peaks in January and May of each year. There was also a peak between August and October which moved within those months from each year. However, the data is limited to two years and the peaks identified could be anomalies. January and February 2015 there is a noticeable difference from the previous two years.

2.7 To assess whether there was a correlation in applications numbers prior to these peaks in Licensing Sub-Committee determined cases officers have reviewed the number of applications received for each of those years. As Licensing Act 2003 represented over 90% of the applications heard by the Licensing Sub-Committees figure 6 shows the number new, variation and review applications received under that Act during 2013 and 2014. It was found that there wasn't a correlation between the application peaks and the peaks in applications heard at Licensing Sub-Committee.

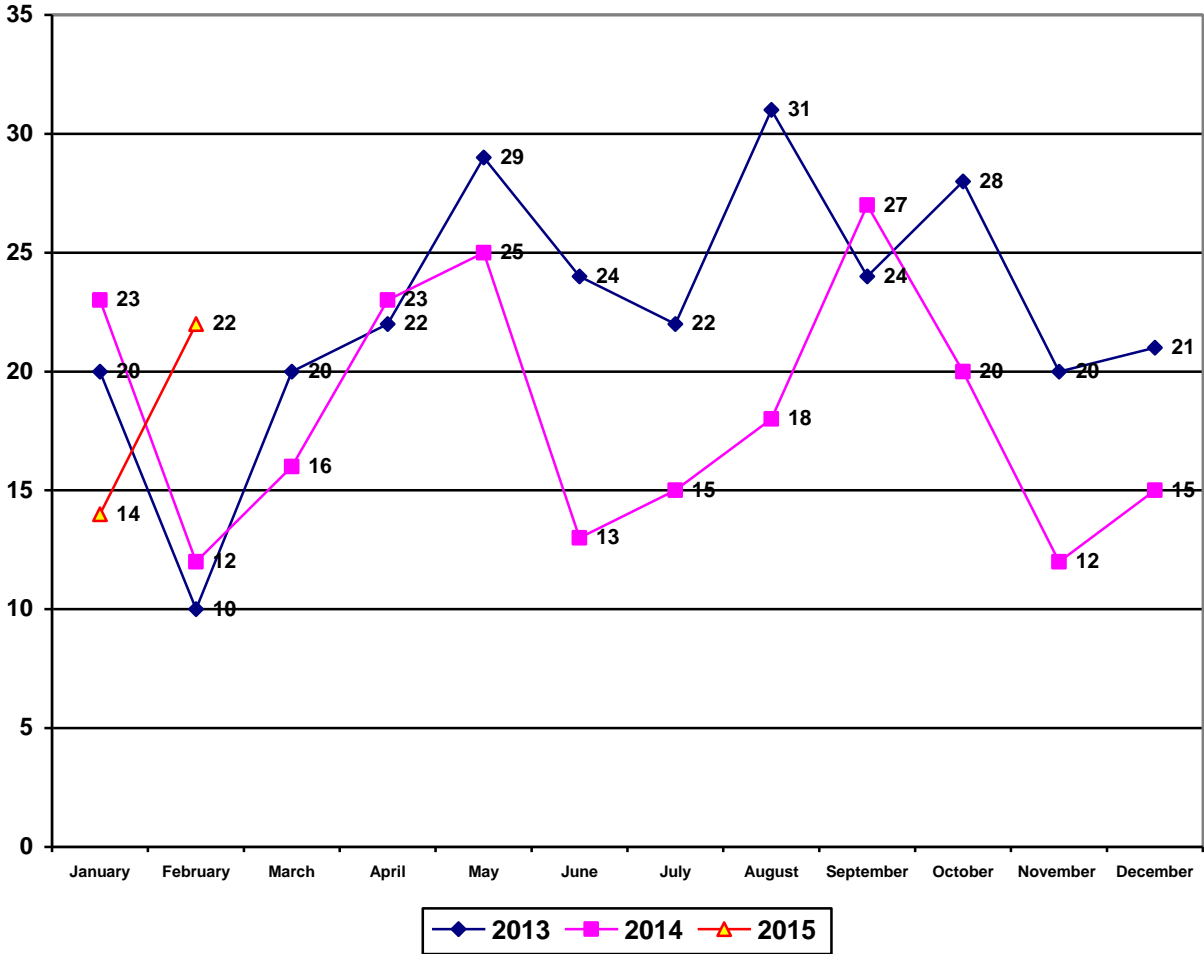


Figure 5 – Applications heard by Licensing Sub-Committee by month in 2013, 2014 and to date in 2015.

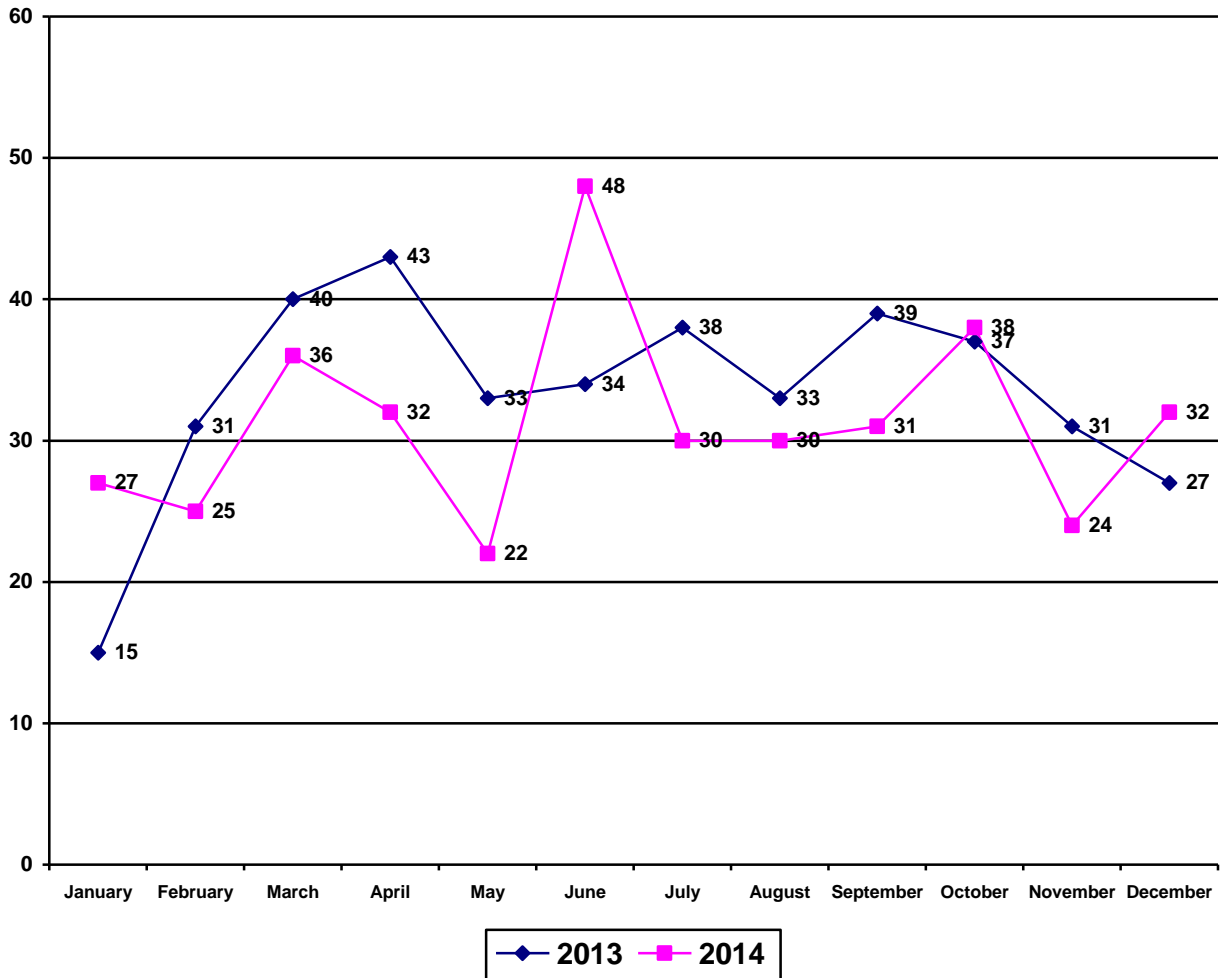


Figure 6 – New, full variations and review Licensing Act 2003 applications received in 2013 and 2014.

2.8 In 2013 there were twelve Licensing Sub-Committee hearings that had two or less applications determined. Out of the twelve hearings with two or less applications Licensing Sub-Committee 1 sat on ten of these. In 2014 there were sixteen Licensing Sub-Committee hearings with two or less applications heard. The expectation for these hearings was that the applications heard were applications relating to reviews or interim measures for expedited reviews. Figure 7 and 8 set out the Licensing Sub-Committee’s that sat to hear two or less applications and the types of applications that were determined. The majority of these applications were not reviews. However there were a number of reviews or interim measures within these lists. There was a reasonable mix of applications, including sex establishments and gambling applications.

Hearing Date	Committee Number	LA03 New	LA03 Variator	LA03 Review	LA03 Interim Measures Pre Review	TEN	Appea	Sex Est Nev	Sex Est Variation	Total Number of application
30-Dec-13	1	0	0	0	1	0	0	0	0	1
09-Dec-13	1	0	0	0	2	0	0	0	0	2
05-Dec-13	4	2	0	0	0	0	0	0	0	2
20-Nov-13	1	0	0	0	0	0	1	0	0	1
23-Sep-13	1	0	0	1	0	0	0	0	0	1
12-Sep-13	1	0	1	1	0	0	0	0	0	2
03-Sep-13	1	0	0	0	1	0	0	0	0	1
30-Aug-13	1	0	0	0	0	0	2	0	0	2
25-Apr-13	4	0	1	1	0	0	0	0	0	2
24-Apr-13	1	1	0	0	0	0	0	1	0	2
21-Feb-13	1	1	0	0	0	0	0	0	1	2
10-Jan-13	1	0	0	0	0	2	0	0	0	2

Figure 7 – 2013 Licensing Sub-Committee Hearings with two or less applications.

