

<b>Committee(s)</b>	<b>Dated:</b>
Licensing	<b>24<sup>th</sup> October 2018</b>
<b>Subject:</b> Advertising applications for premises licences in a local newspaper, as per the requirements of the Licensing Act 2003	<b>Public</b>
<b>Report of:</b> Director of Markets and Consumer Protection	<b>For Decision</b>
<b>Report author:</b> Robert Breese - Licensing	

## Summary

The purpose of this report is to clarify the guidance the Licensing Authority provides in relation to the requirement to advertise an application for a premises licence in a 'local newspaper' under section 17 (5) of the Licensing Act 2003 and Regulation 25 of the Licensing Act 2003 (Premises and Club Certificates) Regulations 2005.

There are five newspapers with circulations within the City of London that can be assessed in relation to their suitability, and it provides an opportunity to review the guidance we currently give to applicants, both verbally and on our website.

## Recommendation(s)

Members are asked to:

- Consider which of the five newspapers the City of London considers to be 'local newspapers' in which to advertise a licensing application, and
- Agree the final text of the guidance the Licensing Authority gives in relation to this.

## Main Report

### Background

1. A query was received in March 2018 as to whether the Islington Tribune is a valid newspaper in which to advertise licensing applications. It prompted the Licensing Authority to seek information from all known newspapers distributing within the City, detailing regularity of publications, numbers published, and locations where distributed. Upon receipt of that information which is summarised in paragraphs 3 to 7. It is apparent that the current guidance given in relation to newspaper advertisements requires review.
2. There are five 'local newspapers' that are routinely used to advertise licensing applications in the City: London Evening Standard, Metro, City AM, City Matters (formerly the City of London and Dockland Times) and Islington Tribune.
3. The London Evening Standard is published daily, with approximately 100,000 copies distributed within the City of London. The locations at which they distribute are as below, largely based in fixed racks in and around London transport hubs:

Aldgate, Aldgate East, Bank, Barbican, Blackfriars, Cannon Street, City Thameslink, Fenchurch Street, Liverpool Street, Ludgate Thameslink, Mansion House, Monument, Moorgate, St Pauls.

4. The Metro is published daily, with approximately 7,500 copies distributed within the City of London. The locations at which they distribute are as below, largely based in fixed racks in and around London transport hubs:

Aldgate, Aldgate East, Bank, Barbican, Blackfriars, Cannon Street, City Thameslink, Fenchurch Street, Liverpool Street, Ludgate Thameslink, Mansion House, Monument, Moorgate, St Pauls.

5. City AM is published daily, with approximately 9,500 copies distributed within the City of London. The locations at which they distribute are as below, largely based in fixed racks in and around London transport hubs:

Aldgate, Aldgate East, Bank, Barbican, Blackfriars, Cannon Street, City Thameslink, Fenchurch Street, Liverpool Street, Ludgate Thameslink, Mansion House, Monument, Moorgate, St Pauls.

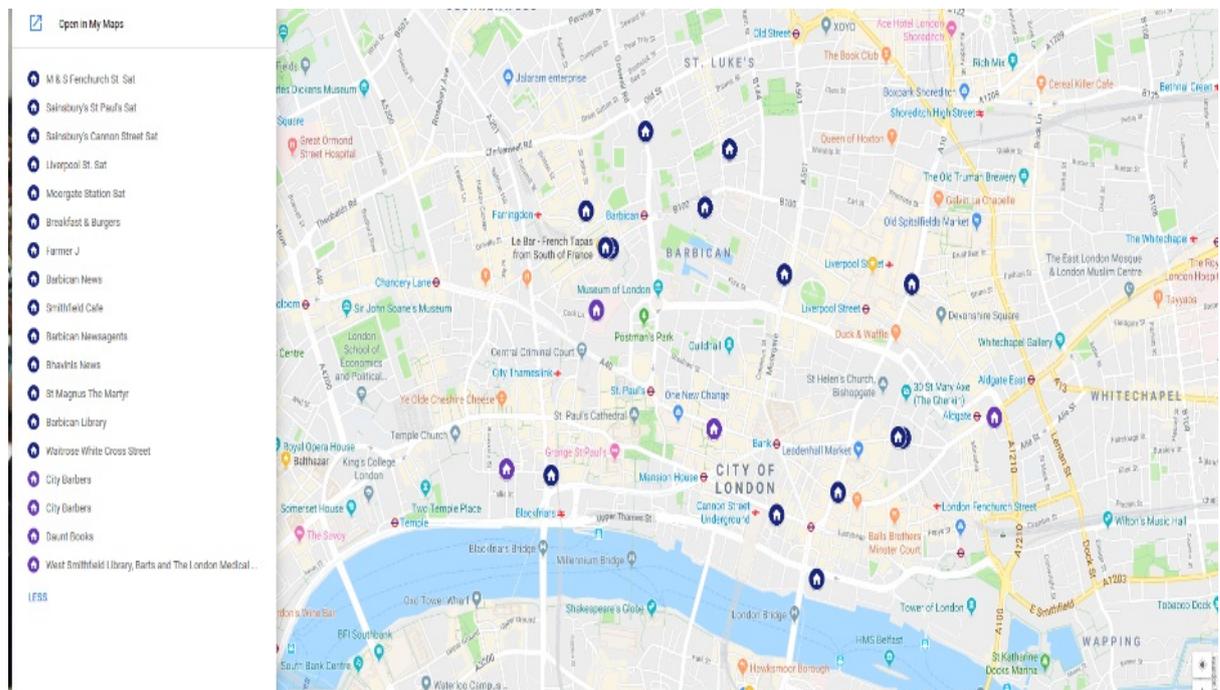
6. City Matters is published fortnightly, with approximately 12,000 copies distributed within the City of London. The locations at which they distribute are as below, using a mixture of distribution bins and placing at reception/foyer of premises:

