

To: Licensing and Gambling Acts Committee

Date: 22 February 2012 **Item No:**

Report of: Head of Environmental Development

Title of Report: Update on Licensing Authority Activity
September 2011 – December 2011

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 September 2011 and December 2011.

Report Approved by:

Finance: Emma Burson

Legal: Daniel Smith

Policy Framework: Statement of Licensing Policy

Recommendation(s):

The Committee recommended to

(i) note the contents of the report, and

(ii) make 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 September 2011 and December 2011. 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 September 2011 and December 2011, and the totals for this period; and the totals for the year end.

Applications Received	SEPT	OCT	NOV	DEC	TOTAL
Gambling	1	1	1	-	3
New (Premises / Clubs)	3	6	14	3	26
Variations (Premises / Clubs)	5	4	2	-	11
Personal Licences	8	4	11	9	32
Administrative Changes	29	34	19	16	98
TEN's	71	55	45	32	203

5. To date (since November 2005 when the Licensing Act 2003 came in to effect) the Licensing Authority has processed; 1,326 Personal Licences; 883 New Premises Licences and Club Premises Certificates; 280 Variations on Premises Licences and Club Premises Certificates; 787 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. 23 licences in this category were issued by the Head of Environmental Development under delegated authority, details of which are listed in **Appendix 1**.

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 2** is a list of the 203 TENs applied for between September 2011 and December 2011.

Representations and Licensing Sub-Committee Hearings

9. When Relevant Representations are received from Interested Parties or Responsible Authorities then the application is determined at a Licensing Sub-Committee Hearing.
10. A total of 71 Relevant Representations were received for 8 Premises Licence applications and 2 Personal Licence applications processed during September 2011 and December 2011. This resulted in all of the applications being determined by hearings (details of which are attached as **Appendix 3**).
11. Representations were made as follows:

The Lodge: 2 x Interested Party, Thames Valley Police
Kebab Kid: 2 x Interested Party, Thames Valley Police
Camera: Thames Valley Police
Viking Sports Club: 8 x Interested Parties
Six Bells: 13 x Interested Parties
Oxford Brookes University, Jack Straw's Lane: 21 x Interested Parties
Bodrum @ No 10 – 9 x Interested Parties, Thames valley Police
Oxford Brookes University, Gypsy Lane: 10 x Interested Parties
Balamur Kamalenthiran (New Personal Licence) – Thames Valley Police
Omar Faruqe Hussain (New Personal Licence) – Thames Valley Police

Reviews of Licensed Premises

12. 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.
13. Between September 2011 and December 2011 no applications for a Premises Licence Review were received.

Appeals under the Licensing Act 2003

14. The Licensing Authority received notification from the Magistrates' Court of 2 appeals lodged by an applicant.
15. The first appeal was lodged by the residents of Jack Straw Lane seeking a reversal of the Licensing Sub-Committee's original decision made on 10th November 2011 to grant a new premises licence to Oxford Brookes University Faculty of Health and Life Sciences as applied for and amended at the hearing.
16. The second appeal was lodged by the residents of Gypsy Lane seeking a reversal of the Sub-Committee's decision to grant a new premises licence to Oxford Brookes University Gypsy Lane Campus as applied for and amended at the hearing. (Further details of both these applications can be found contained within **Appendix 3**).

17. At the time of writing this report, no dates have yet been set to hear the appeals.

Enforcement Activity

18. Between September 2011 and December 2011, the Licensing Team has instigated:

- 35 Compliance Check inspections of licensed premises.

Of these 35 compliance checks, 27 premises were found to be fully compliant with the conditions of their premises licences, however the following issues were found regarding those that were non-compliant:

- 6 premises failed to have the Premises Licence or Summary on the premises.
- 2 premises (that were situated adjacent to each other and owned by the same licensee) had removed a dividing wall effectively increasing the capacity and becoming a single venue.

All of these premises rectified the matters brought to their attention.

19. Between September 2011 and December 2011, the Licensing Team has instigated:

- 8 night time enforcement operations targeting either high-risk premises or specific late night venues.

A total of 66 premises (from an overall number of 775 licensed premises throughout the City) were visited. 55 premises were found to be fully compliant with the Licensing Act 2003, however the following issues were found regarding those that were non-compliant:

- 3 premises were found failing to adequately check the age of persons attempting to purchase alcohol.
- 3 premises were found failing to retain the noise caused by amplified regulated entertainment.
- 2 premises were found failing in the way in which patrons dispersed away from the premises.
- 1 premises was found to be putting on an irresponsible drinks promotion.
- 1 premises was found to be open and carrying out licensable activities beyond permitted hours.
- 1 premises was found to be failing to uphold the licensing objective of promoting public safety.

