

**To:** Licensing and Gambling Acts Committee

**Date:** 17 October 2012 **Item No:**

**Report of:** Head of Environmental Development

**Title of Report:** Update on Licensing Authority Activity  
April 2012 – August 2012

### **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 April 2012 and August 2012.

**Report Approved by:**

**Finance:** Paul Swaffield

**Legal:** Daniel Smith

**Policy Framework:** Statement of Licensing Policy

**Recommendation(s):**

**The Committee is recommended to**

**(i) note the contents of the report; and**

**(ii) make any comments and recommendations regarding the future work of the Licensing Function.**

### **Introduction**

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 April 2012 and August 2012. Under Policy GN10 of the Statement of Licensing Policy, the Licensing Authority should report to the Committee on matters determined by the Head of Environmental Development with delegated authority.
2. The report covers data on service volumes; details of Licensing hearing decisions; decisions made under delegated powers; information on Temporary Event Notices (“TENs”) and enforcement activity.
3. There are no financial requirements for consideration contained within this report.

## Applications Received by the Licensing Authority

4. The table below provides data on licence applications received and processed during the period April 2012 and August 2012, and the totals for this period; and the totals for the year end.

Applications Received	TOTAL
Gambling	4
New (Premises / Clubs)	10
Variations (Premises / Clubs)	10
Personal Licences	24
Administrative Changes	67
TEN's	309

5. To date (since November 2005 when the Licensing Act 2003 came in to effect) the Licensing Authority has processed; 1,374 Personal Licences; 896 New Premises Licences and Club Premises Certificates; 298 Variations on Premises Licences and Club Premises Certificates; 901 Premises Transfer / Amendment to Premises Licence Applications.

## 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. 14 licences in this category were issued by the Head of Environmental Development under delegated authority, details of which are listed in **Appendix One**.

## Temporary Event Notices

7. A 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. Only the Police can object to a TEN. If, as in most cases, there is no objection and the application does not exceed the maximum number of events in a year, the TEN is simply acknowledged and returned to the applicant. Should the Police object then the TEN will go to a hearing.
8. Temporary Event Notices relate to temporary events with less than 500 attendees where 'licensable activities' are planned to take place. Attached at **Appendix Two** is a list of the 306 TENs authorised by the Licensing Authority between April 2012 and August 2012.
9. Members will note that 309 TENs were applied for, but only 306 were accepted. This is because 3 applications were refused due to late submission of the Notification to the Licensing Authority.

## **Representations and Licensing Sub-Committee Hearings**

10. When Relevant Representations are received from Interested Parties or Responsible Authorities then the application is determined at a Licensing Sub-Committee Hearing.
11. A total of 58 Relevant Representations were received for 6 Premises Licence applications processed between April 2012 and August 2012. This resulted in all of the applications being determined by hearings (details of which are attached as **Appendix Three**).

12. Representations were made as follows:

Bodrum @No. 10, Park End Street: Thames Valley Police

Cowley Retreat, Cowley Road: Thames Valley Police  
3 Interested Parties

Bar Aroma, Cowley Road: Thames Valley Police,  
1 Interested Party

North Oxford Sports Club, Banbury Road: 20 Interested Parties

1 Woodin's Way: 9 Interested Parties

Milano Bar, Cowley Road: Thames Valley Police,  
20 Interested Parties

13. Further representations were made in relation to 2 other applications:

### **Temporary Event Notice:**

Saudia's Taste of Jamaica, Cowley Road: Environmental Protection

### **Personal Licence:**

Roderick Giles Spender: Thames Valley Police

## **Reviews of Licensed Premises**

14. 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.
15. Between April 2012 and August 2012 no applications for a Premises Licence Review were received.

## **Appeals under the Licensing Act 2003**

16. The Licensing Authority was not subject to any appeal during the period reported on.

## **Enforcement Activity**

### **Normal Working Hours**

18. Between April 2012 and August 2012, the Licensing Team has carried out:

- 140 Routine Compliance Check inspections of licensed premises.