Bank of England, Barbican Library, Bishopsgate Institute Library, City of London Information Centre, Coffee Stall in front of St Mary Abchurch, Coppa Club, Counting House, Dorsett Hotel, El Vino Wine Merchant, Giddy Up Coffee, Golden Lane Estate, Guildhall Library, Jeeves Dry Cleaners, J Rogers & Sons,

Leadenhall Market, Lloyds of London, Loch Fyne, Merchant House, Nincom Soup, Nomura, Pod Good Food, Premier Inn, Protestant Truth Society Inc, Rome Coffee Cart, Scott's Shoe repair & Dry Cleaners, Shoe Lane Library, Sweetings Restaurant, The Franklin Building, The M Bar, The Natural Kitchen, Walbrook Wharf, Waterstones, Ye Old Cheshire Cheese.

- The Islington Tribune is published weekly on a Friday, with approximately 1,200 copies distributed within the City of London. The locations at which they distribute are as below:

Fixed seven day a week dispenser outside Waitrose in White Cross Street near the Golden Lane estate. This dispenser distributes 500 copies every week. Fixed seven day a week dispenser at Liverpool Street Station. This dispenser distributes 200 copies every week. Another 500 copies are distributed at fixed indoor outlets around the Barbican, and at a number of mobile outlets as detailed on the map below. 200 copies are delivered door to door on a rota basis accompanied by a small leaflet publicising the review inside the Tribune and where to pick it up.



## Legal requirements

- Regulation 25 of the 2005 regulations states as follows:

“In the case of an application for a premises licence under section 17.... the person making the application shall advertise the application... -

(b) by publishing a notice -

in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises

9. Neither the 2003 Act nor the 2005 Regulations define the term 'local newspaper.'
10. Gary Grant, a leading Licensing Barrister from Francis Taylor Building, drafted a paper for the City of London Licensing Team in February 2012, assessing the matter of the requirement to advertise an application for a premises licence in a local newspaper.
11. On frequency of publication he states the following: 'Regulation 25 (b) (ii) makes it clear that what is important is not how frequent the newspaper, newsletter or circular is published but ensuring the advert is published on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the Licensing Authority. That requirement renders the frequency with which the newspaper, newsletter or circular is published irrelevant. What matters is that there is a publication within the timeframe specified by regulation 25 (b) (ii).
12. He continues... 'Where there is no 'local newspaper' the regulation sanctions advertisement in newsletters, circulars or similar documents which circulate in the vicinity of the premises. Newsletters and circulars are often published less frequently than every seven days, yet still fulfil the statutory requirements. It may be considered legally perverse if these publications are authorised by statute yet a fortnightly newspaper is not'.

### **Current position/Options**

13. The guidance on our website currently states the following:

'Publish of notice (newspaper advert) - A notice must be published in a local newspaper circulating in the area to which the premises relate. For the purposes of the Act, the City of London recognises the following as being local newspapers for its area: London Evening Standard, London Metro, City AM. If an alternative publication is used such as a newsletter or circular, it is the applicant's responsibility to ensure that the publication circulates adequately in the vicinity of the premises.'
14. The City of London Licensing Team currently accept as valid licensing applications that advertise in all five of the named newspapers – the London Evening Standard, Metro, City AM, City Matters (formerly the City of London and Dockland Times) and Islington Tribune.
15. If this is to remain the City's approach the guidance on the website requires updating; it would be inappropriate for the City to advise applicants to advertise in three of the recognised local newspapers when there are in fact five.
16. It could be argued that all the five newspapers meet the statutory requirements in relation to frequency of publication and distribution numbers. For the City to impose the need for any valid newspaper to be published more frequently than every two weeks, or to distribute a certain number of copies, would conflict with

the intention of the legislation. The circulation figures of the Islington Tribune (lowest of the 5) are substantial when compared to, for example, those of a local newsletter or circular.

17. The difficulty is in identifying which newspapers qualify to be a 'local newspaper' in the City of London, and how they meet the requirement of 'circulating in the vicinity of the premises'. It could be argued that distribution anywhere within the Square Mile would constitute 'in the vicinity of the premises' as geographically it is a small area, taking approximately 20 minutes to cross it as a pedestrian.

## **Recommendation(s)**

18. To ensure consistency it is helpful to continue to offer guidance to applicants on which newspapers in the City qualify to be 'local newspapers', and to update this guidance periodically. It is correct that we must not seek to impose more onerous requirements than that contained in the statutory regime, and also that the onus is placed upon the applicant to ensure that the publication circulates adequately in the vicinity of the premises where an alternative publication is used.
19. Committee are recommended to consider approving the update to the list of newspapers the City recognises as being local newspapers for the Square Mile in light of City Matters and the Islington Tribune now seemingly meeting all possible requirements.
20. It is recommended to update the guidance we give verbally, and on our website, to read as follows:

A notice must be published in a local newspaper circulating in the area to which the premises relate. For the purposes of the Act, the City of London recognises the following as being local newspapers for its area: London Evening Standard, London Metro, City AM, City Matters, the Islington Tribune. If an alternative publication is used such as a newsletter or circular, it is the applicant's responsibility to ensure that the publication circulates adequately in the vicinity of the premises.

## **Back Ground Papers**

- Gary Grant advice on the requirement to advertise an application for a premises licence in a local newspaper

### **Robert Breese**

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