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| To: | Licensing and Gambling Acts Committee |
| Date: | 16 May 2017 |
| Report of: | Head of Community Services |
| Title of Report: | Update on Licensing Authority Activity: Council Year 2016 – 2017 |

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| 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 during the full Council Year. |
| Corporate Priority | | None |
| Policy Framework | | Statement of Licensing Policy |
| Recommendations: That the Licensing and Gambling Acts Committee resolves to: | | |
| 1. | **Note** the contents of the report; and; | |
| 2. | **Make** any comments and recommendations regarding the future work of the Licensing Function | |
| Appendices - None | | |

# Introduction and background

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 during the previous Council year (April 2016 – March 2017). Under Policy GN10 of the Statement of Licensing Policy, the Licensing Authority should report to the Committee on matters determined by the Head of Community Services with delegated authority.

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.

There are no financial requirements for consideration contained within this report.

# Applications Received by the Licensing Authority

The table below provides data on licence applications received and processed during the full Council year.

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| **Applications Received** | **April 2016 – March 2017** |
| **Gambling** | **3** |
| **New (Premises / Clubs)** | **55** |
| **Variations (incl. Minor Variations) (Premises / Clubs)** | **52** |
| **Personal Licences** | **135** |
| **Administrative Changes** | **283** |
| **Temporary Event Notices (TEN’s)** | **830** |

# Temporary Event Notices

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 for an adhoc event or an extension to an existing licence.

Only Thames Valley Police or the Environmental Health Service 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 permitted by the 2003 Act, the TEN is simply acknowledged and returned to the applicant. Should the Police or Environmental Health object then the TEN will go to a hearing or be refused and a Counter Notice issued.

2 Counter Notices were required to be issued.

# Applications Granted or Refused by the Licensing Authority

A hearing is not required where an application has been lawfully made and no Responsible Authority or Interested Party has made a representation, or if the application made is a Minor Variation. 65 Premises Licences in this category were issued by the Head of Community Services under delegated authority.

If a relevant objection is received in relation to a Minor Variation application, the Licensing Authority delegates the determination of the application to Officers. No such applications met with relevant representations.

Five applications were the subject of relevant representations, and required determination by the Licensing Sub-Committee. Details of the work of the Sub-Committee can be found later in this report.

# Representations and Licensing Sub-Committee Hearings

When Relevant Representations are received from Interested Parties or Responsible Authorities then the application is determined at a Licensing Sub-Committee Hearing (save for those received in relation to a Minor Variation application as detailed at Paragraph 9 above).

Representations were received in respect to 5 applications. These representations led to Sub-Committee Hearings being required.

Representations relating to applications made during the reporting period were made as follows and led to the following decisions:

Cafe Baba, Cowley Road: (Full Variation of Premises Licence): 4 x Interested Parties. Application granted as applied for.

Spiced Roots, Cowley Road: (New Premises Licence): 2 x Interested Parties. Application granted as amended by the applicant at the Hearing.

The Lighthouse, Park End Street: (New Premises Licence): 4 x Interested Parties. Application granted as amended by the applicant at the Hearing, and a condition imposed re: use of outside terrace.

5 Atkyns Road, Oxford: (New Premises Licence): Police, 1 x Interested Party. Application granted as applied for but with 3 additional conditions to further uphold the prevention of public nuisance licensing objective.

KD Café, Rose Hill Parade, Oxford: (New Premises Licence): 1 x Interested Party. Application granted as applied for but with 1 additional condition to further uphold the prevention of crime and disorder licensing objective.

The Bullingdon, 162 Cowley Road, Oxford: (Full Variation of Premises Licence): Police, Licensing Authority & 7 x Interested Parties. Application refused for the reasons that:

* It would add significantly to the problems of crime & disorder and public nuisance.
* It is contrary to policy GN19 (Special Saturation Policy of the Council’s Statement of Licensing Policy

# The Library, 182 Cowley Road, Oxford: (Full Variation of Premises Licence): Police, Licensing Authority & 8 x Interested Parties. The following elements of the amended application were granted:

* Off sales’ of alcohol from 11:00 until 20:00;
* Non-standard hours for supply of Alcohol on New Year’s Eve (until 03.00), Christmas Eve (until 01.00) and May Morning (until 02.00);
* Change of name to The Library Pub has been approved;
* Late night refreshment until 00.00 each day.

All other elements of the amended application were refused for the reasons that any increase in the time available for alcohol consumption risked significantly adding to crime and disorder.

# Midcounties Co-operative, 40-43 Walton Street, Oxford (Full Variation of Premises Licence): 1x Interested Party. Application granted as applied for but with 1 additional condition to display prominent, clear notices at all exits requesting that customers respect the needs of local residents and leave the premises and the area quietly, to further uphold the prevention of public nuisance licensing objective.

