

Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 5th August 2014

Subject: Entertainment Licensing Section – Update Report
January – June 2014

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This report provides Members with an update of matters appertaining to the entertainment licensing section between January and June 2014. The section deals with a variety of licences and registrations. This report provides an overview of the applications received, including reviews and appeals, liaison and enforcement actions, and project development.

Recommendations

2. That Licensing Committee note the contents of the report.

1 Purpose of this report

- 1.1 To inform the Licensing Committee of matters appertaining to the entertainment licensing section during the last six month period.

2 Background information

- 2.1 Entertainment licensing deals with licences, permits and authorisations under various pieces of legislation.
- 2.2 The main functions of the section are
- Licensing Act 2003 - sale/supply of alcohol and regulated entertainment
 - Gambling Act 2005 - gambling facilities including the large casino
 - Local Government (Miscellaneous Provisions Act) 1982 – adult retail shops, cinemas, and sexual entertainment venues.
 - Scrap Metal Dealers Act 2013 – registration of mobile collectors, scrap yards and motor salvage operators.
- 2.3 The council has statement of licensing policies for all but the latter function (scrap metal) set out above.
- 2.4 Application, inspection and enforcement procedures must be followed in accordance with the relevant legislation.
- 2.5 As a general rule any application that attracts adverse representation will be heard before a licensing subcommittee, with the exception of licences for sexual entertainment venues where all new and renewal applications are brought before Members.
- 2.6 Applications made under the Licensing and Gambling Acts must be granted in the absence of representations.
- 2.7 The Scrap Metal Dealers Act is an executive function and as a consequence these will not come before the licensing subcommittee. Any applicant who the licensing authority is minded to refuse due to having relevant offences will have the opportunity to attend an interview before a panel of officers. The applicant then has a further avenue of appeal to the magistrate's court.

3 Main issues

3.1 Licensing Act 2003

- 3.1.1 The current statement of licensing policy was approved by full council in January 2014 and will be subject to a review in 2017 for approval early 2018.

3.2 Cumulative Impact Policies

- 3.2.1 Prior to approval the policy was subject to an extensive review in association with key stakeholders. The five cumulative impact policies (CIP's) as contained in the existing policy remained.

- 3.2.2 These CIP areas are:
1) City Centre, 2) Woodhouse/Hyde Park corridor, 3) Headingley, 4) Horsforth and 5) Chapel Allerton.
- 3.2.3 The city centre CIP was amended in recognition that the city wishes to encourage new and different businesses and to ensure that the night time economy thrives, but in a way that is safe so the city centre is an enjoyable place to visit. The city centre CIP now includes zones to identify the areas of the city that are subject to the most problems associated with antisocial behaviour and nuisance.
- 3.2.4 The most problematic area of the city is identified as the red zone and includes the Calls and the area around the Corn Exchange, Lower Briggate, Duncan Street and Lower Kirkgate. Applications in this area will attract representations from the responsible authorities and it will be for the applicant to demonstrate to the Licensing Sub Committee that their style of operation is exceptional and will not add to the existing problems.
- 3.2.5 The remainder of the city centre is either designated as the amber zone which is still an area for concern and again applicants should provide good operating schedules tailored to the area, or the green zone where good quality applications will generally be more acceptable.
- 3.2.6 Changes were also made to the Headingley CIP to include off licences applying to sell alcohol after midnight to stem the current trend in 24 hour opening in largely residential areas.

3.3 Local Area Guidance

- 3.3.1 The new policy also introduced local area guidance where a CIP is not appropriate. This guidance provides prospective applicants with information on their area and measures that they may consider in preventing their business from adding to the problems already experienced in that area. Typically this will apply to off-licences and the suggested control measures will include the secure storage of alcohol, limited or zero advertising of alcohol, CCTV, and the display of health advice.
- 3.3.2 Relevant responsible authorities and area representatives tend to meet with applicants to discuss local concerns and agree control measures tailored to location and intended operation of the premises.
- 3.3.3 The South Leeds local area guidance is proving successful. In the past 12 months 10 applications for premises selling alcohol off the premises have been received for this area and of those premises 9 have agreed to control measures and one application was withdrawn prior to hearing. Included in these figures are 3 applications which were dealt with in the past six months. All 3 premises signed up to local control measures.
- 3.3.4 The licensing section is now working with partner agencies to create similar guidance for the areas of Inner East (Harehills) and Inner West (Armley).

3.4 Localised Hours

- 3.4.1 There has been growing concern for the late opening hours of licensed premises particularly in the small town centres where an application or longer hours could result in other premises following suite. Once again a CIP would not be appropriate due to insufficient evidence, but the statement of licensing policy now incorporates a section on licensing hours and sets out that the council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the licensing objectives.
- 3.4.2 Reports to the licensing subcommittee now provide details on other licensed premises in the locality and those hours of operation.
- 3.4.3 It is important for elected members and residents to note that the CIP or localised hours will only be invoked where representations are made and the application is brought to a hearing. In the absence of representations the licensing authority has a duty to grant the application as applied for.

