



## Licensing Committee

**Date:** MONDAY, 11 JULY 2016

**Time:** 1.45 pm

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

**Members:**

Peter Dunphy (Chairman)	Christopher Hayward
Marianne Fredericks (Deputy Chairman)	Michael Hudson
Alex Bain-Stewart	Deputy Jamie Ingham Clark
Deputy John Barker	Graham Packham
Emma Ephem	Judith Pleasance
Deputy Kevin Everett	Chris Punter
Sophie Anne Fernandes	James Tumbridge

**Enquiries:** Gemma Stokley  
tel. no.: 020 7332 1407  
gemma.stokley@cityoflondon.gov.uk

Lunch will be served for Members in the Guildhall Club at 1pm  
**NB: Part of this meeting could be the subject of audio or video recording**

**John Barradell**  
Town Clerk and Chief Executive

## **AGENDA**

1. **APOLOGIES**

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

3. **PUBLIC MINUTES**

To agree the public minutes of the meeting held on 27 April 2016.

**For Decision**  
(Pages 1 - 10)

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

To receive the public minutes and decision notice of the meeting regarding 'The Disappearing Dining Club Ltd', 24-26 Newbury Street, EC1A 7HU' held on 2 June 2016.

**For Information**  
(Pages 11 - 24)

5. **REVENUE OUTTURN 2015/16**

Joint report of the Chamberlain and the Director of Markets & Consumer Protection.

**For Information**  
(Pages 25 - 30)

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

The Comptroller and City Solicitor to be heard.

**For Information**

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

Report of the Director of Markets and Consumer Protection.

**N.B. This Item is to be read in conjunction with the appendix at Item No. 15.**

**For Information**  
(Pages 31 - 44)

8. **LICENSING ACT 2003: REVIEW OF STATEMENT OF LICENSING POLICY**

Report of the Director of Markets and Consumer Protection.

**For Decision**  
(Pages 45 - 82)

9. **LATE NIGHT LEVY - INTERIM REPORT**

Report of the Director of Markets and Consumer Protection.

**For Decision**  
(Pages 83 - 88)

10. **SAFETY THIRST - VERBAL UPDATE**

The Licensing Manager to be heard.

**For Information**

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

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

13. **EXCLUSION OF THE PUBLIC**

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

14. **NON-PUBLIC MINUTES**

To agree the non-public minutes of the meeting held on 27 April 2016.

**For Decision**  
(Pages 89 - 90)

15. **DELEGATED DECISIONS OF THE DIRECTOR OF MARKETS AND CONSUMER PROTECTION PERTAINING TO PREMISES LICENCES - NON-PUBLIC APPENDIX**

**Non-public appendix to be read in conjunction with Item No.7.**

**For Information**  
(Pages 91 - 92)

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

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

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## LICENSING COMMITTEE

Wednesday, 27 April 2016

Minutes of the meeting of the Licensing Committee held at Committee Room - 2nd Floor West Wing, Guildhall on Wednesday, 27 April 2016 at 1.45 pm

### Present

#### Members:

Deputy John Barker  
Peter Dunphy  
Sophie Anne Fernandes  
Marianne Fredericks  
Michael Hudson

Deputy Jamie Ingham Clark  
Graham Packham  
Judith Pleasance  
Chris Punter  
James Tumbridge

### In Attendance

Michael Welbank (Chief Commoner)

#### Officers:

Gemma Stokley	- Town Clerk's Department
Paul Chadha	- Comptroller & City Solicitor's Department
David Smith	- Director of Markets & Consumer Protection
Jenny Pitcairn	- Chamberlain's Department
Stephanie Basten	- Public Relations Office
Steve Blake	- Markets & Consumer Protection Department
Peter Davenport	- Markets & Consumer Protection Department
John Hall	- Licensing Department, City of London
Tirza Keller	- Community & Children's Services Department

#### 1. APOLOGIES

Apologies for absence were received from Alex Bain-Stewart and Christopher Hayward.