Hearing Date	Committee Number	LA03 New	LA03 Variator	LA03 Review	LA03 Interim Measures Pre Review	GA05 Nev	GA05 Variator	Sex Est Variations	Total Number of application
23-Oct-14	4	1	0	0	0	0	0	1	2
15-Oct-14	3	0	1	0	0	0	0	0	1
24-Jul-14	5	2	0	0	0	0	0	0	2
17-Jul-14	2	2	0	0	0	0	0	0	2
10-Jul-14	2	2	0	0	0	0	0	0	2
12-Jun-14	1	1	1	0	0	0	0	0	2
29-May-14	1	1	1	0	0	0	0	0	2
19-May-14	1	0	0	0	1	0	0	0	1
07-May-14	2	2	0	0	0	0	0	0	2
29-Apr-14	1	0	0	0	1	0	0	0	1
09-Apr-14	1	0	0	0	0	1	1	0	2
03-Apr-14	4	1	1	0	0	0	0	0	2
06-Mar-14	5	0	0	0	0	0	0	0	2
06-Feb-14	2	2	0	0	0	0	0	0	2
21-Jan-14	1	0	0	1	0	0	0	0	1
14-Jan-14	4	1	0	1	0	0	0	0	2

Figure 8 – 2014 Licensing Sub-Committee Hearings with two or less applications.

- 2.9 Through the analysis of applications that were determined by Licensing Sub-Committees in 2013 and 2014 there does appear to be indications of trends during certain periods of the year. However, this does not correlate with the peaks in applications that are received by the Council.
- 2.10 The average number of applications heard by all Licensing Sub-Committee's in 2013 and 2014 was four and a half and four respectively. Based on the number of hearings that had two or less applications there is the possibility these could be eliminated. This would possible allow the cancellation of at least one hearing a month. The elimination of a hearing from the schedule per month would potentially mean that the average number of applications determined for all Licensing Sub-Committee for the year could increase to five or six per hearing.
- 2.11 Subject to further analysis and that the trends mentioned above are consistent on a year by year basis; officers may also be able to plan for these peaks in applications in the future. This planning would enable officers to schedule hearings in a way that would maximise the applications going to those hearings without overloading the Licensing Sub-Committees sitting in that period.

3. Proposals

- 3.1 As part of the process to eliminate inefficiencies and to improve the service to our customers, it is proposed to undertake a review of the Licensing Sub-Committee process. The objectives of this are:
- 3.1.1 To reduce the size and duplication of information within the Licensing Sub-Committee reports.
 - 3.1.2 Identify the use of technology to display information at Licensing Sub-Committee and to reduce the amount of paper, printing and postage required for these reports.
 - 3.1.3 To identify whether the listing of applications to Licensing Sub-Committee can be developed to achieve more consistency on the number of applications heard and the spread of application types across the five Licensing Sub-Committees.
 - 3.1.4 To move toward reducing the frequency of Licensing Sub-Committee hearings by implementing a new listing process for applications with a view to eliminate hearings that have low numbers of applications.
 - 3.1.5 To assess the current Licensing Sub-Committee process and format to develop suitable customer focussed rules and guidance that set out the Licensing Sub-Committee process.
 - 3.1.6 To develop the new Senior Licensing Officer role to be a key participant at the hearings in managing applicants, residents and responsible authorities at the hearing, and providing advice and guidance to the Sub-Committee on the application process.
- 3.2 To achieve the objectives of this review there will be a need to trial a number of changes to the process. If these trials are successful then these proposals can be implemented into the Licensing Sub-Committee decision process. The proposals set out below relate to three specific areas of the Licensing Sub-Committee process. These relate to the Licensing Sub-Committee Reports, the frequency of Licensing Sub-Committee Hearings and the guidance for the Licensing Sub-Committee Process.

Licensing Sub-Committee Reports

- 3.3 The current Committee Reports have gone through numerous changes over the past seven years. However, there has been growing concern over the size and content of these reports from members, officers, applicants and other stakeholders. The proposed review will seek to reduce the size of these reports by eliminating unnecessary documentation which is attached as appendices whilst providing the necessary and relevant information within the main text of the report itself.
- 3.4 In addition to reducing the size of these reports the content will be reviewed. At present the information provided is very basic and just sets out factual elements such as what's been applied for, who's made representations, the relevant policies and other locational information. It is proposed that the Senior Licensing Officers, who will be producing these reports will pull together all of the information concerning the application, location, representations, assess the policy context and draw out the key considerations that the Sub-Committees are being asked to make a decision on. The Senior Licensing Officer will act in a

similar way to that of a Planning Officer for planning applications. Due to the change in the Senior Licensing Officer role, these officers will now process the applications from start to finish. The benefit is that these officers will be able to start preparing reports at a much earlier stage in the process compared to the current process. This will have the benefit in enabling earlier discussions relating assessing the application against the Council's policy requirements, enable earlier intervention for invalid elements of the application and be able to initiate discussions at an earlier stage when representations are received. A training programme will be implemented from the 1st April to enhance the current skills and expertise within the Licensing Teams.

- 3.5 The use of technology will also be a driver for reducing paper based documents. For example photos, plans and maps could be provided via the main screens in the Committee Room during the hearing or a separate bundle could be provided to the Licensing Sub-Committee containing colour copies of photos and adequate sized plans. At present these documents are often reproduced in the reports as black and white copies which affect the quality or, in the case of plans and maps reduce the size to fit the report which in turn makes them more difficult to interpret. Ultimately, the reports themselves could be provided electronically in the future which would eliminate the requirement for printing, postage and the transportation of large report bundles.
- 3.6 It is proposed that during May and June a new report format will be trialled for one or two low risk applications (unlikely to have an adverse decision and possible appeal) per hearing. Consultation would be carried out and feedback sought from the Licensing Sub-Committee, applicants, their agents and other parties who were involved with that application. The feedback received during this trial period would be considered and the report format adjusted where necessary. The feedback and final draft report template will be put before the next Full Licensing Committee in July to assess and adopt.

Frequency of Licensing Sub-Committee hearings

- 3.7 At present Licensing Sub-Committee hearings are scheduled to take place on a Thursday of each week. Due to the number of hearings that have occurred over the last two years officers are seeking the Committees view on whether the frequency of hearings could be reduced. The level of resources required to put applications before a hearing each week is significant and by reducing the number of hearings per month to three or bi-monthly will result in a significant resource saving as well as reducing the impact on Councillors time. Officers will ensure that the statutory requirements contained within the Licensing Act 2003 (Hearing) Regulations and any other statutory requirements for other licensing regimes are met during this process.
- 3.8 Through the development of a new listing process and scoring system for applications it will be possible to assess applications from the date they are received whether a hearing will defiantly occur, e.g. applications against policy. It is planned that applications will be listed to go before a Licensing Sub-Committee as soon as possible following the end of the consultation period. That could mean that applications are heard up to two weeks earlier than they are now. If there is a need for more time from the applicants, responsible

authorities or interested parties then the application would be adjourned by officers to a date that is suitable for all concerned, as is the case at the moment.

- 3.9 If the Committee is minded to agree to this proposal, officers will start developing a more sophisticated scheduling process for applications that require determination at a Licensing Sub-Committee. Initially the aim will be to eliminate one hearing per month in the May and June. The results of this trial will be put before the Licensing Committee in July for further consideration and whether there is scope to attempt to reduce the number of hearings further.
- 3.10 Whilst reducing the number of hearings officers will ensure that large applications, which have multiple objectors or reviews are not listed on hearing dates which have a reasonable number of applications. Officers are also seeking the views of the Committee on whether there should be a cap on the maximum length a hearing should last. At present there are no limits and applications will be considered until the agenda has been completed. However, on rare occasions hearings can go on for the majority of the day.
- 3.11 Officers are proposing a cap of 4:30pm for Licensing Sub-Committee hearings where any items that haven't been considered by that time will be deferred to the next available Licensing Sub-Committee hearing. Officers are also proposing that there is a provision for the Chairman of the Licensing Sub-Committee to set at the outset of the meeting a set 30 minute lunch break if it is perceived that the determination of the applications on the agenda will exceed 1pm. This break will allow the Sub-Committee members, officers and other parties at the hearing to have a break from the proceedings for refreshments. If members agree to the cap and lunch provisions a trial will be undertaken between April and June to assess the effectiveness of these measures. The outcome of this trial will be assessed a report will be put before the Licensing Committee in July to decide whether the cap and lunch provision should be adopted as standard procedure.

Hearing internal and external procedure documents

- 3.12 The current rules of procedures meet the legislative requirements under the Licensing Act 2003, Gambling Act 2005 and Local Government (Miscellaneous Provisions) Act 1982. However, these documents are technical and not user friendly. These rules only set out the legal requirements associated with the relevant Acts.
- 3.13 It is proposed to produce a new guidance and rules document for Licensing Sub-Committee hearings which will relate to all licensing regimes, is designed to be customer focused and set out the operational practices for the Sub-Committee. By producing this guidance and rules it will allow an opportunity for Members of the Licensing Committee to agree a consistent approach to running their Sub-Committee hearings. An emphasis within these rules will be on how the Sub-Committee will conduct the hearing but it will also provide information about timings, the layout, and the role of the Legal and Policy advisors; Senior Licensing Officers role and the documents that benefit the Sub-Committee in determining applications.

- 3.14 It is hoped that the new guidance and rules will reassure local residents about the process of attending a hearing and also advise applicants and their agents about how the Licensing Sub-Committee will run and what is expected of them. The new guidance will also help achieve consistency across the five Licensing Sub-Committees in running their hearings.
- 3.15 It is proposed that officers will engage with local residents, amenity societies, Citizens Advice, Solicitors, Councillors and other internal stakeholders for their views on what works at these hearings, what doesn't work and if there are any ideas to improve the hearing process in anyway. A report along with the new draft guidance and rules will be provided to the Committee for comment and agreement in July.

