


CCReport of: Environmental Health Business Manager

To: Licensing Act 2003 Committee



Date: 20th JANUARY 2006 **Item No:** 5

Title of Report : Licensing Act 2003 – Council Position on Discharge of Duties





Summary and Recommendations




Purpose of report: To inform Committee of progress made on the discharge of duties under Licensing Act 2003. The report provides data on licence applications up till the end of 2005.

Key decision: No


Portfolio Holder: Not applicable

Scrutiny Responsibility: Not applicable




Ward(s) affected: All


Report Approved by: The Environmental Health Business Manager.
The Social and Democratic Services Business Manager: (Jeremy Franklin).
The Finance and Asset Management Business Manager: (Andy Collett).




Policy Framework: Statement of Licensing Policy (January 2005).



Recommendation(s): The Committee is asked to note the contents of



report.





Introduction

1. This report informs Committee of progress made on the discharge of duties under Licensing Act 2003. The report provides data on licence applications up till the end of 2005.

Timetable for Applications

7 February to 23 November 2005	Transitional Period - operators continue under their old Licences but apply for Licences under Licensing Act 2003.
7 February 2005	1 st appointed Day – 1 st day on which applications for licences under Licensing Act 2003 could be submitted.
7 February to 6 August 2005	'Grandfather Rights' - between these dates holders of Justices' Licences, Club Registration Certificates or Entertainment Licences could apply to have their existing permissions converted into Premises Licences.
24 November 2005	2 nd Appointed Day - Licences granted under Licensing Act 2003 become effective. Licences issued under previous licensing regime cease to have effect.

Personal Licences

2. The licensing team has processed 575 applications for Personal Licences. It was originally estimated that there would be 1500 applications although it was difficult to accurately estimate the number. In estimating it was assumed that most premises would have at least 2 Personal Licence holders on their staff but that has not proved to be the case. Qualifying clubs and non-alcohol premises do not require personal licence holders. Applicants that operate a licensed premise in Oxford but live outside the City have to apply to the licensing authority that covers their home address.
3. The processing of Personal Licence applications has not been an onerous task as most were dealt with under 'grandfather rights'. No representations concerning Personal Licence applications were received from Thames Valley Police, therefore, it has not been necessary to refer any applications to Licensing Sub-Committee for decision.

Premises Licence and Club Premises Certificate Applications

4. The following table gives a profile of applications received by type of operation. Conversions under 'grandfather rights' were allowed between 7 February and 6 August 2005 when applicants were entitled to have their existing permissions converted into a new licence. Where simultaneous conversion and variation applications were made, the 2 elements were dealt with separately. Applications made after 6th August were treated as new applications. New applications include

those premises that were not required to have a licence under the old licensing system, for example, Late Night Refreshment (LNR) (takeaways and hot food vans open after 11.00 p.m.).

5. Our original estimates were that applications would be received from 722 premises.

Premises Type	Total Of Type	Conversion	Conversion & Variation	New	Variation	Transfer
Bar/Café	25	13	8	2	2	
Bingo Hall	1		1			
Cinema	6	1	4			1
Club	66	42	17	7		
College	62	4	3	54	1	
Community Centre	18	12	1	5		
Hotel	27	24	1	2		
LNR	59			59		
Nightclub	28	5	18		4	1
Off Licence	127	117	2	6	1	1
One off event	1			1		
Other	7	2	3	2		
Pub	136	21	103	1	10	1
Residential	4	4				
Restaurant	121	81	17	22		1
School	1		1			
Sports Ground	3		3			
Sports/Leisure	7	6	1			
Theatre	7	6	1			
Vessel	12		12			
Total	718	338	196	161	18	5

