

**To:** Licensing and Gambling Acts Committee

**Date:** 28 May 2012 **Item No:**

**Report of:** Head of Environmental Development

**Title of Report:** Update on Licensing Authority Activity  
January 2012 – March 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 January 2012 and March 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 January 2012 and March 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 January 2012 and March 2012, and the totals for this period; and the totals for the year end.

Applications Received	JAN	FEB	MAR	TOTAL
Gambling	0	1	0	1
New (Premises / Clubs)	2	0	1	3
Variations (Premises / Clubs)	3	1	4	8
Personal Licences	9	7	8	24
Administrative Changes	17	17	13	47
TEN's	38	49	42	132

5. To date (since November 2005 when the Licensing Act 2003 came in to effect) the Licensing Authority has processed; 1,350 Personal Licences; 886 New Premises Licences and Club Premises Certificates; 288 Variations on Premises Licences and Club Premises Certificates; 834 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 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 132 TENs applied for between January 2012 and March 2012.
9. Members will note that 132 TENs were applied for, but only 129 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 4 Relevant Representations were received for 3 Premises Licence applications processed between January 2012 and March 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:  
  
Sainsburys, Banbury Road: 2 x Interested Party  
Thirst, Park End Street: 1 x Interested Party, Thames Valley Police  
Oxford Kebab House, Manzil Way: 1 x Interested Party

## **Reviews of Licensed Premises**

13. 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.
14. Between January 2012 and March 2012 one application for a Premises Licence Review was received, details of which can be found at **Appendix Three**.

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

15. The Licensing Authority received late notification from the Magistrates' Court of 1 appeal lodged by an Interested Party.
16. The appeal was lodged by a resident of Jack Straw Lane against the Licensing Sub-Committee's decision made on 10<sup>th</sup> 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. Whilst the appeal was lodged with the Court on 29<sup>th</sup> November 2011, within the statutory time limit, neither the Court nor the Appellant notified the Council until 27<sup>th</sup> March 2012.
17. At the time of writing this report, a date of 21<sup>st</sup> May has been set for an initial hearing. In the meantime the Head of Law and Governance has been in correspondence with the Appellant, Oxford Brookes and the Court with a view to resolving the appeal.

## **Enforcement Activity**

### **Normal Working Hours**

18. Between January 2012 and March 2012, the Licensing Team has carried out:

- 41 Routine Compliance Check inspections of licensed premises.

Of these 41 compliance checks, 23 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:

- 16 premises failed to have the Premises Licence or Summary on the premises.
- 2 premises were found to not be employing the person previously specified as the Designated Premises Supervisor.

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

### **Non-Standard Hours**

19. Between January 2012 and March 2012, the Licensing Team has instigated:

- 3 Multi-Agency Operations
- 3 Enforcement Operations targeting high-risk premises (i.e. nightclubs, large capacity bars, etc)
- 3 Targeted Operations at premises which have caused concern to NightSafe partners.
- 1 Alcohol Test Purchase Operation

A total of 112 premises (from an overall number of 775 licensed premises throughout the City) were visited. 88 premises were found to be fully compliant with the Licensing Act 2003, however the following issues were found regarding those that were non-compliant:

- 6 premises were found to not have a Premises Licence or Summary available on inspection when visited by the Licensing Officers. All 6 premises have rectified this matter.
- 5 premises were found to be holding regulated entertainment at excessive volumes when inspected by the Licensing Officers and Environmental Health Officers during Multi-Agency Operations.
- 3 premises gave rise to concern with regard to crowd control and dispersal when inspected by the Licensing Officers, and advised accordingly.
- 3 premises were found by the Licensing Officers to be failing to uphold the licensing objective of promoting public safety (poor lighting on stairwell, spilt liquids on wooden stairwell, and a blocked fire escape), and advised accordingly.