4. Legal Implications

- 4.1 The proposed changes and trials will be devised to ensure that any statutory requirements are met. There will also be significant consideration to any potential change in its effects on the Council's defence of any appeals concerning Licensing Sub-Committee decisions. Any risks relating to the proposed changes will be fully assessed and guidance sought from the Council's legal officers.

5. Staffing Implications

- 5.1 The proposed changes and trials will have no effect on staffing levels. However, the proposals, if successful will allow more efficient management of resources to adapt to other service pressures.

6. Consultation

- 6.1 As mentioned above there will be consultation carried out during the trials of the revised Licensing Sub-Committee report with members of the Committee, applicants and their agents; responsible authorities and interested parties. We will be seeking views on these revised report structures so that they provide adequate information for the decision making process whilst meeting the objective of reducing the amount of paper and unnecessary duplicate content.
- 6.2 In addition to consulting on the report structure Members of the Committee will also be consulted on how the changes to the frequency of the Licensing Sub-Committee hearings and the more enhanced form of listing applications for these hearings has gone

7. Reason(s) for Decision(s)

- 7.1 To enable a review of the end to end process for processing applications from receipt to determination. This will achieve the Council's drive to eliminate inefficiencies within process and will lead to a better experience for our customers.

If you have any queries about this report or wish to inspect one of the background papers please contact Mr Kerry Simpkin on 020 7641 1840, email ksimpkin@westminster.gov.uk

Background Papers

Licensing Sub-Committee Minutes and Agendas 2013, 2014 and 2015

Licensing Sub-Committee data analysis for 2013, 2014 and 2015 (Excel Spreadsheets)

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City of Westminster

Licensing Committee Report

Meeting:	<i>Licensing Committee</i>
Date:	<i>11th March 2015</i>
Classification:	<i>For General Release</i>
Title:	<i>General Licensing Fees (Excluding Sex Establishments, marriage and Special Treatments) Review 2015/2016</i>
Wards Affected:	<i>All</i>
Financial Summary:	<i>This report sets out the fee strategy for general licensing and almost meets the approved target for 2015/16 of £198.8k (Excluding the approved target for Sex Establishments, marriage and Special Treatments)</i>
Report of:	<i>Operational Director for Premises Management</i>

1. Executive Summary

1.1 The report sets out the methodology, costs, budgets and proposed fees for the general licensing regimes for 2015/2016.

2. Recommendations

2.1 That:

2.1.1 The proposed fees attached to this report as Appendix 1, be approved commencing 1st April 2015.

2.1.2 That the fee reviews for Sex Establishments, Marriage and Special Treatment licensing regimes to be deferred to a later date in 2015 and that the current fees remain in effect until that review.

3. Reasons for Decision

- 3.1 The proposed fees, attached to this report as Appendix 1 to the report will enable to the council to recover its reasonable costs in processing, determining and ensuring compliance of the licence.
- 3.2 Officers are currently reviewing the fee levels for Sex Establishments, Marriage and Special Treatment licensing regimes. There are further considerations that need to be applied to the fee reviews for those specific licensing regimes so it has been proposed to defer the decision to review the fees until later in the year to enable more work to be completed on costs. The current fees should remain in effect until such time as the review is completed and new fees are approved.

4. Background

- 4.1 General Licensing refers to the licensing regimes that are the responsibility of Environmental Health Consultation and Licensing Team which are not relating to the Licensing Act 2003 or Street Trading functions. General licensing regimes cover an extremely varied array of subjects and legislation. For simplicity within this report all of the general licensing regimes have been grouped according to their budget accounts. Within the 2013/14 financial year the council has received 130 applications for general licensing regimes (not including sex establishments, special treatment and marriage applications). The breakdown of the licensing regime grouping and the number of applications received per quarter is shown in the table below:

Licensing Regime	Q2 (2013)	Q3 (2013)	Q4 (2013)	Q1 (2014)	Totals
Animal Licensing	1	0	3	1	5
Gambling Act	15	5	5	4	29
Lotteries	11	14	16	10	51
Other Misc (Auctions, Explosives, etc)	5	13	2	1	21
Poisons	4	0	1	0	5
Scrap Metal Dealers	0	0	14	5	19
Totals	36	32	41	21	130

- 4.2 The majority of the general licensing regimes enable the council to recover its reasonable costs for administering and ensuring compliance relating to those licensing regimes. The fees relating to the regimes within this report were last reviewed in 2012.
- 4.3 Under the requirements of the EU Service Directive the authority must publicise its fee levels to any person who may wish to apply under that regime even if there are no currently issued permissions or there have been no applications for that regime.

5. Methodology

- 5.1 All of the proposed fees in Appendix 1 have been calculated based on the average officer time for those regimes applications. The hourly cost for each officer incorporates the associated projected on-costs (direct expenditure and recharges) for 2015/2016.
- 5.2 Each application type has been fully considered in terms of how long the application will take to process and determine along with the officers involved in the process or any contractual costs (e.g. veterinary service contract for animal licensing). There are a number of licensing regimes that the council has not received any applications for or has not issued a licence in the past financial year. In these cases an estimate for the amount of time required to process and determine those application has been made. Where possible those processes will be similar or match other processes of a similar nature.
- 5.3 The report sets out the licensing regimes that the council has the power to set a fee. The fee must recover the reasonable costs for providing that function. The proposed fees set out in Appendix 1 show the processing and compliance costs. These costs have been separated in order to make these individual costs clear. If an application is unsuccessful or withdrawn the council will refund the compliance costs. This is in line with the requirements of the EU Service Directive.
- 5.4 Based on the proposed fee levels it is projected that the council will receive £193,315 in income in 2015/16. The budgeted income target is £198,800. It is anticipated that there may be a deficit of £5485. The projections for the 2015/16 financial year are attached to this report as Appendix 2.

6. Gambling Premises Fees

- 6.1 The Gambling Act 2005 premises licence fees were originally set on the 17th May 2007 prior to the implementation of the premises licensing regime and then reviewed on 1st April 2012.
- 6.2 The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (2007 Regs) sets a cap on the amount that licensing authorities can charge for applications under the Gambling Act.
- 6.3 The proposed fees for all gambling applications have increased due to additional work being undertaken this year in relation to the Gambling Premises Statement of Licensing Policy. There are however a number that have not changed or have remained below cost as they have reached the capped amount set out by the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007.

- 6.4 The annual fees will continue to cover the cost of administration of the licences and annual fees as well as compliance costs. The majority of applicants will see no rise as they are already capped at the limit. There is one main exception to this which is the annual fee for a converted casino which will see an increase due to the additional work being undertaken this year. A detailed breakdown of the percentage decrease for this licensing regime is available at Appendix 3 to this report.

7. Scrap Metal Dealers

- 7.1 The Scrap Metal Dealers Act 2013 (2013 Act) came into force on 1st October 2013 and created Collectors and Site licences. The Act replaced the old registration scheme and Motor Salvage Operator licences.
- 7.2 The fees for the new regime were set by the Licensing Urgency sub-Committee on 12th September 2013 before the legislation came in to force on 1st October. In total 19 applications for Collectors licences were received and processed.
- 7.3 It was clear once the new regime came in to force that the application process was going to take additional resources in assessing the suitability of the applicants and whether they would adhere to the specific requirements of the 2013 Act. Therefore you will note that the proposed 2015/16 fees are significantly higher to take into account the additional resources required last year in dealing with these applications and the additional resources needed for these licence types going forward.

8. Animal Licensing and Other Miscellaneous Licensing Regime Fees

- 8.1 The fees proposed for animal licensing for 2015/16 will recover the council cost relating to those regimes. Where we currently have no issued licence we have calculated the estimated costs for the licensing process.
- 8.2 The council has a contract with the City of London to provide veterinary and animal health expertise. This contract has been in place for a number of years and works effectively. The costs relating to the contract for veterinary and animal health inspections has been broken down and split between the currently issued licences. For the annual inspections or for any new applications there is a specific charge relating to the cost for inspection and production of a report. These charges have been factored into the costs for the all animal related licensing regimes applications.

9. Hypnotism

- 9.1 Although the council currently has no licences issued for hypnotism within Westminster the council must set a fee. The proposed fee, attached to this

report at Appendix 1 will recover the council's costs associated with processing, determining and ensuring compliance.

10. **Non-Medical Poisons**

- 10.1 The proposed fee for non-medical poisons has been reduced based on the efficiency improvements that the council has made in processing applications since the last fee review. The projected income for 2015/16 from poison applications will be £385.

11. **Statutory set fees**

- 11.1 There are some general licensing regimes that the council is responsible for which have a statutory set fee. Those regimes are gambling permits and lotteries, manufacture and storage of explosives and firework licences. Although these fees cannot be changed, the projected income from these regimes has been included within the Income Projections contained within Appendix 2.

12. **Financial Implications**

- 12.1 The proposed fees will enable the council to meet its proposed budgets for 2015/16. The projected income for each of the specific licensing regime areas is detailed in the table below.

Licensing account	2015/16 Income Target	Projected Income	Projected Surplus or Deficit Against Income Target
Miscellaneous (Animals, Poisons, Auctions, Scrap Metal Dealers etc)	£6400	£6530	£130
Gambling	£192,400	£186,785	- £5615
Total	£198,800	£193,315	-£5485

- 12.2 Although there's a projected deficit of £5485 against the projected income targets for the licensing accounts this deficit could change if additional applications are received.
- 12.3 At the end of the 2015/16 financial year any deficit will be recouped when adjusting for 2016/17 fees to recover those costs. Likewise any surplus will also be offset by adjusting the licence fees.

