



Licensing Committee

Date: MONDAY, 28 APRIL 2014
Time: 1.45pm
Venue: COMMITTEE ROOMS, 2ND FLOOR, WEST WING, GUILDHALL

Members:

Marianne Fredericks (Chairman)	Sophie Fernandes
Edward Lord (Deputy Chairman)	Michael Hudson
Alex Bain-Stewart	Graham Packham
Deputy John Barker	Judith Pleasance
Jamie Ingham Clark	Chris Punter
Revd Dr Martin Dudley	Tom Sleigh
Peter Dunphy	James Tumbridge
Kevin Everett	

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Lunch will be served for Members in the Guildhall Club at 1pm

John Barradell
Town Clerk and Chief Executive

AGENDA

1. **APOLOGIES**

2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

3. **PUBLIC MINUTES**

To agree the public minutes of the meeting held on 17 February 2014 (copy attached).

For Decision
(Pages 1 - 4)

4. **MINUTES OF LICENSING (HEARING) SUB COMMITTEES**

For Information

a) Feng Shui, 1A Pudding Lane, London, EC3R 8AB - 19 February 2014 (Pages 5 - 16)

5. **APPEALS AGAINST LICENSING (HEARING) SUB COMMITTEE DECISIONS**

The Comptroller & City Solicitor to be heard.

For Information

6. **DELEGATED DECISIONS OF THE DIRECTOR OF MARKETS AND CONSUMER PROTECTION PERTAINING TO PREMISES LICENCES**

Report of the Director of Markets and Consumer Protection.

For Information
(Pages 17 - 28)

7. **LATE NIGHT LEVY CONSULTATION**

Report of the Director of Markets and Consumer Protection (To Follow).

For Decision

8. **DEPARTMENT OF MARKETS & CONSUMER PROTECTION BUSINESS PLAN 2014-2017**

Report of the Director of Markets and Consumer Protection.

For Decision
(Pages 29 - 52)

9. **PORT HEALTH AND PUBLIC PROTECTION OUT OF HOURS NOISE SERVICE**

Report of the Director of Markets and Consumer Protection.

For Information
(Pages 53 - 60)

10. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

11. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

12. **EXCLUSION OF THE PUBLIC**

MOTION - That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act.

13. **LICENSING AND NIGHT TIME ECONOMY UPDATE**

Report of the Commissioner of Police.

For Information
(Pages 61 - 70)

14. **NON PUBLIC QUESTIONS RELATING TO THE WORK OF THE COMMITTEE**

15. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREE SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

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LICENSING COMMITTEE

Monday, 17 February 2014

Minutes of the meeting of the Licensing Committee held at the Guildhall EC2 at 1.45pm

Present

Members:

Marianne Fredericks (Chairman)
Edward Lord (Deputy Chairman)
Alex Bain-Stewart
Deputy John Barker

Peter Dunphy
Michael Hudson
Graham Packham

In attendance:

George Gillon (Chief Commoner)

Officers:

Natasha Dogra	- Town Clerk's Department
Georgina Denis	- Town Clerk's Department
James Goodsell	- Town Clerk's Department
David Smith	- Markets & Consumer Protection Department
Steve Blake	- Markets & Consumer Protection Department
Peter Davenport	- Markets & Consumer Protection Department
Paul Chadha	- Comptroller and City Solicitors
Jenny Pitcairn	- Chamberlains Department

1. APOLOGIES

Apologies were received from James Tumbridge, Chris Punter, Tom Sleigh, Judith Pleasance, Kevin Everett, Dr Dudley, and Jamie Ingham Clark.

2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

3. PUBLIC MINUTES

RESOLVED: That Members agreed the minutes as an accurate record.

Matters Arising

The training scheduled for November 2013 took place on Friday 31 January 2014. The training provided Committee Members and Officers of the Town Clerks department with a BIIAB Level 2 National Certificate for Licensing Practitioners. The training provided up to date knowledge of legislation relevant to the work of the Licensing Committee.

The details of the premises in amber and red stages of the traffic light scheme would be included as a non-public agenda item and would not be

published online. The City of London Police advised the Markets & Consumer Protection Department that publishing the names could result in disengagement between the Licencing Authority and premises. Therefore the names of premises in amber and red stages would be circulated on yellow paper during Licencing Committee meetings. The Markets & Consumer Protection Department explained that the scheme worked on a 12 month rolling system so premises accumulating points in month one would lose those points in month thirteen.

The Markets & Consumer Protection Department updated the Committee on the Late Night Levy arrangements and explained to Members that the initial consultation stage was complete. Officers continued to say that 76 representations were raised during the consultation stage; following a review of the representations a second consultation would take place. The second consultation would run for six weeks.

The Markets & Consumer Protection Department also updated the Committee on Street Trading and Tables and Chairs policies. Both policies were being finalised and the final drafts would be circulated to all relevant departments. The Chairman and Deputy Chairman of the Licencing Committee would be sent the final draft policies for review. It was anticipated that the policies would be submitted to relevant Committees in May 2014.

4. MINUTES OF LICENSING (HEARING) SUB COMMITTEES

Committee Members commented on the requirement for responsible authorities to include a comprehensive history of all incidents to be mentioned as part of their evidence during hearings. The Members reported that it was not always the case a list of incidents was provided as part of representations. Officers from the Markets & Consumer Protection Department assured the Committee that responsible authorities would be reminded to include a detailed list of incidents if they were to refer to incidents during hearings.

RESOLVED: That Members note the public minutes of the following Licensing (Hearing) Sub Committee meetings.

4.1 Ground Floor Commercial Unit, 5 Moor Lane, London, EC2Y 9AP - 16 October 2013

4.2 Loose Cannon, 13-15 Allhallows Lane, London, EC4R 3UL - 29 October 2013

4.3 The Spectator, 6 Little Britain, London, EC1A 7BX - 30 October 2013

4.4 Sainsbury's, 90 Cannon Street, London, EC4N 6HA - 17 October 2013 and 5 November 2013

- 4.5 **Patch Bar, 58-60 Carter Lane, London, EC4V 5EA - 8 November 2013**
- 4.6 **Peony, 46 Gresham Street, London, EC2V 7AY - 15 November 2013**
- 4.7 **The Dollhouse, 7-8 Bishopsgate Churchyard, London, EC2M 3TJ - Summary Review & Full Review Hearing - 2 December 2013 & 30 December 2013**
- 4.8 **Feng Shui, 1A Pudding Lane, London, EC3R 8AB- Summary Review - 28 January 2014**

5. **APPEALS AGAINST LICENSING (HEARING) SUB COMMITTEE DECISIONS**

The Committee received an update from the Comptroller and City Solicitor informing Members that there had been no appeals against Licensing (Hearing) Sub Committee decisions.

6. **DELEGATED DECISIONS OF THE DIRECTOR OF MARKETS AND CONSUMER PROTECTION PERTAINING TO PREMISES LICENCES**

The Committee received a report of the Director of Markets and Consumer Protection informing Members of premises licences, and variations to premises licences, granted under the Licensing Act 2003 by the Licensing Service from 1 October 2013 to 31 December 2013. Members also noted data from the 'traffic light' risk scheme introduced within the City of London on 1 April 2013 for the period 1 April 2014 to 31 December 2013.

RESOLVED – That Members note the report of the Director of Markets and Consumer Protection.

7. **POOL OF MODEL CONDITIONS**

The Committee considered a report of the Director of Markets and Consumer Protection which outlined changes to the Pool of Model Conditions used to assist Members and applicants when adding conditions to premises licences or club premises certificates. Members were informed that the Pool of Model Conditions was last updated by the Licensing Committee on 16 July 2013 and over the past eighteen months there had arisen a need to add further conditions to premises licences which were not included in the 'Pool'. The report presented an updated 'Pool' with an additional three conditions, a proposed amendment to the definition of a promoted event and an amendment to the premises licence policy.

The City Solicitor explained to the Committee that changes to the definition of a promoted event would create a new definition that would not be applied to previously granted licences. The City Solicitor continued to explain that the change would require the licencing committee to govern licensable activity with two sets of arrangements depending on when the licence was granted and which definition of promoted event applied.

RESOLVED – That

- (i) The Pool of Model Conditions would include the three new conditions.
- (ii) The Pool of Model Conditions would not include the new definition of a promoted event.
- (iii) Amend the Policy for ‘making amendments to a premises licence application’.

8. CORPORATE GOVERNANCE - SCHEME OF DELEGATIONS

A report of the Town Clerk outlined the Scheme of Delegation relating to the Director of Markets and Consumer Protection. The Committee noted that the Scheme of Delegations to Chief Officers had recently been reviewed and a number of changes were proposed to reflect changing legislation, corporate policy and operational requirements.

RESOLVED – That the delegations relating to the Director of Markets and Consumer Protection, which were highlighted in red as set out in the appendix to this report, be approved.

9. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE

There were no questions.

10. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT

The Committee received an update from the Markets and Consumer Protection Department with regards to the progress of the Home Office’s consultation with licensing authorities on locally set fees for licence applications.

The Committee were also told that the Home Office had a launched a new project to combat alcohol related crime and disorder. The project is to run in twenty areas across England and Wales called Local Alcohol Action Areas (LAAAs). The Committee heard that the twenty LAAAs did not include the City.

The meeting closed at 2.30pm

Chairman

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**MINUTES OF THE LICENSING REVIEW (HEARING) SUB
COMMITTEE**

HELD ON WEDNESDAY 19 FEBRUARY 2014

APPLICANT: CITY OF LONDON POLICE
PREMISES: FENG SHUI, 1A PUDDING LANE, LONDON EC3R 8AB

PRESENT

Sub Committee:

Kevin Everett CC (Chairman)
Marianne Fredericks CC
Deputy John Barker OBE CC

Applicant:

Leo Charalambides, Counsel representing the Premises
Inspector Hector McKoy, City of London Police
Mr John Hall, City of London Police Licensing Officer

Premises:

Ms Mary McKenna, Barrister representing the Applicant
Mr Wei Li, Director of Feng Shui
Mr Johnny Zhu, Director of Feng Shui
Mr Arthur Yang, proposed new Designated Premises Supervisor (DPS)

Responsible Authorities and Other Persons:

Mr Richard Lambert, City of London Environmental Health Officer

In Attendance:

Mr Graham Packham CC
Mr Paul Chadha, Comptroller and City Solicitor's Department
Mr Steve Blake, Department of Markets and Consumer Protection
Mr Peter Davenport, Department of Markets and Consumer Protection
Miss Xanthe Couture, Town Clerk's Department
Miss Georgina Denis, Town Clerk's Department
Mr James Goodsell, Town Clerk's Department

Licensing Act 2003 (Hearings) Regulations 2005

A Review Hearing was held at 11.05am in Committee Room 3, Guildhall, London, EC2, to consider and determine, through review, measures regarding the premises licence for '1A Pudding Lane, London EC3R 8AB.'

The Sub Committee had before them the following documents:-

Appendix 1 – Report of the Director of Markets and Consumer Protection:
Application for Summary Review
Grounds for Review

Appendix 2 – s.53A Certificate

Appendix 3 – Copy of Current Licence

Appendix 4 – Plan of premises

Appendix 5 – Decision of Sub-Committee (Consideration of interim steps)
28 Jan 2014

Appendix 6 – Representations from Responsible Authorities:
Environmental Health (Pollution Team)

Appendix 7 – Map of subject premises together with other licenced premises in the area and their latest terminal time for alcohol sales.

Together with late papers circulated subsequent to the Sub Committee agenda being published:

Police evidence

- Witness Statements
- CCTV Schedule
- Exhibits
- Crime Reports
- CADS
- Intelligence Reports

Representation on behalf of premises

- Arthur Yang CV
- Johnny Zhu statement
- Lippy Liang representation
- Promoter reference and emails
- Club patron letter

The Hearing commenced at 11.05am.

