



Licensing Committee

Date: THURSDAY, 10 MAY 2012

Time: 1.45pm

Venue: COMMITTEE ROOM - 2ND FLOOR WEST WING, GUILDHALL

Members:

Alex Bain-Stewart	Dr Peter Hardwick
Deputy Douglas Barrow	Deputy Edward Lord
Revd Dr Martin Dudley	Chris Punter
Peter Dunphy	Stephen Quilter
Kevin Everett	Jeremy Simons
Sophie Fernandes	James Tumbridge
Marianne Fredericks	Alderman Simon Walsh
Deputy Revd Stephen Haines	

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

Chris Duffield
Town Clerk and Chief Executive

AGENDA

1. **APOLOGIES**

2. **DECLARATIONS BY MEMBERS OF ANY PERSONAL OR PREJUDICIAL INTERESTS IN RESPECT OF ITEMS ON THIS AGENDA**

3. **APPOINTMENT OF COMMITTEE**

To receive the Order of the Court of Common Council, 19 April 2012, appointing the Committee and approving its terms of reference (copy attached).

For Information
(Pages 1 - 2)

4. **ELECTION OF CHAIRMAN**

To elect a Chairman for the ensuing year in accordance with Standing Order No 29.

For Decision

5. **ELECTION OF DEPUTY CHAIRMAN**

To elect a Deputy Chairman for the ensuing year in accordance with Standing Order No 30.

For Decision

6. **APPOINTMENT OF SUB COMMITTEE CHAIRMEN**

To appoint three Members, in addition to the Chairman and Deputy Chairman of the Grand Committee, to chair Sub Committee meetings.

The five appointed Sub Committee Chairmen for 2011/2012 were as follows:-

Chairman;

Deputy Chairman;

The Revd Dr Martin Dudley;

Dr Peter Hardwick and;

Jeremy Simons.

(The Committee also agreed that past Grand Committee Chairmen, could serve as ex-officio Sub Committee Chairmen).

For Decision

7. **MINUTES**

To agree the minutes of the meeting held on 16 January 2012 (copy attached).

For Decision
(Pages 3 - 12)

8. **MINUTES OF THE LICENSING SUB COMMITTEE HEARINGS**

To note the minutes of Licensing Sub Committee hearings as follows (copies attached):-

- a) 4 January 2012 - Dining Venture, 16A, B & C New Street, London, EC2M 4TR (Pages 13 - 18)
- b) 6 February 2012 - Etc Venues, 200 Aldersgate Street, London, EC1A 4HD (Pages 19 - 22)
- c) 14 February 2012 - Aveqia, Lower Ground, Unit 2, 10 St Bride Street, London, EC4A 4AD (Pages 23 - 26)
- d) 16 February 2012 - Premier Inn, 20 St Mary At Hill, London, EC3R 8EE (Pages 27 - 34)

9. **APPEALS AGAINST LICENSING SUB COMMITTEE DECISIONS**

The Comptroller and City Solicitor to be heard.

10. **LIVE MUSIC ACT 2012 AND IMPLEMENTATION OF THE POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011**

Joint report of the City Remembrancer and the Director of Markets & Consumer Protection (copy attached).

For Information
(Pages 35 - 42)

11. **REPORTS OF THE DIRECTOR OF MARKETS & CONSUMER PROTECTION AS FOLLOWS (COPIES ATTACHED):-**

- a) Delegated Decisions Pertaining to Premises Licences (Pages 43 - 48)
- b) Department of Markets & Consumer Protection Business Plan 2012 - 2015 (Pages 49 - 80)
- c) 2011/12 Licensing Service Plan Update (Pages 81 - 84)
- d) Westminster Review and Changes to Hearing Report (Pages 85 - 94)
- e) Procedure for Dealing with Amended Licence Applications (Pages 95 - 102)

12. **PRESENTATION - NEW INTERNET WEB PAGES**

Presentation by the Director of Markets & Consumer Protection.

For Information

13. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**
14. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

Agenda Item 3

WOOTTON, Mayor	RESOLVED: That the Court of Common Council holden in the Guildhall of the City of London on Thursday 19th April 2012, doth hereby appoint the following Committee until the first meeting of the Court in April, 2013.
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LICENSING COMMITTEE

1. **Constitution**
A Non-Ward Committee consisting of 15 Members elected by the Court of Common Council, at least one of whom shall have fewer than five years' service on the Court at the time of their appointment.
2. **Quorum**
The quorum consists of any five Members.
3. **Membership 2012/13**
 - 10 (4) Charles Edward Lord, O.B.E., J.P., Deputy
 - 10 (4) Chris Punter
 - 10 (4) Stephen Douglas Quilter, B.Sc.(Hons.)
 - 2 (2) Peter Gerard Dunphy, *for two years*
 - 7 (3) The Revd. Stephen Decatur Haines, M.A., Deputy
 - 10 (3) Dr. Peter Bernard Hardwick, Q.H.P.
 - 9 (3) Jeremy Lewis Simons, MSc.
 - 10 (3) Simon Walsh, M.A., Alderman
 - 8 (2) Alex Bain-Stewart M.Sc., J.P.
 - 10 (2) Kevin Malcolm Everett, D.Sc.
 - 2 (2) Sophie Anne Fernandes
 - 2 (2) James Richard Tumbridge
 - 4 (1) Douglas Barrow, Deputy
 - 9 (1) The Revd. Dr. Martin Dudley
 - 4 (1) Marianne Bernadette Fredericks
4. **Terms of Reference**
To be responsible for:-
 - (a) the City of London Corporation's licensing functions under the following legislation:-
 - (i) Licensing Act 2003:-
 - the issue of licenses for the following:-
 - (a) the sale of alcohol
 - (b) the provision of regulated entertainment
 - (c) the provision of late night refreshment
 - (d) the exhibition of films
 - (ii) Gambling Act 2005:-
 - the issue of permits and licences relating to the use of premises for the following:-
 - (a) the conduct of gambling activities
 - (b) the presence of gaming machines
 - (c) the holding of small society lotteries (i.e. below prescribed thresholds)
 - (iii) Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009:-
 - (a) the licensing of sexual entertainment venues
 - (b) action to prohibit the consumption of alcohol in designated public places as detailed in sections 12-16 of the Criminal Justice and Police Act 2001 and the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001
 - (c) the implementation of those sections of any Acts of Parliament and/or European Legislation which direct that the local authority take action in respect of those duties listed at (a) above, including the functions contained in Sections 2(1) and 2(2) of the Hypnotism Act 1952
 - (d) determining which of its functions and responsibilities may be delegated to enable the Director of Markets and Consumer Protection to act on its behalf.
 - (b) Making recommendations to the Court of Common Council regarding:-
 - (i) the City Corporation's Statement of Licensing Policy;
 - (ii) The Statement of Licensing Principles in respect of the Gambling Act 2005.

LICENSING COMMITTEE

MONDAY, 16 JANUARY 2012

Minutes of the meeting of the LICENSING COMMITTEE held at Guildhall, EC2, on MONDAY, 16 JANUARY 2012, at 1.45pm.

Present

Members:

Edward Lord (Chairman)
Marianne Fredericks (Deputy Chairman)
Alex Bain-Stewart
The Revd Dr Martin Dudley
Deputy The Reverend Stephen Haines
Stephen Quilter
Jeremy Simons
James Tumbridge
Alderman Simon Walsh

Officers:

Simon Murrells	- Assistant Town Clerk
Rakesh Hira	- Town Clerk's Department
Ignacio Falcon	- Town Clerk's Department
Bruce Hunt	- Remembrancer's Department
Paul Chadha	- Comptroller & City Solicitor's Department
David Smith	- Director of Markets & Consumer Protection
Jon Averbs	- Director of Port Health and Public Protection, Department of Markets &
Steve Blake	- Consumer Assistant Director of Port Health and Public Protection, Markets & Consumer Protection

Also in attendance:

Matthew Richardson CC (present for items 8 -11)

1. APOLOGIES

Apologies were received from Deputy Doug Barrow, Chris Punter, Peter Dunphy and Dr Peter Hardwick.

Appeals Against Licensing Sub Committee Decisions

The Comptroller & City Solicitor informed Members that a cheque for £10,000 had been received for the legal costs in connection with the judicial review for Charlie's Wine Bar.

Advertising of Licensing Applications

The Town Clerk explained that, following the decision of the Committee at its previous meeting, the wording of the guidance for applicants on advertising licensing applications had been agreed by way of delegated authority by the Town Clerk in consultation with the Chairman and Deputy Chairman, which was as follows:

“For the purposes of Section 17 Licensing Act 2003 and Regulation 25 Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, the City of London recognises the following publications as being a “local newspaper”:-

London Evening Standard
London Metro
City AM

In the event that Applicants wish to use alternative publications, the licensing authority would remind Applicants to ensure that the publication complies with the requirements of being a “local newspaper”. The Newspaper Society defines a “local newspaper” as:

“Any publication in written form on newsprint or a similar medium, published in the British Isles (excluding the Irish republic) at regular intervals not exceeding seven days and available regionally rather than nationally (i.e. not available throughout all or most of the British Isles). It contains news and information of a general nature, updated regularly, rather than being devoted to a specific interest or topic.”

It would be most helpful if you could supply a copy of the advertisement”.

The Port Health and Public Protection Director explained that there had been correspondence between the Licensing Department and the editor of the *City of London & Dockland Times* to explain the decision taken by the Licensing Committee in October 2011. It was noted that applicants did not necessarily have to advertise licensing applications in the three recommended newspaper publications but could choose another publication, which met the statutory criteria, if they so wished.

A Member said that it was not the role of the Licensing Committee to state which publications should not advertise licensing applications, but an objector could challenge the advertisement of the licensing application if they felt that it did not meet the statutory criteria. The Town Clerk was keen to see clarification

of this point.

The action taken as reported by the Town Clerk and referred to above, was received.

4. MINUTES OF LICENSING SUB COMMITTEE HEARINGS

The Committee received the public minutes of the following Licensing Sub Committee hearings:-

- (a) **20 October 2011 – Apex Temple Court Hotel, 1-2 Serjeants Inn, London, EC4Y 1LL.**
- (b) **25 October 2011 – The Bathhouse, 7-8 Bishopsgate Churchyard, London, EC2M 3TJ**
A Member, also the Chairman of the Sub-Committee, pointed out that this hearing was unusual as it was an application sought to transfer the premises licence and as premises licence holder to vary the premises licence; the application did not seek to vary any of the licensable activities. It was noted that there were a number inadequacies and that the Sub-Committee's concerns had been raised with the Commissioner of Police.
- (c) **12 December 2011 – 26 Smithfield, 26 Smithfield Street, London, EC1A 9LB.**
- (d) **16 December 2011 – Bangalore, 1 Corbet Court, Gracechurch Street, London, EC3V 0AT.**
- (e) **21 December 2011 – Anokha 2, 9-13 Fenchurch Buildings, London, EC3M 5HR.**

5. APPEALS AGAINST LICENSING SUB COMMITTEE DECISIONS

The Comptroller and City Solicitor informed the Committee that an application for an appeal had been received relating to Anokha 1, 9-13 Fenchurch Buildings, London, EC3M 5HR, against the decision of the Licensing Sub Committee. He pointed out that a date had been listed for 5/6 March 2012 at the City of Westminster Magistrates' Court.

It was noted that if an objector to an application was a Magistrate who sat at any of the Courts covered by the Central Area (City of London, Westminster and/or West London) then the Central Area Bench could not hear the appeal. It was also pointed out that any Magistrate who was a Member of the Court of Common Council could not sit on any of the appeals.

RECEIVED

6. POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

The Committee considered a report of the City Remembrancer which provided an update following the passing of the Police Reform and Social Responsibility Act 2011.

The key points for Members to note were that:

- The Act introduced amendments to the Licensing Act 2003 in eight main areas and created a new “late night levy”;
- Once the provisions were brought into force, licensing authorities would have the discretion to set their own fees on a cost recovery basis;
- Licensing authorities would become responsible authorities in their own right and therefore could object to applications or initiate reviews;
- Licensing Policy Statements would in future be reviewable every five years rather than every three years and;
- Part 2 of the Act which contained the licensing provisions had not yet been brought into force and that much of the Act would be implemented through secondary legislation in the form of regulations but these had not yet been published.

The City Remembrancer explained that the Police Reform and Social Responsibility Act 2011 had received Royal Assent on 15 September 2011 and that the main impacts on the City Corporation were that it would become a responsible authority and could set its own fees.

A discussion took place on the Early Morning Restriction Orders (EMRO's) and the Late Night Levy; it was noted that secondary legislation was still awaited from Government which would provide further information.

RESOLVED — that Members note the contents of the report.

7. DELEGATED DECISIONS PERTAINING TO PREMISES LICENCES

The Committee considered a report of the Director of Markets and Consumer Protection which detailed the premises licences and variations to premises licences, granted under the Licensing Act 2003 by the Licensing Service from 1 October 2011 to 31 December 2011. The report did not include any premises where members had been involved in the decision making process i.e. decisions made at Licensing Sub-Committee hearings. The report also set out a summary of the enforcement action taken under the Licensing Act 2003 between 1 October 2011 and 31 December 2011.

A discussion took place on the conditions in the premises licences which were issued by way of delegated authority. A Member pointed out that a number of conditions were unclear, difficult to enforce and poorly worded. Members agreed that fewer and simpler conditions were more likely to be enforceable.

In relation to the warning letters which had been issued to licenced premises Members discussed the possibility of these being made available in the public reports or being tabled at the Committee meeting. Members were keen to have sight of the warning letters and therefore agreed that these should be made available subject to the advice of the Comptroller & City Solicitor on any likely disclosures of exempt information or freedom of information issues.

The Assistant Director of Port Health & Public Protection informed the Committee that the number of warning letters issued was five and not six as set out in the report.

In response to a question by a Member it was noted that the 14 noise complaints received related to licenced premises. It was pointed out that further work was being undertaken between the licensing service and the City of London Police on co-ordinating and logging noise complaints.

RESOLVED — That;

- (a) Members note the contents of the report and;
- (b) Warning letters be made available to Members in the public reports subject to the advice of the Comptroller & City Solicitor on any likely disclosures of exempt information or freedom of information issues.

8. LICENSING SUB-COMMITTEE SITE VISIT PROTOCOL

The Committee considered a report of the Director of Markets and Consumer Protection which set out a protocol for site inspections by Sub-committees.

A discussion took place and a Member pointed out that the guidance was too prescriptive and that more flexibility needed to be allowed for undertaking site inspections. It was noted that other Councils/Boroughs i.e. Westminster, Tower Hamlets, Wandsworth and Birmingham rarely undertook site inspections. The Comptroller & City Solicitor pointed out that the LACORS guidance stated that "Site visits by Sub-Committee members were generally unnecessary and could put the Members and the Licensing Authority at risk of accusations of bias".

Members agreed that site inspections should only take place in exceptional circumstances and that officers would provide advice to Members on the relevant issues that they needed to be aware of at the necessary time.

RESOLVED — that Members agree that the policy on site inspections by Sub-committee Members be as follows:

"Site visits may be arranged only in exceptional circumstances to premises which are the subject of licence applications to enable Sub-committee Members to become familiar with the issues to be considered. During the visits,

Members will be accompanied by a licensing officer(s) and they should only enquire about and discuss factual matters, avoiding the temptation to put forward their own opinions. They should not, under any circumstances, accept refreshments on the premises or any other gift or offer of hospitality.

If the Licensing Team considers that there are grounds for the Sub-committee to visit a premise, this will be mentioned in the report to the Sub-committee and the reasons outlined. Wherever possible, the Licensing Team will notify the Sub-committee Chairman of the circumstances prior to the report being circulated. If the Sub-committee Chairman agrees that an inspection is required, he/she will request that the Licensing Manager makes the necessary arrangements in advance of the hearing.

When, on receipt of a report that does not recommend a site visit, a Licensing Sub-committee Member considers that a site inspection is necessary, he/she will advise the Sub-committee Chairman accordingly. If he/she concurs, the Sub-committee Chairman will liaise with the Licensing Manager to arrange a visit of all the Sub-committee Members to the premises, following an adjournment of the hearing”.

9. CONSULTATION RESPONSES TO THE DEPARTMENT OF CULTURE, MEDIA AND SPORT

The Committee considered a report of the Director of Markets and Consumer Protection which detailed that in September 2011 the Department of Culture, Media and Sport issued a consultation paper which examined the deregulation of Schedule One of the Licensing Act 2003 regarding regulated entertainment and had required a response by 3 December 2011. Subsequently, the Home Office also issued a consultation paper in October 2011 concerning the relaxation of the licensing hours during the period of the Queen’s Diamond Jubilee in June 2012 which required a response by 1 December 2011.

The report highlighted that the responses drafted on behalf of the City Corporation were agreed, prior to submission, by the Chairman and Deputy Chairman.

It was noted that in future consultation responses would be circulated to the full Committee in order for Members to provide their comments.

RESOLVED — That;

- The response made on behalf of the City Corporation for both consultations be noted and;
- Where timescales do not permit the full Committee to consider proposed responses to consultations, these be dealt with under delegated authority by the Town Clerk in consultation with the Chairman and Deputy Chairman, with all Members of the Committee being invited to comment.

