

Committee(s):	Date(s):
Licensing	21 October 2013
Subject: Tables and Chairs and other Licensing Functions including overlap with other Committees	Public
Report of: Director of Markets and Consumer Protection	For Decision
Summary	
<p>At your Committee in May 2013 it was requested that a report be produced detailing the overlaps, if any, of the various licensing activities undertaken to look at whether any changes or improvements could be made.</p> <p>There is significant interaction of responsible authorities with the Licensing Service particularly in the primary role of administration of the Licensing Act 2003. In addition there are parallel but separate regulatory processes operating through the Department of the Built Environment (DBE) and the Planning and Transportation Committee for planning applications.</p> <p>The administration of Tables and Chairs licences does not in practice cause conflicts with premises licences but policy and guidelines for granting of the licences needs to be updated. Similarly changes in legislation for street trading are anticipated next year if the City of London (Various Powers) Bill proceeds through Parliament and a policy on this issue will need to be produced and agreed by the appropriate Committee.</p>	
Recommendation(s)	
<p>Members consider and agree the proposals set out in paragraphs 34 and 35, taking account any points arising from the discussion of this report at your Committee meeting.</p>	

Main Report

Background

1. The primary licenses dealt with by Director of Markets and Consumer Protection Licensing Team include:-

Licensing Committee:

- Premises licences (Alcohol and regulated entertainment)
- Gambling and Lotteries
- Sex Establishments
- Charitable collections (on behalf of City Police)

Port Health and Environmental Services Committee:

- Miscellaneous licences and authorisations (e.g. Poisons, Explosives (Fireworks), Hairdressers, Scrap Metal Dealers)
- Massage and Special Treatment Premises
- Street Trading (in Middlesex Street only)

Planning and Transportation Committee:

- Tables and Chairs
 - Other licences/permits e.g. 'A' Boards, scaffolds, hoardings, art installations; temporary and permanent dealt with by Department of Built Environment (DBE).
2. At your Committee in May 2013 it was requested that a report be produced detailing the overlaps, if any, of the various licensing activities undertaken and to consider whether any changes or improvements could be made.
 3. The aim of this report is to provide a short description of the process for the various licensing activities and the Committee governance of each. Each area described includes commentary on any potential cross over issues where there is the possibility of duplication or conflict between Committees or where there is input of more than one City service.

Current Position

Alcohol and regulated entertainment

4. The Licensing Act 2003 established a single integrated system for licensing premises that are used for alcohol, entertainment and late night refreshment. Under this legislation, each local authority is known as the 'licensing authority' and is responsible for licensing alcohol, entertainment and late night refreshment in its geographical area. This, as your Committee will be aware, is the primary work of the team in dealing with promotion of the four licensing objectives by licence holders in more than 750 separate premises in the City and in particular new applications for premises licences, minor and major variations to existing licences and submissions of Temporary Event Notices.
5. The administrative work is undertaken and coordinated by the Licensing Service but there is substantial cross-over of work with City Police Licensing Team and Environmental Health Pollution team in responding to matters particularly pertaining to the crime and disorder and prevention of public nuisance objectives. From previous reports you will be aware of the work involved with the Code of Good Practice for licensed premises and the launch of the traffic light assessment scheme earlier this year. There is a local liaison partnership meeting which meets once a month to share information and discuss problem areas/new initiatives and this includes invitations to the above responsible authorities as well as Department of Built Environment Planning Officers, Parking Enforcement Officers, City Police Force Intelligence, Safer City Partnership and London Fire Brigade.
6. In addition there is a parallel regime of control exercised by planning legislation controls overseen by the Planning and Transportation Committee, which in particular will have regard to the relevant local plan and controls the location, design and planning use of premises to protect the amenity of an area or local residents.
7. In order to contribute to this regime the Environmental Health Pollution Team comments on new planning applications as far as possible and requests specific conditions to some planning applications.
8. Planning Officers have recently been provided with access to the Markets and Consumer Protection local database to make it easier to provide informed comment on licence applications in a similar manner to Pollution Team contribution to planning applications. Where the Licensing Service is aware of any hours of operation conflicts between

planning conditions and premises licence applications/ variations the applicant is notified of the need to abide by all regulatory regimes.

9. There is considerable overlap in terms of 'joined up working' of officers both internally in the City Corporation and with external agencies, but there is clarity that the licensing regime is controlled by the Licensing Authority and your Committee.