The Chairman introduced the Sub-Committee members and confirmed CCTV footage provided by the Police and all papers, including those circulated late, had been considered by the Sub-Committee in advance of the hearing. Given the number of attendees, the Chairman asked those present to introduce themselves and state in what capacity they were attending the Sub-Committee.

The Chairman invited Mr Charalambides to present on behalf of the City of London Police. Mr Charalambides stated the Police were of the opinion that the incident which occurred on 19 January 2014 warranted submitting the application for summary review of the premises. He explained the evidence supplied by the Police highlighted incidences of serious crime and serious disorder which had occurred at the premises.

Mr Charalambides continued to explain that when the premises licence was granted the Police had been informed that the premises would operate as a restaurant with late-night licensable activities in order to cater to the Chinese business community within the City. Mr Charalambides explained that while the premises did hold Chinese events, it hosted events that catered to and attracted a late-night 'Urban music nightclub crowd'. Mr Charalambides explained that the premises did not have the capacity to successfully manage an 'Urban music nightclub crowd' without risk of crime and disorder.

Mr Charalambides continued to tell the sub-committee that the 'Urban' nightclub community knew Feng Shui had a reputation for poor management and some patrons frequented the venue because they were aware that they could get away with the kind of behaviour that encourages crime and disorder.

The Sub-Committee were asked to turn to page 14 of the Police evidence document pack, which highlighted an incident that took place on the 3rd November 2013. Mr Charalambides explained to the Sub-Committee that the incident was evidence that the premises were not able to successfully manage patrons of the nightclub nor prevent crime and disorder, as a large number of people had 'rushed the door'. On this and other occasions the Police had been called to restore order at the premises.

Mr Charalambides asked the Sub-Committee to note that on the same occasion, the London Transport Police had been called to assist night buses to navigate the street outside of the premises which had been blocked by patrons of Feng Shui.

In addition, the Sub-Committee were asked to turn to page 143 of the Police evidence and note that a patron had reported an incidence of a concealed firearm at the premises on the 20th of November 2013.

Mr Charalambides asked the Sub-Committee to note that the proposal from the premises did not include a substantial management plan and did not mention implementing a drugs policy, dispersal policy or door search arrangements. Mr Charalambides followed that the premises proposal did not contain the

information found in management policies of professionally operated nightclubs.

Mr Charalambides added that he felt the proposed new DPS did not have the experience required to successfully manage the premises if it continued to host urban nightclub events.

Mr Charalambides asked the Sub-Committee to consider removing the provision of performance of dance, provision of dance and recorded music in order to prevent the premises operating as a nightclub. Mr Charalambides asked the Sub-Committee to restrict the sale of alcohol to 00:00. The Sub-Committee were also asked to restrict the provision of late night refreshment from 23:00 to 00:00 and the premises opening hours from 08:00 – 00:00.

Mr Charalambides explained that if the Sub-Committee were to decide not to restrict licensable activities and to allow the premises to operate as a nightclub, the removal of the current DPS should be considered, as well as the condition that the licence would not permit the premises to use external promoters.

The Chairmain notified Ms McKenna that she could now question the Applicant. Ms McKenna took the opportunity to ask the Applicant if the premises CCTV footage included recordings of more than one incident, to which Mr Charalambides replied that the CCTV footage showed multiple incidents and the schedule of incidents was listed on page 17 of the Police evidence.

Ms McKenna asked the Sub-Committee to note that five incidents in the Applicant's evidence occurred on the 19 November 2014 and two incident entries had both occurred on the 27 November 2014. She asked the Applicant whether this was enough evidence to show the premises had a background of crime and disorder. Mr Charalambides replied to say that all the evidence including CCTV footage, crime reports and CADS reports provided evidence to show that the premises could not control the dispersal of patrons or manage security upon entry which resulted in crime and disorder.

Ms McKenna went on to ask the Applicant to confirm that they refused to consider the "skeleton outline" of the premises management plan. Ms McKenna also asked whether the Applicant disagreed that the proposed changes were a positive way forward. Mr Charalambides said that the Applicant was open to discussion, but did not believe the proposed management plan (p. 19 of the premises evidence) provided sufficient information to be a credible plan.

Ms McKenna asked the Applicant whether describing the premises as a magnet for disorder was an overstatement of the facts. Mr Charalambides said he did not believe it to be an overstatement. Ms McKenna followed by reminding the Sub-Committee that the premises held late night events since December 2012. Ms McKenna continued and asked the Applicant whether they agreed that as the nightclub has been in operation since 2012, the incidents reported in their evidence were related to only the patrons of one type of promoted event. Mr Charalambides said the primary problem was the lack of support in managing promoted events which therefore lead to crime and

disorder.

Ms McKenna asked the Applicant to further explain the method by which evidence of drugs use had been gathered, to which Mr Charalambides replied that a number of areas within the premises were swabbed by Police and results found samples of cocaine in the premises toilets. Ms McKenna asked if the drug testing had occurred on more than one occasion and Mr Charalambides replied that drug testing at the premises had only occurred once.

Inspect McKoy clarified for the Sub-Committee that the premises had been tested for drug use as part of an operation which involved testing a number of licensed premises across the City. Ms McKenna asked whether the operation had found drug use at other premises' in the City. In reply Inspector McKoy said he was unable to reveal the results of other premises. A Member of the Sub-Committee explained to Ms McKenna that the drug testing results of other premises was not relevant to the hearing.

Ms McKenna asked the applicant whether other venues around the premises closed at 3am and if these venues also had issues with crime and disorder. Mr Charalmabides confirmed that a number of venues in the area closed at 3am and explained although there were at times problems with regards to noise, there had been no problems of crime and disorder. Mr Charalambides continued to say that the crime and disorder problems in the area were only attributed to Feng Shui. The incidents reported by the public had been made specifically with regards to Feng Shui and no other premises in the area.

At 12:10 the hearing broke for a short recess.

At 12:30 the hearing resumed. Ms McKenna asked the Sub-Committee to note the contents of an email sent from a reputable promoter which was included in the Police evidence. Ms McKenna asked the Applicant whether the reputable promoter had described the management at Feng Shui as difficult to work with because of issues with the promoters pricing arrangements. Mr Charalambides replied to say that the reputable promoter did not find the premises difficult to work with because of pricing disagreements.

Ms McKenna asked whether the email was forwarded to the premises DPS when it was received by the Police. Ms McKenna continued to say that if the email was not forwarded was fair to comment that the management proposal was insufficient since the Police did not share feedback from promoters. Mr Charalambides replied to say that he regardless of not sharing the email the Applicant believed that the proposal supplied an insufficient amount of information to be credible.

A Member of the Sub-Committee asked the Applicant whether or not they were surprised that Feng Shui applied for a 5am closing time. The Applicant responded to say that the Police spoke to the premises about the licence application and gave advice on how to complete the licence application form. The Applicant continued that the premises told the Police the 5am closing time was to hold late night events for the Chinese community. The Police did not

disagree to the premises licence application because late night events for the Chinese community functioned well in Soho.

The Sub-Committee heard from Mr Lambert of the Environmental Health Office who submitted representations to be considered at the hearing. The Sub-Committee were told that the Environmental Health Office visited the premises on the night of an event, after having received complaints about the level of noise. Ms McKenna asked the Environmental Health Office to confirm if there was only one complaint and Mr Lambert explained that the office had received two complaints, one of which was verified by an Officer visiting the premises.

The Chairman invited Ms McKenna to present on behalf of the premises. Ms McKenna asked the Sub-Committee to note that the premises was faced with a review hearing on the 28 January 2014 and were served with Police evidence on 10 February 2014, therefore the premises had lacked a sufficient amount of time to properly study the evidence and create a detailed proposal

Ms McKenna explained the premises management wanted to respond positively to the Police concerns. Ms McKenna added that she tried to change the premises DPS in advance of the Review Hearing to someone who was more suited to manage late night licenced venues.

Ms McKenna asked the Sub-Committee to turn to proposed DPS CV (page 7 of the premises evidence) which explained that the proposed DPS (Mr Yang) was suitably educated and properly qualified to manage a night club. Mr Yang followed Ms McKenna and further explained to the Sub-Committee details of his education and employment background. He then explained the six points of the premises proposal which included the conditions that:

- A reservation form would be used to document how many patrons would be attending an event.
- All events would be assessed with the use of a risk assessment form.
- Meetings with the Police are to be signed and recorded by both the DPS and the Police.
- Due diligence would be carried out for each promoter and signed by the premises management, although the point was incorrectly written in the premises representations as due diligence to be signed by the Police.
- All feedback and follow up meetings with the Police would be accurately recorded and signed by both parties.
- Incident reports would be created for all incidents and signed by witnesses, security, the premises management and the Police.

Mr Yang continued to say that he believed the six steps would be necessary to take immediate and urgent action to improve the safety of events held at the premises.

Ms McKenna asked Mr Yang whether he would be able to work with the former management team, to which Mr Yang replied that he would and he planned to provide existing members of staff with appropriate training to improve the safety of events.

Ms McKenna told the Sub-Committee that the premises acknowledged that a proportion of the former patrons were connected to occurrences of crime and disorder, but felt the overall message from the Police was that there was no chance of improvement. Ms McKenna assured the Sub-Committee that the premises had learned an important lesson.

Ms McKenna also assured the Sub-Committee that the premises would only work with reputable event promoters in the future and had already begun to do so. Ms McKenna asked the Sub-Committee to turn to page 17, 19 and 23 which provided evidence that the premises had been in touch with other promoters in an attempt to distance themselves from past promoters.

Ms McKenna explained to the Sub-Committee that she believed the CADS report on page 187 of the Police evidence was a hoax call because the report states there was no trouble when the Police arrived at the premises. Ms McKenna also told the Sub-Committee that she believed many of the incidents reported in the Police evidence were domestic cases which involved patrons who were known to each other and therefore did not constitute the background of crime and disorder suggested by the Police.

Ms McKenna asked the Sub-Committee to note that the incident reported in the crime report 4491 (page 81 – 96) was duplicated elsewhere in the Police evidence. Ms McKenna explained that Police evidence seemed to show numerous incidents occurring in the premises, but in fact one incident had been reported by a number of people.

Following Ms McKenna's presentation Mr Charalambides took the opportunity to ask the premises if the DPS's designation was valid, to which it was explained that Mr Yang would have a valid DPS certification in due course. Mr Charalambides queried if Mr Yang could state the four licensing objectives. Mr Yang was unable to state them at the time.

At 13:39 the hearing broke for recess.

At 14:30 the hearing resumed. A Member of the Sub-Committee explained to the premises that the vast majority of nightclubs in the City did not have incidents of crime and disorder. The Member asked the premises whether they understood the level of crime that occurred at their premises in a very short time. Ms McKenna responded on behalf of the premises to say that they had taken the advice from the Police into consideration, and had given the Sub-Committee broad objectives as to how they planned to turn things around.

A Member of the Sub-Committee asked the premises to note that the vast majority of incidents were reported to the Police by the public and not by the

management team. A director of the premises said that the management did report incidences to the Police, to which a Member of the Sub-Committee commented that the CCTV footage showed there was 20 minutes between when an incident occurred and when the premises reported the incident to the Police.

A Member of the Sub-Committee asked the premises if they had seen and implemented the Licensing Policy and Guidance Notes provided online by the City of London Corporation. Ms McKenna replied to say that the premises did follow the search policy and the premises used three accredited companies to provide adequate door supervision. Ms McKenna continued that the premises hoped to increase the level of security for the nightclub.