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

There were no questions.

11. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS TO BE URGENT

Licensing Hearing Issues

The Chairman explained that following a number of Licensing Hearings the Chairman, Deputy Chairman and Alderman Simon Walsh met with the Town Clerk, the Assistant Commissioner of the City of London Police, the Director of Markets and Consumer Protection and the Comptroller & City Solicitor to express their concerns on a number of licensing matters, particularly licensing hearings.

The Town Clerk pointed out that the Bathhouse Hearing acted as a catalyst for the licensing issues to be drawn out which related to improving the evidence in the Licensing Sub-Committee papers; providing better advice and guidance to Members; improving the quality of reports; providing clear and accurate maps and plans; improving the information available on the website; and concerns around the wording of conditions.

It was noted that an Officer Group had been established which considered the licensing issues and made the following determinations:

- A peer review by an external practitioner from the City of Westminster Licensing Team had been engaged to look at City Corporation procedures and for the City to share best practice;
- A review would be undertaken to look at the way in which evidence was produced by the City of London Police to ensure accuracy;
- Ensuring better and improved quality of committee papers;
- A clear process had been developed for the circulation of committee papers;
- Legal advice provided to the City Police would be looked at to ensure support and guidance would be made available;
- Maps and plans would be clearer;
- Publication of an application would be made available on the website;
- More training would be provided to both Members and officers and;
- A 'pool of conditions' document would be put in place to assist potential applicants.

The Chairman pointed out that the Committee expected the City to provide an excellent licensing service and that a full report would be submitted to a future meeting to update Members on the actions taken.

RESOLVED — That an update report be submitted to a future meeting on the actions taken to address the licensing issues.

The meeting closed at 3.02pm.

CHAIRMAN

Contact Officer: Rakesh Hira
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LICENSING SUB COMMITTEE

Wednesday, 4 January 2012

Premises: Dining Venture, 16A, B & C New Street, EC2M 4TR

Sub Committee

Edward Lord OBE JP (Chairman)
Marianne Fredericks
Alderman Walsh

City of London Officers

Caroline Webb - Town Clerk's Department
Paul Chadha - Comptroller & City Solicitor's Department
Peter Davenport - Markets and Consumer Protection Department

The Applicant

Dining Ventures Ltd, represented by Ms Elizabeth Southorn, Harris Hagan Solicitors and accompanied by Chris Yates (Dining Ventures) and Carsten Lund and David Pantrini (Devonshire Square Estates).

The Objectors

Mr Gary Seal, Environmental Health Officer
Mr David Salvi, of Hurford Salvi Carr, managing agents for residential premises at 5, 6 and 7 New Street
Mr Marco and Mrs Isabelle Houscheid-Lentz, local residents

Also in Attendance

Francesca Burnett-Hall, Harris Hagan Solicitors
Tony Bride, Senior Environmental Health Officer

Licensing Act 2003 (Hearings) Regulations 2005

1. A public hearing was held in the Committee Rooms, Guildhall, London, EC2, to consider the objections submitted in respect of an application made by Dining Ventures Ltd for the premises known as Dining Venture, 16a, b & c New Street, EC2M 4TR.
2. The application sought for a new premises licence, for the following licensable activities:
 - i) Supply of alcohol
 - ii) Films
 - iii) Live Music
 - iv) Recorded Music
 - v) Anything similar to iii) and iv)
 - vi) Making music
 - vii) Dancing
 - viii) Anything similar to vi) and vii)

between the hours of 07:00 to 02:00 Monday to Sunday and for the provision of late night refreshment between the hours of 23:00 to 02:00 Monday to Sunday.

The application also sought to open the premises 24 hours a day i.e. 00:00 to 00:00 Monday to Sunday.

3. The hearing commenced at 10:03am.
4. The Chairman opened the hearing by introducing himself, the other Members of the Sub Committee and officers present. He explained the purpose of the hearing was to determine a new application made by Dining Ventures Ltd for the premises known as Dining Venture, 16a, b & c New Street, EC2M 4TR.
5. It was noted that no members of the panel had any personal or prejudicial interests.
6. The Chairman outlined the procedure that would be followed.
7. The applicant, her representatives and the objectors introduced themselves.
8. It was noted that representatives from the security firm Devonshire Square Estates were present in order to address some of the concerns raised by residents and explain the additional security measures that would be put in place.
9. The Chairman highlighted that relevant information was missing from the application form submitted, in particular the inclusion of a covering statement which was requested as part of the City Corporation's own licensing policy. The statement should set out explaining, in some detail, the nature of the proposed operation. It was noted that the purpose of the statement was to help alleviate assumptions of how the premises would be operated. In cases where applications did not receive objections, the statement would be useful for the licensing team in order for them to know what to expect.
10. Ms Southorn highlighted that a general description of the operation of the premises had been provided at the appropriate part of the application form. Once objections had been received, the applicant sought to address the concerns raised by the creation of a detailed additional written report on the operation of the premises. Hard copies of the report were circulated. As the Sub Committee had not been in receipt of the additional report, the hearing adjourned for them to consider the content.
11. The hearing adjourned at 10.15am.
12. The hearing reconvened at 10.26am.
13. The Chairman informed those present that the additional report was an exemplary example of the information sought regarding the operation of the premises.

14. In answer to a question from a Member of the panel, an original copy of the plan was circulated to show the red line around the premises, indicating that the whole premises would be licensed if granted. The coloured areas on the map were to highlight where licensable activities would be taking place.
15. Mr Seal informed the Sub Committee that he had been in contact with the applicant since submitting his objection and that most of his concerns had been addressed. He had requested for a copy of the acoustic report that had been compiled and this would be presented to the Planning and Transportation Committee for them to consider.
16. It was noted that the applicant would be prepared to accept a condition to limit amplified sounds should the Sub Committee decide to impose one.
17. Ms Southorn highlighted that the terraced area of Devonshire Terrace closed at 10.00pm and the Cinnamon Kitchen terrace closed at 10.30pm. It was noted that there were some residents living on the side of Devonshire Square.
18. Mr Houscheid-Lentz explained to the Sub Committee that he and his wife moved to their apartment in New Street for convenience as they both work in the City and that the building was listed and not soundproofed. Their main concerns were focused on potential noise outside their flat, particularly at night when they would be trying to sleep. Mr Houscheid-Lentz also stated that he was shocked and surprised when he saw the application, as he was under the impression there may have been only one fine dining restaurant which he assumed would close around 10.00pm and not two restaurants and a wine shop.
19. The Sub Committee, two of which were residents within the City, highlighted that most restaurants in the City were open past 10.00pm, one of the advantages of living there, and that background noise should be expected. There were other premises' in the City with residents living above. The Chairman stated the need to strike a fair balance between businesses and residents and the importance of distinguishing between public and private nuisance.
20. Although the additional written report contained information on the operation of the premises, Mr Houschied-Lentz did not feel reassured and thought that the applicant should have contacted the residents before putting in the licensing application.
21. It was noted that D&D, the owner and operator of the premises, acquired the space as soon as the lease became available. Throughout the development of the area, the space in question was always to be for A3 usage.
22. Mr Houscheid-Lentz confirmed that he was aware of the nature of the premises' run by D&D having visited some of them himself but he still had concerns over potential noise disturbance. It was confirmed to Mr Houscheid-Lentz that the

times shown on the websites for the other premises' run by D&D were not opening hours but the time frame reservations were available for.

23. A Member of the panel informed those present that the outside terraced areas would always be closed from 11.00pm. It was noted that there was a clause in the resident's lease to address noise issues and that could be used as a remedy.
24. Mr Salvi stated that Hurford Salvi Carr was one of the marketing agents for residential properties in Tapestry Square. He had been contacted by clients to object as they were concerned that noise would affect the rental income on the properties. Mr Salvi was aware that there were plans for a restaurant to open but he had assumed it would be open no later than 11.00pm. He confirmed that most of his clients owned property towards the east of London and not in the City itself.
25. It was noted that the proposed smoking area would be located at the eastern end of the premises at the Bengal courtyard as there were offices above this area.
26. The Chairman highlighted that the Sub Committee would need to determine whether any nuisance would be public or private, by taking in to account a variety of factors including other premises, the surrounding area and the fact that residents reside in a listed building.
27. It was noted that the public house at the end of New Street received deliveries before 8.00am due to parking restrictions and that Dining Venture deliveries would be at a similar time. The Chairman stated that this was not for the Sub Committee to consider as it was not a licensable activity.
28. Ms Southorn summed up her case and highlighted that D&D ran highly regarded fine dining restaurants and in comparison to most London restaurants, Dining Venture would be a small venue. She stated that there were various ways the objectors could channel complaints should they experience noise nuisance once the premises opens. There would be a designated taxi point on Bishopsgate to avoid taxi services going down New Street itself. Additional security would also be provided in the way of a security guard on patrol who would operate throughout opening hours. An extra CCTV camera had been installed overlooking the courtyard which linked up to the security centre in Devonshire Square.
29. It was confirmed by the applicant that dancing would be required until 2.00am in case of private parties and weddings etc. but live music could cease at 11.00pm if required.
30. The Sub Committee retired at 11.44am, accompanied by the representatives of the Town Clerk and the Comptroller & City Solicitor to deliberate and reach a decision.

- (1) The Sub-committee considered the application with care and, in particular, the representations submitted in writing and orally at the hearing by the applicant's representative, Ms Southorn and the objectors, Mr Seal, an Environmental Health Officer, Mr and Mrs Houscheid-Lentz, local residents and Mr Salvi, on behalf of Eastbank Studios Limited. The Sub Committee also considered written representations from the New Street Residents Association, Mr Andrew Dempsey, a local resident and Ms Fiona Harries, on behalf of Shield House Ltd.
- (2) In reaching their decision the Sub-committee was mindful of the provisions of the Licensing Act 2003, in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State in pursuance of the Act and the City of London's own Statement of Licensing Policy dated January 2011.
- (3) Furthermore, the Sub-committee took on board the duty to apply the statutory test as to whether an application should or should not be granted, that test being that the application should be granted unless it was satisfied that it was necessary to refuse all, or part, of an application or necessary to impose conditions on the granting of the application in order to promote one (or more) of the licensing objectives.
- (4) In determining the application, the Sub-committee first and foremost put the promotion of the licensing objectives at the heart of their decision. In this instance, the most relevant of those objectives was the prevention of public nuisance.
- (5) In reaching its decision the Sub-committee took into account the nature of the operation proposed by the applicant and was particularly impressed by the additional written information supplied in support of the application which provided a helpful insight into the manner in which the premises were to be operated. The Sub-committee also noted that the information contained in this document had allayed many of the concerns held by the environmental health officer. The Sub-committee was not convinced that the representations made by Mr. & Mrs. Houscheid-Lentz and Mr. Salvi in respect of potential public nuisance resulting from the premises operation would materialise.
- (6) Consequently the Sub-committee concluded that, in discharging its duty to promote the licensing objectives, it was not necessary to reject the application or to exclude any of the licensable activities sought in the application.
- (7) The Sub-committee then considered whether it was necessary to impose any conditions upon the licence. Again, the Sub-committee was assisted by the applicant's additional written information and the proposed condition suggested by the City of London Police and set out in the applicant's solicitor's letter of 22nd November 2011. The Sub-committee noted the applicant's proposal that there be no live music after 23.00 hours and that the terraces would not be used after 23.00 hours. The Sub-committee was

of the opinion that to impose such restrictions on the premises licence would promote the prevention of public nuisance.

(8) It was the Sub-committee's decision to grant the application with the following conditions to be imposed:

1. *The premises will not be used for Promoted Events. 'A promoted event is an event involving music and/or dancing where the musical entertainment is provided at any time between 11.00pm (2300) and 7.00am (0700) by a disc jockey or disc jockeys one or some of whom are not employees of the licensee (premises licence holder) and the event is promoted to the general public.'*
2. *The terraces shall be closed by 23.00.*

(9) In addition the Sub-committee decided to restrict the hours for the performance of live music to 07.00 to 23.00

(10) If the Panel are wrong and these conditions provide insufficient to prevent public nuisance associated with these premises, all parties are reminded that any responsible authority or business or resident in the vicinity is entitled to apply for a review of the Licence. This may result, amongst other things, in a further variation of the conditions or the removal of a licensable activity for this area.

(11) If any party is dissatisfied with the decision, he or she is reminded of the right to appeal, within 21 days, to a Magistrates' Court. Any party proposing to appeal is also reminded that under s181(2) of the Licensing Act 2003, the Magistrates' Court hearing the appeal may make such order as to costs as it thinks fit.

31. The Chairman thanked all those present at the hearing.

The meeting closed at 12.55pm

CHAIRMAN

Contact Officer: Caroline Webb
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LICENSING SUB COMMITTEE

Monday, 6 February 2012

Premises: Etc Venues, 200 Aldersgate Street, London EC1A 4HD

Sub Committee

Edward Lord OBE JP (Chairman)
Alderman Simon Walsh
Marianne Fredericks CC

City of London Officers

Caroline Webb - Town Clerk's Department
Paul Chadha - Comptroller & City Solicitor's Department
Peter Davenport - Markets & Consumer Protection Department

The Applicant

Represented by Nicola Smith, Squire Sanders (UK) LLP together with Alastair Stewart, the Managing Director of Etc. Venues and Iain Dix, the proposed DPS.

The Objectors

Jonathan Morton, local resident
Jonno Dennis, local resident
Virginia Rounding, Common Councilman of Faringdon Within
Dawn Patel, Environmental Health Officer

In Attendance

Graham Farley - observer

Licensing Act 2003 (Hearings) Regulations 2005

1. A public hearing was held in the Committee Rooms, Guildhall, London, EC2, to consider the objections submitted in respect for an application made by Etc Venues Ltd.

The application sought for a new premises licence, for the following licensable activities:

- i) Retail sale of alcohol
- ii) Live Music
- iii) Recorded Music
- iv) Performances of dance
- v) Anything similar to ii, iii) and iv)
- vi) Provision of facilities for making music
- vii) Provision of facilities for dancing
- viii) Anything similar to vi) and vii)

between the hours of 08:00 to 24:00 Monday to Saturday and 08:00 to 22:00 Sunday;

and for the provision of late night refreshment between the hours of 23:00 to 24:00 Monday to Saturday.

In addition to the above the application seeks to carry out all licensable activities on Bank Holiday Mondays from 08:00 to 22:00.

2. The Chairman introduced himself, the other Members of the Sub-committee and the Officers present. He explained that the purpose of the hearing was to determine the application made by Etc Venues Ltd for the premises known as Etc Venue, 200 Aldersgate Street, London EC1A 4HD.
3. It was noted that no members of the panel had any personal or prejudicial interest.
4. The Chairman outlined the procedure that would be followed.
5. The applicant, her representatives and the objectors introduced themselves.
6. The applicant confirmed that they wished to withdraw regulated entertainment from the application with no licensable activities to be provided on Sundays.
7. The Chairman highlighted that relevant information was missing from the application form submitted, in particular the inclusion of a covering statement which was requested as part of the City Corporation's own licensing policy. Ms Smith indicated that a covering letter had been sent with the original application outlining the nature of the proposed operation. The Sub Committee had not been in receipt of the letter and hard copies were handed to them for their consideration.
8. In answer to a question, Ms Smith stated that a licence for the provision of late night refreshment was sought in order to provide hot food and drinks after lengthy meetings, for example, should the client wish for them to be served.
9. Ms Smith highlighted that the premises was not proposing to operate as a public house but as a business premises. She stated that approximately 80% of events would not require a licence but one was being sought in order to offer flexibility to clients should they wish to provide alcohol, for example, during post conference networking events.
10. In answer to a question, Ms Smith confirmed that there would not be a fixed cash bar within the premises. It was likely that the alcohol served would be free with Etc Venues acting as a third party.
11. A Member of the Sub Committee stressed the importance of not placing unnecessary conditions on a licence that could hinder the premises, referring to the proposed terminal hour of the supply of alcohol. The Member suggested instead that the sale of alcohol could be restricted to 22.30 Monday to Saturday. The applicant confirmed they would be content with the proposals and would welcome the flexibility.
12. In answer to a question from an objector, it was confirmed that any premises within the City could apply for a TEN, with the City of London Police being the

only responsible authority able to object. It was noted that a TEN overrides any conditions on the existing licence.