# Reviews of Licensed Premises

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. Reviews may only arise in connection with a failure or failures in the premises connected to the licensing objectives.

No applications for a Premises Licence Review were received during this reporting period.

Partnership work was undertaken jointly by the Responsible Authorities of the Licensing Authority, Thames Valley Police and Environmental Health with three licensed premises during the Council Year.

Rather than seek to Review each licence, specific conditions were proposed and agreed to by each of the Premises Licence Holders by way of Minor Variation applications that would ensure:

* Full accountability of the Premises Licence Holder to upholding the aims of the Responsible Authorities throughout the city;
* Support and training mechanisms to be put in place for staff employed at these premises to protect them and widen their understanding of the licensing objectives;
* A daily “Best Practice” guide to be followed for the smooth and effective running of the business in order to significantly reduce any negative impact on local communities; and
* A Safeguarding Policy (approved by the Council’s Safeguarding specialist) implemented at each venue.

# Appeals under the Licensing Act 2003

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

# Enforcement Activity

During the current reporting period, the Licensing Team has carried out:

* 204 Routine (day-time and early evening) Compliance Check inspections of licensed premises during standard working hours. 54 Premises were found to be non-compliant. 39 issues of non-compliance related to a failure to display the Premises Licence Summary on site, and / or not having the Premises Licence on site.

The other 15 non-compliance issues related to failures to ensure that an adequate age checking policy was in place or small alcohol measures were not advertised; those 15 venues have since rectified.

In all of the above cases Warnings were issued to the Premises Licence Holders.

* 8 Multi-Agency Operations (during the night) visiting 90 licensed premises (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). 4 venues were given verbal advice by the Licensing Officer owing to fire exits being partially blocked, and 5 were advised regarding the requirement of an Age verification policy, otherwise all of the venues were found to be compliant with the requirements of the Licensing Act 2003.
* 5 Alcohol Test Purchase Operations (during evening time) visiting 33 licensed premises. 1 venue failed the Test and was issued with a Fixed Penalty Notice by the Police and a Warning was issued to each Premises Licence holder by the Licensing Authority.
* 1 “Hi-Viz” Enforcement Operation was carried out late at night visiting 3 high capacity licensed premises (targeting high-risk premises i.e. nightclubs, large capacity bars, etc.) whilst applying a light touch yet visible enforcement presence. All of the premises were found to be compliant with the Licensing Act 2003. The number of operations is significantly less than previously undertaken.
* No Debt Recovery Operations (late at night) were carried out during the reporting period. The number of operations is significantly less than previously undertaken, despite Advanced Suspension Notices and Suspension Notices having been issued by Officers during the reporting period.

The objectives of the pro-active compliance checks, and the late night enforcement inspections, are to ensure that the Authority has a keen eye on how the licensed trade upholds the licensing objectives. To record the actions of the Authority in a transparent manner, to place on record that enforcement actions had been undertaken and advice given to resolve any issues of non-compliance, and to build and maintain a productive relationship with licence holders.

During the period of this report 74 Warnings, 8 Suspension Notice were issued to the premises who failed to comply with the necessary regulations during either the normal working hours or non-standard hours operations, or had not paid the required annual fee.

All of the premises issued with advice or Warnings have since 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.

The Weekend Night-time Operation recently implemented by the Environmental Protection Service continues to operate between 11.00 p.m. and 4.00 a.m. on both Friday and Saturday nights and proactively checks for noise related problems at venues holding Temporary Event Notices and other events such as College Balls.

The Operation also monitors how licensed premises manage the dispersal of the public from their venues and provides feedback to the Licensing Authority in order that the appropriate actions are undertaken.

# Service Requests

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, or witnessed by Council Officers on duty with the “Out-of-Hours” Service (having been tasked by the Licensing Team Leader to monitor various establishments). Most related to a variety of failures to uphold the licensing objectives most notably the prevention of public nuisance and the prevention of crime and disorder.

This reactive work resulted in a further 38 additional Warnings being issued, in the cases where the premises that were of specific concern multiple letters were issued including to their legal representatives.15 letters of advice were issued to members of the public, recognised organisations, and Andrew Smith MP providing relevant information regarding the Licensing Act 2003 and Gambling Act 2005.

The Licensing Team also deals with approximately 2000 licensing enquiries every month by way of telephone calls, emails, letters and face-to-face customer meetings.

# Prosecutions

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.

The Licensing Authority conducted 2 PACE interviews during the reporting period. Both interviews were for premises that engaged in licensable activities outside of their respective permitted hours. The investigations resulted in 1 written final warning issued by Legal services, and 1 written warning issued by Licensing Officers.

# Future Work & Notable Achievements

The Authority continues to work closely with the Community Safety Team and the Police on ways to raise awareness of Safeguarding matters within the hotel trade.