13. **Legal Implications**

- 13.1 The Council can set its own fees for the regimes specified within this report under the provisions of the legislation that prescribe those regimes. The fee must be

reasonable and cover the Council's costs in the administration of those application types and further costs to ensure compliance.

- 13.2 All of the regimes (excluding Gambling) are covered by the European Union Services Directive. Regulation 18 of the Provision of Services Regulations 2009 which implements the EU Services Directive into UK law requires that fees charged in relating to authorisations must be proportionate to the effective cost of the process. The proposed fees must recover the council's costs in relation to the licensing process and cannot be used as an economic deterrent or to raise funds. The fees as proposed should enable to Council to recover its reasonable costs.
- 13.3 If the proposed fee structure results in a surplus or loss for the financial year there will be an appropriate reduction or increase in fees as the case may be for the following financial year.

Appendices

Appendix 1 – Proposed 2015/16 fees

Appendix 2 – Income projections and budget income targets for 2015/16

Appendix 3 – Breakdown of increase and decrease percentages between current and proposed fees.

If you have any queries about this report or wish to inspect any of the Background Papers please contact: Miss Claire Hayes, Acting Assistant Service Manager on 020 7641 7816 or email chayes@westminster.gov.uk

BACKGROUND PAPERS

- 2015/16 – Income reports.
- 2015/16 – Budgets.
- 2015/16 – Proposed budgets.
- 2015/16 – Officer Hourly rates including on costs.
- All legislation relating to the licensing regimes referred to within this report.

Proposed 2015/16 General Licensing Fees

Animal Licensing and Welfare				
Licensing Regime	Application Type	Processing Costs	Compliance / Enforcement Costs	Proposed 2015/16 Fee
Animal Boarding Establishments (Animal Boarding Establishments Act 1963)	New	£569	£104	£673
	Renewal	£377	£104	£481
	Duplicate	£15	£0	£15
Dangerous Wild Animals (Dangerous Wild Animals Act 1976)	New	£465	£147	£612
	Renewal	£401	£147	£548
	Duplicate	£15	£0	£15
Dog Breeding Establishments (Breeding of Dogs Act 1973)	New	£610	£104	£714
	Renewal	£377	£104	£481
	Duplicate	£15	£0	£15
Pet Shops (Pet Animals Act 1951)	New	£569	£104	£673
	Renewal	£377	£104	£481
	Duplicate	£15	£0	£15
Performing Animals (Performing Animals (Regulation) Act 1925)	New	£324	£0	£324
	Variation	£260	£0	£260
	Register Inspection	£42	£0	£42
	Copy of Register or extracts from	£7	£0	£7
	Duplicate	£15	£0	£15
Riding Establishments (Riding Establishments Act 1964)	New	£766	£213	£979
	Renewal	£462	£213	£675
	Duplicate	£15	£0	£15

Fair Trading and Poisons				
Licensing Regime	Application Type	Processing Costs	Compliance/ Enforcement Costs	Proposed 2015/16 fee
Auctions (Greater London Council (General Powers) Act 1984, Part VI)	New	£659	£0	£659
Poisons Registration	Inclusion on List (New)	£85	£0	£85
	Retention on List (Renewal)	£85	£0	£64
	Alteration (Variation)	£64	£0	£64

Gambling – Premises				
Licensing Regime	Application Type	Processing Costs	Compliance/ Enforcement Costs	Proposed 2015/16 fee
Converted Casino Premises Licence (Gambling Act 2005)	Annual Fee	£1500	£1500	£3000
	Variation	£1755	£0	£1755
	Transfer	£597	£0	£597
	Reinstatement of licence	£597	£0	£597
	Duplicate	£21	£0	£21
	Change of Details	£50	£0	£50
Bingo Premises Licence (Gambling Act 2005)	New	£2228	£259	£2487
	Annual Fee	£741	£259	£1,000
	Variation	£1589	£0	£1589
	Transfer	£597	£0	£597
	Reinstatement of licence	£597	£0	£597
	Provisional Statement	£2145	£0	£2145
	New Licence application to those who already hold a Provisional Statement	£648	£259	£907
	Duplicate	£21	£0	£21
	Change of	£50	£0	£50

	Details			
Betting (Other) Premises Licence (Gambling Act 2005)	New	£2312	£259	£2571
	Annual Fee	£341	£259	£600
	Variation	£1500	£0	£1500
	Transfer	£597	£0	£597
	Reinstatement of licence	£597	£0	£597
	Provisional Statement	£2145	£0	£2145
	New Licence application to those who already hold a Provisional Statement	£648	£259	£907
	Duplicate	£21	£0	£21
	Change of Details	£50	£0	£50
Betting (Tracks) Premises Licence (Gambling Act 2005)	New	£2145	£259	£2404
	Annual Fee	£741	£259	£1,000
	Variation	£1,250	£0	£1,250
	Transfer	£597	£0	£597
	Reinstatement of licence	£597	£0	£597
	Provisional Statement	£2145	£0	£2145
	New Licence application to those who already hold a Provisional Statement	£648	£259	£907
	Duplicate	£21	£0	£21
	Change of Details	£50	£0	£50
Family Entertainment Centre Premises Licence (Gambling Act 2005)	New	£1,741	£259	£2,000
	Annual Fee	£491	£259	£750
	Variation	£1,000	£0	£1,000
	Transfer	£597	£0	£597
	Reinstatement of licence	£597	£0	£597
	Provisional Statement	£2000	£0	£2000
	New Licence application to those who already hold a	£648	£259	£907

	Provisional Statement			
	Duplicate	£21	£0	£21
	Change of Details	£50	£0	£50
Adult Gaming Centre Premises Licence (Gambling Act 2005)	New	£1741	£259	£2,000
	Annual Fee	£741	£259	£1,000
	Variation	£1000	£0	£1,000
	Transfer	£597	£0	£597
	Reinstatement of licence	£597	0	£597
	Provisional Statement	£2000	£0	£2000
	New Licence application to those who already hold a Provisional Statement	£648	£259	£907
	Duplicate	£21	£0	£21
	Change of Details	£50	£0	£50

Hypnotism				
Licensing Regime	Application Type	Processing Costs	Compliance/ Enforcement Costs	Proposed 2015/16 fee
Hypnotism (Hypnotism Act 1952)	New	£672	£0	£672
	Renewal	£383	£0	£383

Projected 2015/16 income and budget target income.

Licensing Regime	Application types	Projected Number of applications	2015/16 Fee	Projected income per app type	Total projected Income per budget account	2015-16 Budget (Target Income)
Auctions	New	1	£659	£659		
Animal Boarding Establishments	New	0	£673	£0		
	Renew	0	£481	£0		
	Duplicate	0	£21	£0		
Dangerous Wild Animals	New	0	£612	£0		
	Renewal	0	£548	£0		
	Duplicate	0	£21	£0		
Dog Breeding Establishments	New	0	£714	£0		
	Renewal	0	£481	£0		
	Duplicate	0	£21	£0		
Pet Shops	New	1	£673	£673		
	Renewal	0	£481	£0		
	Duplicate	0	£21	£0		
Performing Animals	New	0	£324	£0		
	Variation	0	£260	£0		
	Register inspection	0	£42	£0		
	Copy of register	0	£7	£0		
	Duplicate	0	£21	£0		
Riding	New	0	£980	£0		

Establishments						
	Renewal	2	£675	£1,350		
	Duplicate	0	£21	£0		
Hypnotism	New	0	£672	£0		
	Renewal	0	£383	£0		
Poisons	New	0	£85	£0		
	Renewal	6	£64	£384		
	Variation	0	£64	£0		
Manufacture and Storage of Explosives / Fireworks	New	0	Statutory	£0		
	Renewals	14	Statutory	£624		
	New	0	Statutory	£0		
	Renewal	0	Statutory	£0		
Scrap Metal Dealers - Collectors	New	5	£568	£2840		
	Renewal	0	£328	£0		
	Variation	0	£346	£0		
	Duplicate	0	£21	£0		
	Change of details	0	£42	£0		
Scrap Metal Dealers - Site	New	0	£664	£0		
	Renewal	0	£328	£0		
	Variation	0	£346	£0		
	Duplicate	0	£21	£0		
	Change of details	0	£42	£0		
Gambling - Converted	Change of details	3	£50	£150		
	Duplicate	0	£21	£0		
	Annual Fee	21	£3000	£63,000		

Casino	Variation	9	£1755	£15,795
	Transfer	3	£597	£1791
	Reinstatement of licence	0	£597	£0
Gambling - Bingo Premises	Duplicate	0	£21	£0
	Change of Details	0	£50	£0
	New	1	£2487	£2487
	Annual Fee	1	£1000	£1000
	Transfer	0	£597	£0
	Variation	1	£1588	£1588
Gambling - Betting (Other) Premises	Transfer	2	£597	£1194
	Reinstatement of licence	0	£597	£0
	Annual fee	113	£600	£67,000
	Provisional Statement	0	£2145	£0
	New Licence for Provisional Statement Holder	0	£907	£0
	New	3	£2571	£7713
	Variation	5	£1589	£7945
	Duplicate	2	£21	£42
	Change of details	1	£50	£50
	Duplicate	0	£21	£0
	Change of Details	0	£50	£0

Gambling - Betting (Tracks) Premises	Reinstatement	0	£597	£0	£193,315	£198,800
	New	0	£2404	£0		
	Annual Fee	1	£1,000	£1000		
	Variation	0	£1250	£0		
	Transfer	0	£597	£0		
Gambling - Family Entertainment Centre	Reinstatement of licence	0	£597	£0		
	Provisional Statement	0	£2000	£0		
	New Licence for Provisional Statement Holder	0	£907	£0		
	Duplicate	0	£21	£0		
	Change of Details	0	£50	£0		
	New	1	£2000	£2000		
	Annual Fee	1	£750	£750		
	Variation	0	£1000	£0		
	Transfer	0	£597	£0		
Gambling - Adult Gaming Centre	Reinstatement of licence	0	£597	£0		
	Provisional Statement	0	£2000	£0		
	New Licence for Provisional Statement Holder	0	£907	£0		
	Duplicate	0	£21	£0		

