

Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 10th February 2015

Subject: Entertainment Licensing Section – Update Report
July – December 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 July and December 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

Licensing Act 2003: Application statistics

- 3.1 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 3.2 below.

Premises licence applications and variations (excluding CIP areas):

Total number of applications	43
Outcome:	
Applications with no representations	14
Applications with control measures agreed/representation withdrawn prior to a hearing	20
Applications withdrawn	0
Applications granted at hearing	2
Applications refused	0
Applications pending determination	7
Appeals	0

3.2 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	24	1	2	1	0
Applications with no representations	4	0	0	0	0
Applications with control measures agreed/rep withdrawn prior to a hearing	10	0	0	1	0
Applications withdrawn	3	0	1	0	0
Pending determination	5	0	1	0	0
Granted at hearing	2	0	0	0	0
Refused at hearing	0	1	0	0	0

Temporary Event Notices

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

Normal Temporary Event Notices:

Total Number Received:	626
Accepted:	593
In process:	27
Objections/ Withdrawn:	0
Hearings	0
Counter Notice	6

Late Temporary Event Notices:

Total Number Received:	232
Accepted:	212
In process:	20
Invalid/Objection/Counter Notice Served:	0

Licensing Act: Reviews

- 3.4 There have been no reviews brought in the past six months. This can be attributed to the close partnership working between agencies and licence holders.
- 3.5 The last update provided reference to the review brought by the West Yorkshire Police against The Angel, High Street, Wetherby.
- 3.6 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.
- 3.7 The licence holder subsequently made an appeal to the Magistrates, and the matter was awaiting conclusion.
- 3.8 It can now be reported that the matter was agreed without a need for a hearing before the Magistrates following further dialogue between parties and some further minor amendments to the original decision. Consultation was held with the Licensing Sub Committee Members concerned with the original decision before any agreement was made.

Licensing Act: Appeals

- 3.9 There have been no appeals during this reporting period.

Licensing Act: Section 182 Guidance

- 3.10 Revised S182 guidance was released by the Home Office in October 2014. Members will have been supplied with a copy.
- 3.11 The new guidance clarifies certain processes and includes reference to a change in the TEN notification form which now requires users to describe any entertainment that involves display of nudity.
- 3.12 The new guidance also sets out (para 8.34) that applicants are expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand amongst other matters the risk posed to the local area by the proposed licensable activities.
- 3.13 To assist in this respect we have provided local area guidance for certain areas of Leeds, such as South Leeds, Armley and Harehills.

Local Area Guidance

- 3.14 The Licensing Committee endorsed the Local Area Guidance for South Leeds in May 2013, and in October 2014 endorsed similar for the areas and Armley and Harehills.
- 3.15 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 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, proof of age schemes and the display of health advice.
- 3.16 Applicants are provided with a copy of the local area guidance and encouraged to consider the suggested control measures. Furthermore it was intended that relevant responsible authorities and area representatives, including those responsible for health (albeit health is not a licensing objective) would liaise with applicants on a case by case basis to discuss and agree control measures. In the absence of any agreed measures, if still considered appropriate, relevant responsible authorities may submit representation against an application. However the Licensing Act may not be used as a means for addressing health concerns.
- 3.17 Entertainment Licensing are now to carry out an audit to determine the success of local area guidance and a fuller report will be presented to the Licensing Committee in due course.

De-regulation of Entertainment:

- 3.18 The Live Music Act 2012 ceased to class certain categories of live entertainment as a licensable activity. This was followed in 2013 by the Licensing Act 2003 (Descriptions of Entertainment) Order that deregulated plays and indoor sports subject to certain restrictions.

- 3.19 The Legislative Reform (Entertainment Licensing) Order 2014 has now been approved and will exempt further activities from April 2015.
- 3.20 Members will find attached at appendix A, a table setting out all of the current exemptions and those that will come in to effect from April 2015.
- 3.21 It is considered that the deregulations will result in a small reduction in the number of licences held with this authority, in the main these will be for schools and community centres which are exempt from a licence fee. In the main all premises also provide alcohol which will remain a licensable activity.
- 3.22 This may however generate addition work for environmental services, as any noise nuisance conditions applied to a licence must be disapplied whilst exempt entertainment is taking place and will not be enforceable under the Licensing Act. Colleagues within that service are aware of the impact this may have on their service and licensing staff will continue to liaise and provide assistance where appropriate.