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

There were no declarations.

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

**RESOLVED** – That the Order of the Court of Common Council, of 21 April 2016, appointing the Committee and approving its Terms of Reference, be noted.

#### 4. ELECTION OF CHAIRMAN

The Committee proceeded to elect a Chairman in accordance with Standing Order No. 29.

The Town Clerk read out a list of Members eligible to stand as Chairman. Peter Dunphy, being the only Member indicating his willingness to stand as Chairman, was duly elected for the ensuing year.

Mr Dunphy thanked the Committee for their support.

The new Chairman paid tribute to two long standing members of the Committee who had chosen not to seek re-election - Revd. Martin Dudley and Edward Lord who was also a former Chairman of the Licensing Committee. Mr Dunphy went on to welcome the Chief Commoner to the meeting and, in her absence, he welcomed new Committee member Emma Edhem.

**RESOLVED** – That Peter Dunphy be declared Chairman for the ensuing year.

5. **ELECTION OF DEPUTY CHAIRMAN**

The Committee proceeded to elect a Deputy Chairman in accordance with Standing Order No. 30.

The Town Clerk reported that, in accordance with Standing Order No. 30. (3) (a), the immediate past Chairman had chosen to exercise her right to serve as Deputy Chairman for the ensuing year.

Marianne Fredericks was therefore duly appointed as Deputy Chairman for the ensuing year.

**VOTE OF THANKS TO THE PAST CHAIRMAN**

Deputy John Barker paid tribute to Marianne Fredericks, the past Chairman.

**RESOLVED UNANIMOUSLY:**

THAT at the conclusion of her three year term of office as their Chairman, the Members of this Board wish to extend to:

**MARIANNE BERNADETTE FREDERICKS**

their sincere gratitude and appreciation for the dedication she has shown in all aspects of work of this Committee and the exemplary manner in which she has presided over their proceedings during the last three years as the Chairman of the Licensing Committee.

SHE has been very active in the work of the Committee (often accompanying Officers on visits to licensed premises in the early hours of the morning) and has also shown great leadership in steering the Committee through a period of

change including the introduction of the controversial Late Night Levy which now generates in excess of £430,000 per annum, all of which is ring-fenced for future investment in the policing of City's night-time economy.

UNDER Ms Frederick's chairmanship, the tenth anniversary of the Licensing Act was celebrated. The Chairman organised a panel debate and reception at Mansion House to mark the occasion and also showed exceptional foresight in using this occasion to formally launch the London Licensing Forum, an informal body, designed to bring together members from across London's licensing authorities to create a combined voice, share best practice and engage with policymakers.

DURING her tenure, just short of thirty licensing hearings took place, including six reviews, however, January 2015 to December 2015 saw a period of eleven months with no hearings at all. This is undoubtedly a measure of the Committee's hard work and push for more pro-active engagement with licenced premises under Ms Frederick's chairmanship.

THROUGHOUT her term of office, Marianne Fredericks has managed the Committee's deliberations with a fair and firm hand to ensure that the Committee executed its duties in a competent manner.

FINALLY, in congratulating their former Chairman upon a most successful term of office, her colleagues wish to thank her for her enthusiasm and commitment

and to express the hope that with continued good health and happiness she can continue to serve the City Corporation for many years to come.

The Deputy Chairman thanked the Committee and all Officers for their support during her Chairmanship. She added that the Committee as a whole should be proud of what had been achieved over the past three years.

6. **APPOINTMENT OF SUB COMMITTEE CHAIRMEN AND REFERENCE SUB COMMITTEE**

The Committee proceeded to appoint four Licensing (Hearing) Sub Committee Chairmen for the ensuing year, in addition to the current Chairman and Deputy Chairman and Past Grand Committee Chairmen.

Five Members indicated their willingness to serve as Licensing (Hearing) Sub Committee Chairmen so a ballot was required.