# Legislation changes and Implications

Provisions of Part 7 of the Policing and Crime Act 2017 will commence on the 6 April with the exception of the provisions on cumulative impact and Late Night Levy

Section 141 and Section 142 relate to cumulative impact assessments and Late Night Levies and will not come into force until the House of Lords Select Committee has concluded their review of the Licensing Act.

The Policing and Crime Act 2107 will amend the Licensing Act 2003 as follows:

Definition of alcohol

Section 135 amends Sec191 of the Licensing Act 2003 the definition of alcohol to include alcohol in any state; defining alcohol as:

* spirits, wine, beer, cider, or any other fermented, distilled or spirituous liquor (in any state).
* To make it clear that powdered alcohol and vaporised alcohol are to be regulated in same way as liquid alcohol.

# Reforms to Summary Reviews

When a premises is associated with serious crime and disorder the police may make an application for a ‘summary’ or ‘expedited’ review of the premises licence; involving a hearing within 48 hours, followed by a full review hearing. The Licensing Authority may impose ‘interim steps’ or temporary conditions pending the outcome of the full review hearing 28 days later

Section 136 now will provide that the holder of a Premises Licence can only make further representations on interim steps taken pending an Expedited Review if there has been a material change in circumstances since the Authority made its determination.

Section 137 amends the Licensing Act to clarify the position of interim steps following Summary Review clarifying that the interim steps continue until the Review is determined or a subsequent appeal is disposed of.

# Personal Licences

Section 138 gives the Licensing Authorities powers in relation to convictions of Personal Licence Holders giving them the power to act when a Personal Licence Holder is found guilty of a relevant offence.

These powers cannot be delegated and would require a Licensing and Gambling Acts Committee to decide on any application to suspend or revoke a Personal Licence.

The licence holder will have the opportunity to make representations and to appeal to the Magistrates Court if they are aggrieved by the decision.

# Relevant offences

Section 139 adds a number of further relevant offences to the current list

* The list of ‘relevant offences’ to be updated to include:
* the sexual offences listed in Schedule 3 to the Sexual Offences Act 2003
* the violent offences listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003
* the manufacture, importation and sale of realistic imitation firearms contrary to section 36 of the Violent Crime Reduction Act 2006
* using someone to mind a weapon contrary to section 28 of the Violent Crime Reduction Act 2006
* the terrorism-related offences listed in section 41 of the Counter-terrorism Act 2008.

# Cumulative Impact Assessments

Section 141 puts Cumulative Impact Assessments on a statutory footing by introducing them into The Licensing Act 2003.

The Licensing Act 2003 is amended as follows:

* In determining or revising its policy, a licensing authority must have regard to any cumulative impact assessments published by it under section 5A. .

A licensing statement must:

* Summarise any cumulative impact assessments published by the licensing authority under section 5A, and.
* explain how the licensing authority has discharged its duty under subsection (6D)

The licensing authority may publish a cumulative impact assessment stating that the licensing authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority’s duty under section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts (Each application may still be considered on its individual merits).

The cumulative impact assessment must set out the evidence for the authority’s opinion.

The cumulative impact assessment may relate to all relevant authorisations or only to relevant authorisations of a kind described in the assessment..

Before publishing a cumulative impact assessment, the licensing authority must consult the persons mentioned in section 5(3).

For the purposes of the consultation, the licensing authority must provide the persons mentioned in section 5(3) with the following information:

* the reasons why it is considering publishing a cumulative impact assessment;
* a general indication of the part or parts of its area which it is considering describing in the assessment;
* whether it considers that the assessment will relate to all relevant authorisations or only to relevant authorisations of a particular kind.

Where a licensing authority publishes a cumulative impact assessment, it must, before the end of each relevant period, consider whether it remains of the opinion stated in the assessment. Before deciding whether it remains of that opinion, the licensing authority must consult the persons mentioned in section 5(3).

The relevant period will be a maximum period of three years beginning with the publication of the cumulative impact assessment or a revision of the cumulative impact assessment.

When adopting the two existing Special Saturation Policies in Oxford (City Centre & East Oxford) a process of consultation based on the evidence of a continued need, and the publication of the consultation findings that mirror the requirements under section 141 Policing and Crime Act 2017 was followed prior to the publication of the Oxford City Council Statement of Licensing Policy.

Therefore no changes are necessary immediately other than renewing the existing policy after three years in 2019, rather than the projected date of 2021.

# Late Night Levy

Section 142 amends the Police Reform and Social Responsibility Act 2011, in respect of the setting of a Late Night Levy, and aims to give local authorities more flexibility in imposing a Late Night Levy.

A Late Night Levy can now apply to a particular geographic area(s) rather than the whole authority.

The Late Night Levy can now also apply to Late Night Refreshment premises in addition to late night alcohol licenced. Different Levy hours may be applied to Late Night Refreshment Premises and alcohol premises

# Financial Implications

There are no financial implications contained

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