Of these 140 compliance checks, 106 premises were found to be fully compliant with the conditions of their premises licences and the regulations of the Licensing Act 2003, however the following issues were found regarding those that were non-compliant:

- 31 premises failed to have the Premises Licence or Summary on the premises.
- 1 premises was found to be failing to display the necessary signage as per the condition of the licence in relation to limiting the disturbance created by noise near residential boundaries.
- 1 premises was found to not be in possession of a dispersal policy as directed by the conditions of the licence.
- 1 premises was found to be trading beyond 11.00 p.m. during night time enforcement and revisited the following day to be advised of the need to obtain either a Premises Licence or Temporary Event Notice.

All of these premises rectified the matters brought to their attention by completing the necessary administrative changes or taking the appropriate actions required to comply with the regulations.

### **Non-Standard Hours**

19. Between April 2012 and August 2012, the Licensing Team has instigated:

- 4 Multi-Agency Operations (targeted at premises within specific locations that may be of high-risk, have appeared on the Active Casework list, or where conditions have been approved to be on the Premises Licence as agreed by a Responsible Authority): 24 premises inspected, 8 premises found to be non-compliant with the requirement of the Licensing Act 2003. Issues found at the premises that were non-compliant related to failures to have the Premises Licence or Summary at the premises, or minor breaches of licence conditions.
- 5 Alcohol Test Purchase Operations: 50 premises visited, 2 failed to not sell alcohol to a minor. Advice has been provided to both premises that failed the Test Purchase Operation in order to prevent underage sales and what the possible consequences may be should they fail a further Test Purchase Operation.

- 5 Enforcement Operations (targeting high-risk premises (i.e. nightclubs, large capacity bars, etc)). 69 premises inspected, 4 premises found to be non-compliant with the requirement of the Licensing Act 2003. All of the Issues found at the premises that were non-compliant related to failures to prevent noise outbreaks, and were rectified during the inspection.
- 3 Targeted Operations (specifically carried out at premises which have caused concern to NightSafe partners): 21 premises visited, 1 premises was found to be potentially selling alcohol to underage persons, and the matter was referred to the Test Purchase Operations.

In summary, a total of 164 premises (from an overall number of 775 licensed premises throughout the City) were visited during the above Operations. 15 premises were found to be non-compliant with the requirements of the Licensing Act 2003.

20. Further to the pro-active compliance checks, and the late night enforcement inspections, Warnings were issued to each of the premises found to be non-compliant, in order to record the actions of the Authority and to place on record that enforcement actions had been undertaken
21. In total 49 Warnings were issued. All of the premises issued with Warnings have complied with the requirements of the Licensing Act 2003. Should further failures to comply with the necessary requirements occur, further enforcement action may be taken by both the Licensing Authority and Responsible Authorities that may include applying for a Review of the licence and / or prosecution of the licence holder.

### **Service Requests**

22. In addition to the pro-active enforcement, service requests were received by the Licensing Authority from members of the public, or referred to the Authority by the Responsible Authorities. These related to complaints about noise disturbances or failures to uphold the licensing objective of the prevention of crime and disorder. The reactive work resulted in 21 Warnings being issued.

### **Prosecutions**

23. PACE (Police and Criminal Evidence Act) interviews are conducted when investigating failures by the Premises Licence holder or Designated Premises Supervisor to adequately uphold conditions of the Premises Licence. They are also held when any offence is witnessed by a Licensing Officer that warrants such an intervention.
24. The Licensing Authority had no reason to initiate any PACE interviews between April 2012 and August 2012.