Representations and Licensing Sub-Committee Hearings

6. As Members know, where no representations are received concerning applications, licences are deemed granted subject to the licensable activities and hours applied for, and the conditions volunteered in the Operating Schedule. Where Relevant Representations are received from Interested Parties (residents or businesses in the vicinity of premises) or Responsible Authorities (Police, Fire, Environmental Protection, Health and Safety, Trading Standards, Planning, Child Protection) then the application is determined at a Licensing Sub-Committee Hearing. Where a Responsible Authority having made a representation negotiates additional conditions with the applicant, then their representation can be withdrawn. If there are no outstanding representations a hearing is no longer necessary.
7. Relevant Representations were received concerning 165 applications for Premises Licences or Club Premises Certificates, resulting in 99

individual hearings (including 10 January). Representations were made as follows:

Interested Party	66
Thames Valley Police	41
Environmental Protection	101
Oxfordshire Fire and Rescue	3
Health and Safety	2
Others	0

Special Saturation Policy

8. One application for a new premise in the Special Saturation Policy area was refused following representation from Thames Valley Police. The application was for a Walkabout Bar at 71-79, George Street.

Appeals

9. Five of the Premises Licence decisions made by the Licensing Sub-Committee were appealed to Oxford Magistrates'.

Bullnose Morris – Appeal withdrawn by appellant as issues regarding door staff resolved.

Star Royal – Appeal concerning New Years Eve hours and use of beer garden allowed. No costs awarded.

Hollywells – Remitted back to Council. No costs awarded.

Oxford Blue – Remitted back to Council. No costs awarded.

Clementines – Appeal allowed for sale of alcohol Monday to Saturday - 11.00 hours to 03.00 hours the following day, Sundays - 11.00 hours to 02.00 the following day. Door Supervisors - Daily from 22.00 until 30 minutes after the end of regulated entertainment. Costs of £2,000 awarded to the appellant, met by the appeals budget.

Issuing of Licences

10. All Personal Licences have been issued to date.
11. No Premises Licences or Club Premises Certificates were issued prior to 1st November 2005, as the main priority up till then was to ensure that all applications requiring a hearing were dealt with within the statutory period. Applications not requiring hearings are deemed approved.
12. The drafting of Premises Licences and Club Premises Certificates is an extremely complex and onerous task involving formulating conditions from Embedded Restrictions, translating Operating Schedules,

including conditions negotiated by Responsible Authorities and those decided at hearings. In many cases, it is also necessary to check with another licensing authority that the Designated Premises Supervisor holds a Personal Licence. It soon became evident that the Council would not be able to issue all licences prior to the 2nd Appointed Day (24 November 2005). Most other licensing authorities were in the same position. Therefore, all applicants were informed in writing of the position with regard to their application, the issuing of their licence and how they should proceed from 24 November.

13. The issuing of licences has since been prioritised to (1) issue all new Club / Premises Licences as these will not have a previous licence to refer to (2) issue licences for conversion / variation and (3) issue licences for conversion only. To date 263 of the 695 Premises Licences and Club Premises have been issued. It is anticipated that the remainder will be issued by mid February.

Monitoring and Enforcement Activity

14. For the period from 2nd Appointed Day (24th November) till the end of 2005, two officers were on duty between 8.00 p.m. and 2.00 a.m. on Friday and Saturday nights to deal with any complaints, give advice to licensees and monitor licensed premises. Any complaints outside these hours were referred to the Environmental Health out of hours' duty officer. Officers worked in conjunction with Thames Valley Police Licensing Officers and where appropriate joint inspections were made. Government Guidance is that the need for inspections should be intelligence based rather than carried out routinely and that joint inspection should only be made where more than one Responsible Authority has concerns about a particular premises. At the start of each night the Council Officers attended the briefing session at St Aldates Police Station and met up with the Police Licensing Officers.
15. In total 51 premises were visited and the level of compliance was generally very good. However, a number of matters were dealt with as follows;

