

<b>Committee(s)</b>	<b>Dated:</b>
Licensing	<b>16 October 2019</b>
<b>Subject:</b> Traffic Light Scheme amendments to include Immigration offences and Cleansing offences in connection with licensable activities	<b>Public</b>
<b>Report of:</b> Director of Markets and Consumer Protection	<b>For Information</b>
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### **Summary**

The City of London Traffic Light Scheme (the Scheme) has been in operation since January 2013. It applies to all premises in The City licensed to sell alcohol and/or to provide regulated entertainment / late-night refreshment by virtue of the Licensing Act 2003. The Scheme brings together relevant data from the licensing authority and responsible authorities on incidents occurring at licensed premises and the data is analysed monthly at the Licensing Liaison Partnership meeting. The purpose of the Scheme is to identify problems at an early stage and to enable a partnership approach between the licensing authority and responsible authorities on appropriate interventions to support premises in improving standards at their premises and to prevent an escalation of problems. The aim is to avoid the need for enforcement action such as prosecution or licence review but will not replace action where it is necessary for the promotion of the licensing objectives.

The Scheme has been amended to include relevant immigration offences and relevant cleansing offences in connection with licensable activity.

### **Recommendation(s)**

Members are asked to:

- Note the amendments to the Scheme.

### **Main Report**

#### **Background**

1. The Licensing Act 2003 (the 'Act') focuses on the promotion of four statutory licensing objectives which must be addressed when licensing functions are undertaken namely, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
2. The introduction of the City of London Traffic Light Scheme (the Scheme) in January 2013 was a proactive strategy aimed at promoting responsibly run premises, reducing problems within and around licensed premises and ensuring

that the night time economy does not interfere with the rights of local residents to enjoy their lives, particularly during the early hours of the morning.

3. Risks associated with licensed premises can vary dependent on the premises type and characteristics, the design, layout and general environment, the location, the policies in place and the events being held. The Scheme identifies the possible types of incidents that may occur at premises licensed for the sale of alcohol and/or the provision of entertainment or late-night refreshment.
4. The Scheme provides a simple but effective monitoring tool which brings together the findings of the licensing authority and the responsible authorities. Information is collected from all possible sources to provide a comprehensive overview of problems occurring at licensed premises in the City of London. Information is collected from the Police, Environmental Health, Fire and Licensing responsible authorities. All relevant incidents carry penalty points on a sliding scale depending on the severity of the incident.
5. When a premises reaches a certain number of points it will move from its starting point of being in a green zone through amber to red as the number of points accumulate. When a premises moves into the amber zone it is contacted by the licensing authority and/or a responsible authority to encourage a self-assessment and to draw up an action plan based on principles of good practice. The City of London has a Code of Good Practice for Licensed Premises (the Code) which identifies all the possible risks associated with the sale of alcohol and/or provision of entertainment and sets out remedial/good practice measures to mitigate these risks. Premises experiencing problems are always referred to the Code at an early stage.
6. If the premises continues to accumulate points and moves into the red zone it is likely that the licensing objectives are being undermined and immediate action is required from the licence holder. Further action will attempt to bring the number of points down and thus move the premises back into amber and eventually green zone. Failure to improve may open the premises licence to the risk of a review.
7. A monthly report summarising a rolling 6-month period of incidents is submitted to the Licensing Liaison Partnership Group. The report highlights the premises in amber and red zones and the group discusses and agrees the most appropriate action to be taken and who should take it. The group consists of senior officers from the Licensing Authority, the Environmental Health, Planning, Fire, Police and Home Office Responsible Authorities and other regulatory agencies including Street Environment Enforcement and Community Safety.

### **Current Position**

#### **Immigration Offences relating to Licensable Activity**

8. The Immigration Act 2016 amended the Licensing Act 2003 (the Act) with effect from April 2017 so that:
  - a. applications made to the licensing authority on or after that date can only be made by persons who are legally present and permitted to work in the UK. Premises and personal licences to supply alcohol or

provide late night refreshment cannot be issued to an individual who does not have permission to be in the UK (if they are living here), or is not entitled to undertake work relating to the carrying on of a licensable activity

- b. the Home Office becomes a responsible authority in respect of premises licensed to sell alcohol or late-night refreshment.
  - c. a right of entry is authorised to an Immigration officer to enter licensed premises with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the carrying on of licensable activity.
9. The intention of these amendments is to prevent illegal working in premises licensed for the sale of alcohol and late-night refreshment.
  10. Any offences witnessed by Immigration officers may lead to administrative, civil or criminal proceedings being instigated by them under the Immigration Acts. Offences under the Immigration Acts associated with licensable activity include the employment of persons who are not legally present and who are not permitted to work in the UK. Such offences become 'relevant offences' as defined by the Licensing Act 2003 for personal licence holders.
  11. When the Home Office (Immigration Enforcement) exercises its powers as a responsible authority, for example if it seeks a review of a licence, it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly. The Home Office may, in its capacity as a responsible authority seek a review of the premises licence if there are concerns relating to immigration crime and preventing illegal working in licensed premises.
  12. Immigration officers have recently carried out operations in the City of London in conjunction with City of London Police officers and immigration offences have been witnessed. It is therefore prudent for The City of London to include details of such offences within its Traffic Light Scheme.
  13. Due to the severity of the offence of employing illegal workers, the maximum number of 5 penalty points will be imposed on the traffic light scheme. In line with the aims of the Scheme, points will be allocated upon witnessing the offence.

### **Cleansing Offences relating to Licensable Activity**

14. During a recent Licensing Liaison Partnership meeting, it came to light that some licensed premises are causing a public nuisance through littering whilst their premises licence is in use. Offences of littering are dealt with under the Environmental Protection Act 1990 and the Anti-Social, Crime and Policing Act 2014. However, littering is defined as a public nuisance under the Licensing Act 2003 if associated with licensable activity and can be considered where relevant representations are made.
15. The current Scheme already contains a provision for issuing points to premises where there are 'substantiated complaints about litter (general or smoking

related)'. However, this is a very generic provision and does not consider the severity of an incident.

16. The Scheme has therefore been amended to detail cleansing offences according to severity as follows:
  - a) Fly Tipping – the most serious littering offence will carry 5 points
  - b) Breach of a Community Protection Order (CPN) will carry 2 points
  - c) Failure to comply with a waste receptacle notice or leaving litter will carry 1 point each

### **Corporate & Strategic Implications**

17. The Traffic Light Scheme is in line with the City's Core Strategy in protecting amenities of the residential population.

#### **Implications**

18. There are no implications.

### **Appendices**

- Appendix 1 – City of London Traffic Light Scheme 2019

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