## Future Work & Notable Achievements

25. On 4<sup>th</sup> July 2012, Oxford hosted the “BIIAB Award for Licensing Practitioners”, provided by the Institute of Licensing. All of the staff employed in the General Licensing Team successfully passed the exam and are now qualified Licensing Practitioners.
26. On 18<sup>th</sup> July 2012, Jim Hunter from the Institute of Licensing provided the Authority with this years Bespoke Member Training, and has been rebooked to provide similar training in May 2013 at Oxford Town Hall.
27. Members will be aware that previously the Licensing Authority responded to the Home Office consultation entitled ‘Dealing with the Problems of Late Night Drinking’. The Home Office has issued a response following receipt of views expressed by those who took part in the consultation detailing the types of premises that may be exempt (either as a mandatory or discretionary exemption) from the Late Night Levy and Early Morning Restriction Orders, and this is attached at **Appendix Four**.
28. Guidance is soon to be issued by the Secretary of State in relation to the Late Night Levy and Early Morning Restriction Orders, and a report will be put to this Committee at it’s meeting on 19<sup>th</sup> February 2013 to seek Members views on both of these measures and how they wish Officers to proceed in such matters.
29. In advance of this report, an income profiling exercise has been completed regarding the potential revenue that could be generated from the Late Night Levy if it were to be implemented in Oxford, and this is attached at **Appendix Five**. The expenditure costs likely to be incurred by the Authority in administering the Levy are being calculated.
30. On 8<sup>th</sup> February 2010 a report was presented to this Committee detailing the Government’s proposal to exempt small live music events from the requirements of the Licensing Act 2003, and the Council responded in favour of the consultation proposals.
31. Resulting from this consultation, The Live Music Act passed into law on 8th March 2012. It is due to take effect from 1 October 2012. The Act disapplies live music related conditions if the following criteria are satisfied:
  - There is a premises licence or club premises certificate in place permitting “on sales”;
  - The premises are open for the sale or supply of alcohol for consumption on the premises;
  - Live music is taking place between 8am and 11pm;
  - If the live music is amplified, the audience consists of no more than 200 people.

32. Live amplified music also ceases to be classed as regulated entertainment if the above criteria are satisfied.
33. The Act also creates a general exemption that live unamplified music provided anywhere shall not be regarded as the provision of regulated entertainment if it takes place between 8am and 11pm, regardless of the number of people in the audience.
34. There are a number of mechanisms for the protection of residents and these are:
  - Upon a review of the premises licence the Licensing Authority can determine that conditions on the premises licence relating to live music will apply even between 8am and 11pm;
  - If the licence doesn't presently authorise live music the Licensing Authority can add conditions to the Premises Licence as though the live music were regulated entertainment authorised by that licence, again to apply between 8am and 11pm.
  - The Licensing Authority can determine that live music at the premises is a licensable activity and live music can no longer be provided without permission on the Premises Licence or a Temporary Event Notice.
  - Other noise legislation, for example in the Environmental Protection Act 1990, will continue to apply. The Live Music Act does not allow licensed premises to cause a noise nuisance.
35. The Act removes the need to licence entertainment facilities completely – regardless of time or audience size. This means that dance floors, microphone stands, pianos made available for use by the public etc. will not be licensable once the Act comes into effect. Health & Safety laws will of course continue to apply.
36. A Briefing Note regarding the Live Music Act 2012 is attached at Appendix Six for reference.

### **Legal Implications**

37. There are no legal implications contained within this report.

### **Financial Implications**

38. There are no financial implications contained within this report.

### **Recommendations**

39. The Committee is recommended to:
  - (i) note the contents of the report; and
  - (ii) make any comments and recommendations regarding the future

work of the Licensing function.

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**Background papers:**

**Appendix One: Application granted under delegated authority**

**Appendix Two: Temporary Event Notifications**

**Appendix Three: Decisions of Sub-Committee Hearings**

**Appendix Four: Home Office response to consultation on Late Night Levy & Early Morning Restriction Orders**

**Appendix Five: Income profile of Late Night Levy in Oxford**

**Appendix Six: Briefing Note: Live Music Act 2012**

**Version: 1.0**