Premises	Action
Ampleforth Arms, Collinwood Road	Warning letter regarding noise leakage from the premises.
Aquavitae, Folly Bridge	Closure Notice for serving alcohol without a Premises Licence. (Application now received and premises operated under a Temporary Event Notice for New Year's Eve).
Blue Mile, Cowley Road, Littlemore	Warning regarding remaining open beyond standard licensing hours before variation application had been dealt with.
Bowlplex, Grenoble Road	Following an incident at the premises the licence holder agreed with Police to increase door staff and adopt a last entry time of 11.00 p.m. Complaint about disposal of empty bottles in rear yard at

	closing time. Licence holder agreed to dispose after 8.00 a.m.
Chicken Cottage, Cowley Road	Warning letter regarding remaining open after permitted hours.
Crown and Thistle, Old Road	Warning letter regarding noise leakage from the premises.
Elm Tree, Cowley Road	Warning letter regarding noise leakage from the premises.
Globe, Cowley Road	Warning letter regarding regulated entertainment at the premises. This licensable activity is not permitted by the Premises Licence and requires a variation.
Gloucester Arms, Friars Entry	Warning letter regarding noise leakage from the premises.
K2 Kebab, Cowley Road	Warning letter regarding remaining open after permitted hours.
Kebab Kid 2, Cowley Road	Warning letter regarding remaining open after permitted hours.
King Kebabish, Cowley Road	Warning letter regarding remaining open after permitted hours.
McCoys, Bonn Square	Warning letter regarding remaining open after permitted hours.
O'Neills, George Street	Warning letter further to communication from Fire & Rescue Service.
Persian Gulf, Marston Road	Warning letter regarding remaining open after permitted hours.
White Horse, London Road	Warning letter regarding condition relating to hours for disposal of bottles.

Temporary Event Notices

16. Temporary Event Notices are for temporary events involving licensable activities. Only the police can object to a Temporary Event Notice, on the grounds of crime and disorder. A Temporary Event Notice costs £21.00.
17. 121 Temporary Event Notices were received between 24 November and 31 December 2005. These were for a variety of events ranging from performances in schools and colleges to the sale of alcohol and regulated entertainment as an extension to the hours and activities permitted by a Premises Licence.

Licensing Income and Expenditure

18. Council agreed a resource bid for fulfilling its statutory obligations under the Licensing Act on 16th December 2004. Council approved a project in the estimated sum of £52,818 (2004/5 – 2005/6) (comprising projected income of £192,000 and costs of £244,818; and that £24,700 be transferred from balances to Members' Allowances Budget. In addition, that £190,000 be taken from General Fund balances (£115,000 be put into a contingency to meet the potential cost of

licensing appeals and £75,000 to cover lost Public Entertainment Licences income).

19. Income for the remainder of this financial year will be made up of Temporary Event Notices, Personal Licences for people coming into the trade, and administration charges for changes of address, Designated Premises Supervisor, transfers etc. There should only be a few applications to vary licences.
20. The financial position at 31st December 2005 and predicted outturn at 30th March 2006 is as follows:

Income

	Actual 2004/05 to Dec 05	Estimated Jan – Mar 06	Probable Outturn
Premises applications	£218,544	£5,500	£224,044
Personal applications	£21,275	£1,000	£22,275
Temporary Event Notices	£2,562	£1,000	£3,562
Total	£242,381	£7,500	£249,881

Expenditure

	Actual 2004/05 to Dec 05	Estimated Jan – Mar 06	Probable Outturn
Staffing costs	£112,504	£49,033	£161,537
Supplies and Services (incl hardware/software purchases)	£78,320	£5,000	£83,320
Members' Allowances Budget (from balances)	£24,700		£24,700
Appeal costs	£2,000	£5,000	£7,000
Total	217,524	£59,033	£276,557

21. This would result in a net cost of £26,676 (£276,557 - £249,881), approximately half the £52,818 agreed by Council. The appeal costs have been far less than anticipated due to the small number of appeals against licensing decision and that, to date, only one has resulted in costs being awarded against the Council. It is therefore unlikely that the contingency drawn from General Fund balances will be significantly called upon.

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Background papers: None