3.5 Licence Statistics – Licensing Act 2003

- 3.5.1 During this reporting period the licensing authority received the following number of licence applications and variations. This table excludes applications made in any of the CIP areas which can be found at paragraph 3.5.2 below.

Premises licence applications and variations (excluding CIP areas):

Total number of applications	67
Outcome:	
Applications with no representations	33
Applications with control measures agreed/representation withdrawn prior to a hearing	18
Applications withdrawn	2
Applications granted at hearing	4
Applications refused	Nil
Applications pending determination	10
Appeals	1

3.5.2 The following table sets out the applications received in the Cumulative Impact Areas:

	Area 1 City	Area 2 Headingley/ Hyde Park	Area 3 Woodhouse	Area 4 Chapel Allerton	Area 5 Horsforth
Total number of applications	16	2	1	3	0
Applications with no representations	7	1	0	0	0
Applications with control measures agreed/rep withdrawn prior to a hearing	4	1	1	2	0
Applications withdrawn	1	0	0	0	0
Pending determination	4	0	0	1	0

3.5.3 Temporary Event Notices

The following table sets out the number of Temporary Event Notices served on the authority:

Normal Temporary Event Notices:

Total Number Received:	700
Accepted:	651
In process:	36
Objections/ Withdrawn:	13
Hearings	0
Counter Notice	0

Late Temporary Event Notices:

Total Number Received:	196
Accepted:	172
In process:	8
Invalid/Objection/Counter Notice Served:	16

3.6 Licensing Act: Reviews and Appeals

3.6.1 Reviews:

- i) La Boheme, Cross York Street, Leeds 2.

Review brought by West Yorkshire Police on the grounds of crime & disorder.

The hearing was adjourned to allow the transfer of the licence to a new operator to the satisfaction of the responsible authorities, and until such time the premises are to remain closed.

- ii) Church Lane Off Licence, Church Lane, Leeds 15.

Review brought by West Yorkshire Police on the grounds of the protection of children from harm and public nuisance.

Members resolved to add conditions to the licence in respect of CCTV, a proof of age policy (Check 25) and a refusals register.

- iii) Miah's Restaurant, 3 York Place, Leeds 1.

Review brought by Health & Environmental Action Services on the grounds of public nuisance due to discarded refuse. Members resolved to revoke the licence.

- iv) Horsforth Manor, Calverly Lane Leeds 13.

Review brought by West Yorkshire Police on the grounds of antisocial behaviour. Members resolved to revoke the licence

- v) Martha's Ale House, Well Lane, Guiseley.

Review brought by the licensing authority on the grounds of crime & disorder and failure to comply with licence conditions, including selling alcohol beyond the permitted hours

Members resolved to modify the conditions attached to the premises to include a variety of measures including the removal of non-standard timings, CCTV, prevention of drinks being taken outdoors, and monitoring of external areas.

- vi) The Angel, High Street, Wetherby.

Review brought by the West Yorkshire Police on the grounds of crime & disorder.

Members resolved to modify the conditions attached to the premises including a reduction in hours to the upstairs bar, a last entry admission time of 22:30hrs, and a minimum of 120 covers in the restaurant area.

The licence holder subsequently made an appeal to the Magistrates, and the matter is yet to be concluded.

3.6.2 Appeals:

- i) Mexi Khana Halal Ltd, Clock Buildings, Roundhay Road.

This was an appeal against the Members decision to grant a premises licence but with reduced hours following hearing representations from local residents.

The council's decision was upheld and costs were awarded to Leeds City Council.

- ii) Ruby May(1) (Red Leopard) and Bean Leisure Trading A Limited (Red Leopard)

The two sexual entertainment venues brought High Court challenges against the council's decision not to renew their licences. A further application was brought by Bean Leisure to judicially challenge the council's statement of licensing policy.

The High Court found in favour of Leeds City Council. Further information may be found at paragraph 4.4.1 below.

3.7 Licensing Act: Policy development and projects

- 3.7.1 The Licensing Act 2003 Statement of Licensing Policy was reviewed and approved by full council in January 2014. The next full review will commence in 2017.

- 3.7.2 Cumulative Impact Policy for Otley

Work has been carried out with partner agencies and elected members following the request for Otley to be designated as a cumulative impact area. Members heard at the licensing committee meeting in July that it is considered more appropriate for local representatives to utilise the council's statement of licensing policy to address any new application or variation, in particular the element of the policy that relates to local hours.