Gambling

10. The Gambling Act 2005 transferred powers from the Court to local authorities, known as 'licensing authorities', making them responsible for issuing premises licences for gambling in their geographical area.
11. Two main activities covered by the Act are providing facilities for gambling and using premises for gambling. The licensing authority does this in the City primarily by licensing premises for gambling activities, considering notices given for the temporary use of premises for gambling, regulating gaming and gaming machines in alcohol-licensed premises and registering small society lotteries.
12. The City of London Licensing Authority aims to permit the use of premises for gambling in so far as the authority think fit reasonably consistent with the licensing objectives which are; Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime, Ensuring that gambling is conducted in a fair and open way, and, Protecting children and other vulnerable people from being harmed or exploited by gambling.
13. Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime. Ensuring that gambling is conducted in a fair and open way. Protecting children and other vulnerable people from being harmed or exploited by gambling.
14. There is far less gambling licensing activity in the City compared with sale of alcohol with 48 betting shops licences and 86 premises with 2 or less gaming machines. Whilst there is some officer consultation with City Police as with Licensing Act 2003 there is very limited overlap with other Committees or officers in other departments with this subject matter.

Sex Establishments

15. The Police and Crime Act 2009 has given local authorities greater control over these venues (that provide lap dancing, pole dancing and similar activities) including the option of rejecting licence applications or limiting the number of SEVs in any one area. Following a public consultation and a decision by the Court of Common Council the City Corporation has adopted its own policy on SEVs indicating that within its area there is unlikely to be anywhere suitable although this does not discount the potential for applications under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (licensing of sex establishments, sex cinemas and hostess bars). There are none presently in the City.
16. There was some potential for overlap with Port Health and Environmental Services Committee who deal with some of these establishments with potential public health interest however the control of all these matters was confirmed to be the remit of your Committee in a report in July 2013 further ratified in September 2013 by Port Health and Environmental Services Committee.

Street Trading

17. Street trading in the City is regulated by the City Corporation under the City of London Various Powers Act 1987. Middlesex Street (Petticoat Lane Market) contains the only market stalls in the City of London. With the exception of these market stalls, street trading is not permitted on any public street or place in the City of London geographical area. This may change next year if the current City of London (Various Powers) Bill in Parliament is enacted allowing for temporary street trading licences. This would need a new street trading policy to be agreed and this will be the subject of consultation and agreement by appropriate Committees. At present this is a function which reports to the Port Health and Environmental Services Committee.

Massage and Special Treatments

18. Massage and special treatment licences in the City of London are issued under Part IV of the London County Council (General Powers) Act 1920.
19. If providing massage and/or special treatments (MST) in the City a licence is needed for premises for treatments which include; massage, manicure, chiropody, light (such as sun beds), electric, vapour, other

baths and other similar treatments. In addition a separate registration is required for acupuncture, tattooing, piercing or electrolysis.

20. These matters are dealt with by the Licensing Team, although inspections are undertaken by Environmental Health Officers to ensure good health and safety practices are maintained, and as a public health matters are within the remit of the Port Health and Environmental Services Committee, there is no significant overlap of responsibilities with other Committees or Departments.

Charitable Collections

21. All charitable street and house-to-house collections must be licensed by the City of London Corporation if they are carried out in streets or public spaces within the authority's geographical area. There are different kinds of collection principally street collections and house to house collections. The matter is something which is dealt with by legislation which is the concern of the City Police Commissioner but all operational matters for the granting of permits are dealt with by the Licensing Team. Any review of procedures will need to be agreed with the City Police.

Miscellaneous Licences

22. A variety of legislation requiring licensing or registration covers these areas which include; registration of hairdressers, explosives (fireworks), storage of poisons, registration of scrap metal dealers and registration of motor salvage operators. The remit is again heavily based on either health and safety requirements and to some extent the control of waste and its disposal and consequently remain matters within the ambit of the Port Health and Environmental Services Committee

Tables and Chairs

23. An individual, or corporate body, wishing to place tables and chairs on the public highway including a City Walkway (the 'highway'), must first seek the necessary licence under the Highways Act 1980. The view has previously been taken that planning permission is not normally required to place tables and chairs on the highway.
24. The City Planning Officer's (CPO) report amending delegations and Director of Environmental Services (DES) report concerning Day Time economy and the Street Scene submitted to Planning and Transportation Committee on 1 July 2008, resolved that the administration and enforcement of tables and chairs on the highway be transferred from CPO

to DES, and that DES or an appropriate delegated officer assume responsibility for this function. This has subsequently devolved to the Markets and Consumer Protection Department.