A Member of the Sub-Committee asked the premises how much time the new DPS would be able to devote to managing the premises. A premises Director explained that Mr Yangs' business required little management and allowed him the flexibility to work at Feng Shui. The Director also said the DPS lived close to the premises and would be able to arrive at the premises at short notice.

The Chairman asked the Applicant to give their closing statement. Mr Charalambides said that the evidence provided by the Police demonstrated there were significant problems with the management of the premises and the hours of licensable activity. Mr Charalambides said that the new DPS had only a pending personal licence and although he had experience working at a hotel which held a late night licenced events, he did not have experience specific to the management of a nightclub with previous issues of crime and disorder. Mr Charalambides felt that based on his questions at the hearing, the proposed DPS did not know the licencing objectives or what Temporary Event Notices were.

Mr Charalambides concluded to say for each incident reported in the Police evidence, the premises door security and management staff had been aware and present. Mr Charalambides said this demonstrated that the quality of management at the premises was not appropriate to run a safe nightclub. Mr Charalambides suggested that the premises could reapply for late night licensable activities once it was adequately prepared and could demonstrate that the management plan took into consideration the licensing objectives.

The Chairman then asked the Applicant to give their closing statement. Ms McKenna informed the Sub-Committee that unfortunately the premises did not have the time to create a substantial proposal but had responded to the Applicant's concerns. Ms McKenna stated that some incidents reported in the Police evidence showed that no offences were committed and the reported domestic incidents provided some perspective of the degree of crime and disorder at the premises.

Ms McKenna continued that the Sub-Committee received from the premises multiple assurances that a number of reputable promoters were willing to work with the premises. She continued to say that the Applicant had used a strategy to intimidate the premises during the hearing. Ms McKenna asked the Sub-

Committee to give the premises an opportunity to improve and work with the Police with the condition that the premises only use safe event promoters

Members of the Sub Committee withdrew to deliberate and make their decision, accompanied by the representatives of the Town Clerk Department and the Comptroller and City Solicitor Department.

Having returned from the deliberation The Chairman informed those present that evidence presented by the City of London Police were of a serious nature and highlighted serious failings in the premises' management structure which resulted in the premises licence holder's inability to promote the crime and disorder licensing objective.

The Chairman said that the Sub-Committee were not convinced the premises fully appreciated the extent of the improvements required to ensure that the premises operated safely. Furthermore, the Sub-Committee were not satisfied that the current management team and the proposed DPS could implement the necessary safeguards to effectively promote the licensing objectives, particularly those relating to crime and disorder.

The Sub-Committee therefore decided to take the following steps in respect of the premises licence and:

Removed all licensable activities; except sale of alcohol. Therefore there should be no performance of plays, exhibition of films, live, and recorded music, performance of dance and provision of dance.

Restricted the times the licence authorises the sale of alcohol. Therefore the permitted hours are 10:00 – 00:00, from Sunday to Saturday.

Restricted the times the licence authorises the carrying out of late night refreshment. Therefore late night refreshment could take place only between 23:00 – 00:00, Sunday to Saturday.

Restricted the opening hours of the premises to 08:00 – 00:30, Sunday to Saturday.

The Chairman said that a full decision containing the Sub-Committee's reasons would be circulated in due course and thanked all parties for attending the Hearing. The Chairman also informed the parties that, should they be dissatisfied with the decision there was a right of appeal to the Magistrates' Court which must be made within 21 days of receipt of the written decision. The interim steps imposed at the hearing held on 28 January 2014 are to remain in force until the expiration of 21 days from the date of the summary review decision letter or the determination of any appeal.

The meeting closed at 3.52pm

Chairman

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COPY OF DECISION LETTER CIRCULATED

THE COMMON COUNCIL OF THE CITY OF LONDON

LICENSING SUB-COMMITTEE

Kevin Everett CC (Chairman)
Marianne Fredericks CC
Deputy John Barker OBE CC

Wednesday 19 February (11:00am - 3:52pm)

IN RE:

FENG SHUI
1A PUDDING LANE, LONDON EC3R 8AB
(WARD OF BRIDGE)

The Sub-Committee was addressed by Mr Leo Charalambides of Counsel for the Applicant and by Ms Mary McKenna of Counsel for the Premises. The Sub-Committee also heard from Mr Richard Lambert, Environmental Health Officer on behalf of the responsible authorities.

This was a substantive Review Hearing convened, following an Interim Steps Hearing, for premises known as Feng Shui, 1A Pudding Lane, London EC3R 8AB held on Wednesday 19 January 2014.

The Sub-Committee had before it an agenda pack including a Report of the Director of Markets and Consumer Protection, the application for summary review along with supporting evidence circulated by the Applicant subsequent to the publication of the agenda but prior to the commencement of the hearing, representations from responsible authorities, and papers circulated on behalf of the premises licence holder subsequent to the publication of the agenda but prior to the commencement of the hearing. During the hearing a paper was also circulated on behalf of the premises following agreement from the Applicant and the Sub-Committee.

The Sub-Committee considered the documentary evidence and CCTV footage provided on behalf of the Applicant along with oral evidence and

representations made during the course of the hearing. The Applicant submitted that the number and severity of incidents of crime and disorder which occurred at the premises during the early hours of the morning when it operated as a nightclub demonstrated that the management team were unable to responsibly stage and manage promoted events. The Applicant asserted that failings in the provision of adequate and effective door security coupled with the absence of management plans addressing the selection of suitable promoters, entry policy, drug policy, screening of patrons prior to entry and ensuring the safe and effective dispersal of patrons were major contributory factors to the unacceptable levels of crime and disorder associated with the premises. It was also alleged that the premises operators had shown a reluctance to co-operate with the police and expected the police to provide solutions to their problems as opposed to actively addressing the issues themselves. It was the opinion of the Applicant that the premises functioned adequately as a restaurant but was incapable of functioning as a responsibly managed late-night entertainment venue and lacked confidence in the qualifications and experience of the new DPS the Premises had proposed.

The Sub-Committee also considered the evidence put forward in the representations from responsible authorities and other persons. They noted that the Environmental Health Officer had received a complaint with regards to the level of noise when patrons left the premises. The Environmental Health Office had visited the premises on one occasion and confirmed an unacceptable level of noise had existed, particularly from vehicles belonging to patrons who had visited the premises.

The Sub-Committee went on to consider the evidence put forward on behalf of the premises licence holder which included a proposal to improve operational control of the premises. Further evidence that the premises were improving their management of the night club included a plan to change the DPS to someone who they felt was more qualified and appropriately experienced with managing a late night licenced premises than the previous DPS. The Sub-Committee also considered evidence that the premises had undertaken the directives of the Police to engage with responsible event promoters in order to distance the nightclub from past unsafe promoters, DJs and patrons.

The Sub-Committee considered the available options found in S.53C(3) of the Licensing Act 2003, these being :

- Take no further action;
- The modification of the conditions of the premises licence;
- The exclusion of a licensable activity from the scope of the licence;
- The removal of the Designated Premises Supervisor from the licence;
- The suspension of the licence for a period not exceeding three months;
- The revocation of the licence

The Sub-Committee felt it was clear from the evidence that the incidents over a prolonged period of time reported by the City of London Police which occurred when the premises operated as a nightclub were of a serious nature and highlighted serious failings in the management structure resulting in the premises licence holder's inability to promote the crime and disorder licensing objective. The Sub-Committee listened carefully to the submission of the premises license holder but was not convinced that the premises fully appreciated the extent of the improvements required to ensure that the nightclub operated safely. Furthermore the Sub-Committee was not satisfied that the current management team and the proposed DPS would have the ability to implement the necessary safeguards to effectively promote the licensing objectives, particularly those relating to crime and disorder.

The Sub-Committee considered whether revocation or suspension of the premises licence would be appropriate, but in recognition of the fact that the premises could operate as a restaurant, the Sub-Committee concluded that this response would be disproportionate.

Based on the evidence heard, the Sub-Committee therefore decided to take the following steps in respect of the premises licence:

- Remove all licensable activities; except sale of alcohol.

Therefore there shall be no performance of plays, exhibition of films, live, and recorded music, performance of dance and provision of dance.

- Restrict the times the licence authorises the sale of alcohol. Therefore the permitted hours are 10:00 – 00:00, from Sunday to Saturday.
- Restrict the times the licence authorises the carrying out of late night refreshment. Therefore late night refreshment can take place between 23:00 – 00:00, Sunday to Saturday.
- Restrict the opening hours of the premises to 08:00 – 00:30, Sunday to Saturday.

If any party is dissatisfied with the decision they are reminded of the right to appeal, within 21 days of the date of this decision being communicated to them, to a Magistrates' Court. Any party proposing to appeal is also reminded that under section 181 (2) of the Licensing Act 2003, the Magistrates' Court hearing the appeal may make any order as to costs as it thinks fit.

K Everett
M Fredericks
J Barker

Committee(s):	Date(s):
Licensing Committee	28 April 2014
Subject: Delegated decisions of the Director of Markets and Consumer Protection pertaining to premises licences.	Public
Report of: Director of Markets and Consumer Protection	For Information
<p>Summary:</p> <p>This report details the premises licences, and variations to premises licences, granted under the Licensing Act 2003 by the Licensing Service from 1 January 2014 to 31 March 2014. It does not include any premises where Members have been involved in the decision making process i.e. decisions made at licensing sub-committee hearings.</p> <p>The report gives a summary of the enforcement action taken under the Licensing Act 2003 between 1 January 2014 and 31 March 2014. This report also presents data from the ‘traffic light’ risk scheme introduced within the City of London on 1 April 2013. The data covers the period 1 Apr 2013 to 28 February 2014.</p>	

Main Report

Premises Licence Applications

1. Pursuant to the instructions from your committee, I attach for your information a list detailing ‘premises licence’ applications (Appendix I) and variations (Appendix II) granted by the Licensing Service between 1 January 2014 and 31 March 2014.
2. The report also contains information appertaining to the number of personal licences issued. This information is also contained in Appendix II.
3. Any questions of detail concerning premises licences can be obtained from the Corporation’s public register which can be found on <http://www.cityoflondon.gov.uk/business/licensing/alcohol-and-entertainment/Pages/Search-the-public-register.aspx>. or by contacting Peter Davenport, Licensing Manager, on extension 3227 or by email to the Licensing Team at licensing@cityoflondon.gov.uk.

4. Appendix IV details the conditions attached to the premises licences listed in Appendices I and II.

Routine Enforcement

5. This report also outlines the enforcement activity of the Licensing Service in relation to premises with a licence granted under the Licensing Act 2003 (Appendix III). The table in Appendix III shows the number of visits undertaken, number of complaints received and the number of enforcement actions taken. Enforcement actions include warning letters, notices, simple cautions, legal proceedings etc.
6. Appendix III provides data from 1 January 2014 to 31 March 2014.
7. Licensing Officers undertake routine enforcement visits checking on premises licence conditions where there are concerns, e.g. closing times, compliance with Temporary Event Notices and managing numbers of people consuming alcohol outside venues, and also in response to complaints. The Departmental Policy Statement on Enforcement is followed prior to escalating action and taking legal proceedings.
8. The Departmental Policy Statement on Enforcement 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 Officers are expected to follow and addresses issues of proportionality, consistency, targeting, transparency and accountability.
9. More widely, enforcement arrangements are currently coordinated at the Licensing Liaison Partnership meetings that are held monthly and are attended by representatives from all enforcement agencies. Joint visits are organised via this forum and subsequent reports are used to add to the top level premises list that that comprises those premises that have accrued the most points under the 'traffic light' risk scheme. These are then targeted by relevant enforcement officers.
10. This report details data produced from the 'traffic light' risk scheme for the period of 1 April 2013 to 28 February 2014. 14 premises have accrued a sufficient number of points to turn 'Red' and 7 premises a sufficient number to turn 'Amber'. Further details can be seen in Appendix V.
11. There is a very good working relationship between the Port Health & Public Protection (PH&PP) Licensing Team, The City of London Police Licensing Team and the PH&PP Pollution Control Team, all of whom are based at Walbrook Wharf.