**RESOLVED** – That the Licensing (Hearing) Sub Committee Chairmen and the Reference Sub Committee for 2016/17 comprise of the following Members:

- Peter Dunphy (Chairman)
- Marianne Fredericks (Deputy Chairman)
- Kevin Everett (Past Grand Committee Chairman)
- Sophie Fernandes
- Michael Hudson
- Jamie Ingham-Clark
- James Tumbridge

7. **PUBLIC MINUTES**

The public minutes of the meeting held on 3 February 2016 were considered and approved as a correct record.

**MATTERS ARISING**

**London Licensing Forum (page 3)** – The Deputy Chairman reported that the Forum had held their first meeting at the beginning of April 2016 at Walbrook Wharf where they had formally agreed their terms of reference and how best they might collectively campaign for change and promote consistency/best practice. The participating Authorities had decided to rotate in terms of meeting venues and the next meeting was set to take place at Southwark.

The Assistant Director, Environmental Health & Public Protection reported that 56 attendees had been present at the first meeting representing 13 different Local Authorities. Meetings would now be held bi-annually in January and July of each year.



8. **MINUTES OF LICENSING HEARING (SUB)**

The Committee received the minutes of the Licensing Hearing meeting for 'WeWork' held on 9 February 2016.

A Member suggested that, in future, it might be useful for the Committee to receive a summary of the concerns expressed by those making representations alongside the minutes of the Hearing. The Chairman of the Hearing responded that all of this information was contained, in detail, within the public papers for each hearing and that the minutes were not to be read in isolation.

The Committee requested that all future Hearing Sub Committee dates and times be sent to all members of the Licensing Committee. It was also requested that decision notices be appended to all Hearing minutes formally received by the Licensing Committee.

The Town Clerk undertook to circulate the 'WeWork' decision notice to all members of the Committee.

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

The Comptroller and City Solicitor reported that there had been no appeals since the Committee's last meeting in February 2016. He clarified that there had been no such appeal for a period of almost three years now.

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

The Committee received a report of the Director of Markets and Consumer Protection detailing the premises licences and variations to premises licences granted under the Licensing Act 2003 by the Licensing Service from 1 January 2016 to 31 March 2016.

A Member requested that the time as well as the date of any complaint received be logged at Appendix III in future. The Assistant Director, Environmental Health & Public Protection undertook to provide this information going forward.

**RECEIVED.**

11. **'NUDGING PUBS' - CITY INVOLVEMENT**

The Chairman welcomed Laura Willoughby, Jussi Tolvi and Carmen D'Cruz of 'Club Soda' to the meeting and invited them to present to the Committee.

The Presentation covered the following points:

- The idea behind 'Nudging Pubs' and looking at how the behaviour of pubs and bars might be changed rather than individuals;
- Methodology;
- Product Development;
- Key Findings – to customers, to pubs and bars and to councils and licensing;
- Recommendations;

- Conclusions;
- Theory of Change;
- Existing Partners and Funders and how this might be extended to the City. It was noted that the London Borough of Hackney had part funded an initial project to develop a product.

In response to questions regarding what prompted this move, Laura Willoughby reported that Club Soda had a large online community where members regularly complained at the lack of healthier 'soft drink' choices available at licensed premises. Club Soda felt that this indicated a significant gap in the market and made approaches to the London Borough of Hackney.

In response to questions regarding the reason behind founding 'Club Soda' itself, Ms Willoughby reported that she had taken the decision to give up drinking four years ago and had quickly realised that there were no self-help tools (akin to Weight Watchers for those seeking to lose weight) for those who felt they were over drinking but not drink dependent.

In response to a question regarding the quality of non-alcoholic drinks currently on the market and whether this contributed to a reluctance from some premises to stock a wider range of these, Ms Willoughby commented that some non-alcoholic drinks could be more expensive than alcoholic alternatives and that this price point was therefore an issue for some. She added that many premises also tended to purchase their soft drinks from their alcohol providers and that there was therefore also a role for wholesalers to play in changing behaviours.