Statement of Licensing Policy

- 3.23 The current statement of licensing policy was reviewed in 2013 and approved by full council in January 2014.
- 3.24 The five cumulative impact policies (CIP's) as contained in the previous policy remained. These CIP areas are: 1) City Centre, 2) Woodhouse/Hyde Park corridor, 3) Headingley, 4) Horsforth and 5) Chapel Allerton.
- 3.25 The statement of licensing policy was designed so that the city centre CIP would be reviewed on an annual basis in recognition of the changing profile of the city centre.
- 3.26 The annual review of the City CIP was held and the red, amber and green zones were revised in in response to West Yorkshire Police intelligence reports. The new CIP was approved before the Licensing Committee in November 2014, to take effect from 1 January 2015.
- 3.27 The new city centre CIP may be found at appendix B to this report.

Gambling Act 2005: Application statistics

- 3.28 During this reporting period the licensing authority has received 3 new applications for betting shops, 2 of which are in the city centre (Merrion Street and Vicar Lane), and the third new premises can be found at Street Lane, Leeds 17.
- 3.29 In addition 3 betting premises licences have been surrendered. Two of these were also located in the city centre, (Mill Hill and Commercial Street), and the third in Yeadon.
- 3.30 A licence for an adult gaming centre located in Morley has also been surrendered.

Gambling Act 2005: Statement of Licensing Policy

- 3.31 The Gambling Act 2005 Statement of Licensing Policy is due for review this year. It is proposed that the draft policy will be open to consultation during May, June and July 2015. On previous occasions there has been little interest in this policy as the review has generally not incorporated any change as the authority is unable to regulate gambling premises to the same extent as the Licensing Act.
- 3.32 However with growing concerns for gambling, and in particular betting offices in which can be found the Fixed Odds Betting Terminals (£100 stake and £500 prize), a number of licensing authorities are considering setting out in their policy the minimal expectations of applicants in terms of what they should provide to satisfy the authority's concerns for social responsibility and consistency with the three licensing objectives:
- protecting children and other vulnerable persons from being harmed or exploited by gambling
 - ensuring that gambling is conducted in a fair and open way
 - preventing gambling from being a source of crime or disorder
- 3.33 The Policy approval route follows the Budget and Policy framework. The proposed timescales so that the new policy is advertised and in place for January 2016 is for the policy to be presented to Executive Board and Scrutiny in September, to return to Executive Board in October, before being presented to Full Council in November for final approval.

Large Casino

- 3.34 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 and the site is set to be completed late 2016.
- 3.35 The application for the full casino licence is anticipated by spring of 2015.

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

- 3.36 In November 2014 the Licensing Sub Committee considered the licence renewals for 2 of the sexual entertainment venue's: Purple Door and Liberte, both of York Place, Leeds 1.
- 3.37 The reports included comments from the Enforcement Team of the Entertainment Licensing Section, concerning the activities of promotional staff. As a result the Licensing Sub Committee Members resolved to renew the licences for a further year but with revised conditions to further control the numbers, hours and conduct of promotional staff.
- 3.38 In addition to the 2 premises above, premises known as Silks situated at Sovereign Place, Leeds 1, holds a sexual entertainment venue licence which expires 31st May 2015.

Scrap Metal

- 3.39 The first anniversary of the new Scrap Metal Dealers Act was in September 2014. To date 160 scrap metal collectors and 28 sites have been licensed.
- 3.40 Members are reminded that the Scrap Metal Dealers Act in an Executive Function, with delegation to officers who will consider any applications that may not meet the criteria. If an officer is 'minded to refuse' an application, typically because the applicant has a current conviction for a relevant offence, then the applicant may choose the right to attend an interview before officers. If the applicant remains dissatisfied with the decision, then they have a right of appeal to the Magistrates Court.
- 3.41 In the previous update report Members were advised that one applicant had appealed against the decision to refuse his application to the Magistrates Court.
- 3.42 The Scrap Metal Dealers Act sets out relevant offences which could render an application rejected. The applicant concerned did not hold a conviction for one of the stated offences, but did in the opinion of the licensing authority hold a current conviction for a matter that questioned his suitability to act as a collector. The applicant appealed on this basis, and this was the first case to be taken before the Magistrates.
- 3.43 The Magistrate did confirm that the licensing authority had acted correctly and were entitled to take additional offences into consideration, but also recognised that the rehabilitation period was almost spent. It was therefore suggested that the licensing authority and applicant arrived at an agreement. In conclusion the application was granted and effective from the 1st September 2014.
- 3.44 Between July and December 2014, 12 collectors and 2 site licences were processed.
- 3.45 Of these one 'minded to refuse' notice was issued as officers had concern for a current criminal offence, albeit it was not a relevant offence as set out in the Scrap Metal Dealers Act. After hearing from the applicant at interview the licence was approved.