12. The Memorandum of Understanding (MoU) between the City of London Police and the Markets and Consumer Protection Department agreed in November 2011 outlines specific arrangements for cooperation between the Licensing Teams.
13. The other City Corporation Department that is routinely involved in enforcement is the Department of the Built Environment (DoBE). 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 or a breach of planning controls, when it is expedient to do, officers from this Department seek authorisation to take enforcement action under the Town and Country Planning Act 1990.

Response to complaints

14. Any complaints about licensed premises are dealt with by the relevant agency/team, e.g. crime and disorder – Police, fire safety – London Fire Brigade. As far as PH&PP are concerned, complaints relating to the conditions on a licence will be dealt with in the first instance by the Licensing Team, but if there are noise issues the Pollution Team will also be involved.
15. Investigations are undertaken 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 agencies/authorities support one another in providing evidence and making applications.

Implications

16. There are no financial, legal or strategic implications that arise from this report

Background Papers:

None

Contact:

Peter Davenport x3227

peter.davenport@cityoflondon.gov.uk

New Licence Applications Issued by way of Delegated Authority (Jan-Mar 2014)

Name	Address	Ward	Details	
The Alchemist	6 Bevis Marks	Aldgate	A, L, (b),(e),(f)	03:30
Barburrito	60B Holborn Viaduct	Farringdon Within	A, (f)	00:00
Sainsbury's	31 New Bridge Street	Farringdon Within	A	00:00
Etc Venues	155 bishopsgate	Bishopsgate	A, L	00:00
Burger Pit	106 Leadenhall Street	Aldgate	A, (f)	00:00
Chilango	18 King William Street	Candlewick	A	21:00
107 Leadenhall Ltd	107 Leadenhall Street	Aldgate	A, L, (e), (f)	02:30

Total Licences Issued = 7

Key to Details:

- | | |
|----------------------------|---------------------------|
| A Sale of Alcohol | (e) Live Music |
| L Late Night Refreshment | (f) Recorded Music |
| (a) Plays | (g) Performances of Dance |
| (b) Films | (h) Making Music |
| (c) Indoor Sporting Events | |
| (d) Boxing or Wrestling | |

Times stated are the latest terminal hour for at least one of the licensable activities.

Number of Licences by Ward

WARD	No.
Aldgate	3
Bishopsgate	1
Candlewick	1
Farringdon Within	2

Licence Variations Issued by way of Delegated Authority (Jan-Mar 2014).

Name	Address	Ward	Details
Accenture PLC	30 Fenchurch Street	Billingsgate	<ul style="list-style-type: none"> • Extension of all licensable activities to 4th floor of building
Be At One	16-18 Brushfield Street	Bishopsgate	<ul style="list-style-type: none"> • Recorded Music amended from 12:00 to 22:00 (Mon-Wed) and 12:00 to 23:00 (Thu and Fri) to 12:00 to 01:00 Mon to Sun • Now opening on Sunday from 08:00 to 01:00

Total Variations = 2

Number of Licences by Ward

WARD	No.
Billingsgate	1
Bishopsgate	1

Personal Licences Issued by way of Delegated Authority

01 Jan 2014 – 31 Mar 2014 3

**Enforcement Action Carried out Under the Licensing Act 2003
1 January 2014 - 31 March 2014**

Total Number of Inspections	32
Number of Warning Letters	8
Number of Premises advised	5
Number of simple cautions	0
Number of suspension notices	7
Paid prior to suspension	6
Licence lapsed*	0
'Dead' Suspensions**	1
'Live' Suspensions***	0

*Licences are deemed lapsed in circumstances where the licence holder no longer exists e.g. a company has gone into liquidation.

**A 'dead' suspension is where the premises is closed but there is no evidence to suggest that the licence holder is still in existence. If the licence holder returns to the premises the outstanding fee will have to be paid in order for the licence to be resurrected.

***A 'Live' suspension is where the premises is still trading and can now no longer carry on licensable activities until the licence fee has been paid.

Number of complaints received between 01 January 2014 and 31 March 2014

No of Complaints = 22

Date	Outcome	Details	Ward
Neo Pizzeria, 131 Aldersgate Street			
17/03/2014	Informally resolved	Shouting in the street, loud music	Farringdon Within
16/01/2014	Informally resolved	Noisy collection	Farringdon Within
Patch, 58-62 Carter Lane			
19/01/2014	Resolved/Compliance	email re noise from Patrons leaving after midnight	Farringdon Within
The Brewery on Chiswell Street			
24/01/2014	No action required	Mini cabs hooting collection patrons disturbing resident	Coleman Street
09/01/2014	No action required	Live music/DJs continued through to 12.30	Coleman Street
Coco Di Mama, Retail Unit, 90-91 Fleet Street			
07/01/2014	Resolved/Compliance	Loud noise levels. Playing of loud music in the café	Castle Baynard
Golden Lane Community Assoc'n Bar			
28/02/2014	No action required	Loud music & people from community hall on going now	Cripplegate
The Spectator, 6 Little Britain			
10/02/2014	Resolved/Compliance	Staff from Spectator making noise late at night.	Aldersgate
Abbey, St Clare House, 30-33 Minories			
29/03/2014	Advice given	Noise complaint - OOH - noise from smokers	Tower
Mary Jane, 124-127 Minories			
12/01/2014	Resolved/Compliance	Noise from patrons leaving club	Tower
12/01/2014	Resolved/Compliance	Fighting, car horns and shouting	Tower
Thai Square In The City, 136-138 Minories			
04/01/2014	Resolved/Compliance	OOH - music	Tower
Street Record, Minories			
14/02/2014	Informally resolved	Bar noise music & people Abbey when people leaving.	Tower
Gilt London, 14 New London Street			
25/01/2014	Informally resolved	Music and people leaving making excessive noise	Tower
Feng Shui, 1A Pudding Lane			
10/01/2014	Resolved/Compliance	Shouting - revving cars and making a lot of noise	B & Bridge Without
Grand Union Public House, Rolls Passage			
28/03/2014	Resolved/Compliance	Noise complaint - OOH - people noise	Farringdon Without
22/03/2014	Resolved/Compliance	Out of hours - people noise	Farringdon Without
19/03/2014	Resolved/Compliance	Concerns re noise and other issues from Patrons outside	Farringdon Without
Ironmongers' Hall, Shaftesbury Place			
04/03/2014	Informally resolved	Music	Aldersgate
01/03/2014	Informally resolved	Very loud music ongoing possibly open window and doors	Aldersgate
63 West Smithfield, London			
31/03/2014	Resolved/Compliance	Collection of bottles at 04:00 a.m.	Farringdon Within
Hennessys, 36 Jewry Street			
17/03/2014	Resolved/Compliance	Loud music from live band. Cannot work with excess noise.	Tower

Conditions Applied to Licences Granted by way of Delegated Authority

NEW APPLICATIONS

The Alchemist

1. Promoted events will not be held at the premises. A promoted event is an event involving music and/or dancing where the musical entertainment is provided at any time by a disc jockey or disc jockeys one or some of whom are not employees of the licensee (premises licence holder) and/or the event is (independent of the licensee) promoted to the general public.

2. The premises shall install and maintain a CCTV system. All public areas of the licensed premises, including all public entry and exit points and the street environment, will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 28 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.

3. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.

Barburrito

None

Sainsbury's

1. The premises shall install and maintain a comprehensive CCTV system. The system will incorporate a camera covering each of the entrance doors and the main alcohol display area. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 30 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public.

2. Prominent signage shall be displayed at all exits of the premises requesting that customers leave quietly.

Etc Venues

None

Burger Pit

1. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly.

Chilango

None

107 Leadenhall Street

1. The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points and the street environment, will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.

2. An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the City of London Corporation. The log will record the following:

(a) all crimes reported to the venue

(b) all ejections of customers

(c) any incidents of disorder (disturbance caused either by one person or a group of people)

[There is no requirement to record the above incidents (a), (b) or (c) where they do not relate to a licensable activity]

(d) seizures of drugs or offensive weapons

(e) any faults in the CCTV system or searching equipment or scanning equipment

(f) any refusal of the sale of alcohol during the hours the premises is licensed to sell it

3. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly.

4. There shall be no promoted events on the premises. A promoted event is an event involving music and dancing where the musical entertainment is provided at any time between 23:00 and 07:00 by a disc jockey or disc jockeys one or some of whom are not employees of the premises licence holder and the event is promoted to the general public.

5. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.

VARIATIONS

Accenture PLC

None

Be At One

None

Premises obtaining sufficient points on the Risk Scheme to reach Red or Amber. (Apr 2013 – Feb 2014)

RED (20 penalty points or at least 10 from one licensing objective)

1 – Castle Baynard (Crime and Disorder – 35)	35
2 – Coleman Street (Crime and Disorder – 31)	31
3 – Bread Street (Crime and Disorder – 30)	30
4 – Walbrook (Crime and Disorder – 29)	29
5 – Cordwainer (Crime and Disorder – 27)	27
6 – Lime Street (Crime and Disorder – 26)	26
7 – Billingsgate (Crime and Disorder – 25)	25
8 – Bridge & Bridge Without (Crime and Disorder – 13, Public Nuisance - 8)	21
9 - Bishopsgate (Crime and Disorder – 16, Public Safety - 5)	21
10 - Candlewick (Crime and Disorder – 17)	17
11 - Cheap (Crime and Disorder – 13, General - 2)	15
12 – Bridge & Bridge Without (Crime and Disorder – 13, Public Nuisance - 2)	15
13 – Coleman Street (Crime and Disorder – 12, Public Safety - 2)	14
14 – Cornhill (Crime and Disorder – 13)	13

15 – Candlewick (Crime and Disorder – 13)	13
16 – Cordwainer (Crime and Disorder – 12)	12
17 - Bishopsgate (Crime and Disorder – 11)	11
18 – Castle Baynard (Crime and Disorder – 10)	10

Billingsgate	1	Candlewick	2	Cordwainer	2
Bishopsgate	2	Castle Baynard	2	Cornhill	1
Bread Street	1	Cheap	1	Lime Street	1
B/B Without	2	Coleman Street	2	Walbrook	1

AMBER (11 penalty points or at least 6 from one licensing objective)

1 – Aldgate (Crime and Disorder – 9)	9
2 – Farringdon Without (Public Nuisance – 6, Public Safety - 3)	9
3 – Farringdon Without (Crime and Disorder – 5, Public Safety - 3)	8
4 – Tower (Crime and Disorder – 6, Public Nuisance - 2)	8
5 – Cheap (Crime and Disorder – 8)	8
6 – Bassishaw (Crime and Disorder - 8)	8
7 – Aldgate (Crime and Disorder – 7)	7

8 – Bishopsgate (Crime and Disorder – 7)	7
9 – Bishopsgate (Crime and Disorder - 7)	7
10 – Vintry (Crime and Disorder – 6)	6
11 – Bridge & Bridge Without (Crime and Disorder – 6)	6
12 – Bishopsgate (Crime and Disorder – 6)	6
13 – Bishopsgate (Public Safety - 6)	6
14 – Bread Street (Crime and Disorder – 6)	6

Aldgate	2	B/B Without	1	Vintry	1
Bassishaw	1	Cheap	1		
Bishopsgate	4	Farringdon W/out	2		
Bread Street	1	Tower	1		

Agenda Item 8

Committee:	Date:
Licensing	28 April 2014
Subject: Department of Markets & Consumer Protection Business Plan 2014-2017	Public
Report of: The Director of Markets & Consumer Protection	For Approval
<u>Summary</u>	
<p>This report details the Business Plan for 2014-17 for the Department of Markets & Consumer Protection.</p>	
<p>The Department reports to three discrete City Committees: Markets; Port Health and Environmental Services; and Licensing. The Business Plan consists of an overarching plan which contains information relating to the whole department, and a separate annex for each of the three Committees which reflects the responsibilities of that Committee only.</p>	
<p>The Business Plan identifies some key achievements from the past year and sets out what we aim to achieve this year, the standards we will attain, and where this fits within Corporate plans.</p>	
Recommendation	
<p>It is recommended that Members approve the contents of this report and its appendix.</p>	

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Department of Markets and Consumer Protection Business Plan 2014-2017

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Introduction

The Department of Markets and Consumer Protection (M&CP) has the widest span of all front-line service departments, employing some 247 staff with a combined gross turnover (expenditure) of £23,400,000 and an overall net local risk budget of £4,122,000 giving a total budget including central risk and recharges of £2,723,000. Spread across ten locations the department ranges from the Heathrow Animal Reception Centre in the West, to Billingsgate and Spitalfields Markets in the East, with Tilbury on the North side of the Thames and Denton on the South side.