In response to further questions, Ms Willoughby reported that communication with the London Borough of Hackney had been via their Public Health Team. She added that, at this stage, the City were the only other Local Authority that had been approached regarding the 'Nudging Pubs' initiative.

The Deputy Chairman commented that she felt that this would be a positive move in terms of helping the City to ensure that its licensed premises were as inclusive as possible. She added that it might be useful to arrange a similar presentation for the London Licensing Forum later in the year. She went on to suggest that the Licensing Team give consideration as to how questions around how premises were promoting non-alcoholic drinks and what range of non-alcoholic drinks they made available might be included on future Safety Thirst questionnaires.

The Chairman highlighted that this was very much in accordance with Licensing Principles around sensible drinking and choice. He thanked Club Soda for an extremely interesting presentation.

The Town Clerk undertook to circulate the presentation slides and an electronic copy of the 'Nudging Pubs' report to all Committee Members.

**12. DEPARTMENT OF MARKETS & CONSUMER PROTECTION BUSINESS PLAN 2016-2019**

The Committee considered a report of the Director of Markets and Consumer Protection seeking approval of the 2016-19 Business Plan of the City of London's Licensing Service, which is part of the Department of Markets and Consumer Protection.

A Member questioned the different risk target scores assigned to risks associated with Incorrect legal advice and Incorrect licensing advice. The Director of Markets and Consumer Protection undertook to look into this.

**RESOLVED** – That, the Committee approve the Licensing Business Plan 2016-2019 and its appendices.

13. **GAMBLING - REVIEW OF ANNUAL FEES FOR 2016/17**

The Committee considered a report of the Director of Markets and Consumer Protection regarding the proposed fees associated with the Gambling Act for 2016/17.

The Licensing Manager reported that the increases and decreases to the fees for 2016/17 were summarised within the report and also within Appendix 2. He added that one new betting shop application had been forecast for 2016/17.

In response to a question, the Licensing Manager reported that at least one new betting shop had to be forecast each year in order for the model to work, even if these did not materialise. Members commented on the changing face of the betting industry, its growing online presence and declining high street presence.

**RESOLVED** – That, the Committee agree the proposed fees for 2016/17 as set out in Appendix 2 (column four).

14. **LATE NIGHT LEVY - VERBAL UPDATE**

The Licensing Manager reported that at the end of the financial year a balance of approximately £82,000 had been generated by income from the Late Night Levy. This was forecast to increase by a further £40,000 in 2016/17 resulting in a total of £120,000 to spend next year.

A Member commented on the need to look at how this money would be utilised with some urgency so as to avoid carrying forward such large surpluses in future years.

It was noted that the Levy fee was set nationally. The Assistant Director, Environmental Health & Public Protection reported that some proposals around spending the Late Night Levy income were already progressing and that further talks around this would now take place.

In response to questions, the Chamberlain clarified that the amounts referred to by the Licensing Manager covered only the 30% of fees apportioned to the City of London Corporation and not the remaining 70% apportioned to the City of London Police.

The Committee requested further detail by way of a written report for their next meeting.

**15. SAFETY THIRST - VERBAL UPDATE**

The Assistant Director, Environmental Health & Public Protection reported that this year's awards would be launched at the end of the week with application forms sent out to all premises. Information as to which premises in their Ward had signed up would then be passed to Members of the Licensing Committee. This year, companies with multiple venues in the City would continue to be targeted.

Assessments would take place throughout June and July with judgements finalised in September and the award ceremony scheduled for October 2016.

Members were reminded that those premises participating in the scheme received a 30% discount on the Late Night Levy.

The Deputy Chairman suggested that future meetings of Pub/Club Watch be used to help promote the Safety Thirst awards scheme. She suggested that income from the Late Night Levy be used to make this happen.

