

Committee(s):	Date(s):	Item no.
Licensing Committee	12 July 2010	
Subject: Licensing enforcement		Public
Report of: Director of Environmental Services		For Decision
<p style="text-align: center;"><u>Summary</u></p> <p>This report outlines the current approach to enforcement undertaken by the Department of Environmental Services (DES) in the City in relation to licensed premises, and also details the way in which a grant provided by the Safer City Partnership will be used. An alternative approach to enforcement is recommended via a pilot project to improve the response to complaints and increase officer presence in the City.</p> <p>Recommendations</p> <p>I recommend that your Committee approves:</p> <ul style="list-style-type: none"> • the approach being taken to enforcement my Department in relation to licensed premises; • the use of the grant provided by the Safer City Partnership; • the pilot project to provide additional cover outside of the normal working week by utilising Street Enforcement Officers (SEOs) from within DES supported by Environmental Health Officers. 		

Main Report

Background

1. The Licensing Act 2003, which came into force in 2005, has had a considerable effect on the City's night time economy due to the changes in the hours of operation for many premises.
2. The increased number of night clubs and the substantial influx of customers into the City have necessitated increased enforcement by the Licensing Team in relation to conditions placed on licences, and by Environmental Health Officers in relation to noise complaints.

Current Position

3. The enforcement arrangements are currently coordinated at the Licensing Liaison Partnership meetings that are held fortnightly and are attended by representatives from all enforcement authorities. Joint visits are organised via this forum and subsequent reports are used to make up the top level premises list that comprises those that are causing the most enforcement problems. These are then targeted by relevant enforcement officers.
4. As far as the Department of Environmental Services is concerned, there is an out-of-hours rota for Environmental Health Officers to deal with complaints and emergency situations. Officers are based in the City on Friday nights from 1700 until 0100 Saturday and on Saturdays from 0800-1600. The City of London Police will also respond to complaints about noise emanating from premises and take action where possible to resolve any problems, as well as liaising with Environmental Health as required.
5. Licensing Officers undertake some routine enforcement visits in checking on premises licensing conditions where there are concerns, for example the arrangements for managing numbers of people consuming alcohol in Austin Friars, and also in responding to complaints. Where sufficient evidence is obtained, the enforcement policy is considered in escalating action and taking legal proceedings.
6. Investigations are undertaken into complaints about premises and if there are grounds for a review of the licence in relation to the licensing objectives, then the responsible authorities can apply accordingly. In practice, potential applications are considered at the Licensing Liaison Partnership meetings, and authorities support one another in providing evidence and making applications, such as in the Paradigm Bar case.
7. Where it appears that a material change of use has occurred or there is a failure to comply with any condition attached to a planning permission in breach of planning control, the Planning and Transportation Department seeks authorisation to take enforcement action under the Town and Country Planning Act 1990, where it is considered expedient to do so.
8. The Department has recently adopted a revised Enforcement Policy (see Appendix 1) which applies to licensing enforcement activities. This conforms to the Regulators' Compliance Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006. It sets out the general principles and approach which DES Officers are expected to follow. The Enforcement Policy addresses issues of proportionality, consistency, targeting, transparency and accountability.

9. In March this year, an application was made to the Safer City Partnership for a grant to fund additional enforcement in relation to the late-night operation of licensed premises through the provision of an improved out-of-hours response service in the City after 2200 at weekends. A copy of the bid may be found at Appendix 2. The bid was successful, and £5,000 was awarded to Environmental Health and Public Protection for 2010/11.
10. To address the need to respond more swiftly and comprehensively to complaints, as well as being more proactive and to use the grant mentioned above in the most beneficial manner, some changes need to be made to the current enforcement arrangements.