25. This was agreed to 'join up' and enhance efficiency for the administration and enforcement of tables and chairs matters.
26. The Planning and Transportation Committee is the Committee responsible for tables and chairs and the Licensing Team in the Markets and Consumer Protection Department have, in liaison with Planning Officers, taken responsibility for the operational administration of this function. Tables and chairs (T&C) licence applications may in some circumstances require planning permission, subject to counsel's opinion; however, most tables and chairs applications arrive separately from any planning process and are also, usually, separate from the premises licence process although there is no reason, except the wishes of the businesses concerned, why these should not be applied for concurrently. (However, the determination procedures for each are distinct, and the outcome of one cannot predetermine the outcome of another).
27. Licences are normally dealt with through delegated powers to officers either by grant of the tables and chairs licence with conditions or refusal of the application having regard to existing internal guidelines (discussed further below). The relatively small size of most applications, and their normally un-contentious nature, has meant that during the last decade, approvals or refusals have been subject to only two appeals to the Planning and Transportation Committee regarding delegated officer decisions, one in 2000 and one in 2008, both of which supported the delegated officer decisions.
28. There are 110 establishments in the City of London for which tables and chairs licences are granted or under consideration of which 56 are licensed premises for the purchase of alcohol under the Licensing Act 2003. The remaining 54 are associated with coffee shops/sandwich bars. All current licences are renewed annually with the same consultation processes as for an initial application. The number of new applications was 14 in 2012 with a further 13 to date this year. As an indication of the times for which they were granted, of 68 applications to date this year, 11 were to 11pm or later, none has been issued beyond midnight.
29. To decide if T&C can be permitted, officers use an internal set of guidelines based agreed by Committee in 1983. Issues which would be considered include the space remaining for pedestrians, amenity use for public and patrons, access for businesses and people, access to services

and provision of services in the highway, street scene aesthetics such as type and amount of equipment, visual clutter (e.g. barriers, umbrellas and heaters) and impairment of traffic sight lines. Environmental concerns include issues regarding cleansing, or the prevention of persons congregating outside of the T&C area, and the risk of additional noise.

30. Once the tables and chairs licence is granted, almost all complaints or concerns received are those concerning the impact on the environment such as noise, litter, public safety and obstruction from rowdy users. However, all of these have related to tables and chairs locations associated with the purchase of alcohol authorised by a premises licence under the Licensing Act 2003. There is therefore an additional opportunity for these concerns to be raised in relation to review of the premises licence. No such complaint has been received in respect of non-licensed premises.
31. It is theoretically possible that there could be a discrepancy between a premises licence and T&C licence. However, with present arrangements it is usual that applications for tables and chairs are made separately, and subsequent to, applications for premises licences. This allows for any constraints within the premises licence to be reflected by the T&C licence as the operational approval is within the same licensing team. If planning approval is necessary, it is likely that the planning application would be dealt with first, prior to any separate tables and chairs licence decision.

Other Highways Licences

32. In a similar way to T&C licences an individual or corporate body, wishing to place scaffolds, hoardings or other temporary obstructions (e.g. art installations) on the public highway including a City Walkway must also first seek the necessary licence under the Highways Act 1980. These are obtained through the Highways Team in Department of Built Environment (DBE). 'A' boards are treated as obstructions but may be the subject of a report from DBE on setting out policy with regard to these items and whether they should be licensed. Permits issued for street closures and crane operations are matters which have some environmental concern for the Environmental Health Pollution Team but not for the Licensing Service.
33. There is limited cross over here as the main concerns with these licences are obstruction of the highway and public safety although very occasionally there is a need for administration of Temporary Event Notices under Licensing Act 2003 by the Licensing Service where installations are there to provide for public performance.

Proposals

34. The main areas of overlap in operation are the parallel operation of the licensing and planning regimes principally in the area of the sale of alcohol. A new local plan is currently under consultation for the City coordinated by DBE. In the matter of night time entertainment in relation to planning applications it is currently being proposed that new developments and extension of existing premises planning approvals for this purpose will only be permitted where there is no unacceptable impact on the amenity of neighbours or other noise sensitive uses. In addition, applicants will be required to submit management statements detailing how design and operation of the proposed development will protect the amenity of the neighbours. This is analogous to the operating statement required under the Licensing Act 2003 for new premises applications. It is proposed that this stance is supported with comment on applications continuing to be made, as at present, by the Environmental Health Pollution Team.

35. Policy and guidelines for the issue of tables and chairs licences were agreed by the then Planning and Communications Committee on 26 April 1983. They have not been formally reviewed or revised since then. To take account of changing circumstances in the City, and to capture any necessary improvements a review of this has been carried out and it is proposed that, after internal discussion with DBE, this will be the subject of a report to the various Committees involved in 2014.

Corporate & Strategic Implications

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

Implications

37. The work undertaken in applying the proposals is expected to remain within the existing budgets of Markets and Consumer Protection Department.

Conclusion

38. There is significant interaction of responsible authorities with the Licensing Service particularly in the primary role of administration of the Licensing Act 2003. This does have parallel but separate regulatory processes operating through DBE and Planning and Transportation Committee. Comment has been made on the proposed new Local Development Plan for the City with respect to night time entertainment and this should complement the regime operated by your Committee. The administration and operation of T&C licences does not in practice cause conflicts with premises licences but policy and guidelines for granting of the licences needs to be updated. Similarly the changes in street trading legislation anticipated next year if the City of London (Various Powers) Bill proceeds through parliament will also necessitate a new street trading policy being drafted, consulted upon and agreed by the appropriate Committee.

Background Papers:

Licensing of Tables and Chairs – Licensing Committee 18 July 2011

Steve Blake

Assistant Director Environmental Health and Public Protection

T: 020 7332 1604

E: steve.blake@cityoflondon.gov.uk