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

**Future Committee Training/Visits**

In response to a question regarding future Committee training and visits, the Deputy Chairman reported that discussions were currently taking place with the London Fire Brigade with a view to repeating fire inspection visits to premises to which all Members would be invited. She went on to state that Officers were also trying to secure some further Licensing training sessions with Simon Walsh. She undertook to keep the Committee informed of progress on both counts.

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

There were no urgent, additional items of business for consideration.

**18. EXCLUSION OF THE PUBLIC**

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

<u>Item No.</u>	<u>Paragraph No(s).</u>
19	1
20	3
21	1

**19. NON-PUBLIC MINUTES**

The non-public minutes of the meeting held on 3 February 2016 were considered and approved as a correct record.

20. **ASSUMPTIONS USED IN CALCULATING SEV FEES**

The Committee received a report of the Director of Markets and Consumer Protection detailing the assumptions used in calculating the proposed Sexual Entertainment Venue Fees for 2016/17. This information had been requested by Members at the last meeting on 3 February 2016.

21. **DELEGATED DECISIONS OF THE DIRECTOR OF MARKETS AND CONSUMER PROTECTION PERTAINING TO PREMISES LICENCES - NON-PUBLIC APPENDIX**

The Committee received a non-public appendix to Item 10 on the agenda providing Members with details of those premises obtaining sufficient points on the Risk Scheme to reach red or amber for the period August 2015 – January 2016.

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

There were no questions raised in the non-public session.

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

There were no additional, urgent items of business for consideration in the non-public session.

**The meeting ended at 3.05 pm**

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Chairman

**Contact Officer: Gemma Stokley  
tel. no.: 020 7332 1407  
gemma.stokley@cityoflondon.gov.uk**

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**MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE**  
**THURSDAY, 2 JUNE 2016**

**APPLICANT: DISAPPEARING DINING CLUB LIMITED**  
**PREMISES: 24-26 NEWBURY STREET, EC1A 7HU**

**Sub Committee**

Peter Dunphy (Chairman)  
Deputy John Barker  
Deputy Jamie Ingham Clark

**City of London Officers**

Paul Chadha - Comptroller & City Solicitor's Department  
Steve Blake - Department of Markets and Consumer Protection  
Peter Davenport - Department of Markets and Consumer Protection  
Gemma Stokley - Town Clerk's Department

**The Applicant**

Stuart Langley, Founder and Co-owner of Disappearing Dining Club Limited  
Anna Mathias, Barrister representing the Applicant

**Parties with Representations**

Ms Rachel Sambells, City of London Environmental Health Officer  
Brendan Barnes, resident  
Laura Daly, resident  
Peter Dennis, resident  
Mary Hustings, resident  
Julian Ingall, resident  
Keiran Thind, resident

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**Licensing Act 2003 (Hearings) Regulations 2005**

A Review Hearing was held at 11:00am in Committee Room 1, Guildhall, London, EC2, to consider and determine, through review, measures regarding the premises licence for '24-26 Newbury Street, London EC1A 7HU.'

The Sub Committee had before them the following documents:-

Report of the Director of Markets and Consumer Protection:  
Appendix 1 – Copy of Application  
Amendments to Application

Appendix 2 – Conditions Consistent with the Operating Schedule

Appendix 3 – Representations from Responsible Authorities:  
Environmental Health

Appendix 4 – Representations from Other Persons  
Residents and Elected Members

Appendix 5 – Map of subject premises together with other licenced premises in the  
area and their latest terminal time for alcohol sales

Appendix 6 - Plan of Premises

Additional Bundle from Applicant (separately circulated)

Applicants proposed Noise Management/Dispersal Policy (separately circulated)