13. In answer to a question, Ms Smith confirmed that an acoustic report had not been submitted as regulated entertainment had been withdrawn from the application.
14. In answer to a question, the Chairman confirmed that a further application would need to be submitted and considered should the premises wish to add regulated entertainment to the licence.
15. The Chairman stated that the Licensing Authority had elected not to circulate letters to nearby residents of premises that had applied for licences or variations due to the risk of a judicial review should a resident be inadvertently missed. The statutory requirements for advertising a licensing application or variation requires the applicant to place an advert in a local newspaper and place a blue notice in the window of the premises. It was noted that the Licensing Authority went over and above this requirement by placing application advertisements on the City of London website.
16. It was also noted that Common Councilmen are notified of all licensing applications.
17. The objectors confirmed that they were content with the application following the withdrawal of regulated entertainment.
18. The Members of the Sub Committee withdrew to deliberate and make their decision, accompanied by the representatives of the Town Clerk and the Comptroller and City Solicitor.
 - (1) The Sub Committee considered the application with care and, in particular, the representations submitted in writing and orally at the hearing by the applicant's representative, Ms Smith and the objectors, Mr Morton and Mr Dennis, local residents and Ms Rounding, Common Councilman for Farringdon Within. The Sub Committee also considered written representations from the Rt Hon the Lord Mayor and other residents of London House, Clare James, Common Councilman for Farringdon Within and a representation from the Environmental Health department.
 - (2) In reaching their decision the Sub Committee was mindful of the provisions of the Licensing Act 2003, in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State in pursuance of the Act and the City of London's own Statement of Licensing Policy dated January 2011.
 - (3) Furthermore, the Sub Committee recognised their duty to apply the statutory test as to whether an application should or should not be granted, that test being that the application should be granted unless it was satisfied that it was necessary to refuse all, or part, of an application or

necessary to impose conditions on the granting of the application in order to promote one (or more) of the licensing objectives.

- (4) In determining the application, the Sub Committee took in to account their statutory duty in the promotion of the licensing objectives. In this instance, the most relevant of those objectives was the prevention of public nuisance.
- (5) The applicant confirmed that it wished to withdraw regulated entertainment from the application and accepted that the sale of alcohol could cease no later than 22.30 Monday to Saturday, with no licensable activities to be provided on Sundays.
- (6) The Sub Committee decided to grant the licence with the following variations, namely, that a licence would be granted for the sale of alcohol to 08.00 to 22.30, Monday to Saturday and for the provision of late night refreshment from 23.00 to 00.00 Monday to Saturday.
- (7) The Sub Committee decided that it was not necessary to impose any conditions in addition to the statutory conditions under Sections 19-21 of the Licensing Act 2003 upon the licence.
- (8) If the Sub-committee was wrong and these conditions prove insufficient to prevent a public nuisance associated with these premises, all parties are reminded that any responsible authority, business, resident (in the vicinity) or a Member of the Court of Common Council is entitled to apply for a review of the licence which may result, amongst other things, in a variation of the conditions, the removal of a licensable activity or the complete revocation of the licence.
- (9) If any party was dissatisfied with the decision, they were reminded of the right to appeal, within 21 days, to a Magistrates' Court. Any party proposing to appeal was also reminded that under s181(2) of the Licensing Act 2003, the Magistrates' Court hearing the appeal may make such order as to costs as it thinks fit.

19. The Chairman thanked all those present at the hearing.

The meeting closed at 10.22am

CHAIRMAN

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LICENSING SUB COMMITTEE

Tuesday, 14 February 2012

Premises: Aveqia, Lower Ground, Unit 2, 10 St Bride Street, London, EC4A 4AD

Sub Committee

The Rev'd Dr Martin Dudley CC (Chairman)

Ms Marianne Fredericks CC

Kevin Everett CC

City of London Officers

Rakesh Hira - Town Clerk's Department

Ru Rahman - Comptroller & City Solicitor's Department

Peter Davenport - Markets & Consumer Protection Department

The Applicant

Represented by Jack Spiegler, Thomas & Thomas LLP together with Simon Mockridge, Project Manager and Stuart Simmons, Commercial Agent

Parties with Representations

Vanessa Roguska and Deirdre Lyons, local residents

Licensing Act 2003 (Hearings) Regulations 2005

- 1) A public hearing was held in the Committee Rooms, Guildhall, London, EC2, to consider the objections submitted in respect for an application made by Aveqia Farringdon Ltd.

The application sought to provide licensable activities for:

- i) Supply of alcohol;
- ii) Films and;
- iii) Recorded music

between the hours of:

10:00 to 01:00 Monday to Thursday;
10:00 to 02:00 Friday to Saturday and;
12:00 to 23:00 Sunday.

And for the provision of late night refreshment between the hours of:

23:00 to 01:00 Monday to Thursday and;
23:00 to 02:00 Friday to Saturday.

The application also sought to open the premises between the hours of:

10:00 to 01:00 Monday to Thursday;
10:00 to 02:00 Friday to Saturday and;
12:00 to 23:00 Sunday.

- 2) The Chairman introduced himself, the other Members of the Sub-committee and the officers present. He explained that the purpose of the hearing was to determine the application made by Aveqia, Lower Ground Floor, Unit 2, 10 St Bride Street, London, EC4A 4AD.
- 3) It was noted that no members of the panel had any personal or prejudicial interest.
- 4) In response to a question by the Chairman, Mr Spiegler clarified that the proposed operation of the premises was of a high class corporate based restaurant which would offer educational cooking with Michelin Star trained chefs at an approximate cost of £200 per person. Both clients and employees would learn to cook quality restaurant food and then have a sit down meal with the whole process taking approximately 4 – 5 hours, and then customers would gradually disperse at the end of the meal. It was noted that the bar area in the premises would offer alcohol before the cooking session began but would only be available to those customers who had pre-booked and had made a deposit beforehand. Mr Spiegler explained that off sales had been sought in the application to allow for customers/clients/employees who had attended the cooking session to take home a bottle of wine in the evening, if they so wished. In relation to Recorded Music, Mr Mockridge explained that this was to set the tone for customers and would take place in the basement area to prevent a noise nuisance.
- 5) Ms Roguska began by pointing out that it would be more sensible to have the premises close at 11:00pm rather than midnight, as set out in the applicant's solicitor's letter dated 3 February 2012, as this would be consistent with other premises in the area. She explained that the St Bride Street area was quiet but as there was seating areas outside the premises people leaving the premises could easily become noisy at unsociable hours and a public nuisance could be caused. In relation to litter Ms Roguska requested that the timings for rubbish collections and putting rubbish outside the premises still needed clarification. Ms Roguska asked how regularly the premises would try to prevent a noise nuisance when customers went outside the premises to smoke. She was however content with meeting with the applicant and working in collaboration to minimise a public nuisance.
- 6) A Member of the Sub-committee pointed out that a condition on litter or smoking could not be put on the licence as these were not licensable activities.
- 7) Mr Spiegler explained that the applicant would be content with drafting a dispersal policy to avoid customers congregating at the St Bride Street area and a smoking and rubbish collection policy. In relation to Recorded Music Mr Spiegler pointed out that it was background music that would be played and not loud music to cause a noise nuisance. It was noted that the premises would pre-book customers and therefore 'drop-in' customers would not be expected. Mr Spiegler offered for a telephone number of a duty manager to be made available for the local residents. It also noted that the cooking session, which would last approximately 4-5 hours would not allow for the premises to close at 11:00pm as customers would usually arrive at 7.00pm/8.00pm.

- 8) A detailed discussion took place on Recorded Music, Mr Spiegler pointed out that a noise limiter condition could be placed on the licence but it was only background music which would be played. Mr Spiegler said that on balance he would be prepared to withdraw Recorded Music from the application if he thought that the Sub-committee deemed this necessary. In relation to Ms Roguska's concerns of the licence being transferred to another operator Mr Spiegler drew attention to a planning consent letter which limited the use of the premises as being a private cooking and dining venue.
- 9) In summing up Mr Spiegler made reference to paragraph 55 of the Licensing Policy (dated January 2011) which stated that it "was the policy of the City Corporation to strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers, notwithstanding that all applications will be determined on their own merits".
- 10) The Members of the Sub Committee withdrew to deliberate and make their decision, accompanied by the representatives of the Town Clerk and the Comptroller and City Solicitor.
 - (1) In reaching its decision the Sub-committee took into account the nature of the operation proposed by the applicant and was assisted by the additional written information, set out in the applicant's solicitor's letter dated 3 February 2012. The Sub-committee concluded that, in discharging its duty to promote the licensing objectives, it was not necessary to reject the application or to exclude any of the licensable activities sought. The Sub-committee considered whether it was then necessary to impose any conditions upon the licence, to promote the prevention of public nuisance.
 - (2) The Sub-committee noted the applicant's proposal that the sale of alcohol for consumption off the premises would be in sealed containers, have a policy on smoking, the dispersal of clients, rubbish collection that minimised nuisance to residents and that the applicant would be prepared to apply a noise limiting device to any musical amplification system in the premises, if required by the Environmental Health Department.
 - (3) It was the Sub-committee's decision to grant the premises licence subject to the following amendments, as detailed in the applicant's solicitor's letter dated 3rd February 2012;
 - The licensable activities for the Supply of Alcohol, Films and Recorded Music will be 10:00 to 00:00 Monday – Saturday and 12:00 to 23:00 on Sundays.
 - The provision of Late Night Refreshment shall be between the hours of:

23:00 to 00:00 Monday to Saturday

With the following conditions:

- All sales of alcohol for consumption off the premises shall be in sealed containers and;
 - A noise limiting device if required by the Environmental Health Department shall be fitted to any musical amplification system at the premises and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Department to ensure that no noise nuisance was caused to local residents.
 - The Sub-committee noted that:
 - (a) the Planning consent letter limited the use of the premises as being a private cooking and dining venue;
 - (b) the applicant would have a policy on smoking, the dispersal of clients and rubbish collection that minimised nuisance to residents and;
 - (c) the applicant would maintain dialogue with local residents and provide a telephone number for a manager that residents could call in the event of a disturbance.
- (4) All parties were reminded that if the Sub-committee was wrong and these conditions proved insufficient to prevent a public nuisance associated with these premises, any responsible authority, business, resident (in the vicinity) or a Member of the Court of Common Council was entitled to apply for a review of the licence which may result, amongst other things, in a variation of the conditions, the removal of a licensable activity or the complete revocation of the licence.
- (5) If any party was dissatisfied with the decision, they were reminded of the right to appeal, within 21 days, to a Magistrates' Court. Any party proposing to appeal was also reminded that under s181(2) of the Licensing Act 2003, the Magistrates' Court hearing the appeal may make such order as to costs as it thinks fit.

11) The Chairman thanked all those present at the hearing.

The meeting closed at 11.10am

CHAIRMAN

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LICENSING SUB COMMITTEE

Thursday, 16 February 2012

Premises: Premier Inn, 20 St Mary At Hill, London, EC3R 8EE

Sub Committee

Alderman Simon Walsh MA (Chairman)
Deputy Doug Barrow CC
Peter Dunphy CC

City of London Officers

Rakesh Hira - Town Clerk's Department
Paul Chadha - Comptroller & City Solicitor's Department
Peter Davenport - Markets & Consumer Protection Department

The Applicant

Represented by Chris Grunert (John Gaunt & Partners LLP)

Parties with Representations

City of London Police - Inspector Rita Jones, John Hall and Paul Holmes

Also in attendance

Jon Averbs, Environmental Health and Public Protection Officer

Licensing Act 2003 (Hearings) Regulations 2005

1. A public hearing was held in the Committee Rooms, Guildhall, London, EC2, to consider the objections submitted in respect for an application made by Whitbread Group Plc for the proposed premises 'Premier Inn, 20 St Mary at Hill, London, EC3R 8EE'.

The application sought to provide licensable activities for the:

- i) Sale by retail of alcohol and;
- ii) Films

between the hours of:

10:00 to 00:30 Monday to Sunday;

And for the provision of late night refreshment between the hours of:

23:00 to 00:30 Monday to Sunday.

The application sought to open the premises between the hours of:

06:00 to 01:00 Monday to Sunday.

In addition the application sought to permit the sale by retail of alcohol from 10:00 New Year's Eve to 00:30 New Year's Day (morning of 2 January). The application sought to permit the sale by retail of alcohol to hotel residents 24 hours a day.

2. The Chairman introduced himself and the other Members of the Sub-committee.

3. It was noted that no members of the panel had any personal or prejudicial interest.
4. The Chairman began by explaining why a Sub-committee had been convened with regards to this application. He explained that the Licensing Committee placed great importance on its long-standing policy of having 2003 Act licences bear only as few conditions as were needed and of having those conditions expressed in clear and unambiguous language. The Sub-committee felt that the agreement between the police and the Applicant, however well-intentioned, did not adequately recognise this policy as some of the conditions were disproportionate and, in places, less clearly worded than they could have been. Furthermore, he pointed out that the statutory basis for this policy and the Sub-committee's unusual stance could be found in s4(1) and s4(3) of the 2003 Act, paragraphs 46-52 of the Corporation's Licensing Policy (2011) and sections 10.2, 10.3, 10.4, 10.7, 10.8, 10.10, 10.11, 10.13 and 10.14 of the Guidance issued by the Secretary of State under s182 of the Act (October 2010). In respect of section 10.8, the Sub-committee noted with approval the efforts made between the parties to reach agreement but also noted that this might have been more easily achieved had those negotiations begun before submission of the application, as the Guidance recommends, rather than afterwards. All of the preceding references were read out in full by the Chairman.
5. In response to a question by the Chairman, Inspector Rita Jones explained that that crime and disorder may take place around the premises ranging from drunkenness to- rape which could occur in a hotel room hence a number of conditions were placed on the licence which were lifted from the City of London's pool of conditions. She was however content with any guidance the Sub-committee may have.
6. A detailed discussion took place on the CCTV condition which was suggested by the City Police to be placed on the licence. Inspector Rita Jones explained that CCTV was a tool which the police could use to prevent crime or to determine if someone was or was not a suspect by looking at the CCTV data; and in order for this to take place a staff member who was conversant with the operation of the CCTV system should be present at the premises at all times so that in the event of an incident he/she could show the Police the recent footage with minimum delay. It was noted that the CCTV would cover all public entries and exits (not fire exits or the toilets which were within the licensed area).
7. In response to a question by a Member of the Sub-committee, Inspector Rita Jones explained that it was not envisaged that a CCTV condition would be placed on every hotel premises licence in the City but that it depended on the hotel and would be determined on its individual merits.
8. A discussion took place on the role of the Crime and Reduction Officer, Inspector Rita Jones explained that this Officer would visit the premises and provide advice on where best to fit CCTV cameras which may for example only be in the bar area, once this was done the Officer would produce a report which

would detail where the cameras will be located and would be sent to the premises and the City Police.

9. A discussion took place on the SIA registered door supervisors and the need for each entry to be verified by the signature of the Designated Premises Supervisor (DPS) or in their absence by such other person authorised in writing by the DPS to do so. Mr Grunert pointed out that events would not take place on a day-to-day basis in the basement area and therefore a SIA door supervisor would not always be required but if this condition provided comfort to the police it could be placed on the licence. Inspector Rita Jones explained that there had been incidents in her experience with other premises whereby there had been problems with door supervisors and therefore it was suggested that this condition be put on the licence.
10. A discussion took place on the incident log book condition and the Chairman pointed out that if for example, a chambermaid had stolen a guest's watch and it was not recorded in the incident log the barman would not be able to sell any alcohol. The Chairman highlighted that the operator should be fully clear on what duties had been imposed on them. Inspector Rita Jones explained that she would welcome any guidance the Sub-committee had to offer on the wording of the condition. Mr Grunert pointed out that a log book of some sort would still be completed whether a condition was placed on the licence or not.
11. Mr Grunert explained that the application sought to grant the licence which would be in place in 12-18 months time once the property transaction was completed.
12. The Members of the Sub Committee withdrew to deliberate and make their decision, accompanied by the representatives of the Town Clerk and the Comptroller and City Solicitor.
13. The Chairman informed all parties that the application for a premises licence had been granted and that a detailed letter would follow within the statutory timescales.
14. The Chairman thanked all those present at the hearing.

The meeting closed at 11.10am

CHAIRMAN

Contact Officer: Rakesh Hira
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Decision of the Sub-committee circulated to all parties on 22 February 2012

THE COMMON COUNCIL OF THE CITY OF LONDON
LICENSING SUB-COMMITTEE

Alderman Simon WALSH, MA (Chairman)
Doug BARROW, Deputy
Peter DUNPHY, CC

Thursday 16 February 2012 (09.30-11.10)

IN RE:

PREMIER INN (proposed)
20 St Mary at Hill, London EC3

At today's hearing the sub-committee was addressed by Mr Chris Grunert of John Gaunt & Partners on behalf of the Applicant and by Insp Rita Jones and John Hall on behalf of the Commissioner of Police of the City of London. There were no other written representations.

No documents were submitted to the sub-committee beyond those contained in the bundle prepared by the Town Clerk for the hearing.

On 20 December 2011 Whitbread Group plc applied under the Licensing Act, 2003 for a premises licence in respect of commercial premises in St Mary at Hill which it is their intention to convert, at some time in the future, into a hotel under the well-known 'Premier Inn' brand. One relevant representation was received from the police who felt the Applicant's operating schedule did not go far enough to promote the crime prevention objective. Subsequent discussions between the police and the Applicant resulted in a set of proposed conditions acceptable to both parties.

The parties were therefore perhaps understandably surprised to be called to a hearing. The Chairman explained why: the Licensing Committee placed very great importance on its long-standing policy of having 2003 Act licences bear only as few conditions as were needed and of having those conditions expressed in clear and unambiguous language. The sub-committee felt that the agreement between the police and the Applicant, however well-intentioned, did not adequately recognise this policy as some of the conditions were disproportionate and, in places, less clearly worded than they could have been.