	Change of Details	0	£50	£0
	New	3	£2,000	£6000
	Annual Fee	0	£1000	£0
	Variation	0	£1,000	£0
	Transfer	0	£597	£0
Gambling Permits Gambling Notifications	Change of Details	0	£50	£0
	New	0	Statutory	£0
	Annual Fee	0	Statutory	£0
	Variation	0	Statutory	£0
	Transfer	1	Statutory	£50
	New	30	Statutory	£1500
	Annual Fee	26	Statutory	£1,300
	Variation	1	Statutory	£25
	Transfer	1	Statutory	£25
Gambling Lotteries	New	35	Statutory	£1,400
	Annual fee	149	Statutory	£2,980

Appendix 3

General Licensing Fee's (excluding Sex Establishments, MSTs and Marriage) Comparison 2013/14 and 2015/16

Animal Licensing and Welfare

Application Type		2013/14 Fee	2015/16 Fee	Percentage increase/decrease
Animal Boarding Establishments (Animal Boarding Establishments Act 1963)	New	£618 Online £568	£673 Online £643	+8.9% (Online +13.2%)
	Renewal	£475 Online £445	£481 Online £451	+1.3% (Online +1.3%)
	Duplicate	£18	£21	+16.7%
Dangerous Wild Animals (Dangerous Wild Animals Act 1976)	New	£580 Online £550	£612 Online £582	+5.4% (Online +5.6%)
	Renewal	£534 Online £504	£548 Online £518	+2.6% (Online +2.8%)
	Duplicate	£18	£21	+16.7%
Dog Breeding Establishments (Breeding of Dogs Act 1973)	New	£618 Online £568	£714 Online £684	+15.5% (Online +20.4%)
	Renewal	£475 Online £445	£481 Online £451	+1.3% (Online +1.3%)
	Duplicate	£18	£21	+16.7%
Pet Shops (Pet Animals Act 1951)	New	£618 Online £568	£673 Online £643	+8.9% (Online +13.2%)
	Renewal	£475 Online £445	£481 Online £451	+1.3% (Online +1.3%)
	Duplicate	£18	£21	+16.7%
Performing Animals (Performing Animals (Regulation) Act 1925)	New	£211 Online £201	£324 Online £304	+53.6% (Online +51.2%)
	Variation	£165 Online £155	£260 Online £240	+57.6% (Online +54.8%)
	Register Inspection	£34	£42	+23.5%
	Copy of Register or extracts from	£5	£7	+40%
	Duplicate	£18	£21	+16.7%
Riding Establishments (Riding Establishments Act 1964)	New	£930 Online £880	£979 Online £929	+5.3% (Online +5.6%)
	Renewal	£660 Online £610	£675 Online £625	+2.7% (Online +2.5%)
	Duplicate	£18	£21	+16.7%

Fair Trading and Poisons

Application Type		2013/14 Fee	2015/16 Fee	Percentage increase/decrease
Auctions (Greater London Council (General Powers) Act 1984, Part VI)	New	£588 Online £558	£659 Online £629	+12.1% (Online +12.7%)
	Inclusion on List (New)	£104 Online £94	£85 Online £75	-18.3% (Online -21.3%)
Poisons Registration	Retention on List (Renewal)	£77 Online £67	£64 Online £54	-16.9% (Online -52.8%)
	Alteration (Variation)	£77	£64	-16.9%

Gambling

Application Type		2013/14 Fee	2015/16 Fee	Percentage increase/decrease
Converted Casino Premises Licence (Gambling Act 2005)	Annual Fee	£2899	£3000	+3.5%
	Variation	£1542	£1755	+13.8%
	Transfer	£423	£597	+41.1%
	Reinstatement of licence	£423	£597	+41.1%
	Duplicate	£21	£21	No change
	Change of Details	£50	£50	No Change
Bingo Premises Licence (Gambling Act 2005)	New	£1876	£2487	+32.6%
	Annual Fee	£1000	£1000	No Change
	Variation	£1380	£1589	+15.1%
	Transfer	£423	£597	+41.1%
	Reinstatement of licence	£423	£597	-41.1%
	Provisional Statement	£1876	£2145	+14.3%
	New Licence application to those who already hold a Provisional Statement	£615	£907	+47.9%
	Duplicate	£18	£21	+16.7%
	Change of Details	£50	£50	No Change
Betting (Other) Premises Licence	New	£2038	£2571	+26.2%

(Gambling Act 2005)	Annual Fee	£600	£600	No Change
	Variation	£1380	£1500	+8.7%
	Transfer	£423	£597	-41.1%
	Reinstatement of licence	£423	£597	-41.1%
	Provisional Statement	£1876	£2145	+14.3%
	New Licence application to those who already hold a Provisional Statement	£615	£907	+47.9%
	Duplicate	£18	£21	+16.7%
	Change of Details	£50	£50	No Change
	Betting (Tracks) Premises Licence (Gambling Act 2005)	New	£1876	£2404
Annual Fee		£1000	£1000	No Change
Variation		£1250	£1250	No Change
Transfer		£423	£597	+41.1%
Reinstatement of licence		£423	£597	-41.1%
Provisional Statement		£1876	£2145	+14.3%
New Licence application to those who already hold a Provisional Statement		£615	£907	+47.9%
Duplicate		£18	£21	+16.7%
Change of Details		£50	£50	No Change
Family Entertainment Centre Premises Licence (Gambling Act 2005)	New	£1876	£2000	+6.6%
	Annual Fee	£750	£750	No Change
	Variation	£1000	£1000	No Change
	Transfer	£423	£597	+41.1%
	Reinstatement of licence	£423	£597	+41.1%
	Provisional Statement	£1876	£2000	+6.6%
	New Licence application to those who already hold a Provisional Statement	£615	£907	+47.9%

	Duplicate	£18	£21	+16.7%
	Change of Details	£50	£50	No Change
Adult Gaming Centre Premises Licence (Gambling Act 2005)	New	£1876	£2000	+6.6%
	Annual Fee	£1000	£1000	No Change
	Variation	£1000	£1000	No Change
	Transfer	£423	£597	+41.1%
	Reinstatement of licence	£423	£597	+41.1%
	Provisional Statement	£1876	£2000	+6.6%
	New Licence application to those who already hold a Provisional Statement	£615	£907	+47.9%
	Duplicate	£18	£21	+16.7%
	Change of Details	£50	£50	No Change

Note: There is a statutory cap on Gambling Act 2005 Premises Licence fees

Hypnotism

Application Type		2013/14 Fee	2015/16 Fee	Percentage increase/decrease
Hypnotism (Hypnotism Act 1952)	New	£599	£672	+12.2%
		Online £569	Online £642	Online +12.8%
	Renewal	£348	£383	+10.1%
		Online £318	Online £353	Online +11%

Scrap Metal Dealers

Application Type		2013/14 Fee	2015/16 Fee	Percentage increase/decrease
Scrap Metal Dealer – Site licence Scrap Metal Dealers Act 2013	New	£523	£664	+26.9%
	Renewal	£458	£328	-28.4%
	Variation	£131	£346	+164.1%
	Duplicate	£7	£21	+200%
	Change of details	No fee	£42	New fee
Scrap Metal Dealer – Collectors licence Scrap Metal Dealers Act 2013	New	£293	£568	+93.86%
	Renewal	£197	£328	+66.5%
	Variation	£104	£346	+232.7%
	Duplicate	£7	£21	+200%

	Change of details	No fee	£42	New fee
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Licensing Committee Report

Meeting:	Licensing Committee
Date:	11 March 2015
Classification:	For General Release
Title:	Deregulation – Implementation of the Entertainment Licensing Legislative Reform Order 2014
Wards Affected:	All
Financial Summary:	None
Report of:	Director of Policy, Performance and Communications

1. Executive Summary

- 1.1 This report seeks to advise the Licensing Committee of the implementation from 6 April 2015 of the deregulation of certain entertainment that will have an impact on the Council's licensing functions.

2. Recommendations

- 2.1 That the Licensing Committee notes the report.

3. Background

- 3.1 The first phase of the deregulation of entertainment licensing was implemented by the Live Music Act 2012 and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013. The main effect of the 2012 Act is that live music is no longer licensable between 08.00 and 23.00 where the live music comprises:

- (i) A performance of unamplified live music;
- (ii) A performance of live amplified music in a workplace with an audience of no more than 200 people; and
- (iii) A performance of live music on licensed premises (open for the sale of alcohol for consumption on the premises) which takes place in the presence of an audience of no more than 200 people.

3.2 The second wave of entertainment deregulation was proposed in a DCMS consultation in October 2013 and these proposals are due to be implemented on the 6th April 2015 by the Entertainment Licensing Legislative Reform Order 2014. The changes will mean that the following are no longer licensable when they take place between 08:00 and 23:00 on any day:

- (i) All regulated entertainment held by local authorities, hospitals, nurseries and schools on their own premises (with no audience limit);
- (ii) Live music in licensed premises (open for the sale of alcohol for consumption on the premises) or in a workplace with an audience of not more than 500 people;
- (iii) Recorded music in licensed premises (open for the sale of alcohol for consumption on the premises) with an audience of not more than 500 people;
- (iv) Live and recorded music activities held on premises owned by local authorities, hospitals, nurseries and schools and on community premises (including church and village halls) with an audience of not more than 500 people;
- (v) Live and recorded music, plays, dance and indoor sport at tented circuses, with no audience limits;
- (vi) Greco-Roman and freestyle wrestling at any premises, with no audience limits.

Additionally, the effect of any condition of a premises licence or club premises certificate that relates to recorded music between 08:00 and 23:00 will be suspended. This is to mirror the provision for live music conditions brought in by the 2012 Act.