Markets

The City of London's wholesale markets have a long history and have always played a central role in the economies of the communities in which they operate. Billingsgate, New Spitalfields and Smithfield supply fish, fruit, vegetables, flowers, and meat to a host of food service sectors within the South East and beyond. Customers range from catering companies, butchers, fishmongers, and greengrocers to restaurants, hotels, schools, street and retail markets and small local businesses. The markets have a combined estimated turnover of about £2 billion per year and more than 25,500 customers per week.

- **Billingsgate Market** has 42 fish merchants including specialist and catering suppliers, potato and trade sundries suppliers, with an annual turnover of some 22,000 tonnes, valued at approximately £250 million. Although traditionally a wholesale market, retail trade has increased in recent years, especially on Saturdays. The Billingsgate Seafood Training School, a registered charity, is located within the market.
- **Smithfield Market** is a world-renowned wholesale meat and provisions market serving Greater London and southern England. There are 42 individual businesses with approximately 120,000 tonnes throughput, valued at approximately £500 million. As well as meat and poultry, products such as cheese, pies, and other delicatessen goods are available.
- **New Spitalfields Market** has 121 trading units for wholesalers in the market hall, 13 catering supplies units, and a further 20 supporting businesses. New Spitalfields Market houses the largest number of food wholesalers in the UK, with a turnover of some 750,000 tonnes, valued at approximately £750 million. Sustainability is a high priority for the market and about 75% of its waste is now recycled.

Port Health and Public Protection Service

The Port Health and Public Protection Service provides a comprehensive and effective environmental health and trading standards service for the City of London, ensuring that, through monitoring, regulation and enforcement, City residents and businesses can enjoy an environment and services which are, so far as possible, safe and without risks to their health or welfare. Through its Port Health and Animal Health services it also provides imported food control as the London Port Health Authority and animal health services to 29 London and two Berkshire local authorities. The service is sub-divided into three divisions comprising Port Health, Animal Health & Welfare, and Public Protection.

Port Health

- As the London Port Health Authority, the **Port Health Service** is responsible for a district extending for 151 kilometres along the River Thames from Teddington to the outer Estuary including the ports of Tilbury, London Gateway, Thamesport, Sheerness and London City Airport. The authority serves businesses and protects the nation through the delivery of the following services controlling: food and feed imports; food standards, food safety and water quality; infectious disease control; civil contingencies; environmental protection and shellfish control.

Animal Health & Welfare

- The division is responsible for providing **animal health services** across London on an agency basis for 31 London Boroughs and also Unitary Authorities in the Home Counties. Officers carry out inspections of pet shops, zoos, dog breeding and riding establishments, and offer advice on the keeping of dangerous wild animals. The division also deals with complaints from the public and welfare matters involving circuses, animal shows, studio work with animals and other cases where animals are used to perform.
- The **Heathrow Animal Reception Centre (HARC)** has established itself as a world leader in the care of animals during transport. Open 24 hours a day, 365 days a year, the centre receives and cares for hundreds of thousands of animals of all types - from cats and dogs to baby elephants, horses, reptiles and spiders. The centre has seen a range of unusual animals including a mongoose, a sun bear, a white lion cub, cheetahs and sloths.

Public Protection Division

This division is primarily based in the City and teams carry out the following wide range of regulatory work:

- **Food Safety** undertakes a range of food hygiene, food standards and health and safety interventions across all City food businesses including the provision of advice and information. The team also carries out infectious disease investigations and sampling work and enforces odour nuisance legislation.
- **Health & Safety** is responsible for enforcement of health and safety legislation in all relevant City businesses including the provision of advice and information.
- **Operational Support** is responsible for providing a range of administrative and IT support services to the department including system administration of Timemaster and the Northgate M3 database.
- **Pest Control** provides a comprehensive pest control eradication and advisory service to all non-food businesses in the City and engages in contract work for various City Corporation departments including Housing, the City Surveyor and our own Smithfield Market.
- **Pollution Control** is responsible for enforcing all noise and nuisance legislation, private sector housing, air quality management and contaminated land legislation across the Square Mile.
- **Trading Standards** is responsible for enforcing and advising businesses and consumers regarding legislation relating to trading practices within the City of London. The team investigates scams and fraud in conjunction with the Office of Fair Trading's Scambusters Team. Other work includes weights and measures, pricing, product safety, consumer credit and fair trading.
- **Smithfield Enforcement Team** undertakes enforcement of health and safety legislation, food standards, hygiene controls in vehicles that visit Smithfield Market and investigates any food complaints, as well as operating the Animal By-Product facility for the disposal of unfit meat.

Licensing Service

- The **Licensing Service** is responsible for ensuring that all city businesses hold the appropriate licences and registrations and comply with the rules and conditions appertaining to those licences.

Markets and Consumer Protection Directorate

The Directorate Team has a strategic role in managing the overall strategy, communications, health and safety, and promotion of the department, allowing the operational managers to focus on the day-to-day management of their divisions and their customers' requirements. The Directorate also liaises directly with the department's HR, IS and Chamberlain's (Finance Unit 3) Business Partners and Chamberlain's Head of Finance at a strategic level.

The Department of Markets and Consumer Protection's business has many strands and this plan aims to bring together the improvement objectives so that resources can be fairly allocated. As the department reports to three separate Committees (Markets Committee; Port Health and Environmental Services Committee; Licensing Committee) for discrete aspects of its work, this plan is divided into four sections:

- An overarching set of key departmental objectives and performance indicators
- Three appendices with specific objectives relevant to the responsible Committee.

The downturn is affecting every aspect of business and budget restrictions will force further reviews of the services we provide and the way we do business. Funds are going to become increasingly tight for the foreseeable future. So, to ensure that we fulfil our obligations to our major customers, we need to satisfy the four perspectives shown on page 11, our version of the Balanced Scorecard¹, while we endeavour to maintain our traditional standards and remain mindful of our corporate, environmental, and social responsibilities.

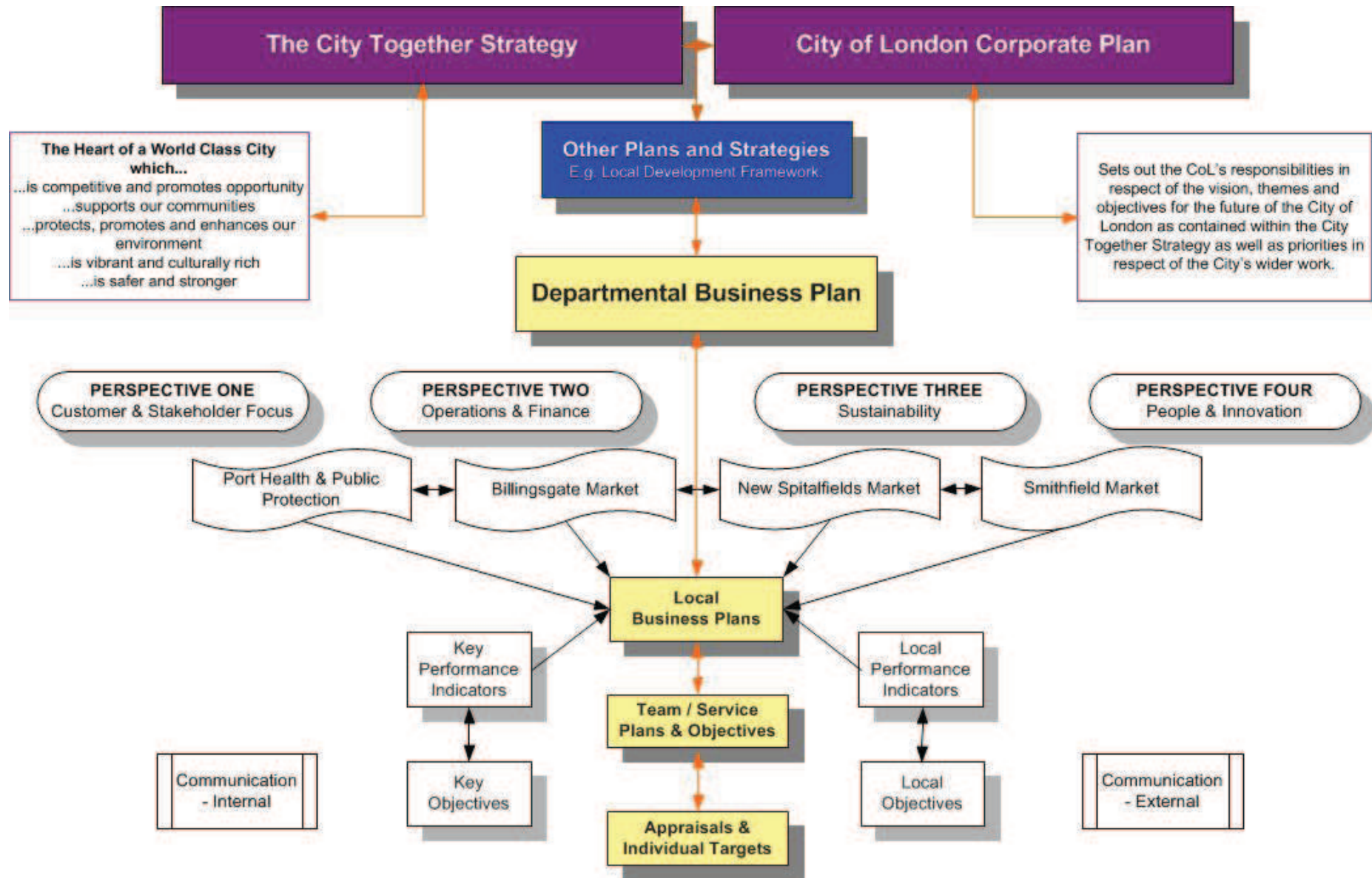
The Service Based Reviews will absorb a significant amount of senior management time and effort over the coming year as we look towards changes coming in the 2016/17 and 2017/18 time frame. In managing the hugely varied business of the department, managers at all levels will need to have two words at the forefront of their minds: initiative and proactivity.

We recognise the importance of maintaining a skilled and motivated workforce to successfully deliver our business plan, and are committed to providing appropriate training and support to our staff in order to achieve this.