- 3.7.3 Local Area Guidance

Work is ongoing with partner agencies and local representatives to establish local area guidance, similar to that in existence for South Leeds, for the Inner East (Harehills) and Inner West (Armley) areas of the city where there are local concerns for health and anti-social behaviour associated with the availability and consumption of alcohol.

- 3.7.4 Strong Alcohol Scheme

Licensing and partners have been collating data and local information on the reported health and anti-social behaviour problems associated with the sale of high strength ciders and lagers. Members heard at their meeting in July that as opposed to a voluntary scheme to remove high strength ciders and lagers from off licence shelves, that other existing schemes, such as the local area guidance together with the work underway by trading standards and locality teams will be more beneficial.

- 3.7.5 An expression of interest was made in response to the Home Office Local Authority Action Areas (LAAA's) scheme, but the Leeds application was unsuccessful.

However, a licensing representative has been invited to speak to LAAA's and public health on Leeds' local area guidance which has been recognised as good practice.

3.8 Gambling Act 2005

3.8.1 The Gambling Act 2005 Statement of Licensing Policy is effective from January 2013 to December 2015. A full review will commence next year.

3.8.2 During this reporting period the licensing authority has received two applications for new betting shops in the areas of Harehills and Yeadon. Neither attracted representations and as a consequence were granted, but the application for Yeadon was subsequently surrendered.

3.8.3 Fixed Odds Betting Terminals (Betting Shops) Bill 2014-15
Members will be aware of growing concern for the placing of betting shops in sensitive areas and the clustering of such establishments. Furthermore these premises are permitted to provide up to 4 fixed odd betting terminals, known as B2 machines which have a maximum stake of £100 and prize of £500.

3.8.4 The Gambling Act does not provide for licensing authorities to have consideration for the number of betting premises in an area. However the 'Fixed Odds Betting Terminals (Betting Shops) Bill 2014-15' has had its first reading in the House Commons and proposes to create a new planning use class for betting shops, which would provide that the appropriate planning permission will be required for all new betting premises.

3.8.5 The Bill also proposes that local planning authorities:

- should assess demand for fixed odds betting terminal betting shops when considering planning applications for betting premises; and
- place a cap on the number of such shops for which planning permission may be granted in any area; and for connected purposes.

The second reading of the Bill is currently scheduled for the 27th February 2015, with further legislative processes to be completed and possible amendments made before it can finally be enacted.

3.8.6 Large Casino

A provisional statement for a large casino premises licence was granted to Global Gaming Ventures Limited for the site at Eastgate, now known at Victoria Gate. Development works to this site are now underway.

3.9 Local Government (Miscellaneous Provisions) Act 1982 - Licensing of Sex Establishments (including adult shops, cinemas and sexual entertainment venues, i.e. lapdancing)

3.9.1 Members will recall that three of the city's lap dancing venues had their licence renewals refused and two of those premises (Wildcats and Deep Blue) made

application to judicially review those decisions. In addition Wildcats made application to challenge the Statement of Licensing Policy.

3.9.2 At a two day hearing before the High Court in March the claims were rejected and in rejecting each claim the court held that the Council had:

- been entitled to 'take a fresh look'. Whilst there was no change to the character of each locality, the policy itself was a material, new factor
- 'grasped the nettle' of any differences with its previous decisions
- given sufficient reasons for its decision not to renew
- acted fairly and rationally in the comparative exercise it had undertaken

3.9.3 The Court also rejected challenges under the Provision of Services Regulations 2009, the Equality Act 2010, and Articles 10 and Article 1 Protocol 1 ECHR.

3.9.4 Members approved one renewal application for a shorter period expiring June 2014, after hearing how the area was subject to a redevelopment programme, including open green space.

3.9.5 At the time of writing this report that same premises has applied to further renew their licence and is listed for hearing before the licensing subcommittee on the 4th August 2014. An update will available at today's meeting.

3.10 Scrap Metal

3.10.1 A report was brought to the licensing committee in September 2013 which informed Members of the new Scrap Metal Dealers Act 2013 and the licensing regime, proposed fee, and the delegation process, as notably this Act is an executive function.

3.10.2 The Scrap Metal Dealers Act came into effect on the 1st October 2013, and from 1st December 2013 all scrap metal dealers required the relevant licence in the form of either a collectors or a site licence.

3.10.3 Since this time the licensing authority has issued 146 collectors and 25 site licences.

3.10.4 The licensing authority has provided notice that we are minded to refuse 10 collectors and 1 site application. Nine collectors and 1 site requested interviews. Following interview 5 of the collectors plus the site were granted their licences and the remaining 4 collectors were refused.

3.10.5 One applicant has lodged an appeal to the magistrates court and the hearing is set to be held mid-August.

3.11 Enforcement

3.11.1 In accordance with the Hampton Principles and the Regulators' Code, inspections and enforcement action must be risk based and proportionate.