3.3 Further deregulation of the licensing regime is proposed in the draft Deregulation Bill published by the Government on 1st July 2013. The proposals are set out in the Appendix to this report. The Government has not yet indicated when these proposals will be implemented.

4. Financial and Legal Implications

4.1 There are no financial implications and the legal implications are set out in the body of the report.

If you have any queries about this report or wish to inspect any of the Background Papers please contact: Chris Wroe Licensing Policy & Strategy Manager on 020 7641 5903 or email cwroe@westminster.gov.uk.

Deregulation Bill

The Government published a draft Deregulation Bill on 1st July 2013. The draft Bill was subject to pre-legislative scrutiny by a Joint Committee which published its report on 19th December 2013. In response to the Joint Committee's report, the Government introduced the actual Bill on 23rd January 2014. The Bill received its second reading in the House of Lords on 7th July 2014.

Proposals relating to alcohol and entertainment licensing

Community and Ancillary Seller Notice (CANs)

Clause 52 of the Bill creates a simple new "licence" process - the CAN - to allow small-scale, "low" risk alcohol sales over 36 months, without the need for a premises licence or TEN providing there is no objection from the police, environmental health or the local authority.

The CAN is aimed at two eligible groups:

- "Ancillary sellers" (e.g. bed & breakfast providers) that would like to sell (or provide as part of a wider business contract) minimal amounts of alcohol to customers.
- "Community groups" (e.g. charities; church choirs; the Women's Institute) that may regularly hold small "one-off" events at which they wish to sell alcohol. While the law provides for them to do so under a temporary events notice (TEN), they complain of bureaucratic burdens; costs (£21 each) and limits for TENS (12 per year).

At this stage, it is envisaged that key elements of the new authorisation will be that:

- A prospective CANs user will give notice to the licensing authority (either on a simple form or via email/letter) that they are going to operate either as (i) an "ancillary" or (ii) "community" seller.
- Notification will specify the relevant premises at which they intend to sell alcohol: in the case of an ancillary seller this can be just one premises; community groups could name up to three premises within their local area
- The licensing authority may reject or revoke a CAN at any point under a light-touch process to be triggered by an objection from the police or the Environmental Health Service on grounds of the licensing objectives (the prevention of crime and disorder; the prevention of public nuisance, public safety, protection of children from harm).
- Local discretion: Local authorities could reject CANs in their own cumulative impact policy (CIP) areas.

- CAN users need not hold personal licences (which many consider will be a risk and unfair to the licensed trade) but they could be named as “responsible persons” who could be prosecuted for certain criminal offences under the 2003 Act. It is already the case that community premises such as village and church halls are exempt from the requirements to have a Personal Licence Holder and Designated Premises Supervisor.
- Licensing costs are recovered from the fees so there would need to be a small processing fee.

The sales of alcohol under a CAN would be subject to certain parameters to provide safeguards against loopholes that could be exploited by unscrupulous operators. At this stage, the Government envisages that they would include the following:

- All sales of alcohol between “low risk” prescribed times, for example, 7am to 11pm.
- “Ancillary sellers” to be strictly defined by reference to business types, for example small Bed and Breakfasts, guest houses and self catering accommodation providers.
- Ancillary sellers may only supply limited amounts of alcohol to their customers (e.g. up to three units per individual customer over 18 in a 24 hour period) possibly explained in user friendly language e.g. one 175ml “standard” glass of wine), one 75ml bottle of wine in a room per two night stay or between two adults with a meal.
- Alcohol sale must take place within the public facing area of the business which directly relates to the main service being provided.
- A cap on the size of community event (e.g. up to 300 people) and tickets must be sold to the event either before or on the door.
- “Community sellers” are defined as non-profit making bodies, charities, voluntary sector etc. Alcohol sold by community sellers must be ancillary to a wider event e.g. a performance or flower show or talk or meal. Only the equivalent of an average of up to three units of alcohol per person

Temporary Event Notices (TENs)

Any individual premises can be used for 12 temporary events per year; up to a total maximum of 21 days. Clause 53 of the Bill would amend section 107 of the 2003 Act and increase the maximum number of TENs per year from 12 to 15. This would take effect from 2016.

Personal Licences

All alcohol sales have to be made or authorised by a personal licence holder. This is to ensure that anyone running or managing a business that sells alcohol does so in a professional manner: All personal licences currently have to be renewed after ten years. The original intention behind this requirement was to provide a mechanism for identifying licence holders who had got criminal convictions for offences which could result in their licence being revoked but who had not declared them.

The November 2012 alcohol strategy consultation sought views on whether the requirement to renew a personal licence should be "removed or simplified to reduce the burden on responsible businesses". The document noted that licence holders would still be required to ensure their personal details were up-to-date and to declare any relevant criminal convictions; that there were existing criminal offences for failing to make these declarations; and that the police have powers to check personal licences.

Clause 54 of the Bill would amend section 115 of the 2003 Act so that a personal licence continues indefinitely.

Liqueur Confectionary

It is an offence, under section 148 of the 2003 Act, to sell liqueur confectionary to children aged under 16. Clause 55 of the Bill would repeal section 148 of the 2003 Act.

Late Night Refreshment

Late night refreshment is defined as the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11.00pm and 5.00am. The provision of such refreshment is a licensable activity because of its potential link with alcohol-related crime and disorder. A number of exemptions are set out in schedule 2 to the 2003 Act (for example, hot food or hot drink supplied to hotel and bed and breakfast guests; hot drinks from vending machines; and the supply of hot food and hot drink from workplace canteens).

The Government's alcohol strategy consultation claimed there was scope to reduce the burdens of licensing requirements for businesses that provide late night refreshment but do not sell alcohol and are not connected with the alcohol-related late night economy.

Clause 56 of the Bill would insert new paragraph 2A into schedule 2 of the 2003 Act to give licensing authorities the powers to exempt a supply of hot food and hot drink from the licensing requirements if it takes place:

- on or from premises which are wholly situated in an area designated by the licensing authority;
- on or from premises of a description designated by the licensing authority;
- during a period (beginning on or after 11pm and ending on or before 5am) designated by the licensing authority.

A licensing authority would be able to designate a description of premises only if the description is one that is prescribed by regulations. A designation could be varied or revoked by the licensing authority that made it and a licensing authority that makes, varies or revokes a designation would have to publish the designation, variation or revocation.

Reporting loss or theft of licence

If a document such as a premises licence, temporary event notice, club premises certificate or personal licence is lost, stolen, damaged or destroyed, the licence holder must report this to the police before a copy can be issued.

Clause 57 of the Bill would amend the 2003 Act to remove the requirement to report a loss or theft etc to the police before a copy of the document could be issued.

Exhibition of films

The exhibition of a film for public performance is, with certain exemptions, one of the forms of 'regulated entertainment' set out in Schedule 1 to the 2003 Act. The Act requires that a licence to exhibit film must include a mandatory condition that age classification restrictions are complied with.

In response to the DCMS consultation in January 2013, there was 'near universal agreement' that age classification restrictions had to be retained. For this reason, the Government said there would be no blanket deregulation but it would examine opportunities for deregulating low risk community-based film exhibition in suitable circumstances.

Clause 58 of the Bill sets out the Government's proposal to remove the requirement for a licence in 'community premises' where the following conditions are satisfied:

- prior written consent for the entertainment to take place at the community premises has been obtained by or on behalf of a person concerned in the organisation or management of the entertainment;
- the entertainment is not provided with a view to profit;
- the audience consists of no more than 500 persons;
- the entertainment takes place between 8am and 11pm on the same day; and
- a recommendation concerning the admission of children to the exhibition of the film has been made by the film classification body or relevant licensing authority, and the admission of children to that exhibition of the film is subject to such restrictions (if any) as are necessary to comply with that recommendation.

The term "community premises" is defined in section 193 of the 2003 Act as meaning premises that are (or form part of) a church hall, chapel hall or other similar building or a village hall, parish hall, community hall or other similar building.

Proposals relating to Street Trading

London Street Trading Appeals

At present, the majority of street trading appeals under the *Local London Authorities Act 1990* and the *City of Westminster Act 1999* are heard by a Magistrates Court. However, appeals of a more general nature (such as a decision to designate a street as one in which street trading may take place without a licence) are heard by the Secretary of State. The Government considers that this is an inefficient and inconsistent approach. Consequently, Clause 69 would ensure that all street trading appeals are made to the Magistrates Court as they have more expertise in making such determinations.

Barry Panto
Legal and Democratic Services
July 2014

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City of Westminster

Licensing Committee

Item No:	6
Date:	11 March 2015
Classification:	For General Release
Title of Report:	Licensing Appeals
Report of:	Head of Legal and Democratic Services
Wards involved:	Not applicable
Policy context:	A business like approach
Financial summary:	None
Report Author:	Peter Large, Head of Legal and Democratic Services
Contact details	Tel: 020 7641 2711 Email: plarge@westminster.gov.uk

1. Summary

1.1 This report provides a summary of recent appeal results.

2. Recommendations

2.1 That the report be noted.

3. Background

3.1 To date, 460 appeals have been heard / settled / withdrawn:

- 16 allowed
- 11 allowed only in part
- 56 dismissed
- 212 withdrawn
- 165 settled

4. Licensing Act 2003 Appeals

4.1 Avalon at 39-45 Shaftesbury Avenue, London, W1D 6LA

By application received dated 27 December 2013, the Metropolitan Police applied to review the premises licence for the nightclub 'Avalon' located at 39-45 Shaftesbury Avenue, London W1D 6LA under section 53A(1)(b) of the Licensing Act 2003 (premises associated with serious crime and disorder). The application was made by the Metropolitan Police following a fatal shooting within the premises on 26 December 2013 at approximately 03.00. At the time of the incident, the premises were operating under a Temporary Event Notice (TEN).