David A H McG Smith CBE, Director of Markets and Consumer Protection

¹ Kaplan R. S. and Norton D. P. (1992). "The Balanced Scorecard: measures that drive performance", *Harvard Business Review*, Jan – Feb pp. 71–80

Business Planning Process



Vision

The vision of the Department of Markets and Consumer Protection is to support The City Together Strategy and the Corporate Plan through the provision of high quality, efficient services to our customers and stakeholders.

Strategic Aims

Our strategic aims are:

- To operate the three wholesale food markets in a manner that provides an exemplary trading environment which is environmentally sustainable, well maintained, safe, hygienic, and financially viable.
- To advise, educate, influence, regulate and protect all communities for which the department has responsibility in the fields of Environmental Health, Port Health, Trading Standards, Licensing and Animal Health.
- At all times to seek value for money in the activities we undertake so that the highest possible standards are achieved cost effectively.

Key Performance Indicators 2014-2015

The Key Performance Indicators for the Department are listed here. Progress against these indicators will be reported to the relevant Committee on a periodic basis throughout the year.

Markets Committee; Port Health & Environmental Services Committee; Licensing Committee

- KPI 1** Achieve an overall sickness level across all Business Units of no more than 7 days per person by 31 March 2015, and a total of no more than 1680 days across the Department². (See also: Appendix A, MKPI 1; Appendix B, PI 1; Appendix C, PI 1)
- KPI 2** 90% of debts to be settled within 60 days and 100% of debts settled within 120 days. (See also: Appendix A, MKPI 2; Appendix B, PI 2; Appendix C, PI 2)

Markets Committee

- KPI 3** Divert 90% of waste from landfill at the Markets. (See also: Appendix A, MKPI 3)
- KPI 4** Achieve 95% occupancy of all lettable space at Billingsgate, Smithfield and New Spitalfields Markets. (See also: Appendix A, MKPI 4)
- KPI 5** Improve the standard of accident reports, ensuring all information and evidence is gathered thoroughly and documented. All reports to be completed within 3 days following the reporting of an incident. (See also: Appendix A, MKPI 5)

Port Health & Environmental Services Committee

- KPI 6** 95% of consignments of Products of Animal Origin (POAO) that satisfy the checking requirements cleared within five days. (See also: Appendix B, PI 3)
- KPI 7** Less than 4% of missed flights for transit of animals caused by the Heathrow Animal Reception Centre. (See also: Appendix B, PI 10)
- KPI 8** Over the course of the year, secure a positive improvement in the overall Food Hygiene Ratings Scheme (FHRS) ratings profile for City food establishments compared to the baseline profile at 1 April 2012 (when the Scheme commenced). (See also: Appendix B, PI 13)
- KPI 9** Audit all Cooling Tower sites that are either due an inspection in accordance with HELA LAC 67/2 (rev4)³, City of London local priorities and local intelligence, or that have other good reason to be audited. (See also: Appendix B, PI 15)
- KPI 10** 90% justifiable noise complaints investigated result in a satisfactory outcome⁴. (See also: Appendix B, PI 21)
- KPI 11** Trading Standards Team will inspect 100% of 'high risk' premises during the year. (See also: Appendix B, PI 24)

² Target based upon Full Time Equivalent (FTE) members of staff at 31 December 2013 (no. 240).

³ Local Authority Circular (LAC 67/2 (rev4) is guidance under Section 18 Health and Safety at Work etc Act 1974 (HSWA). It provides LAs with guidance and tools for priority planning and targeting their interventions to enable them to meet the requirements of the National Local Authority Enforcement Code (the Code).

⁴ The percentage of total justified noise complaints investigated resulting in noise control, reduction to an acceptable level and/or prevention measures; complaints may or may not be actionable through statutory action.

Licensing Committee

- KPI 12** Achieve a written self-assessment of the areas of concern and an accompanying improvement action plan at 100% of premises falling into either the amber or red zones of the Traffic Light Scheme. *(See also: Appendix C, PI 4)*
- KPI 13** Ensure all necessary paperwork is submitted to Town Clerks prior to a Sub Committee hearing/review in accordance with agreed timescales on 100% of occasions. *(See also: Appendix C, PI 5)*

Key Objectives 2014-2015

We will consider our business in terms of how effectively we are satisfying the following four broad perspectives. The Department's objectives for 2014-2015 are listed in each Appendix under these perspectives. The Appendices include detailed information on each objective, including specific actions, measures of success and responsibilities.

Perspective 1 – Customer and Stakeholder Focus

Maintain a strong positive relationship with our stakeholders by providing high quality customer service and capturing business development opportunities.

Perspective 2 – Operations and Finance

Ensure the safety and security of stakeholders and property, carry out operations efficiently and ensure the department is financially viable to the City, while minimising costs.

Perspective 3 – Sustainability and Site Optimisation

Provide sites which are fit for purpose, within budget and demonstrate environmental responsibility in the way we manage waste and use resources, while being financially viable.

Perspective 4 – People and Innovation

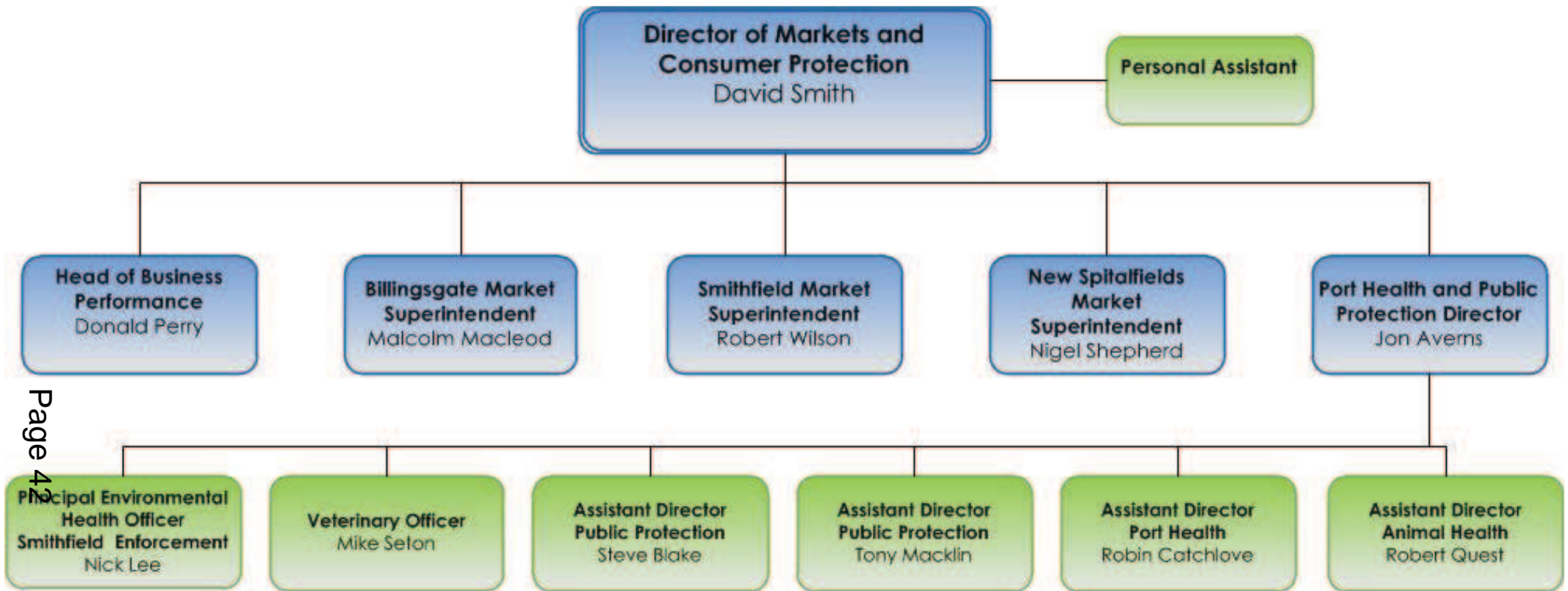
Improve the quality of leadership and management throughout the department and ensure that all members of staff have a chance to maximise their potential and job satisfaction.

Capital Projects 2014-2019

The table below shows basic information about projects which may require over £50k of capital expenditure during the next five years.

Brief description of potential project	Approximate cost	Indicative source of funding	Indicative timetable for project
HARC: Flooring of animal areas.	Awaiting quote from City Surveyors.	City Fund	A priority project due to deterioration in current flooring.
HARC: Extension to the building.	£1m	City Fund	Currently still at concept stage.
HARC: Re-roof building.	£150k	City Fund	In consultation with City Surveyors.
HARC: Installation of solar panels.	£100k	City Fund	Dependent on full cost/benefit analysis, prevailing feed in tariff and timing of re-roofing project.
HARC: Rainwater Harvesting project. Spend to save project to reduce annual water costs.	£100k	City Fund	Will be considered as part of the extension to the Animal Reception Centre.
Billingsgate Market: roof replacement (flat roof).	£900,000	50% Sinking Fund 50% European Fisheries Fund grant confirmed	Work to start 7 April 2014; due to take 28 weeks.
Billingsgate Market: Metal profile roof.	£1.2 million	50% Sinking Fund 50% European Fisheries Fund	Evaluation work partially complete. Subject to Committee approval, works likely to be ready to commence late autumn 2014.
Billingsgate Market: Fish handling facilities.	£1.4 to £2.0 million	50% Sinking Fund 50% European Fisheries Fund grant to be applied for.	Evaluation work partially complete. One additional option to be evaluated. Due to funding constraints, works likely to follow after the two higher priority roof projects. There will need to be clarity on the remaining Sinking Fund balance available to fund this project and, as a result, whether this project is scaled back.
Smithfield Market: Poultry Market roof.	£6.3 to £6.4 million	Resource allocation from City's Cash.	Gateway Level 3 achieved. Gateway 4 in September 2014. Work expected to start May 2015. Work expected to complete November 2016.
New Spitalfields Market: Photovoltaic Cells on the Market Hall roof	Not yet known	To be decided	At pre-Gateway Zero concept stage. Outline concept document to be produced and evaluated.

Departmental Management Structure



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Financial Summary

We will build on the close working relationships that have been successfully developed between our budget managers and our finance partners in the Chamberlain's department. The focus this year will be on further improvements to financial profiling and forecasting our budgets. This will be supported through regular meetings between budget managers and accountants and our Head of Finance's attendance at Senior Management Group meetings.

Over the coming year we will be fully supporting the organisation's drive for efficiency and savings in order to meet the projected shortfall in City Resources of £13m by 2017/18.

The department is also fully engaged with the planned implementation of Oracle Property Manager. The system will enable us to drive further efficiencies in the management of our market tenants' leases and the raising of service charge and rental income.

Summary Financial Information Department of Markets and Consumer Protection

	2012/13 Actual	2013/14 Original Budget	2013/14 Revised Budget (latest approved)	2013/14 Forecast Outturn		2014/15 Original Budget	N.B.
	£'000	£'000	£'000	£'000	%	£'000	
Employees	11,088	11,054	11,283	11,235	99.6%	11,137	
Premises	4,747	4,508	4,508	4,678	103.8%	4,957	
Transport	252	275	385	410	106.5%	257	
Supplies & Services	1,875	1,651	2,045	2,108	103.1%	1,589	
Third Party Payments	1,734	1,799	1,814	1,814	100.0%	1,850	
Transfer to Reserve	184	4	34	34	100.0%	126	
Contingencies	0	3	1	0	0.0%	3	
Unidentified Savings	0	-286	0	0	0.0%	0	
Total Expenditure	19,880	19,008	20,070	20,279	101.0%	19,919	
Total Income	(13,792)	(13,476)	(15,723)	(16,100)	102.4%	(15,797)	
Total Local Risk	6,088	5,532	4,347	4,179	96.1%	4,122	1.
Central Risk	(4,834)	(5,613)	(4,866)	(5,221)	107.3%	(5,279)	
Recharges	8,648	8,392	3,991	3,991	100.0%	3,880	
Total Expenditure (All Risk)	9,902	8,311	3,472	2,949	84.9%	2,723	2.