- 3.11.2 Entertainment Licensing has a dedicated liaison & enforcement team of six officers that address a range of licence compliance and enforcement activities. These officers are also designated as the responsible authority on behalf of the licensing authority for the purpose of making representations against licence applications or bringing licence reviews where necessary.
- 3.11.3 The team work with a range of partner agencies including the Police, Fire & Rescue Authority, Trading Standards, HM Revenues & Customs, Home Office Immigration Enforcement (formerly UK Borders Agency), Security Industry Authority, environmental action, planning, health & safety etc.
- 3.11.4 Particularly during the summer months the team are involved with licensed outdoor events, liaising between promoters and agencies. Members of the team were recently involved in the Tour de France Grand Depart and forthcoming events include the Leeds Festival at Bramham Park.
- 3.11.5 As a general overview, over the past six months the team have dealt with:
- complaints of unlicensed scrap metal collectors and sites
 - reports of premises providing gambling facilities
 - premises involving shisha smoking
 - premises providing unlicensed sexual entertainment
 - unlicensed drinking establishments
 - Operation Capitol - city centre compliance visits involving WYP & BTP
 - Operation Rib: multi-agency operation visiting off-licensed and non-licensed premises where a number of contraventions were found including immigration tobacco, alcohol licensing
 - unlicensed late night refreshment
 - engaging with licence holders on the Otley pub run
 - engaging with licence holders on the lead up to the World Cup and Tour de France Grand Depart
 - six weekly meetings of the licensing enforcement group and attending other partnership meetings such as the Leeds Drugs and Alcohol Management Board, Divisional Community Safety Partnership meetings, Pubwatch, etc.
- 3.11.6 During this reporting period the following formal actions have been taken:

Prosecutions against unauthorised late refreshment:

- Gangsters/Pizza Pinache, North Lane, Headingley – Guilty plea to 3 offences. Received conditional discharge for 12 months and ordered to pay costs of £2,550.16 plus victims' surcharge of £15.
- De Niro Pizza, Stonegate Road, LS6 – Not guilty plea. Guilty verdict for all three offences. Conditional discharge for 12 months and ordered to pay costs of £3,000 plus victims' surcharge of £15
- Fat Joe's Takeaway, Amberton Approach LS8 – 4 offences. Defendant failed to attend the court hearing and the prosecution was proved in their absence. Case adjourned to for sentencing.

3.11.7 Other enforcement action:

- Tequila UK – Following the licence review for The Mezz Club a referral was made to the Advertising Standards Authority (ASA) which considered 7 complaints challenging the content of Tequila UK publicity footage. The ASA upheld six of the seven complaints made by Leeds CC.
- Unlicensed drinking establishment, LS8 - Sentenced to 20 weeks custodial, suspended for 12 months. 200 hours unpaid work. £2,160 costs awarded to Leeds CC. £80 victims surcharge.
- Martha's Ale House, Guiseley LS20 - Licence Review made following a history of breaches including selling alcohol beyond the permitted hours. Licensing Committee decided to modify the licence conditions (see para with 3.6.1 (v) above).

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 New licence applications and full variations to existing licences are subject to a 28 day consultation period.
- 4.1.2 The consultation period is advertised by the display of a site notice at the premises and an advert in a local newspaper.
- 4.1.3 The Licensing Authority consults on the licensing policies in accordance with local and government guidelines.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The council's statement of licensing policies are developed with matters of equality, diversity and human rights taken into consideration. Policies are regularly reviewed in line with the legislation. The council has completed equality, diversity, cohesion screening and impact assessments with regards to the consultation process undertaken during the review of each policy.

4.3 Council Policies and City Priorities

- 4.3.1 When determining applications the licensing authority must have regard for governing legislation and will be assisted by any guidance issued by the Home Office or Gambling Commission. In addition where there is an associated statement of licensing policy this will set out the principles the council will use to exercise its functions under that policy, and in making a decision the council will have regard to that policy.
- 4.3.2 The licensing regime, in general, contributes to our best council objectives of:
 - Building a child friendly city – improving outcomes for children and families

- Promoting sustainable and inclusive economic growth – improving the economic wellbeing of local people and businesses
- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city

4.4 Resources and Value for Money

4.4.1 The Section encourages partnership working with internal and external services making best use of resources and information sharing.

4.5 Legal Implications, Access to Information and Call In

4.5.1 All information provided in this report is publicly accessible and there is no legal implication to the recommendations of this report.

4.6 Risk Management

4.6.1 As this is an advisory report there are no risks associated.

5.0 Recommendations

13.1 That members note the contents of the report.

Background Papers¹

None

¹ ¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.