- 1 premises was found to be carrying on a licensable activity (sale of alcohol) beyond the hours permitted by the Premises Licence and without having obtained a Temporary Event Notice, which led to a PACE interview being arranged with the Premises Licence holder.
  - 1 premises was found by the Licensing Officer to be under new management and the new owner had neither sought a transfer of the existing premises licence nor sought to change the person specified as the Designated Premises Supervisor. This has since been rectified.
  - 1 premises was found by the Licensing Officer on route to another premises to be open and carrying on a licensable activity (late night refreshment after 11.00 pm) without having obtained a Premises Licence or Temporary Event Notice. Advice was provided to the business owner who has since obtained a Premises Licence for a late night refreshment venue.
  - 1 premises was found by the Licensing Officer to be permitting its customers to be causing excessive noise outside the rear of the premises, and advised accordingly.
  - 1 premises was found to be not adhering to requirements of a “voluntary management plan” to assist with issues that had previously come to light. Such a “management plan” is used to provide a “step-by-step” method for Premises Licence holders to run their businesses with a greater awareness of the licensing objectives. This premises has improved gradually, but is still in regular meetings with both the Licensing Authority and Thames Valley Police.
  - 1 premises was found to be in breach of the mandatory condition requiring alcoholic drinks to be available in small measures when inspected by the Licensing Officer, and advised accordingly.
  - 3 premises visited caused Officers concerns in relation to potential underage drinkers, sales of prohibited substances and sales of alcohol to persons who may already be intoxicated. These concerns were passed on to the relevant Responsible Authorities to carry out further investigations.
20. Further to the pro-active compliance checks, and the late night enforcement inspections, the following actions were taken:
- 10 Advisory Warnings were issued
  - 3 Verbal Warning was issued
  - 11 Written Warnings were issued
  - 1 Final Warning was issued
  - 1 PACE interview was conducted.

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

21. 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 the following actions being taken:
  - 12 Advisory Warnings were issued
  - 7 Written Warnings were issued
22. 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.
23. The Licensing Authority initiated 1 PACE interview between January 2012 and March 2012. The failure related to the sale of alcohol beyond permitted hours. This was the second instance of such a breach of licence condition in a short timeframe. Having consulted with Law & Governance in relation to seeking to prosecute the Premises Licence holder, it was deemed appropriate to issue a Formal Warning based on there not being sufficient evidence to either seek issuing a Formal Caution or to prosecute.

#### **Future Work & Notable Achievements**

24. Members will be aware through the weekly updates sent to them by the Licensing Team Leader, that amendments occurred on 25<sup>th</sup> April 2012 to the Licensing Act 2003 as a result of the Police Reform & Social Responsibility Act 2011.
25. It is proposed to brief the Committee Members with further details of these amendments at the Bespoke Member Training later this year, however details of the amendments can be found on the Council website and have been previously reported to this Committee.
26. One significant change worth detailing in this report is that the Licensing Authority itself has become a Responsible Authority. It is proposed that following the success of the enforcement procedures implemented in the Taxi Licensing function (i.e. a tiered system of warning levels), that a similar approach be adopted for the Licensing Act 2003.
27. The Licensing Authority is considering the option of providing some funding to Oxford City Community Safety Partnership to assist with the Street Pastor scheme (in order to cover the cost of flip-flops and bottles of water). Members may wish to consider if they feel this is an appropriate cause.
28. The Licensing Team has produced a Service Level Agreement with Thames Valley Police for Test Purchase Operations. The Authority will fund the Operations, and have an equal input with intelligence and premises to be tested.

29. On 4<sup>th</sup> July 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.
30. On 18<sup>th</sup> July 2012, Jim Hunter from the Institute of Licensing will provide the Authority with this years Bespoke Member Training. The day will be split in order to facilitate the needs of both this Committee and those of the General Purposes Licensing Committee.

### **Legal Implications**

31. There are no legal implication contained within this report.

### **Financial Implications**

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

### **Recommendations**

33. 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.

**Name and contact details of author: Julian Alison**  
**Licensing Team Leader**  
**(01865) 252381**  
**jalison@oxford.gov.uk**

**Background papers:**

**Version: 1.0**

This page is intentionally left blank