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- 1) The Hearing commenced at 11:00am.
- 2) The Chairman introduced the Sub-Committee members and confirmed that all papers had been considered by the Sub-Committee in advance of the hearing. The Chairman asked all of those present to introduce themselves and state in what capacity they were attending the Sub-Committee.
- 3) The Chairman opened the hearing by underlining that the Sub-Committee must be made with a view to promoting one or more of the four licensing objectives.
- 4) The Chairman invited the applicant to clarify all of the proposed amendments to the application to date.
- 5) Ms Mathias highlighted that, at the invitation of the City of London's Environmental Health Team, the applicant had submitted a Noise Management/Dispersal Policy which had been circulated to the panel and to all those making representations ahead of the Hearing. The terminal hours sought had now been considerably scaled back to 10pm on Sundays, 11pm Monday-Thursday and midnight on Fridays and Saturdays with the premises closing 30 minutes thereafter. Ms Mathias drew attention to pages 12-13 of the applicants bundle (also circulated to all electronically ahead of the hearing) which set out, in full, the additional conditions proposed by the applicant in response to the concerns of both Environmental Health and of residents.
- 6) The Chairman then invited the applicant to explain the nature of the business proposed.
- 7) Mr Langley reported that the plans were for a small restaurant where the main intention would be for patrons to enjoy a sit down meal accompanied by drinks. It would, however, also be possible for patrons to order a bottle of wine and some bar snacks. The plan was for approximately 26-28 covers at the restaurant, creating a very small, very discreet dining establishment.
- 8) The Chairman invited those representing the responsible authorities to address the Sub-Committee. The Sub-Committee heard from Ms Sambells of the City of London's Environmental Health Office who stated that the proposed location of



the premises was a very quiet, predominantly residential, street in which there was currently no through traffic and no other licensed premises meaning that there were very low background noise levels compared with most other areas of the City and no alternative noise sources to mask any added sound. This would make it incredibly difficult to prevent a public nuisance and any noise disturbance to local residents. Concerns around those arriving at and leaving the venue as well as patrons outside of the venue smoking therefore remained despite the mitigation offered by the applicant. Ms Sambells was of the strong view that the business would be much better located elsewhere in a location with existing background noise.

- 9) Ms Sambells went on to state that the City of London's Environmental Health Team were committed to trying to protect the World Health Organisation's guidance around protected hours of sleep from 11pm to 7am. If this application were to be granted it was therefore Environmental Health's view that it would require considerable work including a formal Sound Management Policy from the applicant indicating where any noise limiters would be installed and where any smoking location might be situated.
- 10) Ms Sambells concluded by stating that the City of London Corporation could find no record of the premises having been previously licensed.
- 11) The Chairman invited those who had made representations as 'other persons' to address the Sub Committee.
- 12) Mr Barnes stated that he had moved into Newbury Street on the basis that it was a particularly quiet area of the City. He added that the Disappearing Dining Club had previously been situated in Brick Lane – a very different area to Newbury Street. He agreed with the concerns expressed by Environmental Health regarding smokers congregating outside the venue and went on to question the Dispersal Policy put forward by the applicant, by stating that it was very rare for patrons to ask staff to book taxis for them before leaving a venue. Mr Barnes added that the imminent introduction of the late-night tube would only encourage patrons to walk through Newbury Street towards the St Paul's area to continue their evening. Mr Barnes concluded by informing the Sub Committee that there was a surgery located near the proposed premises, that was regularly attended by both elderly and parents pushing children in pushchairs. Given the narrowness of the Street this posed further concerns in terms of Health and Safety, particularly if pavements were to be blocked at any time of the day by deliveries to the premises and/or waste.
- 13) Ms Daly reported that she had been a Newbury Street resident for 6 years now. She thanked the applicant for their efforts in terms of the proposed amendments to the original application and the proposed Noise Management/Dispersal Policy. She added that she had taken the opportunity to discuss the plans further with Mr Langley and had also recently visited the premises. Despite this, Ms Daly underlined that her initial concerns still remained. She did not feel that the amended application met the Licensing Objectives and was also concerned at the precedent that granting this licence might set for a night time economy in the area. Ms Daly went on to state that