- 1 premises was found to be trading without having been granted a premises licence.
20. Further to the pro-active compliance checks, and the late night enforcement inspections, the following actions were taken:
- 13 Advisory Warnings were issued
 - 1 Verbal Warnings were issued
 - 3 Written Warnings were issued
 - 1 Final Warning was issued
 - 1 PACE interview conducted

All of the premises issued with Warnings were subsequently revisited and found to be compliant.

21. Further to the above pro-active enforcement, complaints were received by the Licensing Authority from members of the public, or referred to the Authority by the Responsible Authorities relating to noise disturbances or failures to uphold the licensing objective of the prevention of crime and disorder. The reactive work resulted in the following actions being taken:
- 8 Advisory Warnings were issued
 - 4 Verbal Warnings were issued
22. PACE (Police and Criminal Evidence Act) interviews are conducted following continued failures by the Premises Licence holder to adequately uphold certain conditions of the Premises Licence following meetings with the Licensing Authority and / or Responsible Authorities.
23. The Licensing Authority initiated 1 PACE interview between September 2011 and December 2011.
24. The failure related to the sale of alcohol beyond permitted hours. This was the first instance of such a breach of licence conditions since a Written Warning was issued in 2010 relating to a failure to employ Security Staff in accordance with the Premises Licence. At the time of writing this report, the Licensing Officers are consulting with Law & Governance as to whether to seek a prosecution .

Nightsafe

25. The NightSafe initiative contributes to the licensing objectives. This includes intelligence sharing with the Police, Fire Authority and Trading Standards.

Future Work & Notable Achievements

26. Following the restructuring of the Thames Valley Police Licensing Units, the Licensing Team has explored alternative ways in which to maintain and improve Partnership working. Oxford has been divided in to 3 areas, each covered by a Thames Valley Police Inspector.
27. The Licensing Team Leader has allocated a Licensing Officer to each of these 3 areas, in order to assist both agencies in promoting these closer

ties. In turn issues relating to licence holders and licensed premises have been resolved quickly, and in a consistent manner. Feedback from the licensed trade regarding the current methods of partnership working has been extremely positive.

28. The monthly NightSafe Operational meetings have been restructured to meet the needs of the varying agencies in attendance. There is now an acknowledgement that the needs of the Licensing Authority are based upon solely licensing matters, and that there is a need to differentiate between Police operational needs and those which fall under the Licensing Act 2003.
29. Licensing Officers have been and will be active in assisting Thames Valley Police Sergeants drive forward the various PubWatch schemes in the 3 areas of the City. Such schemes will lead to an increased level of understanding between the Authorities and the licence holders.
30. The Licensing Team Leader, following discussion with the Thames Valley Police Chief Inspector, will look to partly fund Test Purchase Operations throughout Oxford. A Licensing Officer shall attend the Operations, to ensure that the Licensing Authority is represented. Such operations will be carried out on a monthly basis.
31. The Licensing Team has initiated Multi-Agency Night-time Inspections of high-risk licensed premises. Such premises are determined by the Licensing Team Leader, Environmental Protection Team Leader and the NightSafe Manager on behalf of Thames Valley Police. Officers from these agencies attend such inspections, and currently these operations take place on 2 occasions per month.
33. The Licensing Officers are continuing with their other night time enforcement operations, which are linked to risk based premises split over the 3 areas, and targeted inspections of premises that are discussed at the monthly NightSafe operational meetings.
34. The Officers have been provided with uniforms when carrying out non-covert operations, in order to highlight the proactive nature of the Authority.
35. The Licensing Officer from the Miscellaneous Licensing Team (that covers Street Trading and Street Cafes) also attends certain operations in order that compliance checks may be carried out on such related matters.
36. Further to the Licensing Officers own enforcement operations, the Licensing Team Leader and the 3 Thames Valley Police Inspectors have put measures in place in order that the Licensing Officers and the Police Sergeants are able to communicate with each other during operations (sharing of mobile telephone numbers and direct contact through the CCTV Suite).
37. This new way of working with the Police has assisted both parties in providing expertise and back-up in terms of personnel when carrying out

certain high-risk based inspections, and has increased both agencies understanding of each others roles and objectives in upholding the licensing objectives.

38. In March 2012, Oxford will host the “BIIAB Award for Licensing Practitioners”, provided by the Institute of Licensing. The course is open not only to the staff of the Licensing Team and members of the Licensing & Gambling Acts Committee, but also to staff and members of Licensing Authorities nationally.

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Background papers:

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