

To: Licensing and Gambling Acts Committee

Date: 15th June 2009 **Item No:** 4

Report of: Head of Environmental Development

Title of Report: Update on Licensing Authority Activity November 2008 – April 2009

Summary and Recommendations

Purpose of report: To inform Committee of the progress made by the Licensing Authority under the Licensing Act 2003 and Gambling Act 2005 between November 2008 – April 2009 in accordance with Policy GN10 of the Statement of Licensing Policy.

Report Approved by:

Finance: Anna Winship
Legal: Daniel Smith

Policy Framework: Statement of Licensing Policy

Recommendation(s):

The Committee is asked to note the contents of the report.

1. This report informs Committee of progress made by the Licensing Authority ("the Authority) under the duties of the Licensing Act 2003 and Gambling Act 2005 between November 2008 – April 2009. Under Policy GN10 of the Statement of Licensing Policy, the Licensing Authority should report to the Committee on matters determined by Licensing Officers with delegated authority.
2. The report covers data on service volumes; details of Licensing hearing decisions; decisions made by Officers with delegated powers; information on Temporary Event Notices ("TENs") and enforcement activity.

3. The table below provides data on licence applications received during the period November 2008 – April 2009.

Applications Received	Nov 08	Dec 08	Jan 09	Feb 09	Mar 09	Apr 09	Total
Gambling	3	7	4	4	1	1	20
Club/ Premises	1	1	1	5	0	2	10
Variations	6	1	0	0	5	2	14
Personal Licences	3	9	1	7	15	14	49
Administrative Changes	24	9	20	15	21	18	107
TEN's	58	25	16	43	31	53	226

4. To date the Licensing Authority have processed; 1052 Personal Licences; 794 New Premises Licences; 177 Variations on Premises Licences; 124 Premises Transfer Applications and 87 New and Variations of Club Certificates.

New Member List of Licensing Applications

5. The Licensing Authority distributes (by email) a new list of Premises and Club License applications to the Members every 2 weeks. The new format provides details at which stage each application is during the consultation period, the hearing date if applicable and the decision once it has been made. This live document is also available on the Council website.

Applications Granted by the Licensing Authority

6. A hearing is not required where an application has been lawfully made and no Responsible Authority or Interested Party has made a representation. There were 23 licences issued by the Licensing Officers under delegated authority, details are listed in Appendix 1.

Temporary Event Notices

7. Temporary Event Notice (TEN) is a notification given by an individual to Oxford City Council giving notice of an event that is to take place. Temporary Event Notices relate to temporary events with less than 500 attendees where 'licensable activities' are planned to take place.

Temporary Event Notices may be used to provide authorisation for the following activities: -

- The sale of alcohol by retail.
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club.
- The provision of regulated entertainment.
- The provision of late night refreshment (i.e. The provision of hot food or drink for consumption on or off premises between 11pm & 5am.).
- Criteria
- The Act sets down a number of limitations in relation to the service of Temporary Event Notices; these include the following:-
- The person giving the Temporary Event Notice, the 'premises user' must be over 18 years old.
- Personal licence holders may give up to 50 notices per year.
- Non personal licence holders may only give up to five notices per year.
- Each event may last no more than 96 hours.
- No premises may be used more than twelve times per calendar year.
- No premises may be used for more than 15 days per calendar year in total.

Attached in Appendix 2 is a list of TENs applied for between Nov 08 – Apr 09.

Representations and Licensing Sub-Committee Hearings

8. When Relevant Representations are received from Interested Parties or Responsible Authorities then the application is determined at a Licensing Sub-Committee Hearing.
9. Relevant Representations were received for 13 applications for Premises Licenses and Club Certifications, resulting in hearings. Representations were made as follows:

Interested Parties	35
Thames Valley Police	9
Environmental Protection	4
Residents Associations	2

The details of these applications and decisions of the hearings are attached in Appendix 3.

Reviews of Licensed Premises

10. Under the 2003 Act it is possible for the Authority to review a Premises Licence at any time if a representation is received from a Responsible Authority or an Interested Party. The Authority has no powers to initiate its own review. Reviews may only arise in connection with a failure or failures in the premises connected to the licensing objectives.

11. Between November 2008 and April 2009 there were 2 applications for Premises Licence Reviews that were determined by the Licensing Committee Kukui and Sid's Kitchen. The details of these reviews can be found in Appendix 4.

Appeals under the Licensing Act 2003

12. An appeal may be made against the decision by-
 - (a) the applicant for the review,
 - (b) the holder of the premises licence, or
 - (c) any other person who made relevant representations in relation to the application.

An appeal must be made to the magistrates' court for the in which the premises concerned are situated.

An appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The Licensing Authority received an application for appeal from **Kukui** (Park End Street) of which a pre-trial review was held at the Magistrates Court on May 8th 2009.

Kukui were appealing about the decision made by The Licensing and Gambling Acts Committee as a result of their review hearing on the 26th of February. The review was initiated by Thames Valley Police on the basis of crime and disorder at the premises. The Councils legal team are awaiting an appeal date to be set by the Magistrates Court.

Enforcement Activity

13. Between November 2008 and April 2009, the two Licensing Officers have made:
 - 17 Inspections on Premises
 - Issued 57 warning letters to premises (predominantly for licences not displayed on the premises and noise complaints)
14. Four test-purchasing operations have been carried out jointly with Thames Valley Police. Details of these operations can be found in Appendix 5.
15. The overall fail rate for these Operations was 42%. Two teenagers were used in each operation and attempted to purchase alcohol from

the premises. The persons who sold the alcohol to the teenagers were instantly issued a fixed penalty notice for £80. Thames Valley Police formally cautioned the two Designated Premises Supervisors (DPS's) who personally made the underage sales to the teenagers. Westgate Stores failed another test purchase operation on the 11/03/09 (which is their 3rd failure), therefore Thames Valley Police have initiated a review and are seeking revocation of their Premises Licence.

16. If any Committee members would like to participate and observe test-purchasing operations, Thames Valley Police are able to facilitate this with advance notice.

Nightsafe

17. The Licensing Authority fully supports and participates in Nightsafe activities. This includes intelligence sharing and 2 monthly joint inspections with the Police, Fire Authority and Trading Standards. Approximately 6 premises are visited during an operation alternating between Oxford City Centre and East Oxford.

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Background papers: Appendices 1- 5