Options

11. The following options are being considered to enhance the enforcement regime in respect of Licensing and the night time economy:-
 - a) Do nothing; this will not reflect the wishes of complainants and Members for a more effective and responsive service to be provided than at present.
 - b) Provide full time service to cover from the existing Environmental health Service; this has not been subject to a detailed estimate, as it was rejected by Members when the Environmental Health out-of-hours service was introduced in 2001 and would be a significant additional cost to the service at time of local risk budget reductions.
 - c) Provide additional cover outside of the normal working week by utilising Street Enforcement Officers (SEOs) from within the Department who already operate at these times in the City as a pilot project together with support from Environmental Health Officers; this is the preferred option and is referred to below in paragraphs 12 and 13.
 - d) Negotiate and provide cover arrangements for complaints outside of the normal working day in partnership with an adjacent local authority: two contiguous authorities have expressed a willingness to negotiate this in principle. However as this will involve additional expenditure, contract management and quality control issues, and less ability to programme visits, this is considered less attractive than option (c) above.

Proposals

12. Option c) is suggested as the best way forward. A pilot project with SEOs from Department of Environmental Services will become the first point of contact for noise and licensing concerns for Department of Environmental Services in September. These officers will operate outside of the normal working day including nights and weekends. They will be given training to contact complainants as well as visit, observe and monitor the source of concerns

gathering evidence that can then subsequently be used for any further enforcement action that is appropriate by the Public Protection Team. This will introduce a more focussed and responsive service than at present, as SEOs will be able to visit complainants and premises, accompanied by the police if necessary, to investigate and resolve complaints.

13. There will be a stand-by arrangement to provide professional advice on noise and other Environmental Health matters available to SEOs and the capacity to attend the City if required. This will consist of a rota for Environmental Health Officers, currently on the out of hours service (paragraph 4 above) being available for response to queries by duty SEOs primarily by phone, at night and at weekends. In discussion with Safer City Partnership, and particularly City of London Police, I hope to agree a single reporting number and system. This would help integrate further the enforcement response of various City Departments which are involved, along with the City of London Police, in our response to anti-social behaviour. This is a matter which will be the subject of a further report to your Committee once practical information system details and operating arrangements have been resolved.
14. The Safer City Partnership grant of £5000 for this financial year will be used to provide extra enforcement activity by various officers at night, including Environmental Health Officers, Licensing Officers and Street Enforcement Officers, particularly on Saturday night/Sunday mornings. This extra capacity will be used to react more effectively to complaints and carry out additional programmed visits at night, some of which will be combined with other regulatory agencies such as London Fire Brigade.

Financial and Risk Implications

15. The proposal outlined above will be met from existing local risk resources and the Safer City Partnership grant. The 2010/11 local risk budget for overtime used for all out-of-hours inspections and responses by Environmental Health and Public Protection is £58,500. It is possible that savings could be made from adopting the proposals in paragraphs 12 and 13 by reducing the hours worked on overtime by Environmental Health Officers, but this will be reviewed once the pilot has been underway for three months.

HR Implications

16. As these new pilot arrangements proposed will vary the extant scheme for SEOs and Environmental Health Officer the Human Resource Manager will be consulted together with all of those staff involved in any changes of operation agreed.

Strategic Implications

17. One of the proposals in the Environmental Health and Public Protection business plan for 2010/11 is to review the whole Environmental Health out-of-hours service, and the recommendations in this report support this objective.
18. This reports supports the City's Sustainable Community Strategy theme '....is safer and stronger' specifically supporting the objective 'to minimise any aspects of the emerging night time economy which are detrimental to the City, whilst continuing to support a vibrant and culturally rich environment'. This will be achieved by improving the enforcement arrangements as outlined above.

Consultees

19. The City Planning Officer and the City of London Police have been consulted in the preparation of this report and their comments incorporated.

Conclusion

20. There is scope to improve enforcement in relation to licensed premises and the pilot study outlined above will be evaluated after three months.

Background Papers:

Nil

Appendices

- **Appendix 1: DES Policy Statement on Enforcement**
- **Appendix 2: Safer City Partnership - Funding Bid 2010 – 2011**

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