Since the transfer of the licence approximately one year previously to the current licensee, Zafaran Limited, and the operation of the premises as 'Avalon', there had been 5 recorded allegations of GBH assaults, 3 ABH assaults and 5 incidents of common / public order offences. Of those assaults, 7 had occurred since 24 November 2013.

The Licensing Authority held a hearing on 30 December 2013 to consider whether it was necessary to take any interim steps pending the determination of the full review applied for. Upon hearing evidence and submissions from the Metropolitan Police and from the Licensee, the Licensing Sub-Committee felt it was necessary to suspend the licence.

The full hearing of the review was held on 21 January 2014. The Sub-Committee heard submissions from the licensee and from the Metropolitan Police. The Sub-Committee also heard from representatives of the landlord, Delfont Mackintosh Theatres Limited, who explained a notice to terminate the lease had been issued and that the landlord had applied for a transfer of the licence but there were outstanding issues with the Council as to whether consent had been given and whether the application could proceed without consent.

The Sub-Committee was horrified that such an event had taken place and could not remember a time when there had been a fatality of this kind in a licensed premises in Westminster. The possibility that people associated Westminster clubs with fatality was not something which the Sub-Committee expected to have to deal with and needed to be taken extremely seriously. The Sub-Committee made it clear that it could not allow itself to be involved in any decision that suggested that this kind of situation could arise again. The Sub-Committee therefore considered that it was appropriate to revoke the licence due to the extreme seriousness of events.

The Sub-Committee also believed that where a licence holder had behaved so reprehensibly it seemed entirely inappropriate that they should be in a position to decide how the premises would continue to operate, which in effect was what was being proposed. The diligence by the Police in examining proposals and clarifying the relationship between parties had been helpful.

Notice of appeal was lodged on behalf of the Landlords, Delfont Mackintosh Theatres Limited. The Appellant made a compromise proposal, under which the licence would be amended to permit a restaurant with bar, and that offer was considered and rejected by the Licensing Sub-Committee. The full hearing of the appeal took place on 18th, 19th and 22nd September 2014 at Westminster Magistrates' Court. At the hearing the Appellant's case was that the licence should not be revoked, but should be amended to permit a restaurant with no bar, and with a 1am terminal hour. The City Council's position was that the appropriate course was for the Court to dismiss the appeal and for the Appellant to submit a new application for a licence for the proposed establishment. The appeal concluded on the 22nd September and judgment was reserved. Judgment has since been received dismissing the appeal. Costs of £30,000 were awarded to the City Council.

4.2 Amika, 43 South Molton Street, London W1

By application dated 24 April 2014, the Metropolitan Police applied to review the premises licence for Amika, 43 South Molton Street, London W1 under section 53A(1)(b) of the Licensing Act 2003 (premises associated with serious crime and disorder). The application was made by the Metropolitan Police following an incident at the premises on Monday 21st April 2014 at approximately 02:10. The disorder appears to have been between two groups of males at different tables in the basement area of the venue. The fight included bottles being thrown and being used to hit people. This resulted in a customer being the victim of a glass enabled GBH, where he was hit in the face by a piece of glass from a smashed bottle. CCTV shows that the disorder continued inside the venue for 13 minutes including serious disturbances at the entrance where persons are seen throwing glasses and bottles from inside (CCTV footage shows persons in the foyer picking up glasses and bottles from the reception desk and throwing them out of the premises through the door). Simultaneously, males outside the premises are seen fighting with metal poles and ropes.

After the sustained attack, the doors of the premises are breached and both groups who ran towards Oxford Street. It was at this point that Police were called by the premises. The fighting continued in Davies Street and Oxford Street where males attacked several vehicles with metal poles as they drove by.

The management and security had no control of the premises and were unable to prevent the escalating serious disorder and violence.

No suspects were detailed, victims were not identified and First Aid was not given. The scene of the disorder both inside and outside was cleared immediately and the Police were not called until after all parties involved had left the premises.

The Metropolitan Police were of the view that the level of the disorder and violence during this incident was so serious that it represented significant failings in upholding and promoting the Licensing Objectives.

An expedited hearing of the Licensing Sub-Committee was held on 29 April 2014 to consider whether it was necessary to take any interim steps pending the determination of the full review applied for. Upon hearing evidence and submissions from the Metropolitan Police and from the Licensee, the Licensing Sub-Committee felt it was necessary to suspend the licence.

The full hearing of the review was held on 19 May 2014. The Sub-Committee heard submissions from the licensee and from the Metropolitan Police. The Sub-Committee heard that the Licensee's premises had previously been located in Kensington High Street where a review of the premises licence had taken place and the hours on the licence had been cut back and that the decision was upheld on appeal. The Licensee had then re-located to South Molton Street and had opened there in April 2012. The current full review was the second at South Molton Street and the third the Licensee had been involved in. Conditions had been attached to the licence by the Sub-Committee at the review in August 2013 and then further conditions had been attached in April 2014 as a result of a minor variation following incidents including a glassing and a stabbing in February 2014. Mr Rankin, on behalf of the Metropolitan Police, commented that the minor variation had resulted from an informal review by the Police where the Police would have considered taking matters further had the Licensee not consented to agreeing the conditions.

Based on all the evidence heard the Sub-Committee unanimously agreed, in keeping with the view of the Sub-Committee at the interim stage, that they had no confidence in the Licensee and/or the management of the premises. The Sub-Committee considered it was appropriate to revoke the premises licence.

Notice of appeal was lodged on behalf of the Licensee and the full hearing of the appeal was listed for 9, 10, 14 and 16 October 2014 at Westminster Magistrates' Court.

It is the Council's position that the interim steps imposed by the Licensing Sub-Committee on 29 April 2014 continue to apply until the appeal has been disposed of. However, it is understood that the Appellant's legal advice is that the interim steps ceased to have effect after the Licensing Sub-Committee hearing on 19 May 2014. The premises were found operating and selling alcohol on 27th May which resulted in the service of a section 19 notice by Metropolitan Police. The Metropolitan Police then sought a section 20 Closure Order at the Magistrates' Court. The City Council were joined as an Interested Party to the Closure Order Proceedings. The full hearing of the Closure Order was held on 11 July 2014 at Westminster Magistrates' Court. Judgment was reserved and subsequently handed down confirming the grant of the Closure Order.

The Appellant's representative subsequently advised of their instruction to withdraw their appeal against the decision of the Licensing Sub-Committee. A costs hearing was held on 21 November 2014 in respect of both the Closure Order proceedings and the appeal proceedings. Full costs were awarded to the City Council in the sum of £20,920.36.

4.3 ME Hotel, 335 Strand, London, WC2

An application for review of the premises licence of the ME Hotel located at 335 Strand, WC2 was made on 14 August 2014 by a local resident, Mrs Swann. The Review was made on the grounds of the Prevention of Crime and Disorder, the Prevention of Public Nuisance and the Protection of Children from Harm in relation to the playing of loud music and noise nuisance on the 10th Floor Roof Terrace.

Representations in support of the application for Review were received from the Environmental Health Service, a local resident and a local business.

The Licensing Sub-Committee considered the application on 16 October 2014. The Sub-Committee were advised that the noise from the 10th floor roof terrace seemed to travel and bounce off the high wall behind Ms Swann's flat causing noise nuisance to Ms Swann and her family. The Sub-Committee heard that the ME hotel had been running events during the summer afternoons which had been very loud and oppressive. In addition loud music was being played during the evening that was causing her a great deal of stress as she was unable to sleep. This had had a detrimental effect on her family life.

Representatives for the Licensee, advised that action had already been taken to reduce the noise nuisance by removing the external loud speakers, displaying signs to remind guests that they were within a residential area and employing additional staff to ensure guests kept their personal noise to a reasonable level. He added that the Hotel were happy to agree to all the proposed conditions. He further added that the applicant was also willing to vacate The Strand side of the terrace leaving only the Covent Garden side of the terrace in operation after 10.30pm.

The Sub-Committee had a lengthy discussion with all representatives regarding the position of the barrier on the 10th floor, the effect the glass panel had on noise nuisance, access to and from the Penthouse suite, the arrangement of the seating on the terrace and the travel of noise to the residential areas from the 10th floor.

The Sub-Committee considered all the representations very carefully and stated that they were disappointed that the nuisance had occurred and the loud speakers had been placed on the terrace. They were also surprised that the loud speakers had not been removed earlier during the complaint process.

The Sub-Committee decided to impose conditions on the premises licence which would hopefully ensure that the problems did not recur and which would help clarify the use and operation of the premises and promote the Licensing Objectives.

Notice of appeal was lodged by the Licensee against the decision of the Sub-Committee. The full hearing of the appeal in the Magistrates' Court is listed for 1-4 June 2015.

4.4 Friends Supermarket, 82 Lupus Street, SW1

By application received on 18 July 2014, the Licensing Authority applied to review the premises licence of Friends Supermarket, 82 Lupus Street, London, SW1V 3EL. The review was brought on the grounds of the prevention of crime and disorder and the protection of children from harm.

The premises have a history of breaches relating to the sale of alcohol to persons under 18 years of age (contrary to s.146 Licensing Act 2003) and sale of tobacco to a minor (contrary to Children and Young Persons Act 1993).

On 22nd May 2014, during an operation involving Customers and Excise and Trading Standards substantial quantities of alcohol were seized from the premises when it became apparent that no 'excise duty' had been paid on the goods. These are offences under s.170 of the Customs and Excise Management Act 1979 and s.144 of the Licensing Act 2003.

Representations in support of the application for Review were received from the Environmental Health Service, the Metropolitan Police and a local resident.