The statutory basis for this policy and the sub-committee's unusual stance can be found in s4(1) and s4(3) of the 2003 Act, paragraphs 46-52 of the Corporation's Licensing Policy (2011) and sections 10.2, 10.3, 10.4, 10.7, 10.8, 10.10, 10.11, 10.13 and 10.14 of the Guidance issued by the Secretary of State under s182 of the Act (October 2010). In respect of section 10.8 the sub-committee noted with approval the efforts made between the parties to reach agreement but also noted that this

might have been more easily achieved had those negotiations begun before submission of the application, as the Guidance recommends, rather than afterwards. All of the preceding references were read out in full by the Chairman at the start of the hearing.

Insp Jones presented the Commissioner's position in a commendably forceful submission backed up by her own recent personal knowledge. Without rehearsing the detail of what she said, she left the sub-committee in no doubt that the police view was that they would and should use every possible means to acquire the widest range of crime prevention and detection tools for the general benefit of law-abiding City residents, businesses, workers and visitors. We could find no fault with this laudable aim. We did, however, feel that her proposed conditions were excessive and disproportionate for the reasons which are given below. If this is in any way a criticism it is meant to be a positive and constructive one and we hope that it will be taken in this way as the sub-committee very much values the extraordinary work done by the City Police to promote the licensing objectives across the range of licensed premises in our dense and varied community.

Mr Grunert rode spiritedly to Insp Jones' defence on many points, perhaps to justify his firm's agreement to the conditions we appeared to be criticising. We accept, of course, that he was acting in his client's best interests both in advance of and at the hearing but we must point out that not all those who apply for licences in the City have pockets as deep as those of Whitbread and that we must have a policy that is fair and proportionate to all.

CCTV: We agree that CCTV is an indispensable deterrent and crime fighting tool in the City and we have no difficulty at all in seeing this on a licence as a condition. The City has, however, over time developed a first-class CCTV condition intended to be used in large, late-night bars and clubs where serious disorder or other serious crime can reasonably (and hopefully only occasionally) be expected. Such premises invariably make large profits for operators who can, therefore, be expected to fit top-of-the-range equipment. We do not feel that the bar/restaurant in the basement of a Premier Inn is likely to be such a crime hotspot. What was proposed in this case was the very best CCTV condition where it simply was not needed: such conditions should be properly tailored to the premises to which they apply. Discussion at the hearing also highlighted other problems with the condition proposed to us¹:

A licence condition should be wholly self-contained. The proposed condition referred to the requirements of the Crime Reduction Officer but there would be no way anyone looking at the licence (as any bar manager should) would know if an installed CCTV system was lawful. Nor would any enforcing police officer always know, as the recommendations would likely only be found "in the file". The condition we have imposed may seem vague but in fact it is not. The position, number and quality of cameras and recording equipment is a matter for a responsible operator and our condition gives necessary flexibility. Whitbread are a responsible operator and we are sure they will take and act

¹ which we took as that in Mr Hall's letter to the Town Clerk dated 9 February 2012 rather than Mr Holmes' letter to the Licensing Team dated 30 December 2011.

on police advice when installing their system. If we are wrong in this their position on any future review would be difficult to say the least; A CCTV condition requiring all entrances and exits (including staff and fire exits) to be covered may be proportionate in a large nightclub but it is difficult to justify as a condition of running a basement bar in a hotel spread over several floors and, as in this case, over several (albeit contiguous) buildings; Care must be taken when drafting conditions to differentiate between the use of the word "premises" to describe the hotel building *in toto* or to describe only that part of the hotel building delineated (usually by a red line) on the Reg 23 plan as being where licensable activities will take place, sometimes also unhelpfully called the "licensed premises". In this case of this particular condition, the police spotted the possible problem and required the CCTV to cover only "all public areas authorised for licensable activities". What the police did not do was then look at the Reg 23 plan for if they had they would have seen that they were requiring CCTV *inside* the toilets and possibly even the toilet cubicles. It really should not be the job of a Licensing Sub-Committee to point such things out and this only serves to highlight why such specificity in conditions is usually undesirable.

Conversant staff to operate the CCTV: There are times when the police need access to CCTV images quickly yet there are sadly some types of premises or operators where this is not granted - either negligently or deliberately. We just do not believe that Whitbread are such an operator and we are much happier to accept their assurance to us that they will always use their best endeavours to help the police speedily than rather criminalising the bar staff if, for some reason, they do not always achieve their aim. A bald condition requiring CCTV conversant staff at all times would mean that more staff than are absolutely necessary need to be trained and/or on duty to work, lest the bar need be shut because a particular staff member is held up on the way to work. A 'best endeavours' condition would mitigate this but it is too vague to be enforceable.

SIA register with daily attendance countersigned by the DPS: Again, there are badly run premises where it is necessary to keep a strict control on operators who flout the law in respect of those who are suitable to work as door supervisors. This is often the case where operators condone or even encourage door supervisors who are unnecessarily violent or themselves involved in the trade in illegal substances in licensed premises. It became very clear during the hearing that the number of times these particular premises might expect to need door supervisors at all would be very limited indeed and we were quite satisfied that on such occasions Whitbread would have no reason at all not to use staff with relevant training and qualifications. If they wish to keep a register for their own internal purposes, they are free to do so in whatever way and in whatever form best suits them: it needs no intervention from us.

Incident log: There was clearly a difference of opinion on the merits of the incident log *per se*. At the end of the day we were again quite satisfied by Mr Grunert's comments that Premier Inn will keep the equivalent of a log, for their own purposes, of all such matters as would properly interest the police for crime prevention or detection and that they will be happy to share such information with the police either after an incident or, we imagine, at regular meetings between the two parties. For much the same reasons as we mention above in respect of CCTV conversant staff,

we feel that prescribing what should go in the log *for this particular operator of these particular premises* would not actually advance the first licensing objective for the police and might even, because of problems of clarity, undermine it. The particular problems of clarity we identified in discussion were:

“all crimes reported to the venue”: not only did this introduce a third unclear concept of ‘venue’ (as opposed to premises and/or licensed premises) it would cover a report of an alleged theft from a bedroom and a report of a street mugging outside. Neither of these would be particularly relevant to the sale of alcohol in the bar/restaurant and should not, in our view, form part of a Licensing Act 2003 condition. The comments by the police that they would not necessarily be looking for such matters to be included in the log and that they would not take action if they were not included just emphasised how much this part of this proposed condition offended against sections 10.2 and 10.10 of the s182 Guidance;

“any complaints received”: this is simply too wide for, as presently drafted, it covers lumpy pillows, sour beer and excessive garlic in the food;

“any refusal of the sale of alcohol”: this is again simply too wide as it could include someone who came to the bar 5 minutes after closing time or a refusal to a customer who did not appreciate that drinks could not be taken out onto the street whilst smoking;

“any visit by a relevant authority or emergency service”: we are not sure what a ‘relevant authority’ is and even if it meant a responsible authority (LA 2003 s13(4)) we cannot understand why it would not also include an authorised person (LA 2003 s13(2)). So far as emergency services are concerned we cannot see the benefit of recording a visit by the fire brigade to check a smoke alarm.

The discussion at the hearing also identified ways in which the condition relating to outside drinking could be improved, when the licence should start, and how sale of drink to bedroom guests at night could best be dealt with. We would like to thank Insp Jones and Mr Grunert for their forbearance whilst we ironed out the problems that this application highlighted and to thank the licensing officers for a much improved report.

Our decision is to GRANT a premises licence with immediate effect to the Applicant for 20 St Mary at Hill.

The licence will permit:

The exhibition of films from 10.00 until 00.30 (the following morning), every day;

The provision of late night refreshment from 23.00 until 00.30 (the following morning), every day;

The sale by retail of alcohol, all day every day

With the following conditions (in addition, of course, to the mandatory conditions under ss19-21 of the Licensing Act, 2003):

Between 00.30 and 10.00 each day alcohol may only be sold to a person staying overnight in the hotel;
Alcohol may not be sold in open containers for consumption outside the hotel;
CCTV shall be installed covering the main front door and the hotel bar. Such CCTV shall record continuously and recordings shall be kept for no less than 31 days.

And in doing so we noted the willingness of the Applicant to cooperate with the police licensing team, to provide prompt and effective assistance where required and to offer the police the benefit of learning developed from its records concerning its operation of the hotel.

If the sub-committee was wrong and these conditions prove insufficient to promote the crime prevention objective associated with these premises, all parties are reminded that any responsible authority, business, resident (in the vicinity) or a Member of the Court of Common Council is entitled to apply for a review of the licence which may result, amongst other things, in a variation of the conditions, the removal of a licensable activity or the complete revocation of the licence.

If any party is dissatisfied with this decision, he or she is reminded of the right to appeal, within 21 days, to a Magistrates' Court. Any party proposing to appeal is reminded that under s181(2) of the Licensing Act, 2003, the Magistrates' Court hearing the appeal may make such order as to costs as it thinks fit.

Committee(s):	Date(s):	Item no.
Licensing	10 May 2012	
Subject: A) Live Music Act 2012; and B) Implementation of the Police Reform and Social Responsibility Act 2011.		Public
Report of: City Remembrancer and Director of Markets & Consumer Protection		For Information
<p><u>Summary</u></p> <p>The report is split into two parts.</p> <p>Part A provides Members with an overview of the Live Music Act 2012 which received Royal Assent in March. The Act amends s177, Licensing Act 2003 which relates to dancing and live music in certain small premises.</p> <p>The key points under the Act for Members to note are:</p> <ul style="list-style-type: none"> • The removal of the need to licence unamplified live music in all venues, and amplified music before audiences of 200 in premises with an alcohol licence or in workplaces; • the provision of entertainment facilities no longer need to be licensed; • however, the licensing requirement can be reinstated and live music made licensable if a review of the licence is prompted by complaints. <p>A summary of the changes as a result of the 2012 Act is included at Appendix A.</p> <p>It is likely the Act will come into effect in October 2012.</p> <p>Part B describes how the Licensing Service has implemented those aspects of the Police Reform and Social Responsibility Act 2011 which came into force on 25 April 2012.</p> <p>Recommendations</p> <ul style="list-style-type: none"> • Members are invited to note the contents of this report. 		

PART A

Background

1. In May 2009 the Culture Select Committee recommended that the Government should exempt venues with a capacity of 200 persons or fewer from the need to obtain a licence for the performance of live music. The Committee also recommended the reintroduction of a "two-in-a-bar" exemption for non-amplified music in place before the 2003 Act was brought into effect. This was a disapplication under the previous licensing law of the need for a public entertainment licence in certain situations, such as two performers singing or playing music, at premises where a justices' licence was in force.
2. In its response to the Select Committee report, the previous Government rejected these recommendations. However, in October 2009, Ministers at the time indicated that they were minded to consider an exemption for live music in small venues with a capacity of less than 100 and would launch a public consultation on the issue. That consultation concluded in May but there was delay in publicising the results of it due to the General Election. However, the issue re-emerged in the Coalition Agreement which included a commitment "to cut red tape to encourage the performance of more live music".
3. In the absence of Government legislation, Lib Dem Peer Lord Clement-Jones introduced the Live Music Bill in July 2010. A previous attempt to introduce a similar measure had found success in the Lords prior to the General Election but encountered difficulties in the Commons as the House cleared the decks ahead of dissolution in May 2010. The Bill received qualified Government support and, although amended in Committee, ultimately resulted in the Live Music Act 2012.

Amendments to the Licensing Act 2003

4. The Live Music Act adds a new section 177A to the 2003 Act to deal with live music taking place in premises authorised for the supply of alcohol for consumption on the premises. Its effect is that conditions on a premises licence or club premises certificate relating to live music will no longer apply where unamplified music is being provided, where live amplified music is played to an audience of no more than 200 persons, and the live music takes place between 8am and 11pm on the same day. On a review of the premises licence or club premises certificate however, a condition relating to live music may be reinstated by altering the conditions to include a statement that section 177A does not apply.

Furthermore, at a review a licensing authority may add a condition relating to live music.

5. The provision of live music will not be a licensable activity if it takes place in a workplace not otherwise licensed under the 2003 Act (or only licensed for late night refreshment), provided that the audience size is no more than 200 and it takes place between 8am and 11pm. Unamplified live music will not be licensable provided that it takes place between 8am and 11pm on the same day.
6. The Act also removes all references to entertainment facilities (facilities for making music or dancing) with the effect that the provision of entertainment facilities will no longer be licensable as they do not amount to regulated entertainment.
7. A summary of the changes resulting from the Act is included at Appendix A.

Impact on the City of London

8. The immediate and long term effects of the Live Music Act on the City of London are expected to be minimal. Where there are major public nuisance implications i.e. of performances to audiences of greater than 200 or the playing of live music after 23:00, there is no exemption and the current licensing regime continues.
9. Where a premises plays live music to audiences of less than 200 and it is before 23:00, and by so doing it creates a public nuisance, responsible authorities and 'other persons' can still seek to review a premise licence as is currently the situation.
10. Further, if the premises create a statutory noise nuisance the Corporation's Environmental Health Service will be able to take the necessary action as is currently the situation.

PART B

Background

11. A report was submitted to the Licensing Committee on 16 January 2012 updating members on the key points of the Police Reform and Social Responsibility Act 2011 (the 'Act'). The Act received Royal Assent on 15th September 2011.

12. Provisions relating to Late Night Levy, Early Morning Restriction Orders and the introduction of a new regime for setting licensing fees will not commence until later this year or maybe not until 2013.
13. The remaining provisions came into force on 25 April 2012. (This report was however written without the benefit of the amended guidance under s.182 of the Licensing Act 2003 and the introduction of secondary legislation.)

Implementation of the Police Reform & Social Responsibility Act 2011

Responsible Authority

14. As a responsible authority (RA) the City of London Licensing Authority (LA) will be able to make representations on applications, instigate review applications and make representations on applications for review by others.
15. In order to ensure that the LA avoids accusations of a conflict of interest when acting in its capacity as RA, procedures have been amended to ensure that the officer or person making a representation is different to the officer advising committee at any hearing. In practice this will mean that the committee report will be written by the Licensing Manager with any representation coming from one of the Licensing Officers.
16. The Licensing Service, as a guardian of the Licensing Policy, will make a representation or an application for review in circumstances where a business is not operating in accordance with the licensing policy. Although this will only be to ensure the promotion of one, or more, of the licensing objectives. This will need to be included in the review of the Licensing policy.
17. As a RA, the LA is required to advertise an application to persons who live, or are involved in a business, within the City of London. At the time of writing this report this requirement was thought to be met by placing the application on the Corporation's website. Procedures have been amended to ensure statutory timescales are met.

Primary Care Trusts (PCTs) as a responsible authority

18. Although there has been no change to the four licensing objectives to include Health, the PCTs or Local Health Board can make representations on any of the four current objectives. Amendments have been made to licensing procedures to recognise PCTs as a RA. This will also be addressed in the next review of the Licensing Policy.

19. Following the abolition of the PCTs the RA will, in practical terms, be the newly created local authority statutory posts of Director of Health.

Vicinity and interested parties

20. The term 'interested parties' no longer exists and has been replaced by the term 'other persons'. In practice this means that any person can make a representation or bring a review. It is not certain as to the effect this will have on the number of representations received, although clearly there is potential for the numbers to increase.
21. Licensing Officers are aware of this potential and will take great care to ensure that representations are not frivolous or vexatious, particularly in circumstances where a number of representations have been received as a result of a campaign by an organisation outside the City of London.

Necessary vs. appropriate

22. The word 'appropriate' has replaced the word 'necessary' in relation to many aspects of the Licensing Act 2003. These changes have the effect of lessening the 'evidential burden'. A step is only necessary when no lesser step would suffice. The changes affect both the Licensing Service and the Licensing Committee on applications made after 25 April 2012 (relevant applications).
23. The main effect on the licensing committee is that the steps open to them, when hearing relevant applications, are now to be taken where appropriate. Further, the conditions which are consistent with the operating schedule can now be modified as appropriate.
24. There are many further aspects which affect the licensing service which have been made clear to all staff and amendments made to procedures where necessary. One effect this may have is on the wording of conditions in general. Conditions are generally to be appropriate rather than necessary. This matter can be addressed at greater length in the review of the Licensing policy.

TENs

25. TENs can now be accepted up to five days prior to an event and representations can now be received by the Police and the Environmental Health Service. Further, the representation can be on any of the four licensing objectives and not just the Prevention of Crime and Disorder. The necessary changes to procedures and documentation have been made.
26. Members will also note that where a representation has been received on a TEN submitted later than ten days prior to the event in question, a hearing will not be required and the TEN is rejected i.e. a counter notice

will be served by the Licensing Team. Again, the necessary changes have been made to procedures.

Non payment of fees

27. The Act makes it a mandatory requirement for the Licensing Authority to issue a suspension notice on a licence holder where the required licence fee is outstanding. The notice has to be issued twenty-one days following the fee becoming due.
28. Following a further period of no less than two days, once the notice has been served, the licence must then be suspended. To allow for the necessary administration procedures to be put in place the Licensing Team has set this period as two complete days i.e. the licence will be suspended on the third working day commencing the day after the notice has been served. Reference to this matter will later have to be considered during the review of the Licensing Policy.
29. In order for the above procedure to operate effectively, the Licensing Team is working closely with the Finance Team in order to ascertain when a fee has not been paid in time. Invoices will now be sent out to licence holders at least three weeks prior to the fee becoming due for payment ('the due date'). The Finance Team will be responsible for notify the Licensing Team that the fee has not been paid fifteen days after the due date. This will give the Licensing Team a further seven days to contact the licence holder and seek to resolve any issues. Failure to secure payment will than result in the suspension procedure being activated.