N.B.

1. Excludes Local Risk amounts spent by the City Surveyor
2. Forecast outturn 2013/14 based on monitoring at period 10 (31/01/2014)

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Appendix C: Licensing Business Plan 2014-2017

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Key Achievements 2013 – 2014

- Introduced a Traffic Light Scheme for the management and enforcement of licensed premises in the City.
- Gained authorisation for a new fee structure for all licences administered by the Licensing Team.

Performance Indicators 2014 - 2015

The **Key Performance Indicators** for the Licensing Team for the year 2014-2015 are shown in bold type. Progress against these key indicators will be reported to the Licensing Committee on a quarterly basis throughout the year.

- PI 1. **Achieve an overall sickness absence level of no more than 7 days per person by 31 March 2015, and a total of no more than 42 days across the Licensing Service¹ .**
- PI 2. **90% of debts to be settled within 60 days and 100% of debts settled within 120 days.**
- PI 3. Ensure that, within 12 months, 90% of premises entering the red or amber zone of the Traffic Light Scheme are brought back to the amber or green zone respectively.
- PI 4. **Achieve a written self-assessment of the areas of concern and an accompanying improvement action plan at 100% of premises falling into either the amber or red zones of the Traffic Light Scheme.**
- PI 5. **Ensure all necessary paperwork is submitted to Town Clerks prior to a Sub Committee hearing/review in accordance with agreed timescales on 100% of occasions.**

¹. Target based upon Full Time Equivalent (FTE) members of PH&PP staff at 31 December 2013 (no. 6).

Objectives 2014 - 2015 (1 April 2014 – 31 March 2015)

The Licensing Service Objectives for 2014-2015 are listed here under the broad perspectives, or themes, which run across the whole of the Department of Markets and Consumer Protection.

Perspective 1 – Customer and Stakeholder Focus			
To create and maintain a strong positive relationship with our stakeholders by delivering high quality services which meet the needs of our customers.			
Objective	Task	Measure of success	Responsibilities
Introduce and implement a Street Trading Policy for the City.	<ul style="list-style-type: none"> Consult with appropriate Departments and Members on draft policy. Submit reports to appropriate Committees as advised via Town Clerk's Policy Officer. Publish the new policy. Agree protocols and procedures for fees, applications, compliance testing and enforcement. Provide/undertake training for all relevant enforcement staff. Update PH&PP Enforcement Policy with Regulators' Code to include the Policy. Review Policy and practices after 12 months. 	<ul style="list-style-type: none"> Subject to Members' approval, temporary licences for street trading will be available in accordance with the new Street Trading Policy. Enforcement (including Fixed Penalty Notices to seizure) of ice cream vans and other traders will be taken in accordance with the Enforcement Policy. 	<ul style="list-style-type: none"> Assistant Director (Public Protection (PP)) Licensing Manager
Licensing Team to produce an amended Tables and Chairs Licensing Policy for the City.	<ul style="list-style-type: none"> Consult with appropriate Departments and Members on draft policy. Submit proposed policy to the appropriate Committees. Publish and implement the new policy. Update web pages. Update applications processes; consider use of appropriate software for online applications. Review policy and operational changes for any further updates required. 	<ul style="list-style-type: none"> Subject to Members' approval, a Tables and Chairs Policy will be in place. 	<ul style="list-style-type: none"> Licensing Manager

Perspective 2 – Operations and Finance			
Meet the legal requirements of relevant legislation and achieve value for money.			
Objective	Task	Measure of success	Responsibilities
Implement the new Late Night Levy (if it is approved by Members following consultation).	<ul style="list-style-type: none"> Establish system of collection of the Levy with Chamberlain's Department. Inform Licence holders. Recruit staff to administer the system. 	<ul style="list-style-type: none"> Increased enforcement of the night time economy. Reduction in the number of complaints concerning public nuisance. Increased revenue. 	<ul style="list-style-type: none"> Assistant Director (PP) Licensing Manager
Review fees and charges to maximise income.	<ul style="list-style-type: none"> Review licensing fees in light of the introduction of the Late Night Levy and Government proposals for revised charges. 	<ul style="list-style-type: none"> Increased revenue to reduce the risk of having to cut front-line services or staff during current savings exercises. 	<ul style="list-style-type: none"> Assistant Director (PP) Licensing Team Manager
Provide high quality, value for money services. (Links to all Performance Indicators)	<ul style="list-style-type: none"> Review budgets monthly with the Chamberlain. 4 monthly Business Plan review meetings with Chief Officer. Report to Licensing Committee on a periodic basis, including updates on enforcement activity and progress against the Business Plan. 	<ul style="list-style-type: none"> Service standards maintained or improved within budget. 	<ul style="list-style-type: none"> Assistant Director (PP) Licensing Manager
Roll out online licensing applications, including updating procedures for charity collections.	<ul style="list-style-type: none"> Liaise with the Department's IS Business Partner to agree the implementation of new online software for licensing applications to integrate with the existing databases used by the team. Update application forms and processes to provide a faster, more effective customer interface on the website. Agree suggested changes to previous processes with City Police for charity street collections. Incorporate these changes in the online software and website. 	<ul style="list-style-type: none"> Improved customer experience, efficiency and speed in dealing with administration and processing of applications for licensing activities. 	<ul style="list-style-type: none"> Assistant Director (PP) Licensing Team Manager
Manage business risks and develop business continuity and emergency plans.	<ul style="list-style-type: none"> Establish key business risks for the Licensing service. Put emergency and business continuity plans in place. 	<ul style="list-style-type: none"> The service is prepared to respond rapidly and appropriately in the event of an emergency situation. 	<ul style="list-style-type: none"> Assistant Director (PP) Licensing Team Manager

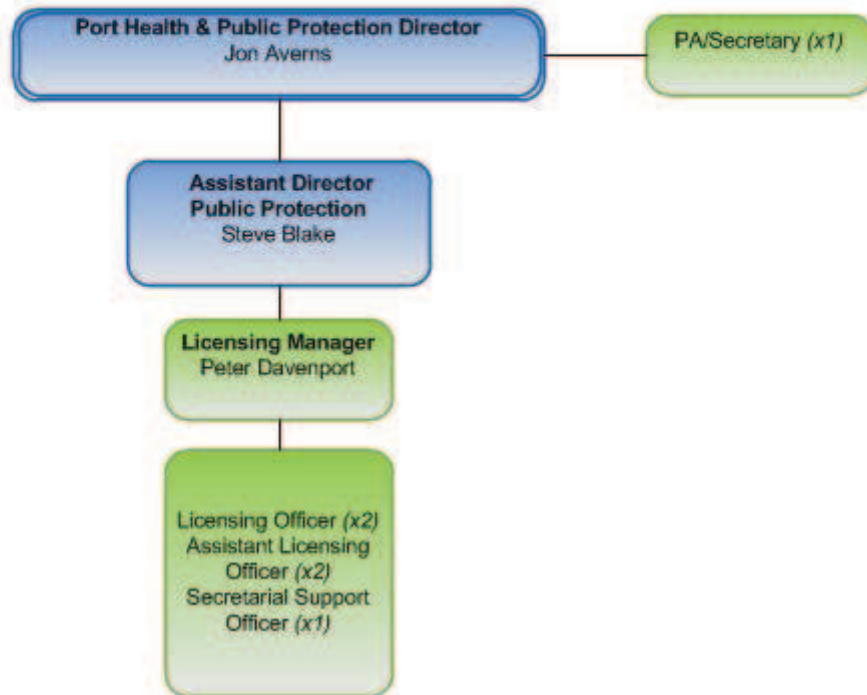
Perspective 4 – People and Innovation

To improve the quality of leadership and management throughout the service and ensure that all members of staff maintain their required level of professional competence, maximise their potential and achieve job satisfaction.

Objective	Task	Measure of success	Responsibilities
Continue to actively manage cases of sickness absence. (Links to Performance Indicator 1)	<ul style="list-style-type: none"> Rigorous application of the Absence Management Policy. 	<ul style="list-style-type: none"> Achieve a sickness level of no more than 7 days absence per person by 31 March 2015, with a total of no more than 42 days across the Licensing Service². 	<ul style="list-style-type: none"> Assistant Director (PP) Licensing Team Manager
Develop the leadership and management skills of managers and potential managers.	<ul style="list-style-type: none"> All managers and potential managers to undertake a Leadership and Management Development training event and pass any associated assessments by the end of March 2015. 	<ul style="list-style-type: none"> All managers and potential managers will complete a leadership training event and pass any associated assessments by 31 March 2015. Highly skilled managers throughout the department who have the ability to lead and motivate their teams to provide an efficient, high quality and cost effective service to key stakeholders. 	<ul style="list-style-type: none"> Port Health & Public Protection Director Assistant Director (PP) Team Managers

² Target based upon Full Time Equivalent (FTE) members of staff at 31 December 2013 (no. 6).

Department of Markets and Consumer Protection
Licensing Team
Management Structure



Financial Summary

We will build on the close working relationships that have been successfully developed between our budget managers and our finance partners in the Chamberlain's department. The focus this year will be on further improvements to financial profiling and forecasting our budgets. This will be supported through regular meetings between budget managers and accountants and our Head of Finance's attendance at Senior Management Group meetings.

Over the coming year we will be fully supporting the organisation's drive for efficiency and savings in order to meet the projected shortfall in City Resources of £13m by 2017/18.

Financial Information - Markets & Consumer Protection Licensing Committee

	2012/13	2013/14	2013/14	2013/14		2014/15	N.B.
	Actual	Original Budget	Revised Budget (latest approved)	Forecast Outturn		Original Budget	
	£'000	£'000	£'000	£'000	%	£'000	
Employees	308	353	404	407	100.7%	365	
Premises	46	49	45	45	100.0%	45	
Transport	0	0	0	0	0.0%	0	
Supplies & Services	0	10	20	15	75.0%	11	
Third Party Payments	0	0	0	0	0.0%	0	
Transfer to Reserve	0	0	0	0	100.0%	0	
Contingencies	0	2	0	0	0.0%	2	
Unidentified Savings	0	0	0	0	0.0%	0	
Total Expenditure	354	414	469	467	99.6%	423	
Total Income	(550)	(518)	(504)	(529)	105.0%	(503)	
Total Local Risk	(196)	(104)	(35)	(62)	177.1%	(80)	
Central Risk	0	0	0	0	0.0%	0	
Recharges	191	180	110	110	100.0%	107	
Total Expenditure (All Risk)	(5)	76	75	48	64.0%	27	1.

N.B.

1. Forecast outturn 2013/14 based on monitoring at period 10 (31/01/2014)

Agenda Item 9

Committee:	Date:
Port Health and Environmental Services Committee (For Decision)	11 March 2014
Licensing Committee (For Information)	28 April 2014
Subject:	Public
Report on Port Health and Public Protection Out of Hours Noise Service	
Report of:	For Information
Director of Markets and Consumer Protection	
Summary	
<p>The City Corporation currently provides a noise complaints enforcement service 24 hours a day, 7 days a week primarily to respond to noise complaints at night and weekends, but also to occasional reports of accidents, notifiable diseases including food poisoning and other urgent environmental health matters.</p> <p>For noise problems arising in the evening, at night and weekends there are two providers, Westminster City Council Noise Service and the Street Environment Officers of the Department of Built Environment.</p> <p>This arrangement achieves a better service than previously available with responding officers now based in and near the City. Further improvements are now being suggested to respond to customer feedback and provide more efficient use of resources, including skills enhancement of the City's Street Enforcement Officers Team.</p>	
Recommendation	
<p>Members are asked to note the proposals set out in paragraphs 27 to 32 which were agreed by the Port Health and Environmental Services Committee on 11 March 2013.</p>	

Main Report

Background

1. The Port Health and Public Protection Service (PH&PP) of Markets and Consumer Protection Department provides an Out of Hours service (OOH), primarily to respond to noise complaints at night and weekends, but also to occasional reports of accidents, notifiable diseases including food poisoning and other urgent environmental health matters.