The Licensing Sub-Committee considered the application on 11 September 2014. The Sub-Committee heard from Licensing Inspector who outlined the background to the review. The amount of the alcohol which had been seized was significant to the value of £150k and would attract Excise duty of about £31k. Both the Licensee and the Designated Premises Supervisor admitted the offence which could have attracted a Level 3 fine of £1,000. The Custom and Excise Officers who had secured the goods had written to the Licensee warning that further problems would lead to prosecution but in the meantime they would allow the licensing authorities to undertake a review if they so determined. He also drew the Sub-Committee's attention to the guidance issued under Section 182 of the Licensing Act 2003 which advised in these circumstances that the Sub-Committee should give serious consideration to revoking the licence, in

extreme cases such as this. PC Jim Sollars spoke on behalf of the Police in support of the review which in view of the serious nature of the recent incident should lead to revocation of the licence particularly in view of the vast amount of alcohol involved.

Louise Joyce, Environmental Health Service, spoke in support of the review and for revocation as the matters were not capable of resolution by the imposition of additional conditions.

The Solicitor for the Licensees addressed the Sub-Committee explaining that her clients had been under pressure as a result of a new Tesco's Express and other economic pressures. They had admitted the offence and had given a full account to the authorities to assist in identifying the supplier. They had attended all meetings which had been requested by the authorities. The Licensees wished to keep the business in the community but they appreciated that their actions had led to serious problems. Accordingly, it was proposed that the licence be transferred to other members of the family. It was emphasised that at each stage the Licensees had cooperated with the authorities. The letters of support for the premises from local residents, which had been circulated, were drawn to the particular attention of the Sub-Committee.

The Sub-Committee did not consider it appropriate or possible to add additional conditions to the licence to resolve the issue. In the circumstances of the serious nature of this case the Sub-Committee considered that the only appropriate and proportionate option was to revoke the licence.

Notice of appeal was lodged by the Licensee. The full hearing of the appeal has been scheduled for 16 April 2015.

4.5 8-10 Hill Street, London W1 (x 2 Appeals)

By application received on 21 October 2014, London Executive Offices Ltd applied for a new premises licence for the lower ground floor to fourth floor, 8-10 Hill Street, London, W1. The application sought the sale by retail of alcohol on Monday to Sunday from 10.00 to 23.00.

Adverse representations were received from

- the Residents Society of Mayfair & St James
- The Mayfair Residents Group
- Freeholder, 12-18 Street Management Ltd
- 6 local residents

The Licensing Sub-Committee considered the application on 11 December 2014. The Sub-Committee were advised that the premises would not act as a private members club and were only rarely likely to use the licence up to 23.00. The use would be mainly for corporate executive events. The numbers attending would generally be in the region of 20/30. Local residents addressed the Sub-Committee as to their fears with regards increased noise. The Sub-Committee granted the application for the lower ground, 1st, 2nd and 3rd floors only subject to conditions for Monday to Fridays from 10.00 to 23.00, Saturdays from 10.00 to 20.00 and on Sundays from 12 noon to 19.00. In order to offer additional protection to the local residents they agreed to limit the supply of alcohol in the external garden on relevant days to 21.00.

Two notices of appeal have been received against the Sub-Committee's decision to grant the licence. The first appeal was lodged by local residents, Mr Adrian White and the Honourable Mrs Jessica White. The second appeal was lodged by 12-18 Hill Street Management Company/12-18 Hill Street Freehold. A date for the full hearing has been set for 12th, 13th and 14th October 2015.

5. CITY OF WESTMINSTER ACT 1999

- 5.1 Mr Gawdat George has been licensed for the sale of handbags and leather goods on Saturdays from Pitch 611 since July 2011 and from Pitches 612 and 613 in Church Street market since 2001.

Throughout 2012 and 2013 Mr George repeatedly failed to pay his street trading fees when due and only made block payments upon the threat of revocation of his street trading licences. Following numerous warning letters and referrals to the Licensing Officer Panel for arrears on his account, Mr George was invited to attend a Licensing Officer Panel on 9 December 2014 where the revocation of his licence would be considered.

Mr George attended the Panel hearing and explained that, in order to support his family, he had three jobs. He explained that, as well as being chased to pay his street trading charges, he was also being chased to make tax payments and bank payments. He advised the Panel that the arrears on his account were because the direct debits had failed due to other outgoing payments. Mr George said that he had now paid the total outstanding arrears on his account.

The Panel concluded that given Mr George had previously been called to a hearing in March 2013 for a similar situation they felt that they had little option but to revoke the licences. The Panel explained to Mr George that he had been given the opportunity to keep up with his payments but unfortunately he was not able to do so. The Panel therefore decided to revoke the street trading licences for Pitches 611, 612 and 613 Church Street Market.

Notice of appeal was lodged against the revocation. A date for the full hearing of the appeal is scheduled for 30 March 2015.

6. JUDICIAL REVIEWS / CASE STATED

- 6.1 Sex Establishment Licensing - Fees

The challenge took the form of a judicial review brought by Mr Timothy Hemming, trading as Simply Pleasure Ltd, and six other long standing licensees of sex establishments in Westminster, challenging the legality of the fee charged by the City Council for a sex establishment licence in 2011/12 (£29,102). The claim was made on two grounds. Firstly it was said that the Council had never lawfully set a fee for 2011/12. Secondly it was said that the amount of the fee was unlawful because it contained an element reflecting the cost of enforcing the sex establishment licensing regime.

The case was heard in the High Court over two days in March, both sides being represented by Leading Counsel. The Court gave judgment on 16 May, upholding the claim on both grounds.

An application for permission to appeal on the Services Directive issue, and costs, was filed with the Court of Appeal, following refusal of permission by the High Court. The Court of Appeal granted permission to appeal and the matter was heard on 14 January 2013.

Following the hearing, the parties were invited by the Court to make further written submissions on several issues, including whether it would be appropriate for the Court to refer the case to the European Court of Justice. Both parties made further written submissions

The Court handed down judgment on 24 May. The City Council's appeal on both the Services Directive issue and on costs was dismissed. An appeal on a third point, relating to the way in which fees for past years should be calculated, was allowed. The Council was ordered to pay 90% of the claimants costs of the appeal, and the claimants were ordered to pay 10% of the Council's costs. The Council's application for permission to appeal to the Supreme Court was refused.

An application was lodged to the Supreme Court itself for permission to appeal. Submissions in support of the Council's application for permission to appeal were filed by the Architects Registration Board, the Bar Standards Board, the Solicitors Regulation Authority, the Law Society, the Farriers Registration Council, the Care Quality Commission and the General Council of the Bar. An Order was received from the Supreme Court granting permission to Appeal. Applications to intervene were submitted on behalf of the Bar Council, the Law Society, the Architects Registration Board, the Solicitors Regulation Authority, the Bar Standards Board, the Care Quality Commission and the Farriers Registration Council. A conference with Counsel was held to discuss procedural issues and how best to deal with intervenors. The LGA had been invited, and attended, the conference part way through to discuss the possible role of the LGA. It was agreed that WCC would instruct a Licensing Counsel to assist those already instructed to deal with any licensing issues and research regimes that may be impacted.

The LGA subsequently advised us that they have been advised by Counsel to apply to intervene by making written submissions.

A date for the hearing in the Supreme Court was set for 13 January 2015.

The case was heard in Supreme Court on 13 January 2015 before Lord Justices Neuberger, Clarke, Toulson, Reed and Mance. The parties are the City Council as appellant, Mr Hemming and the other sex shop proprietors as respondent, and the intervenors. Seven regulatory bodies and the Local Government Association were given permission to intervene and were represented. There was also a ninth intervener at the hearing, the Treasury.

For the purposes of the hearing, all the parties in the case were required to file written submissions setting out their case. The first significant development is that in the course of that process, the nature of the argument has shifted very significantly. Essentially the argument revolves around a provision in the Services Directive which says that, in a licensing regime which is within scope, any charges which applicants may incur from their application may not exceed the cost of the authorisation procedures and formalities. In the Court of Appeal, we argued that the term "authorisation procedures and formalities" was wide enough to include enforcement action against unlicensed operators. As an alternative argument, we said that a fee charged only to successful applicants did not come within the scope of this provision at all, because the provision is designed to limit only charges paid by applicants for the application process, and does not constrain other charges made to licence-holders. Both arguments were rejected by the Court of Appeal.

However most of the intervenors are supporting what was our alternative argument, and it appears that the respondents are now conceding a large part of it. The respondent is no longer arguing that the Directive prevents full cost recovery as a matter of principle, where domestic legislation allows charges to licence-holders otherwise than for an application (for example, annual fees under the 2003 Act). The respondents are now relying on a much narrower point, that under the sex establishment regime as it stands, fees can only be charged on an application, and so are caught. The significance of that, obviously, is that if the Supreme Court accept that approach (and they will not necessarily consider themselves bound by concessions made by the respondents when determining the meaning of the Directive), although we

would lose the case, it would no longer have the wider adverse implications which were feared.

The hearing itself took place over one day, and appeared to go well.

After the hearing, the Court wrote to all parties inviting further submissions on matters which, they considered, may not have been dealt with fully at the hearing because of shortness of time. These issues appear, largely, to revolve around whether it is open to a licensing authority to charge, at application stage, a fee which is returnable if the application is unsuccessful, or whether such a fee may only be charged later, when the application is granted or at a later stage than that. The City Council and the interveners have filed written submissions on those issues, on 26th January. The respondents filed lengthy submissions in response. The City Council was given permission to file a short Reply, which was done last Friday. The Respondents are likely to file further submissions in response to that, after which no more written submissions will be permitted.

Judgment is expected in two or three months.

7. Legal implications

7.1 There are no legal implications for the City Council arising directly from this report.

8. Staffing implications

8.1 There are no staffing implications for the City Council arising directly from this report.

9. Business plan implications

9.1 There are no business plan implications arising from this report.

10. Ward member comments

10.1. As this report covers all wards, comments were not sought.

11. Reason for decision

11.1 The report is for noting.

<p>If you have any queries about this report or wish to inspect any of the background papers please contact Peter Large on 020 7641 2711; email: plarge@westminster.gov.uk</p>

Background Papers

- None.

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