Enforcement

- 3.46 In accordance with the Hampton Principles and the Regulators' Code, inspections and enforcement action must be risk based and proportionate.
- 3.47 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.
- 3.48 The team work with a range of partner agencies including the Police, Fire & Rescue Authority, Trading Standards, HM Revenue & Customs, Home Office Immigration

Enforcement (formerly UK Border Agency), Security Industry Authority, environmental action, planning, health & safety, Anti-social Behaviour Team, etc.

3.49 The team are also involved with licensed outdoor events, liaising between promoters and agencies. Members of the team were recently involved in the German Christkindlemarkt and will soon be liaising with organisers for the 2015 events including the Leeds Festival.

3.50 As a general overview, over the past six months the team have dealt with:

- Complaints of unlicensed scrap metal collectors and sites
- Engaged with licence holders and partner agencies/services in the lead up to and on the day of Tour de France Grand Depart
- Investigation of premises allegedly providing unlicensed sexual entertainment
- Complaints of promotional teams acting for licensed sexual entertainment venues
- Prevention of student parties at residences in the LS6 area
- Freshers' Week – licensing compliance visits.
- Safety issues associated with licensed and unlicensed premises which were referred through to the relevant authorities.
- Leeds Festival incl. Operation Kayak – a multi-agency operation tackling illegal ticket touting
- Unlicensed late night refreshment enquiries
- German Christkindlemarkt – briefed bar staff on licensing responsibilities and monitored the event
- Operation Capitol – city centre compliance visits involving WYP & BTP
- Numerous daytime and night-time licensing compliance visits to premises in conjunction with local Neighbourhood Policing Teams
- Engagement with the Children's Safeguarding Team and referrals submitted
- Chairing of six weekly meetings of the Licensing Enforcement Group and attending other partnership meetings such as the Leeds Drug and Alcohol Management Board, City Centre Divisional Community Safety Partnership, City Centre Tasking, Pubwatch, etc.
- Attending the new Legal Highs working group – gathering and distributing info for licence holders via Pubwatch
- Attending and supporting Pubwatch meetings

3.51 During this reporting period the following prosecutions/ action in relation to alleged offences have been taken:

- LCC v Fat Joe's (Amberton Approach LS8). Unauthorised late night refreshment on four separate occasions. Defendant convicted in his absence on 13.06.14 of 4 x s.136 LA03 offences. Case adjourned to 31.07.14 for sentencing. The defendant failed to attend therefore an arrest warrant with no bail was issued for the defendant. Matter still outstanding.
- LCC v Fellmore Ltd (Red Leopard). Unauthorised sexual entertainment at premises previously licensed as a sexual entertainment venue. Matter adjourned to 22.01.15 at Leeds Magistrates.

- LCC v Headingley Sandwiches/American Sub – North Lane, Headingley. Unauthorised late night refreshment on one occasion. Two of the three defendants previously successfully prosecuted by LCC for the same offences. Matter listed for hearing on 06.01.15 at Leeds Magistrates. Adjourned to 19.02.15.
- LCC v Challenge Sandwiches – North Lane, Headingley. Unauthorised late night refreshment on four separate occasions. Matter heard at Leeds Magistrates on 04.11.14. Defendant admitted all three charges and was convicted. Fine - £300. Costs - £250. Victims' surcharge - £30.

4 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.