Consultees

30. The Licensing Team, Comptroller and City Solicitor, and Finance Team have been consulted in the preparation of both parts of this report.

Background Papers:

- *Live Music Act 2012*
- *Police Reform & Social Responsibility Act 2011*
- *Report to the Licensing Committee on the Police Reform and Social Responsibility Bill, 18 April 2011*

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SUMMARY OF THE CHANGES
RESULTING FROM THE LIVE MUSIC ACT 2012

Position under Licensing Act 2003	Position under Live Music Act 2012
<p>Under Section 1 and Schedule 1, all live music within premises (with a few exemptions for e.g. Churches/moving vehicles but including open spaces where the purpose is for entertainment of an audience) is deemed 'regulated entertainment' and therefore subject to the potential controls (times of operation, conditions) specified in the licence granted for that premises under the Act.</p> <p>s177 allows for the performance of dance and live music in certain very controlled circumstances (small premises of under 200 capacity for the performance of unamplified live music between 0800 - Midnight) which dis-applies conditions on the licence. However, the premises would still need a licence for sale of alcohol and provision of music entertainment.</p>	<p>A new s177A is inserted in the 2003 Act under which:</p> <ul style="list-style-type: none">• the licensing requirement is removed for unamplified live music taking place between 8am and 11pm in all venues;• the licensing requirement is removed for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises;• the licensing requirement is removed for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment);• the licensing requirement for the provision of entertainment facilities is removed; and• the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type is widened, so that the exemption applies to live or recorded music instead of unamplified live music. <p>The licensing requirement can be reinstated and live music made licensable if complaints are received prompting a review of the licence</p>

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Committee(s):	Date(s):	Item no.
Licensing Committee	10 May 2012	
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 2012 to 31 March 2012. 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 also gives a summary of the enforcement action taken under the Licensing Act 2003 between 1 January 2012 and 31 March 2012.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • Members are invited to note the contents of this report. 		

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 2012 and 31 March 2012.
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/Corporation/LGNL_Services/Business/Licences_and_street_trading/Public_register.htm. or by contacting Peter Davenport, Licensing Manager, on extension 3227 or by email to the Licensing Team at licensing@cityoflondon.gov.uk. In addition, full copies

of the applications for new licences and variations to licences are attached as Appendix IV.

Routine Enforcement

4. 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.
5. Appendix III provides data from 1 January 2012 to 31 March 2012.
6. The Port Health and Public Protection (PH&PP) Service in the Department of Markets and Consumer Protection undertakes a wide range of regulatory functions. PH&PP employs Environmental Health Officers (EHOs), Trading Standards Officers and Licensing Officers all of whom enforce legislation in licensed premises
7. Licensing Officers undertake some routine enforcement visits in checking on premises licensing 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 PH&PP 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 make up the top level premises list that comprises those that are causing the most enforcement problems. These are then targeted by relevant enforcement officers.
10. There is a very good working relationship between the 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.

11. The Memorandum of Understanding (MoU) between the City of London Police and the former Department of Environmental Services that your Committee approved in July 2011 outlines specific arrangements for cooperation between the Licensing Teams. As outlined in the MoU, the teams are preparing an enforcement protocol and a joint code of good practice for licensed premises.
12. 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

13. 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 may also be involved.
14. 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

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

Background Papers:

none

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New Licence Applications Issued by way of Delegated Authority.

Name	Address	Ward	Details
Rocket	201 Bishopsgate	Bishopsgate	A, L, (b), (c), (e), (f), (g), (h), (i) 01:00
Central Criminal Court	Old Bailey	Farringdon Within	A 23:00
196 Bishopsgate	196 Bishopsgate	Bishopsgate	A 24 hr (restricted to hotel guests)
The Factory House	10 Lime Street	Lime Street	A, L, (e), (f), (h), (i) 02:00
Herbert Smith LLP	10 Exchange Sq	Bishopsgate	A, L, (e), (f), (g) 02:00
WH Smith	West Mall Liverpool Street Station	Bishopsgate	A 22:00

Total Licences Issued = 6

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 | (i) Dancing |
| (d) Boxing or Wrestling | |

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

Number of Licences by Ward Order

WARD	No.
Bishopsgate	4
Farringdon Within	1
Lime Street	1

Licence Variations Issued by way of Delegated Authority.

Name	Address	Ward	Details
Mincing Exchange	2 Minster Pavement	Billingsgate	Vary layout and design
Piccolino	11 Exchange Sq	Bishopsgate	To licence outside area
Mermaid Theatre	Puddle Dock	Castle Baynard	To extend ambit of licensed premises
Bar Battu	47 Gresham St	Cheap	To extend from 02:00 to 03:00 and add live music
Bluu Bar	4 Moorgate	Coleman Street	To permit off sales
Revolution	1 America Sq	Tower	To extend from 03:00 to 04:00 on Saturday
The Folly	41 Gracechurch Street	Candlewick	To bring forward starting hour from 10:00 to 08:00
The Anthologist	60 Gresham Street	Cheap	To bring forward starting hour from 10:00 to 08:00
The Drift	Heron Tower 110 Bishopsgate	Bishopsgate	To bring forward starting hour from 10:00 to 08:00
Elephant	119 Fenchurch Street	Langbourn	To extend from 00:00 to 01:00 and add Sundays
Lamb Tavern	10-12 Leadenhall Market	Lime Street	To extend from 00:00 to 01:00

Total Variations = 11

Personal Licences = 0

Number of Licences by Ward Order

WARD	No.	WARD	No.
Billingsgate	1	Cheap	2
Bishopsgate	2	Coleman Street	1
Candlewick	1	Langbourn	1
Castle Baynard	1	Lime Street	1
		Tower	1

**Enforcement Action Carried out Under the Licensing Act 2003
1 January 2012 - 31 March 2012**

Total Number of Inspections	32
Number of Warning Letters	5
Number of Notices Served	2
Number of Premises advised	10
Number of simple cautions	1

A report is currently with the Comptroller and City Solicitor with recommendations for the institution of legal proceedings against a licensed premises for carrying out a licensable activity without a licence.

Number of complaints received	18
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Committee(s):	Date(s):	Item no.
Licensing	10 May 2012	
Subject: Department of Markets & Consumer Protection Business Plan 2012-2015		Public
Report of: The Director of Markets & Consumer Protection		For Decision
<u>Summary</u>		
<p>This report details the Business Plan for 2012-15 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> <p>Recommendation</p> <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 2012-2015

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Introduction

The Department of Markets and Consumer Protection (M&CP) was created on 1 October 2011 by the merger of the former Markets Department with the Port Health, Animal Health, Environmental Health, Trading Standards and Licensing sections of the former, now disaggregated, Department of Environmental Services.

The new Department has the widest span of all front-line service departments, employing some 250 staff with a combined overall net local risk budget of £6,386,000, spread across ten locations ranging 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.

The Department reports to three discrete City Committees: Markets; Port Health and Environmental Services; and Licensing. This Business Plan is therefore sub-divided so that there is a separate annex to reflect the responsibilities of each Committee.

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 has 42 fish merchants including specialist and catering suppliers, potato and trade sundries suppliers, with an annual turnover of some 22,000 tonnes. 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. 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 buildings 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 700,000 tonnes. Sustainability is a high priority for the market and about 72% of its waste is now recycled.

Port Health & Public Protection

The Port Health & 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 and Animal Health & Welfare Divisions

As the London Port Health Authority, the **Port Health Division** is responsible for a district extending for 150 kilometres along the River Thames from Teddington to the outer Estuary including the ports of Tilbury, 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 is responsible for running the Animal Reception Centre at Heathrow, and providing animal health services across London on an agency basis for 29 other London Local Authorities and two Authorities in Berkshire. 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.

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. During the last year 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 within the City of London – the Square Mile – and teams carry out the following wide range of regulatory work:

Food Safety is responsible for enforcement of food safety legislation across all City food businesses including the provision of advice and information.

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, including 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.

The Markets and Consumer Protection Directorate has a strategic role in managing the overall strategy, communications, finance, 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 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 (the Markets Committee; the Port Health and Environmental Services Committee; and the Licensing Committee) for discrete aspects of its work, this Plan is divided into four sections:

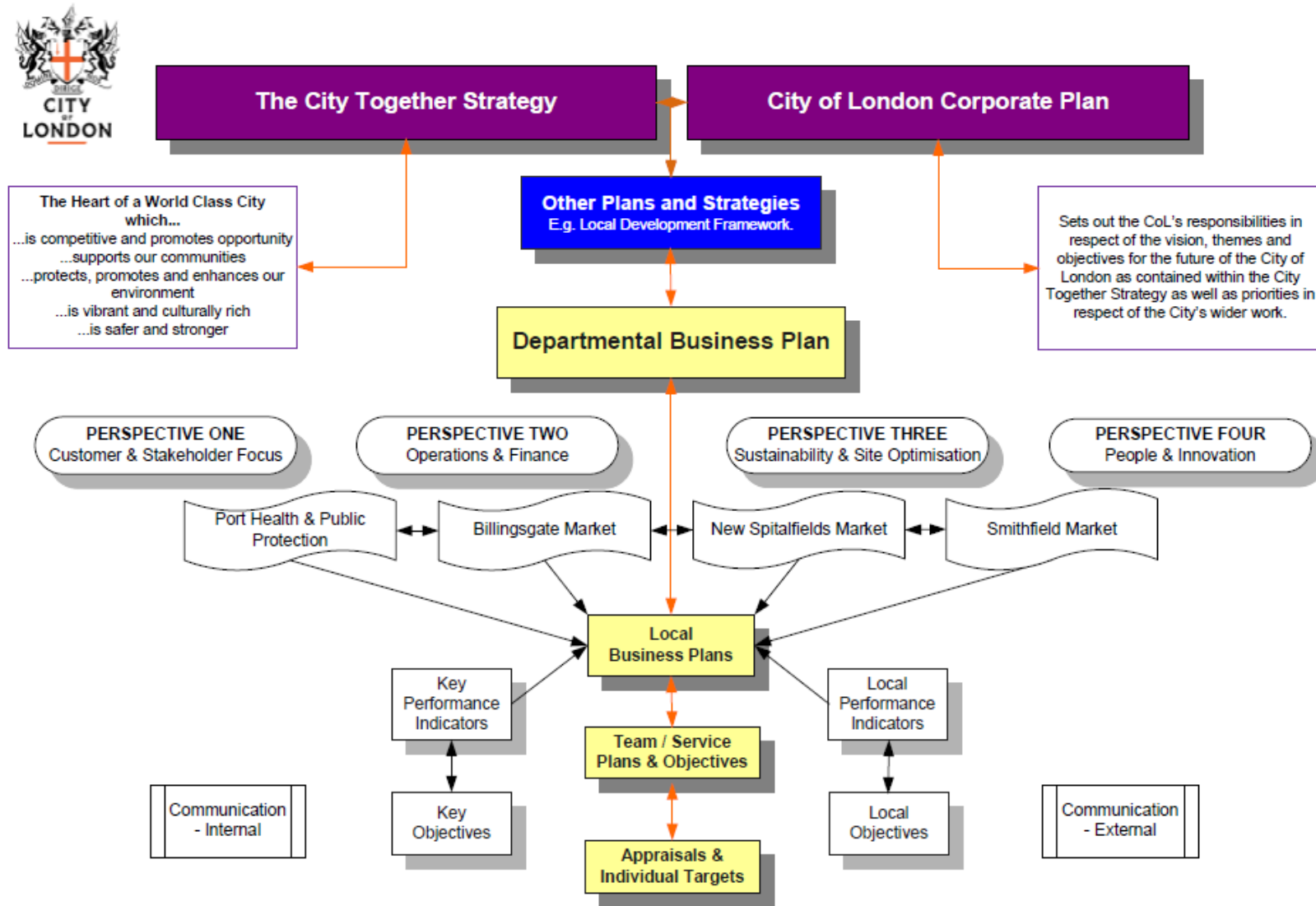
- An overarching set of departmental objectives
- Three appendices with specific objectives relevant to the responsible Committee.

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 8, our version of the Balanced Scorecard, while we endeavour to maintain our traditional standards and remain mindful of our corporate, environmental, and social responsibilities.

We recognise the importance of maintaining a skilled and motivated workforce to delivering 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

Markets and Consumer Protection Business Planning Process



Markets and Consumer Protection 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. In addition, the two Markets outside the Square Mile (Billingsgate and New Spitalfields) seek to contribute to their host boroughs' Community Strategies.

Our Strategic Aims

Our strategic aims are:

- To operate the three Wholesale Food Markets and provide 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.

Our Key Achievements 2011-2012

Our key achievements during 2011-2012 are listed below:

- Successfully establishing the new Department of Markets and Consumer following the implementation of the re-organisation on 1 October 2011.
- Facilitating a successful conclusion to the issue of the Billingsgate Porters' working practices.
- Contributing evidence in relation to the St. Paul's protest camp.
- Signing a Memorandum of Understanding with the City of London Police.
- Devising and launching an Air Quality Strategy.
- Securing the purchase of the HARC and coping with significant additional throughput during the final quarter of the financial year.
- Introducing a new software system at the Port offices.
- Working effectively with the Olympic authorities to achieve significant concessions over traffic management around the Olympic site, which will enable the continued operation of New Spitalfields Market with the minimum of disruption during the Games period.

Our Key Challenges 2012 -2015

Our key challenges for 2012 -15 can be summarised as:

- The need to deliver value for money and generate additional income whilst delivering high quality services.
- Preparations for the 2012 Olympic Games and the need to ensure the operations of the Department continue in a safe, secure and uninterrupted manner.
- Supporting the Crossrail development and minimising its impact upon the City and our operations.
- Working to reduce our energy usage to reduce both costs and the carbon footprint.
- Continuing to reduce sickness absence levels.
- Improving the way we manage all departmental risks and ensuring that appropriate contingency plans and measures are in place.
- Supporting the delivery of the PP2P project so that it realises its targeted savings, and thereby protect our frontline services from further budget reductions.

Looking Ahead 2012 – 2015

We need to consider our business in the round, under four broad perspectives of how well we are doing in satisfying:

Customer and Stakeholder Focus

- Providing reasonably priced services and facilities
- Developing a proactive service culture that identifies and meets customer needs
- Improving our relationships with our customers

Operations and Finance

- Achieving value for money and minimising our overheads.
- Sustaining our existing revenue base and expanding it where possible.
- Identifying and managing business and Health and Safety risks.
- Identifying new income streams.

Sustainability and Site Optimisation

- Modernising our administrative processes and procedures and ensuring the maximum use of technology.
- Ensuring that the environmental impact of proposed changes is taken fully into account.
- Identifying ways of reducing our carbon footprint.
- Maintaining and modernising the sites appropriately.

People & Innovation

- Identifying and resourcing staff learning and development.
- Capturing and sharing corporate knowledge, and applying lessons learnt.
- Developing an ethos of individual empowerment and the accountability that goes with it.