2. This report aims to give information on the current position and report on proposals to update and improve the service for the future.

Current Position

3. The City Corporation provides a noise enforcement service 24 hours a day, 7 days a week through two providers, Westminster City Council Noise Service (WNS) and the Street Environment Officers (SEOs) of the Department of Built Environment (DBE).
4. WNS provides the statutory nuisance element of the service on behalf of the City outside normal working hours, this being 1700 – 0800 weekdays, weekends and public holidays. A simple service level agreement (SLA) has been in place for this since inception in January 2013 until it finishes on 31 March 2014. The service responds to complaints about noise from licensed premises, domestic premises and other commercial premises.
5. The cost of this has been agreed at £20,000, consisting of a fixed fee of £5,000 per quarter although an additional contribution of £1,000 for the supply of an extra driver to help maintain response times in the busiest quarter (between July and September 2013) was agreed.
6. Some of the response is also provided through the SEOs from City Corporation's DBE primarily for issues of construction, demolition and street works noise as they are available to provide 24/7 cover. No formal SLA or similar has been put in place to date. The annual cost is £10,000. This part funding of the SEO Team has enabled their service to move to 24/7 cover on all weekend nights, previously not available on all Saturdays or at all on Sunday nights, for responding to noise problems and other cleansing matters that arise.

Standards agreed and achieved

7. The SLA with Westminster City Council requires WNS to respond to noise complaints communicated to them by the Walbrook Wharf Weighbridge (complainants contact the City using the Guildhall Security number – 020 7606 3030) within 45 minutes by:
 - a. Prioritising, investigating and assessing noise complaints including visits to site and complainants' properties in accordance with the City Corporation's prioritisation guidelines;
 - b. Where justified, the WNS will take the most appropriate enforcement action, including serving, and if necessary enforcing statutory notices, and, where appropriate, undertaking works in default;
 - c. Liaising and communicating with the complainant and others as necessary in order to resolve complaints and keep parties informed of progress and outcomes 'on the night';
 - d. Providing written reports to the City Corporation of responses to complaints, including details of communications and response times,

investigation, and any enforcement carried out, by 0930 the next working day.

8. The Key Performance Indicator's (KPI's) are:
 - a. Response (by telephone, email or visit) to complaints received within 45 minutes in 90% of cases.
 - b. Provision of reports on responses to complaints to be sent to the Client by 0930 the next working day.

9. Subsequent to the SLA being drawn up an additional standard has been agreed:-
 - Where a visit is necessary, the visit will be carried out within 75 minutes of the referral

10. Although DBE's SEOs were not working to a formal SLA, for the purposes of comparison the WNS KPIs have been used to monitor performance (see Table 1 below).

Table 1

Period	Total Complaints (Westminster)	KPI (response) %	KPI (visit) %	No required visit %	Additional SEO visits on complaint
Jan-June	65	100	83	0	95
July-Oct	103	93	82	11.6	98
Nov-Jan	47	94	80	25	44

SEO Statistics (data not collected prior to November 2013)

Period	Total Complaints (SEO)	SEO KPI (response) %	SEO KPI (visit) %	No required visit %
Nov-Jan	44	94	88	16

11. It can be seen that responses have been good although they have dropped from the initial 100% from WNS. Customer feedback surveys have been introduced for the service emailing a sample of the customers who had contacted the Out of Hours Number on a quarterly basis. This is now carried

out monthly and will be extended to all customers each month to maximise the response rate asking for their rating on the service and general comments. Whilst the response from customer feedback is that for most recipients the service has been good there have been occasional problems with:-

- a. Perceived speed of response
- b. Delays in arriving on site
- c. Communication and call handling

Benefits of WNS

12. The service was instigated as a pilot to ensure that there was a 24/7 response available out of (normal) working hours from a fully qualified Environmental Health Officer (EHO) within easy reach of the City in a position to take enforcement action if necessary and this has been achieved.
13. This is a significant improvement and much more effective than the previous arrangements where EHOs were on 'stand by' and responded from their home address with some attendance in the City on Friday and Saturday nights. SEOs provided observations and some evidence gathering at all other out of hours. The cost for this was approximately £50,000 p.a. This new arrangement also addressed a concern of the City Solicitor that an officer with a recognised qualification for serving legal notices or judging compliance, such as an EHO, should be providing evidence for nuisance legal action. The SEO's did not meet this criterion initially.
14. For the small number of legal notices served by Westminster (10) we have good evidence either to take legal action or pursue this in the future. Given the relative small numbers of complaints WNS has also carried out planned observations, particularly of licensed premises where we are aware of residents being disturbed. These were primarily related to the night time economy and were in support of the licensing objective 'Prevention of Public Nuisance'. Both notices and reports from WNS have been provided to a good professional standard.

Problems of WCC

15. Understandably, WNS does not have knowledge of the previous enforcement histories of premises they are responding to and for the purpose of the pilot it was too expensive to provide access to the City Database.
16. Despite the improved response times for getting an officer on site in the City complaints have been received by service users about response times by WCC, despite these being within the agreed SLA. Some service users perceive 75 minutes as an excessive response time to night time noise.
17. The WNS officers and their drivers do not have detailed geographical knowledge of the City and have, on occasion had problems locating complaint addresses.

18. In addition the contact number for the service remains the main City number 020 7606 3030. There has been no customer care training of either the security at Guildhall or the Weighbridge at Walbrook Wharf (who then contact either Westminster or our Street Environment Officers on receipt of complaints). Feedback has been received that some standards of customer care have fallen below customers' expectations via this system of treble handling.

Benefits and Problems of SEOs

19. The SEOs have proved much more effective in responding very quickly (on site within 30 minutes normally) to construction, demolition and street works noise complaints with their detailed knowledge of the City and working relationship with City Pollution Team.
20. The City Solicitor has expressed concern that the SEO Team does not meet the competency requirements for statutory nuisance work, particularly around assessing statutory nuisances and the professional judgement that is required for appeals against notices and any prosecution work. The officer is, in effect, the City's expert witness and would be pitted against a qualified noise pollution expert in the courtroom. This is explored further below.

SEO Competency

21. Legal opinion has been sought from the City Solicitor on the SEOs' suitability to conduct statutory nuisance assessments, a competency that is usually fulfilled by being a qualified and experienced EHO. The risk being the success of an appeal against a statutory notice or indeed a prosecution being successfully defended. Many defendants will employ an acoustic consultant to assist with appeals or defence cases and such instances it will be this expert witness evidence against the City's SEO evidence in any court proceedings. There is an obvious risk to the City in such circumstances. It is accepted that the first year of the service running will hold the most risks.
22. If all the safeguards are in place, as detailed below, then the City should be in a stronger position to defend any appeals or defended court proceedings. This will also need to be backed by careful case management, and in cases where legal proceedings are likely, the EHO may be required to work out of hours alongside the SEO when witnessing nuisance or the EHO will be required to judge likely recurrence based on SEO evidence.
23. The Department must ensure that officers deployed will be adequately qualified and experienced in investigating and assessing noise complaints, and taking appropriate enforcement action. The level of training will be aimed at SEO's, in most instances being able to gather admissible evidence that can be effectively interpreted by EHOs who would be able to interpret such evidence and, if necessary, provide an expert opinion. It is expected that the staff will be qualified with a minimum level of achieving the Institute of Acoustics Certificate of Competence in Environmental Noise Measurement.

Staff will also be expected to complete training to a level set out by the Better Regulation Delivery Office (BRDO) for persons involved with noise control. It is anticipated this will include:-

- a. New Officers to achieve the Institute of Acoustics Certificate of Competence in Environmental Noise Measurement,
 - b. Completion of general courses on familiarity with statutory nuisance (including noise nuisance) as required by client and/or the competency standards indicated by BRDO,
 - c. Regular attendance and participation in peer review of cases handled with managers and the Pollution Team,
 - d. Shadowing work with Pollution Team officers to a committed minimum of two hours per month.
 - e. Training as necessary for familiarisation with practices and procedures.
24. Training of the SEOs to the above standards in basic noise competency has been started. Five SEOs have undertaken the Institute of Acoustics Certificate in Environmental Noise Measurement. The remaining officers will undertake this certificate in April / May 2014.
25. A two day statutory nuisance training course has been developed to meet the upcoming BRDO competency criteria for noise regulatory officers; this is bespoke to the City using our internal procedures and applicable case studies and was carried out with PH&PP Officers and the SEO Team on 18 and 19 February - 2014.
26. Each SEO has been designated a partner EHO who will assist with any technical queries and arrange site visits and mentoring.

Proposals

27. The PH&PP Service wish to vary the arrangements from March 2014. It is anticipated that a faster response can be achieved for less money by using the SEO's. Training and peer review is being carried out to ensure experience is acquired in dealing with common issues and protocols revised to deal with these. This will require on-going training outlined above between the Pollution Control Team and SEO's to make this effective and overcome the concerns of the City Solicitor regarding legal process.
28. The City Corporation's Out of Hours Noise Response Service is to be provided by the SEO's from City Corporation's DBE from 1st April 2014 with some initial support to continue from WNS to provide robust legal advice/call out experience and availability for support where required. The cost for this will be £20,000 p.a. and a response fee to be agreed with WNS (see paragraph 30).
29. It is expected that there will be the need for some initial back up for complex problems (e.g. raves/large parties, dealing with noise from fire alarms, service of notices) which Westminster may be willing to provide, particularly in the first year of using SEOs as primary responders.

30. This has been discussed with Westminster and they are considering what support they may offer and at what cost.
31. An internal SLA has been agreed with DBE for supply of this service and this will require response within ten minutes from receipt of complaint to the SEO and a visit within a maximum one hour. It is anticipated that these targets will be refined and improved through monthly monitoring with DBE as in practice these have been significantly improved upon in the majority of complaints handled so far.
32. The handling of calls through the main Guildhall number is to be reviewed as part of a larger project; PH&PP will liaise with City Police, our contact Centre, and other stakeholders about this matter.

Corporate & Strategic Implications

33. The proposed changes for the Out of Hours Noise Service fits with one of the City Corporation's three aims of the Corporate Plan 2013 – 2017 in that it seeks to evolve a service 'to provide modern, efficient and high quality local services and policing within the Square Mile for workers, residents and visitors with a view to delivering sustainable outcomes'. It also meets one of the five key policy priorities KPP2 in that it seeks to 'maintain the quality of our services whilst (reducing our expenditure and) improving our efficiency'.

Financial and Legal Implications

34. Financing of this change will remain within the local risk budget of the PH&PP Service. The changes are anticipated to be more resource efficient. The comments of the City Solicitor have been reflected in the text of this report.

Conclusion

35. The shared service with Westminster and DBE has been successful in improving the service available to users of the OOH Service. To provide further improvements in speeding up visit times to site, reflecting on comments made through feedback to the service, the balance of work between WNS and DBE SEOs is being changed. We anticipate retaining Westminster as a back up to calls if they are willing to do so but the use of City Corporation Officers based in the City should provide a faster response to those affected by noise problems.

Appendices

- None

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Agenda Item 13

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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