Deregulation of Entertainment Matrix

Licensing Act 2003

Entertainment is regulated if it is:

- Provided in the presence of a public audience; or
- In private, where a charge is made with a view to profit

Entertainment is deregulated if:

Type of entertainment	Location	Audience	Time
Live Music Act 2012			
Performance of live music	Unamplified music anywhere	No limit	08:00 – 23:00
	Amplified music in a workplace	200	08:00 – 23:00
	Amplified music on licensed premises open for the sale or supply of alcohol	200	08:00 – 23:00
Licensing Act 2003 (Descriptions of Entertainment) Order 2013			
Performance of a play	Any premises	500	08:00 – 23:00
Indoor sporting event	Other than boxing & wrestling or combined fighting sports	1,000	08:00 – 23:00
Performance of dance	Any premises	500	08:00 – 23:00
Clause 58 Deregulation Bill (From Feb/March 2015)			
Film	Community premises	No limit	No time restriction
Legislative Reform Order (from 5th April 2015)			
Performance of live and recorded music	Relevant alcohol licensed premises	500	08:00 – 23:00
Entertainment Licensing	On local authority, health care and school premises used by third parties	500	08:00 – 23:00
	Local authorities, health care providers and schools using own premises	No limit	08:00 – 23:00
	Travelling circuses	No limit	08:00 – 23:00
Performance of live and recorded music	Community premises not licensed to supply alcohol	500	08:00 – 23:00
Greco-Roman and freestyle wrestling	Any premises	1,000	08:00 – 23:00
Incidental film	Any exhibition of film where it is incidental to another activity	No limit	No time restriction

Still regulated:

- Exhibition of a film, other than that described above
- Boxing and wrestling entertainment including combined fighting sports (MMA)
- Entertainment of a similar description to live music, recorded music and dance
- All regulated entertainment before 8:00 and after 23:00
- Performance of dance that is relevant entertainment under the Local Government (Miscellaneous Provisions) Act 1982, i.e. sexual entertainment, lap dancing etc.

Types of entertainment which are not licensable:

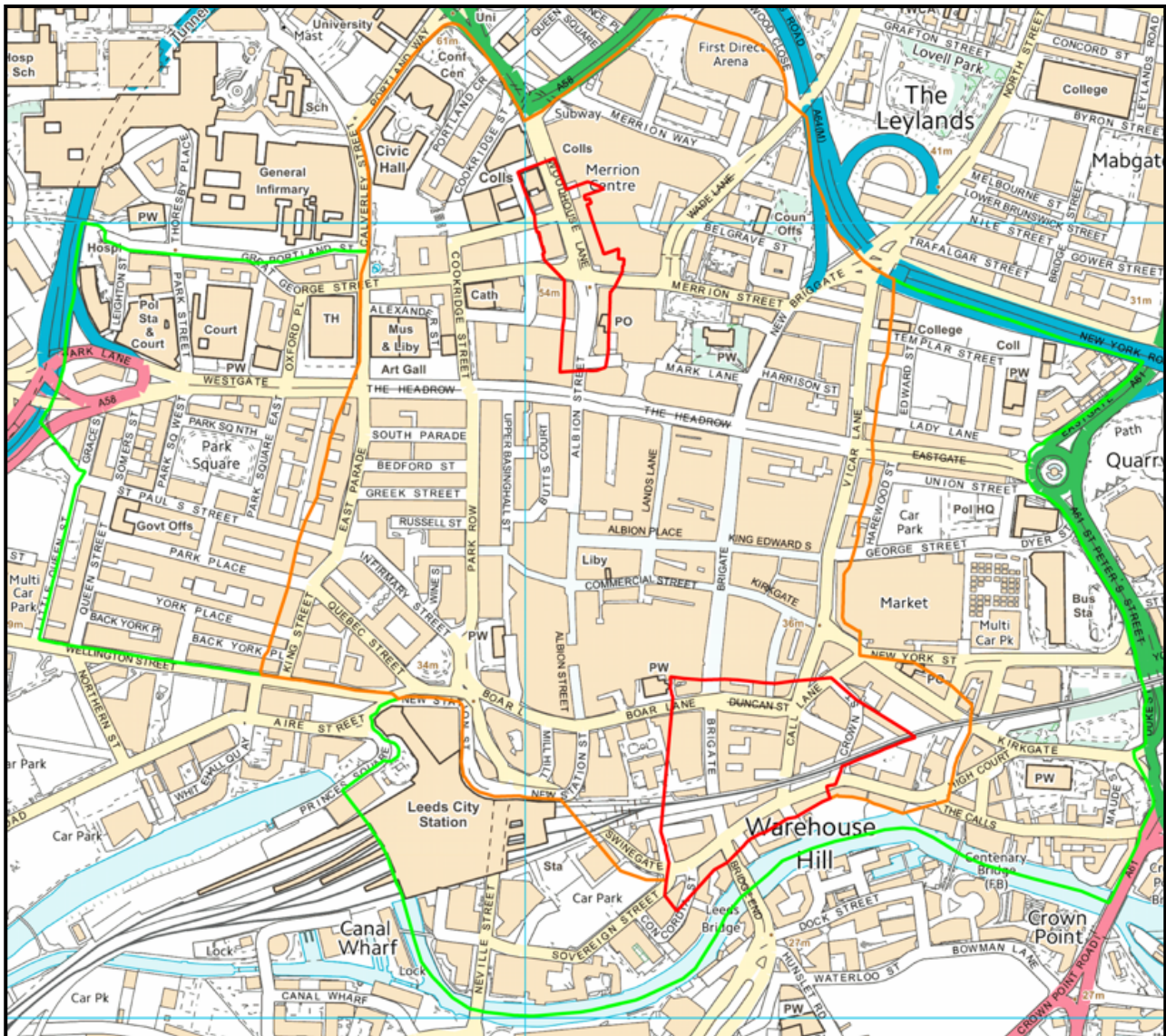
- Education – teaching students to perform music or to dance
- Activities which involve participation as acts of worship in a religious context
- Activities which take place in places of public religious worship
- A demonstration of a product
- Rehearsal of a play or performance of music for a private audience where no charge is made
- Games played in pubs, youth clubs etc. (e.g. pool, darts, table tennis, billiards)
- Stand-up comedy
- Karaoke (classified as live music, so subject to the same exemption)
- Provision of entertainment facilities (i.e. dance floors, piano) for use by customers
- Incidental music or entertainment