Markets and Consumer Protection Department Objectives 2012–2013
(1 April 2012 – 31 March 2013)

Perspective 1 – Customer and Stakeholder Focus		Co-ordinator: Head of Business Performance	
Maintain a strong positive relationship with our stakeholders by providing good customer service and capturing business development opportunities.			
Action	Task	Outcome	Responsibilities
London 2012 Olympic Games: maximise benefit and minimise risks	<ul style="list-style-type: none"> Maintain an Olympics-specific operational risk matrix for all departmental activities and ensure that suitable contingency plans are drawn up to address these risks. Liaise with the Olympics security/traffic organisations and TfL to minimise disruption to, and impact on, our frontline services and ensure security risks are kept to a minimum. Ensure that suitable contingency plans are drawn up to address any risks including arrangements to provide a 24 hour on-call service of trained staff for likely health protection, food and safety duties during the Games period. Arrangements to include planning for and a response to surges in demand (large Infectious Disease outbreak) for PH&PP. Further capacity building options required to enable this process to function. 	<ul style="list-style-type: none"> Department able to respond to increased demand on services and operational constraints during the Olympic period. Disruption from construction activities and security restrictions to have been minimised. 	<ul style="list-style-type: none"> Director of Markets and Consumer Protection Director of Port Health and Public Protection Spitalfields Superintendent Billingsgate Superintendent Smithfield Superintendent

Perspective 1 – Customer and Stakeholder Focus		Co-ordinator: Head of Business Performance	
Maintain a strong positive relationship with our stakeholders by providing good customer service and capturing business development opportunities.			
Action	Task	Outcome	Responsibilities
Improve Communication with stakeholders	<ul style="list-style-type: none"> Regular meetings with the Markets' Tenants Associations, keeping them fully informed of developments. Maintain a good relationship and channels of communication between the City of London Markets and all other wholesale food Markets in the country. Regular attendance at forums and meetings, for example <ul style="list-style-type: none"> <i>Legionella Control Association</i> <i>London Banks' Health & Safety Forum</i> <i>Cleaning Industry Forum</i> <i>Smithfield Market Tenants Association</i> <i>Utilities Forum</i> <i>Port Health & Animal Health related National and International Panels and Committees</i> Optimise use of intranet / internet using the opportunity provided by the City's new web site. Develop options for obtaining customer satisfaction feedback – e.g. web based – and pilot. 	<ul style="list-style-type: none"> Improved dialogue, engagement, and co-operation with our stakeholders. Department able to identify key stakeholders, actively seek their views on performance and priorities, and respond appropriately to improve the service. Maintain standing within our sphere of operation with possible income generation from extending scope of shared services working. Department will be able to identify where web pages can be improved, leading to the pages being rated well by users. 	<ul style="list-style-type: none"> Director of Markets and Consumer Protection Director of Port Health and Public Protection Business Unit Heads Performance Management Officer

Perspective 1 – Customer and Stakeholder Focus		Co-ordinator: Head of Business Performance	
Maintain a strong positive relationship with our stakeholders by providing good customer service and capturing business development opportunities.			
Action	Task	Outcome	Responsibilities
Ensure that the Crossrail project does not prejudice the continued uninterrupted, safe, effective, and hygienic operations at Billingsgate and Smithfield.	<ul style="list-style-type: none"> • Ensure stakeholder involvement, by attending all relevant meetings regarding Crossrail and cascading information to staff and tenants. • Work in unison with the LFMA and SMTA in Crossrail developments. • Monitor all relevant Crossrail proposals with relevant CoL staff. • Secure continued funding for EHO post from Crossrail to support additional demands on resources from the project 	<ul style="list-style-type: none"> • The least possible disruption to the operations of the Department, measured in terms of: <ul style="list-style-type: none"> – <i>Closure of Markets (number of available trading days) necessitated by contamination caused by construction works.</i> – <i>No loss of funding for an EHO post for the duration of the Crossrail project.</i> 	<ul style="list-style-type: none"> • Director of Markets • Director of Port Health and Public Protection • Billingsgate Superintendent • Smithfield Superintendent

Perspective 1 – Customer and Stakeholder Focus		Co-ordinator: Head of Business Performance	
Maintain a strong positive relationship with our stakeholders by providing good customer service and capturing business development opportunities.			
Action	Task	Outcome	Responsibilities
Promote our services	<ul style="list-style-type: none"> Support the work of Business Development Managers (BDMs) at the markets. Work with Tenants' Associations to develop a Promotion Strategy for the Markets and improve PR/Marketing. To promote all of our services through CoL communication channels. 	<ul style="list-style-type: none"> Greater trade through the Markets. To ensure the sustained viability of our tenants' businesses, measured by no increase in the number of business failures as compared to previous years. Profile enhancement and promotion of the services the Department provides. 	<ul style="list-style-type: none"> Director of Markets Business Unit Heads Performance Management Officer

Perspective 2 – Operations and Finance		Co-ordinator: Head of Business Performance, Technical Officer and Finance Officer	
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.			
Action	Task	Outcome	Responsibilities
Ensure smooth implementation of the new PP2P arrangements.	<ul style="list-style-type: none"> Work closely with City Surveyors and Chamberlains Departments as plans emerge. 	<ul style="list-style-type: none"> Improved business performance and better value for money. Saving realised from PP2P, meaning that front-line services are not hit by further savings measures 	<ul style="list-style-type: none"> Head of Business Performance (as PP2P Change Partner) Business Unit Heads
Better management of business risks and improved contingency plans	<ul style="list-style-type: none"> Ensure that Risk Registers are in place and regularly reviewed to ensure that business risks are fully understood and mitigated. Improve analysis of business and H&S risks and develop improved contingency plans, by March 2013. Review effectiveness of current safety management and assurance systems. 	<ul style="list-style-type: none"> Reduced risks to the departments' business. Improved ability to manage crises. Reduced risk of enforcement action against the City. 	<ul style="list-style-type: none"> Head of Business Performance Business Unit Heads Technical Officer
Continue with the improvement of the Department's Health and Safety performance and accident reduction	<ul style="list-style-type: none"> Improve internal 'Top X' H&S methodology. Provide advice on H&S issues to local management, including compliance with applicable legislation and industry best practice. Further improve the quality of accident investigation and reporting. Encourage reporting of 'Near Misses'. 	<ul style="list-style-type: none"> Safer environment. Fewer H&S incidents compared to 2011/12 total. Accident reduction across all sites compared to 2011/12 total. Reduced risk of enforcement action against the City. Reduced risk of successful litigation against the City following an accident. 	<ul style="list-style-type: none"> Technical Officer Business Unit Heads Heads of Constabulary

Perspective 2 – Operations and Finance		Co-ordinator: Head of Business Performance, Technical Officer and Finance Officer	
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.			
Action	Task	Outcome	Responsibilities
Continue to benchmark against other similar organisations	<ul style="list-style-type: none"> Attend relevant benchmarking meetings. Visit other organisations where appropriate. Use national associations and forums to engage in collective benchmarking initiatives. 	<ul style="list-style-type: none"> Greater efficiency and Value for Money demonstrable. Providing good quality service that is cost effective and saves time. To have shared ideas in similar working areas and improve efficiency in those areas of work. 	<ul style="list-style-type: none"> Business Unit Heads Head of Business Performance Finance Officer
Increase income generation	<ul style="list-style-type: none"> Investigate ways in which the department can increase its income streams, e.g.: <ul style="list-style-type: none"> ARC – increased numbers of animals processed as part of the PETS Scheme. Smithfield Market – Increase car parking income to £20k to meet budget savings commitments. Billingsgate Market – Increased use of car park. 	<ul style="list-style-type: none"> Increased revenue to reduce risk of having to cut front-line services or staff. 	<ul style="list-style-type: none"> Head of Business Performance Business Unit Heads

Perspective 3 – Sustainability and Site Optimisation		Co-ordinator: Head of Business Performance	
To provide well-maintained 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.			
Action	Task	Outcome	Responsibilities
Work to increase the sustainability of our operations	<ul style="list-style-type: none"> Work closely with City Surveyors and the Sustainability unit to identify potential sustainability improvements. 	<ul style="list-style-type: none"> Increased sustainability. Reduction in energy usage. 	<ul style="list-style-type: none"> Business Unit Heads Head of Business Performance Performance Management Officer
Reduce landfill waste and increase recycling	<ul style="list-style-type: none"> Review waste handling at each of our sites with a view to increasing levels of recycling. 	<ul style="list-style-type: none"> Reduced landfill waste. Increased sustainability. Improve waste management. 	<ul style="list-style-type: none"> Head of Business Performance Business Unit Heads
Improve the material state of our real estate	<ul style="list-style-type: none"> In conjunction with the City Surveyor (PSD), ensure that each area's 20 year maintenance plan is fully up-to-date and properly costed. Improve maintenance/ improvement arrangements for sites without maintenance staff (e.g. HARC, Port Offices). Ensure that liaison meetings with PSD are effective in making progress, and that the agreed level of maintenance work is carried out to time and cost. Monitor at Senior Management Group. 	<ul style="list-style-type: none"> Property is well maintained and asset values protected. 	<ul style="list-style-type: none"> Business Unit Heads Head of Business Performance
In line with the Corporation's objectives, and in consultation with the Energy Management Team, reduce energy usage, by 5% year on year in areas which are under the control of CoL	<ul style="list-style-type: none"> Ensure that the department's Carbon Energy Action Plan is regularly reviewed and updated. Actively participate in the Carbon Energy Reduction Group. Monitor all energy consumption and target high use areas. 	<ul style="list-style-type: none"> Improved knowledge of actual major consumption areas and the potential for efficiency reductions. Reduction in utilities usage. 	<ul style="list-style-type: none"> Business Unit Heads Head of Business Performance Performance Management Officer

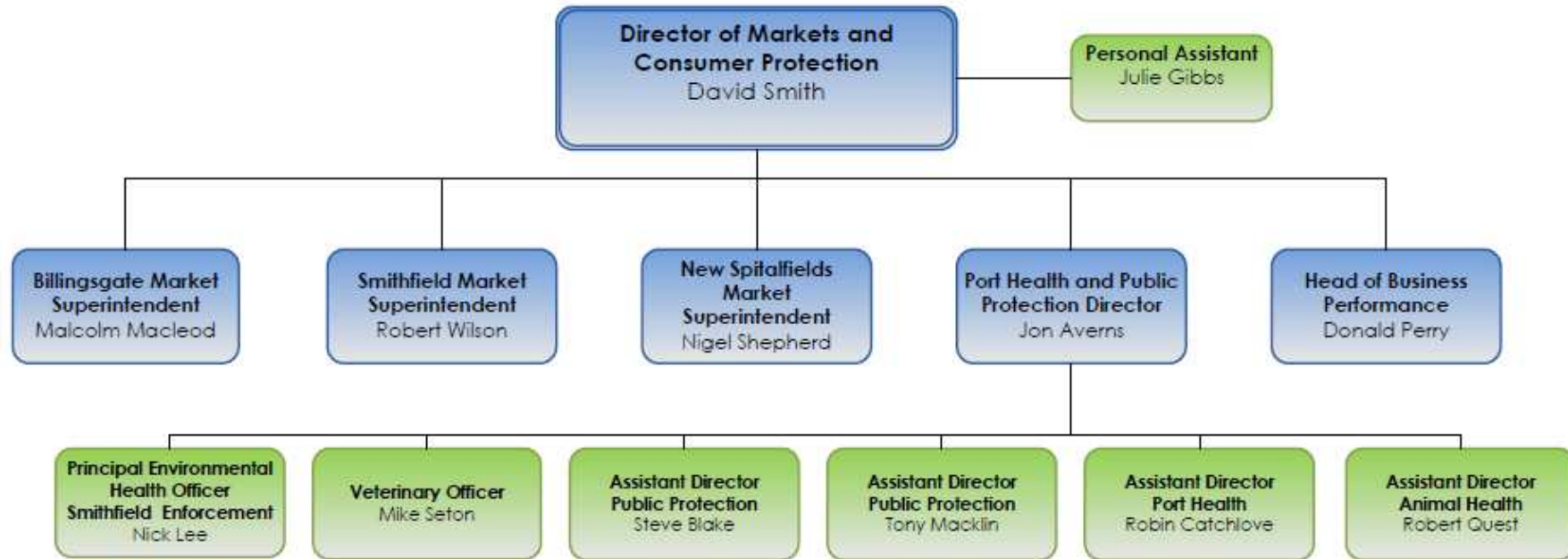
Perspective 3 – Sustainability and Site Optimisation		Co-ordinator: Head of Business Performance	
To provide well-maintained sites, which are fit for purpose, within budget and demonstrate environmental responsibility in the way we manage waste and use resources, while being financially viable.			
Action	Task	Outcome	Responsibilities
Implement new ways of achieving sustainability targets using technological and engineering solutions	<ul style="list-style-type: none"> • Work closely with the Energy Team and the Sustainability Unit to identify potential sustainability improvements. • Use Systemslink to its full potential. 	<ul style="list-style-type: none"> • Increased sustainability. • Reduction in energy usage. 	<ul style="list-style-type: none"> • Business Unit Heads • Head of Business Performance • Performance Management Officer • Heads of Maintenance

Perspective 4 – People and Innovation		Co-ordinator: Human Resource Officer	
To improve the quality of Leadership and management throughout the Department and ensure that all staff have a chance to maximise their potential and job satisfaction.			
Action	Task	Outcome	Responsibilities
Continue to tackle sickness absence	<ul style="list-style-type: none"> Rigorous application of the Absence Management Policy. 	<ul style="list-style-type: none"> Achieve an overall sickness level across all Business Units of no more than 7 days per person by 31 March 2012, and a total of no more than 1757 days across the Department. Individual Business Units have specific targets. 	<ul style="list-style-type: none"> Business Unit Heads Line Management
Improve internal communications within new departmental structures	<ul style="list-style-type: none"> Contribute to corporate publications to raise awareness of the Department's activities and achievements. Produce internal departmental newsletter quarterly – first edition by end April 2012. Develop new intra-departmental visit programme by October 2012. 	<ul style="list-style-type: none"> More effective promotion of the achievements and diversity of the department and its staff to the wider CoL and externally. 	<ul style="list-style-type: none"> Performance Management Officer PA to Director
Develop a workforce skills matrix table for Markets	<ul style="list-style-type: none"> To recognise the skills of the entire workforce as a means of utilising skills more efficiently and deploying them as necessary. 	<ul style="list-style-type: none"> Greater efficiency and better use of deploying skills in-house where possible. 	<ul style="list-style-type: none"> HR Business Partner
Meet the requirements for Continuous Professional Development (CPD) for all regulatory officers in PH&PP (and for Street Environment Officers)	<ul style="list-style-type: none"> Assess the competencies and training needs of all regulatory staff in PH&PP in relation to the appropriate Service Plans and capacity building. Utilise the Regulators' Development Need Analysis (RDNA) where necessary. 	<ul style="list-style-type: none"> CPD requirements of the Government's agencies – e.g. FSA, HSE - are met. CPD requirements of the professional bodies – CIEH, TSI, IOSH – are met. 	<ul style="list-style-type: none"> Assistant Directors Team Managers

Markets & Consumer Protection Organisational Chart

January 2012

Department of Markets and Consumer Protection
Management Structure



Financial Summary

Strong financial management is critical to the delivery of high quality services at a reduced cost. Our strategy is to continually review our ways of working to generate further efficiencies whilst maximising our income streams.

The department is committed to producing timely monthly budget information and to proactively monitor our key cost drivers and any external factors that could impact on our ability to remain within budget. This will allow projected outturn information to be calculated and agreed with the Senior Management Group, in order to meet any future efficiency reviews and help plan the future direction of front line service provision.

The Department has a healthy underspend position for 2011/12 which is principally due to additional business at the Animal Reception Centre (ARC). The intention is to explore opportunities to re-invest these funds to help fund expansion at the ARC. There are also key pressures to be resolved in 2012/13 in relation to Smithfield lease renewal negotiations and Porter buyout agreements at Billingsgate.

Department of Markets and Consumer Protection Finance Information

	2010/11	2011/12	2011/12	2011/12		2012/13	N.B.
	Actual	Original Budget	Revised Budget	Projected Outturn		Original Budget	
	£'000	£'000	£'000	£'000	%	£000	
Employees	11,226	10,929	10,959	10,791	98.5	10,979	
Premises	3,824	4,606	4,690	4,687	99.9	5,004	
Transport	285	292	290	327	112.8	288	
Supplies & Services	2,734	2,560	2,839	2,575	90.7	2,142	
Third Party Payments	1,674	1,702	1,705	1,701	99.8	1,753	
Transfer to Reserve	219	41	41	41	100.0	0	
Contingencies	0	3	3	0	0.0	3	
Unidentified Savings	0	-274	0	0	0.0	0	
Total Expenditure	19,962	19,859	20,527	20,122	98.0	20,169	
Total Income	(12,706)	(13,170)	(13,009)	(13,432)	103.3	(13,783)	
Total Local Risk	7,256	6,689	7,518	6,690	89.0	6,386	1
Central Risk	(5,198)	(5,197)	(5,120)	(5,120)	100.0	(5,340)	
Recharges	8,318	8,074	7,689	7,689	100.0	7,812	
Total Expenditure (All Risk)	10,376	9,566	10,087	9,259	91.8	8,858	2

Notes:

1. Excludes Local Risk amounts spent by the City Surveyor.
2. Projected outturn 2011/12 based on monitoring at period 11 (29/02/2012).



*Appendix C:
Licensing Business Plan 2012-
2013*

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Key Performance Indicators 2012-2013

- To ensure 100% compliance with the statutory response times for holding hearings and handling other Licensing service requests
- To fully implement the requirements of any new legislation pertinent to the Licensing service, incorporating requirements within service policies and procedures and the 2011 Licensing Policy

Licensing Service Objectives 2012 – 2013

Perspective 1 – Customer and Stakeholder Focus		Co-ordinator: Port Health & Public Protection Director	
To create and maintain a strong positive relationship with our stakeholders by delivering high quality services which meet the needs of our customers.			
Objective	Actions	Outcome	Responsibilities
Review the Statement of Licensing Policy	<ul style="list-style-type: none"> Review 2011 policy in light of recent changes to legislation. Review 2011 policy in light of recent changes to Corporation policy. Consult relevant stakeholders. Gain approval by the Court of Common Council. 	<ul style="list-style-type: none"> Provide information to all stakeholders that is current. Involve stakeholders in influencing how the City of London Corporation, as Licensing Authority, will approach its functions under the Licensing Act 2003. 	<ul style="list-style-type: none"> Licensing Manager
Ensure all information appertaining to the Licensing Service is transferred/re-written for the new web site.	<ul style="list-style-type: none"> Re-write all current 'licensing' web pages in a format suitable for the new web site. Check, and update where necessary, all online documents. 	<ul style="list-style-type: none"> Policies and procedures in place. Current information available for all stakeholders. 	<ul style="list-style-type: none"> Licensing Manager
Produce guidance notes for licence applicants.	<ul style="list-style-type: none"> Write guidance notes and incorporate in new web pages. Produce leaflet incorporating guidance on web. 	<ul style="list-style-type: none"> Ensure the process of applying for a premises licence is correct every time. Information available to make the process of application as easy as possible. 	<ul style="list-style-type: none"> Licensing Manager
Produce code of practice for premises licence holders.	<ul style="list-style-type: none"> Discuss options for scheme with other stakeholders. Produce draft scheme for consultation. Look at feasibility of reduced fees for compliance with code. 	<ul style="list-style-type: none"> All applicants to be fully aware of what is expected of the City of London from its 'licensed' premises. 	<ul style="list-style-type: none"> Licensing Manager

Perspective 1 – Customer and Stakeholder Focus		Co-ordinator: Port Health & Public Protection Director	
To create and maintain a strong positive relationship with our stakeholders by delivering high quality services which meet the needs of our customers.			
Objective	Actions	Outcome	Responsibilities
Ensure service meets the requirements of all relevant 'Olympic regulations' and how they relate to the Licensing Team.	<ul style="list-style-type: none"> • Keep updated on new legislative requirements relating to the Olympic Games. • Work with other Corporation services to ensure unauthorised 'Olympic' goods are not sold in the City of London. • Ensure goods are not illegally sold in the street during the Olympic period, particularly on marathon days. • Be prepared to meet any applications for TENs at short notice. 	<ul style="list-style-type: none"> • Statutory requirements met. 	<ul style="list-style-type: none"> • Licensing Manager

Perspective 2 – Operations and Finance		Co-ordinator: Port Health & Public Protection Director	
Meet the legal requirements of relevant legislation and achieve value for money			
Objective	Actions	Outcome	Responsibilities
Ensure the provisions of the Police Reform and Social Responsibility Act, to commence in April 2012, are complied with.	<ul style="list-style-type: none"> • Amend procedures to facilitate the Licensing Authority to act as a Responsible Authority. • Amend procedures to allow licensing service to meet statutory requirement of issuing suspension notices for non-payment of fees. • Amend procedures to incorporate changes to the receipt/acknowledgement of TENS. • Ensure all necessary amendments are made to licensing documentation and website information. 	<ul style="list-style-type: none"> • Service adheres fully to the legal requirements of the Licensing Act 2003 and any other relevant legislation. 	<ul style="list-style-type: none"> • Licensing Manager
Produce fee structure for licensing premises applying to sell alcohol and/or provide regulated entertainment (in line with the requirements of new legislation).	<ul style="list-style-type: none"> • Become conversant with new legislation. • Develop fee structure which meets the requirements of all relevant legislation and is fair to all types of applicant. • Seek approval from the appropriate committee(s). 	<ul style="list-style-type: none"> • Meet statutory requirements. • Process of the receipt, granting and enforcement appertaining to premises licences is carried out on the basis of full cost recovery. 	<ul style="list-style-type: none"> • Licensing Manager

Perspective 3 – Sustainability and Site Optimisation		Co-ordinator: Port Health & Public Protection Director	
Increase the sustainability of our operations, working to reduce our energy usage to reduce costs and our carbon footprint.			
Objective	Actions	Outcome	Responsibilities
Ensure all aspects of the MST (Massage and Special Treatments) Licensing system is incorporated onto M3.	<ul style="list-style-type: none"> • Change M3 to allow for MST procedures to be added. • Scan in documents from current MST folders. • Set up required reports for statistics and monitoring. • Remove paper system for MSTs. 	<ul style="list-style-type: none"> • M3 system being used for the receipt and issue of all licenses relevant to the Licensing Team. • Free up physical filing space. 	<ul style="list-style-type: none"> • Licensing Manager

Perspective 4 – People and Innovation		Co-ordinator: Port Health & Public Protection Director	
To improve the quality of leadership and management throughout the service and ensure that all staff maintain their required level of professional competence, maximise their potential and achieve job satisfaction.			
Objective	Actions	Outcome	Responsibilities
Ensure all staff are fully trained in the new policies/procedures and the M3 system.	<ul style="list-style-type: none"> • Monitor amendments to current legislation for commencement. • Ensure systems are developed/ updated in order to meet new requirements. • Train staff in new requirements. • Ensure out-facing media sources are amended accordingly. 	<ul style="list-style-type: none"> • All licensing staff can fully use all aspects of the licensing modules on the M3 system. • All licensing staff able to retrieve any data from the system they, and others, may require 	<ul style="list-style-type: none"> • Licensing Manager

Financial Summary

Strong financial management is critical to the delivery of high quality services at a reduced cost. Our strategy is to continually review our ways of working to generate further efficiencies whilst maximising our income streams.

The department is committed to producing timely monthly budget information and to proactively monitor our key cost drivers and any external factors that could impact on our ability to remain within budget. This will allow projected outturn information to be calculated and agreed with the Senior Management Group, in order to meet any future efficiency reviews and help plan the future direction of front line service provision.

Department of Markets and Consumer Protection (Licensing Committee) – Finance Information

	2010/11	2011/12	2011/12	2011/12		2012/13	N.B.
	Actual	Original Budget	Revised Budget	Projected Outturn		Original Budget	
	£'000	£'000	£'000	£'000	%	£000	
Employees	234	255	258	257	99.6	265	
Premises	46	44	45	51	113.3	45	
Transport	0	1	1	0	0.0	1	
Supplies & Services	48	21	10	1	10.0	21	
Third Party Payments	0	0	0	0	0.0	0	
Transfer to Reserve	0	0	0	0	100.0	0	
Contingencies	0	2	2	0	0.0	2	
Unidentified Savings	0	0	0	0	0.0	0	
Total Expenditure	328	323	316	309	97.8	334	
Total Income	(490)	(484)	(495)	(553)	111.7	(495)	
Total Local Risk	-162	-161	-179	-244	136.3	-161	1
Central Risk	0	0	0	0	0.0	0	
Recharges	242	232	179	179	100.0	176	
Total Expenditure (All Risk)	80	71	0	-65	0	15	

Notes:

1. Excludes Local Risk amounts spent by the City Surveyor.

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Committee(s):	Date(s):	Item no.
Licensing Committee	10 May 2012	
Subject: 2011/12 Licensing Service Plan Update	Public	
Report of: Director of Markets and Consumer Protection	For Information	
<p>Summary: This report updates Members on the progress of the Licensing Team's 2011/12 Service Plan.</p> <p>Recommendations: I recommend that your Committee notes the progress against the Licensing Team's 2011/12 Service Plan.</p>		

Main Report

2011/12

1. The Licensing Service Plan for 2011/12 was put before Members on the 18 April 2011.
2. **Objective 1. Ensure the provisions of the Police Reform and Social Responsibility Bill are complied with.** Although the Bill became an Act on 15 September 2011 the first relevant commencement orders were not made until April 2012. However, although no secondary legislation was in place at the time of writing this report, much preparation has been made in anticipation of its arrival. The detail is the subject of a separate report to this committee.
3. **Objective 2. Ensure the provisions of the City of London (Various Powers) Bill are complied with.** This Bill has not progressed since its second reading in April 2011 and so the objective cannot be completed. The Licensing Team will continue to monitor the situation for any progress in 2012/13.
4. **Objective 3. Review and revise the policies and procedures for premises, gambling, Massage & Special Treatments and Tables & Chairs licences.** This

objective has been largely overtaken by the need to re-write the Licensing pages for the Corporation's new website which has proved problematical and extremely resource intensive. To date, the pages for the Licensing Act 2003 have been re-written which include new guidelines for applicants and advice and information for the public. The procedures for staff to follow have been updated to include any new legislation. The Licensing Policy is in the process of being revised and is an objective for 2012/13.

Procedures have been written for Tables and Chairs and Massage & Special Treatments (MSTs). A new fee structure was introduced for MSTs resulting in an increase of 100% income compared with 2010/11. Procedures have not been written for Gambling but will now be completed in 2012/13. This is a relatively minor aspect of the Licensing Team's work with only forty-six current licences and approximately one new licence issued every twelve months.

5. **Objective 4. Introduce a policy for the receipt of applications and issue of licences for Street Trading.** This objective has not been completed due in part to the City of London (Various Powers) Bill not becoming an Act. The remainder of the objective was not completed due to work carried out on other aspects of licensing albeit the matter has been reviewed and procedures (not yet written) put in place.
6. **Objective 5. Ensure all licensing procedures are incorporated onto the M3 database.** Much of this objective was dependant on the M3 database being upgraded with the latest software release which was delayed until the end of 2011. Changes have now been made to the database and procedures amended to ensure all information pertaining to premises licence applications now goes directly onto M3 within 48 hours of receipt by the Licensing Team. A programme has been drawn up to transfer all relevant information currently stored in a paper filing system to the M3 database over the next twelve months.

All information relating to licensing of tables and chairs on the highway has also now been incorporated onto M3.

Incorporating the remaining processes onto M3, particularly the licensing of MST establishments, is now an objective for 2012/13.

7. **Objective 6. Establish licensing benchmarking criteria in order to compare performance with other local authorities.** This work has not been carried out in a structured manner and there remains more work to do in this area. However, some information has now been received from other local authorities relating to workload, establishment and fees charged. The CIPFA reports continue to be scrutinised looking primarily for areas where we appear to be underperforming. Further, some of our processes, particularly those relating to the work carried out prior to a hearing, has

been reviewed by another Local Authority (Westminster City Council). The results of this review being the subject of another report.

8. **Objective 7. Ensure conditions attached to licences are adhered to.** A protocol was agreed with the Highways section establishing an enforcement regime aimed at stopping the use of un-licensed tables and chairs.

The number of inspections carried out on 'licensed' premises to ensure that any conditions attached to the licence are being adhered to have increased. Two simple cautions have been given during 2011/12 with a further premises the subject of legal proceedings.

9. **Objective 8. Oversee implementation of SEV Policy.** This objective was completed during the year with the policy in place and available for any person to access on the Corporation's web site.
10. **Objective 9. Ensure tasks set within the Police MOU are completed.** The delay in signing the MOU coupled with the volume of work encountered by the Licensing Team with an increase in the number of hearings and the work on the new internet pages has meant that completion of this work has had to be set as an objective for 2012/13.

Work has commenced on a Code of Practice and should be finished in June 2012.

11. **Objective 10. Ensure service is prepared to meet any requirements brought on by the Olympic Games.** Likely additional workload has been documented. Information for 'licensed' premises has been incorporated in a joint service letter to traders and officers have informed market traders of the requirement to only sell 'Olympic' items that have been authorised. Officers are meeting regularly with other authorities in London to share information.

All traders that have a tables and chairs licence, and are on the marathon routes, have been informed of the need to further register with the Olympic Delivery Authority if they wish to use the facility on either of the marathon days.

12. **Objective 11. Ensure all staff are trained in the new policies/procedures and the use of the M3 database software.** All staff have been fully trained in the new policies and procedures and have been instructed in the improved way in which the licensing team are using the M3 database.

Implications

13. There are no legal or strategic implications that arise from this report.

14. With the possibility of implementing a new fee structure for premises licences it is likely that revenue can be increased. It is too early to tell at this stage by how much.

Background Papers:

Service Plan put before Members of the Licensing Committee in April 2011.

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Committee(s):	Date(s):	Item no.
Licensing Committee	10 May 2012	
Subject: Westminster review and changes to hearing report	Public	
Report of: Director of Markets and Consumer Protection	For Decision	
<p>Summary:</p> <p>This report details the changes made to Hearing Reports to Licensing Sub-committees following a review of procedures by Westminster Licensing Team.</p> <p>The main changes to the report involve:</p> <ul style="list-style-type: none"> • Minor changes to report headings • Variations to a licence, where applicable, presented in a table format • More historical information relating to the premises in question • A summary of any representations • Additional information to assist Members such as premises capacity where known <p>An example of the new report format can be seen as an appendix to this report.</p> <p>Recommendations:</p> <p>Members are invited to approve the new Sub-Committee report format for hearings.</p>		

Main Report

Background

1. As part of the review of licensing procedures, the Licensing Service submitted details of its protocol for dealing with premises licence applications, along with examples of recent hearing reports put before the Licensing Sub-Committee, to a senior officer of the City of Westminster's Licensing Team.
2. The brief for Westminster's officer was to examine the documentation and report back on any changes which would enhance the process and make it easier for Members to make the necessary decisions at hearings. The feedback from Westminster has been incorporated in a revised report format which can be seen as Appendix 1.

Amendments to hearing report

3. The contents page remains the same with details of the hearing procedure now being additionally incorporated with preliminary information sent to those persons who are to, or may, attend the hearing.
4. Minor changes have been made to report headings in order that there is no ambiguity in the substance of the report in question. For example, the title 'Background' has been changed to 'Application Summary' because that is exactly what the section details.
5. Where the hearing concerns an application for a variation to a premises licence the details of the variation will, in addition to being presented in the current text format, be presented in a table. In this way members will be able to see a direct comparison of the licence details before and after the proposed variation.
6. Additional information is to be added pertaining to the history of the premises licence in question. Although recent results of any previous hearings are included, the new format will now include all previous hearing results, transfers of licence, changes to the DPS, name changes and suspensions due to non-payment of licence fees. Essentially, this amounts to a complete history of the premises.
7. A brief summary of any representations is now to be included in the report. The summary will identify which of the licensing objectives are affected and the general nature of the representation e.g. '...consistently woken at night due to shouting and signing from patrons leaving the premises.' Where there are many representations similar ones will be grouped together.
8. The report will now contain any additional information known to Licensing Officers and relevant to the premises in question e.g. capacity of premises.

Conclusion:

9. The amendments to the hearing reports have been made in order to assist the Committee members in reaching a decision and minimise the time of the hearing, which may save costs.

Implications:

There are no financial, legal or strategic implications in this report.

Background Papers:

Copy of Westminster's review of Licensing Committee Reports

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Example Premises

City of London

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Hearing Procedure

Report of Director of Markets and Consumer Protection

Appendix 1: Copy of Application

Appendix 2: Copy of current premises licence

Appendix 3: Plan of premises

Appendix 4: Decision of previous hearing held on 8 September 2008

Appendix 5: Representations from responsible authorities:

i) City of London Police Licensing Team

Appendix 6: Representations from other persons:

i) Person 1
High Street

ii) Person 2
High Street

iii) Person 3
High Road
Chelmsford

Appendix 7: Map of subject premises together with other Licensed premises in the area and their latest Terminal time for alcohol sales

Committee(s): Licensing Sub-Committee	Hearing Date(s): 17 February 2012	Item no.
Subject: EXAMPLE ONLY		
Licensing Act 2003 - Application for the variation of a premises licence.		
Name of Premises: Example One		
Address of Premises: Long Lane, Kent		
Report of: Director of Markets and Consumer Protection	Public / Non-Public	
Ward (if appropriate): Farringdon Within		

1 Introduction

- 1.1 To consider and determine, by public hearing, the application for a variation of a premises license under the Licensing Act 2003, taking into account the representations of the responsible authorities detailed in paragraph 4, other persons detailed in paragraph 5 and the policy considerations detailed in paragraph 6 of this report.
- 1.2 The decision of the Sub-Committee must be made with a view to promoting one or more of the four licensing objectives, namely:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm

2 Summary of Application

- 2.1 An application made by:
Example Premises Ltd,
Long Lane
Kent
was received by the Licensing Authority on 14 March 2012 for the variation of a premises licence in respect of the premises:

**Example Premises
EC2A 4GH**

A copy of the application can be seen as Appendix 1.

2.2 The premises currently has a premises licence granted on 30 August 2007. The current licence permits the following licensable activities:

- i) Supply of alcohol 12:00 - 02:00 Mon to Sat
- iii) Recorded Music 18:00 - 02:30 Mon to Sat
- iv) Late Night Refreshment 23:00 - 02:00 Mon to Sat

The licence also states that the opening hours will be:
12:00 to 02:30 Monday to Saturday

There are no licensable activities on a Sunday.

A copy of the current premises licence can be seen as Appendix 2

2.3 The application seeks to extend the current licensable activities to Sunday, to increase the terminal hour for the supply of alcohol to 03:00 and to add the additional licensable activity of the performance of plays on Mon to Thu from 12:00 – 23:00. In addition, the premises wishes to stay open an hour later every evening.

2.4 Summary of application:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed Licence</u>
Supply of Alcohol	Mon to Sat 12:00 – 02:00	Mon to Sun 12:00 – 03:00
Recorded Music	Mon to Sat 18:00 – 02:30	Mon to Sun 18:00 – 02:30
Late Night Ref ^m ent	Mon to Sat 23:00 – 02:00	Mon to Sun 23:00 – 02:00
Performance of Plays	None	Mon to Thu 12:00 – 23:00
Opening hours	Mon to Sat 12:00 – 02:30	Mon to Sun 12:00 – 03:30

3 Licensing History of Premises

3.1 The premises are a basement and ground floor bar and restaurant and operate under a premises licence that was first granted on 30 August 2007. The licence holders were, and still are, ABC Ltd. A plan of the premises can be seen as Appendix 3.