City Centre CIP 2015

Licensing Act 2003



Leeds
CITY COUNCIL



Area 1 relates to the city centre. West Yorkshire Police have provided information that the nature of the city centre is such that the problem areas and cumulative impact is directly related to the style of businesses opening in that area and their clientele.

In addition the close proximity of a number of venues on a street can result in difficulties in identifying individual premises as causing problems which can be dealt with via an action plan or a review process.

As a consequence the closure or opening of businesses can have a dramatic effect on reported crime and reported incidents in an area. While individual premises are dealt with using the review

process, there are areas in Leeds city centre which may temporarily become saturated as new businesses open or existing businesses change their style of operation.

In addition the council recognises that a previous problem area can be improved by the introduction of new styles of business types, such as food led premises, and seeks to encourage this.

This dynamic nature has created difficulties in setting a policy for the city centre that will be relevant for five years until the next formal review. Therefore the council will adopt an approach of designating areas within the city centre CIP as 'red' or 'amber' based upon an analysis of night time economy related issues that are relevant to the licensing objectives. Areas that are considered highly saturated will be designated as red areas.

The council will seek to refuse all applications in these **red areas** on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or extending their hours no matter how impressive the concept or application is. The council will only grant applications in the red zone in exceptional cases.

An **amber area** is an area which is of concern based upon an analysis of night time economy related issues that are relevant to the licensing objectives, and the council will expect applicants to offer additional measures tailored to the problems in that area.

All other areas within the city centre CIP will be designated **green areas** where good quality applications will be generally be more acceptable even though the area is a CIP area.

It is the council's policy, on receipt of relevant representations, to

- refuse new and variation applications in the red area
- to seek additional measures for new and variation applications in the amber area
- To seek good quality applications for application in the green area

This applies to alcohol led premises such as bars, pubs and nightclubs, and for premises seeking late night refreshment such as takeaways and late opening restaurants.

The Licensing Act 2003 Statement of Licensing Policy 2014-2018 recognised that the night time economy in Leeds City Centre is dynamic and constantly changing. The council want a cumulative impact policy that can respond to the changing nature of the city centre and so provides this additional document which is reviewed every twelve months to ensure that the CIP zones remain relevant and current with regards to West Yorkshire Police data.

Changes in the last year

West Yorkshire Police has produced a crime and calls for service report "Analysis of Leeds City Centre high volume night-time economy related crime" dated 19/09/2014 which has been referred to when reviewing the red and amber zones for 2015. This report is referred to as the Police report in this document.

There are two distinct areas in the city where extra police resources are deployed on a regular basis. These areas are the Call Lane area and the Albion Street/Woodhouse Lane area. Premises in those areas also deploy street marshals at their own expense as it has been recognised that incidents on the street require extra attention and that early intervention can prevent an escalation in the severity of incidents on the street.