- 3.2 On 7 July 2008 the Licensing Authority received an application to vary the licence by adding 'off sales' and amending condition two to allow bottles and glasses to be taken from the premises until 22:00. The application received a number of representations and went to a hearing on 27 August 2008.
- 3.3 The decision of the hearing was to refuse the application in its entirety. A copy of the hearing decision can be seen as Appendix 4.
- 3.4 On 16 June 2010 the DPS was changed from Mr Turner to Mr Smith who is currently the DPS.
- 3.5 On 06 March 2011 an application was received to vary the premises licence by adding the licensable activity of 'recorded music'. No representations were received and the licence was granted on 04 April 2011.

4 Representations from Responsible Authorities

- 4.1 There is one representation from the City of London Police Licensing Team. The representation is against the application on the basis that the licensing objective of the prevention of crime and disorder will be compromised. The representation is produced in its entirety as Appendix 5.

5 Representations From Other Persons

- 5.1 Three representations have been received from 'other persons' and are attached in their entirety at Appendix 6.
- 5.2 Two representations have been made by local residents living close to the premises in question. Both of the representations are against the application on the basis that an increase in the terminal hour will disturb their sleep and create a public nuisance.
- 5.3 One representation has been made by another person living outside the City of London and is against the application. The other person regularly has to walk past the premises late at night and feels that the later terminal hour will lead to an increase in crime and disorder.

6 Policy Considerations

- 6.1 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing policy and statutory guidance issued under s 182 of the Licensing Act 2003.

City of London Corporation's Statement of Licensing Policy

- 6.2 The following sections/paragraphs of the City of London Corporation's Statement of Licensing Policy are particularly applicable to this application.

Paragraphs 30-35 indicate that there is an expectation that the applicant will address the licensing objectives in their operating schedule. In particular, these paragraphs outline steps that should be proposed to prevent disturbance to local residents.

Paragraph 45 states an overriding policy principle namely, that each application will be decided on its individual merits, with the process complying with the regulations made under the Licensing Act 2003.

Paragraph 62 introduces a number of relevant matters to be considered by the City Corporation when assessing the likelihood of a particular licensable activity causing an unacceptable adverse impact, particularly on local residents and businesses.

Statutory Guidance

- 6.3 The following sections/paragraphs of the statutory guidance issued under s182 of the Licensing Act 2003 are particularly applicable to this application:

Section 2, paragraphs 2.1 to 2.51 of the guidance cover the four licensing objectives. In particular, paragraph 2.32 states that it is, '...important that in considering the promotion of *[the public nuisance licensing objective, licensing authorities]* focus on impacts of the licensable activities at the specific premises on persons living and working in the vicinity that are disproportionate and unreasonable.' Also, paragraph 2.33 indicates that the prevention of public nuisance

could, 'include low-level nuisance perhaps affecting a few people living locally.....'

Paragraphs 10.19 to 10.21 refer to licensing hours. In particular paragraph 10.20 states, 'Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.'

7 Map and Plans

- 7.1 A map showing the location of the premises together with nearby licensed premises is attached at Appendix 5. A key of those premises is included which indicates the maximum permitted hours for alcohol sales in respect of each premises.

8 Additional Information

- 8.1 The capacity of the premises is 250.
- 8.2 The premises is on a lease which is due to expire in eight months.

9 Summary

- 9.1 The Licensing Authority has a duty under the Licensing Act 2003 to promote the Licensing Objectives. Each objective has equal importance. In carrying out its licensing functions, the Licensing Authority must also have regard to its Statement of Licensing Policy, any Statutory Guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1998. The Corporation must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in the City.

10 Options

- 10.1 The Sub-committee must, having regard to the application and any representation, take such of the following steps (if any) as it considers necessary for the promotion of the licensing objectives:
 - i. grant the application subject to any conditions consistent with the operating schedule modified to such extent as the Sub-committee considers necessary for the promotion of the

- licensing objectives and include the mandatory conditions contained in Ss. 19-21 of the Licensing Act 2003;
- ii. exclude from the scope of the licence any of the licensable activities to which the application relates; or
- iii. reject the application

Any determination by the licensing panel will not have effect until the end of 21 days following notification of the decision to the appellant by the licensing authority. If the decision is appealed against, any determination will have effect after the appeal is disposed of.

11. Recommendation

11.1 It is therefore RECOMMENDED that your Sub-Committee determine this application for a variation of a premises licence in accordance with paragraph 10 of this report.

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Background Papers

<u>BACKGROUND PAPER</u>	<u>DEPT</u>	<u>FILE</u>
Corporation of London Statement of Licensing Policy	M&CP	2 nd Floor Walbrook Wharf
Statutory Guidance – ‘October 2010 Amended Guidance Issued Under Section 182 Of The Licensing Act 2003’.		http://www.homeoffice.gov.uk/publications/alcohol/guidance-section-182-licensing?view=Standard&pubID=836513
Premises file	M&CP	2 nd Floor Walbrook Wharf

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Committee(s):	Date(s):	Item no.
Licensing	10 May 2012	
Subject: Procedure for dealing with amended licence applications.		Public
Report of: Director of Markets and Consumer Protection		For Decision
<p>Summary:</p> <p>This report considers the issues involved when a representation, against a premises licence application, is withdrawn following negotiations between the applicant and person(s) making the representation. Current procedures take a robust line with amended applications although recent advice would point to the adoption of a more flexible approach.</p> <p>The report suggests an amendment to the current licensing procedures which satisfies the advice given, involves Members in decision-making after the consultation period and earlier if the application is more obscure and ensures that officers involved in the process are aware of the procedural requirements.</p> <p>Recommendations:</p> <p>To approve the procedure set out in paragraph fifteen of this report and Appendix 1, subject to any amendments arising from discussion at your Committee.</p>		

Main Report

Background

- Members have asked officers to consider the practicality, in the cases where representations have been withdrawn following negotiations between the applicant and the objector, for this delegation to be exercised with some element of Member involvement.

Current Position:

- When an application for a premises licence is received by the Licensing Service a period of twenty-eight days then follows during which a responsible authority and/or

other persons can make a representation. For the purposes of this report it will be assumed that the representation is against the application.

3. The person(s) making the representations ('objectors') are encouraged to discuss any issues with the applicant in order that some form of agreement can be reached so that the representation can be withdrawn thus preventing the need for a hearing. This is in keeping with guidance issued under s.182 of the Licensing Act 2003.
4. This agreement practically takes one or more of the following forms:
 - i. A more detailed explanation of the nature of the proposed business satisfying the objector's concerns resulting in the withdrawal of any representation by the objector.
 - ii. An agreement by the applicant to voluntarily withdraw (amend) certain aspects of the application on the understanding that the objector(s) will withdraw any representation. e.g. bring forward the terminal hour for the sale of alcohol from 01:00 to 24:00.
 - iii. An agreement by the applicant to amend the application's operating schedule by adding a more detailed explanation as to how the licensing objectives will be met. This normally takes the form of draft conditions which the applicant and objector assume the Licensing Service will include on the licence.
5. Following a request by Members to have greater involvement in whether or not such agreements should be permitted a new policy was introduced approximately five months ago. Since that time, once objections have been received within the prescribed twenty-eight day period then the authority to grant the licence effectively moves to the Sub-Committee if the objections remain.
6. If the objector wishes to withdraw his representation in the circumstances described in 4(ii) or (iii) above, the Licensing Service would not permit the original application to be amended. In such cases, a hearing would normally still be convened in order to agree any conditions/changes which the applicant was willing to make, unless the applicant, objector(s) and the Licensing Sub-Committee, unanimously agreed that the agreement reached makes it no longer necessary for a hearing to be held.

Issues to be considered:

7. Issues have arisen when either of the second or third scenarios above takes place. Prior to implementing Members' wishes this has resulted in, for example, unenforceable conditions being placed on a licence (albeit agreed between the applicant and objector(s)) and hearings being cancelled at very short notice. Since the implementation of the current system, a lack of consistency has arisen as Licensing

Officers are uncertain as to which applications can proceed and licensing solicitors are confused as to why we appear out of step with other Licensing Authorities.

8. Legislation prescribes that the Licensing Authority should grant a Licence with such conditions as are consistent with the Operating Schedule (s.18(a)). Where an applicant is willing to attach conditions on the basis that an objector would withdraw his representations, then the practice has previously been that an amended application is submitted and the conditions will be normally attached to the Licence.
9. The legislation is silent on the practice of whether an application can be amended in this way. However, since no parties would wish to challenge the conditions, this has been an accepted way forward to avoid unnecessary hearings. An amendment in these circumstances has only ever been permitted by the Licensing Service where the scope of the application is being restricted i.e. a reduction in the licensable activities or conditions added to the licence.
10. However, conditions agreed between the applicant and the objector(s) are not always relevant or enforceable. The Licensing Officer should only issue a licence with such conditions which are consistent with the operating schedule (s.18(a)) and where the conditions are necessary (*'appropriate' from 25 April 2012*) in order to promote the licensing objectives. Therefore, although an agreement may have been reached between the applicant and objector(s) the Licensing Service has to occasionally inform both parties that certain aspects of the agreement may not be included on the licence. This may result in the objector(s) now not wishing to withdraw their representation.
11. At a recent training session by Licensing Barrister Elliot Gold, advice given was that the Licensing Officer has no power to refer matters to a Sub-Committee if there are no representations or all representations have been withdrawn prior to the end of the twenty-eight day period. The application must be granted subject to such conditions as are consistent with the operating schedule accompanying the application.
12. A policy which states 'no amendments' will result in procedural complications whereby Members, acting as the Licensing Authority, will need to be consulted on every occasion a representation is made if the hearing is to be avoided.

Proposal:

13. It is suggested that the following amendment is made to the Licensing Act 2003 Procedure in order to better control the quality of conditions placed on a licence, ensure that hearings are not cancelled at the last minute and to permit consistency of approach by ensuring all parties are aware of the procedure and how it is expected to operate.

14. Delete the words from ‘It should be noted...’ until the end of paragraph 8.1 of the Licensing Act 2003 Procedure (attached as Appendix 1) and add the following paragraphs:

8.1(a) Where a representation has been received in respect of an application prior to the ‘last date’ the Licensing Service will, if practicable, try to assist the applicant and the person(s) making the representation(s) to reach an agreement in order to avoid the need for the matter to be heard by a Licensing Sub Committee. In order to achieve this agreement an applicant will be permitted to amend his application providing the amendment:

i) Brings forward the terminal hour of any licensable activity; or

ii) Reduces the number of licensable activities; or

iii) Adds conditions that restrict the licensable activities provided that any conditions are in line with those agreed by Members and published in the City Corporation’s ‘Pool of Model Conditions’.

8.1(b) Where an applicant wishes to amend his application after the ‘last date’, or wishes to amend his application before the ‘last date’ with a condition not in line with the ‘Pool of Model Conditions’, an amended application will not be permitted.

8.1(c) Where such an amendment, if permitted, would have resulted in all current representation(s) being withdrawn all parties will be consulted as to the necessity for conducting a hearing. All parties in these circumstances are the applicant, objector(s) and the Licensing Authority (i.e. the Members of the Licensing Sub-Committee).

8.1(d) If all parties agree that a hearing is not necessary then the application will be considered by the Sub-Committee relying totally on the documentation supplied with the hearing report. Members will consider the matter taking into account:

- the proposed amendment
- any representations
- the fact that objectors are happy to withdraw their representation(s) if the amendment is permitted

8.1(e) In all other circumstances a hearing will be required.

15. The Licensing Service will inform potential applicants that it expects them to discuss application issues with relevant responsible authorities, local residents etc prior to the application being submitted. In this way the number of representations received should be kept to a minimum.

Recommendation

16. That Members agree to the changes to the Licensing Act 2003 Procedure as detailed in section fourteen of this report.

Implications

17. Changes of this significance to the procedure will need to be reflected in the review of the Corporation's Licensing Policy.

Background Papers:

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Appendix 1

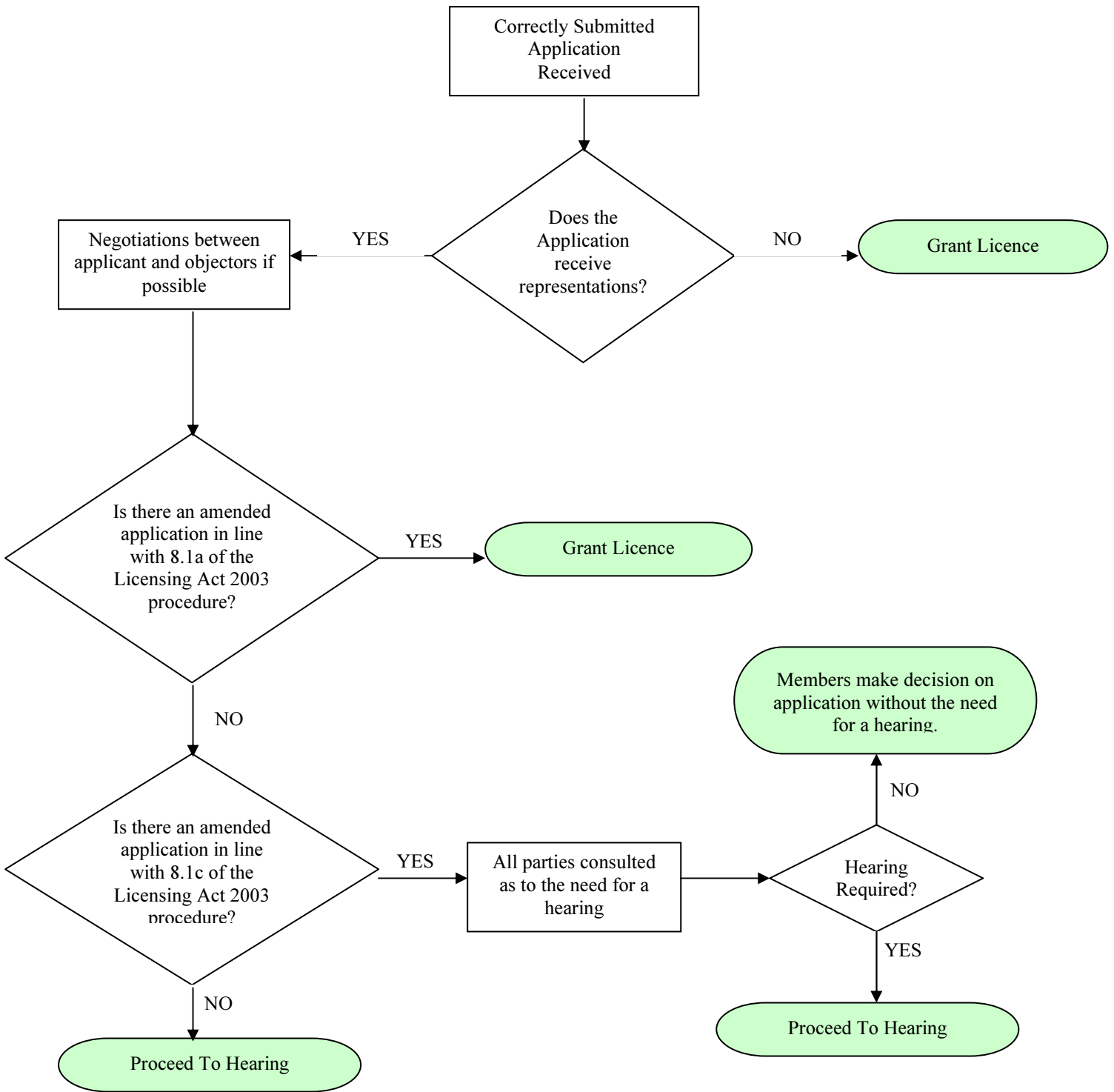
8.0 Hearings

- 8.1 Once a representation has been made a hearing must be convened within twenty working days of the 'last date' to decide on whether or not to grant the application unless:
 - For whatever reason, the person making the representation wishes to withdraw it; or
 - The person making the representation, the Licensing Authority and the applicant all agree that a hearing is not necessary.

It should be noted that a representation can not normally be withdrawn on the basis that the applicant wishes to amend his application. Once an application has been submitted it cannot then normally be amended.

- 8.2 The Licensing Service will inform the Town Clerks Service as soon as a representation has been made informing them of the premises concerned.
- 8.3 At least five working days before the 'last date', or as soon as possible after that date if that is when a representation is first received, preliminary information will be sent to the Town Clerks Service. This will consist of the name, address and ward of the premises in question, the name and address of the applicant and any solicitor acting on their behalf, the number of representations received to date, the names and addresses of the persons making the representations, a copy of the application and a copy of the representations. This information will be updated if necessary within two working days following the last date.

- 8.4 Within four working days following the last date, a copy of the hearing report and all supporting evidence will be sent to the Comptroller and City Solicitor's Service by the Licensing Service. The final report and supporting evidence, including any amendments as advised by the Comptroller and City Solicitor's Service, will be sent to the Town Clerks Service no later than seven working days following the last date.
- 8.5 At least seven working days before the date of the proposed hearing the Town Clerks Service will send all parties a copy of the hearing report, supporting evidence and all necessary documentation.
- 8.6 The hearing will be conducted by a panel of three Common Councilmen of the City of London and conducted in accordance with the 'rules for hearings'. The applicant will be informed of the decision at the hearing panel either at the hearing or in any case within five working days of the hearing.



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