she did not feel that the conditions proposed by the applicant in terms of noise management were either workable or enforceable (particularly with alcohol involved) as they were wholly dependent on customer compliance. Ms Daly talked the Sub Committee through the characteristics of Newbury Street which she described as a very narrow, tranquil, two-way street. She highlighted that traffic flow problems could therefore easily arise here. Customers smoking on the pavements outside could also easily spill out on to the road. Ms Daly added that the acoustics of the street amplified any noise upwards in a 'canyoning' effect to residential buildings. Ms Daly requested permission to show the Panel some photographs of the street to illustrate her points. The applicant and applicant's barrister viewed the photographs and stated that they had no objection to these being shared with the panel.

- 14) Ms Daly went on to outline her concerns around the conditions offered by the applicant concerning waste and recycling in that these may not be tenable. She stated that, with plans for approximately 100 covers per day, a large amount of waste and recycling would be generated by the premises. There were real concerns amongst residents that this would be left on the pavements outside of the premises, potentially compromising the fire evacuation routes of nearby offices. Ms Daly concluded by accepting that, whilst the applicant's business proposal seemed genuinely interesting and well considered, the conditions offered (including the installation of CCTV cameras and agreement to no promoted events) were certainly no guarantee of good behaviour. She therefore asked that the Sub Committee reject the application outright.
- 15) Mr Dennis began by stating that he was grateful for the mitigating proposals put forward by the applicant however, he was strongly of the view that these did not go far enough in addressing the concerns of residents. He reiterated that Newbury Street was a very quiet enclave with the only licensed premises nearby having a terminal hour of 11.00pm and no weekend opening. He highlighted that Farmers and Fletchers, also situated nearby, was very respectful of the nature of the area and did not use their full licensable hours. He added that even the chimes of the clock on St. Bartholomew the Great were silenced from 11pm to 7am and had been for many years now. Mr Dennis stated that, from conversations with Mr Langley, he was led to believe that it was the quietness and uniqueness of the location that was the very thing that had first attracted him to Newbury Street for this venture. This would, inevitably, lead to clashes with residents who equally valued and were attracted by the quietness of the area. Mr Dennis commented on the narrowness of the street, stating that, even if the restaurant were to book taxis for patrons leaving the venue, there was no guarantee that the taxis would obey the traffic "laws" in this area. He went on to highlight that the premises would not be advertised in any way and that customers would, instead, be drawn from a database of around 20,000 people held by the Disappearing Dining Club. This therefore gave rise to concerns that this would not be an establishment for local people and that the vast majority of patrons were likely to be arriving from elsewhere and taking cars to and from the venue. This was clearly outside of the Disappearing Dining Club's control. Mr Dennis concluded by stating that whilst the intention was to host quiet, discreet dinner parties at the premises, he was very concerned that, if this did not prove successful, the Disappearing Dining

Club would revert back to their original plans and attempt to host similar events to those previously hosted in Brick Lane and in Bermondsey which were very different locations to Newbury Street and accustomed to a vibrant night time economy.

- 16) The Chairman clarified that it would not be possible for the applicant to vary any licence that might be granted today without submitting a new application.
- 17) Mr Dennis added that he believed that the application would have attracted more objections if a notice had also been placed on the premises' Middle Lane exit. He went on to say that, on the City of London's website, it recommended that notice of applications be placed in suitable publications such as 'The Metro' 'City AM' or 'The Evening Standard'. This notice was, however, published only in 'The City of London and Docklands Times' - a very obscure publication with limited circulation in the City.
- 18) Mr Ingall stated that he had lived in Newbury Street for 8 years and reiterated that, due to the narrowness of the street, any noise was very disturbing to all residents. Mr Ingall requested permission to show the Panel some photographs of the street depicting both waste and deliveries left outside the premises in recent days. The applicant and applicant's barrister viewed the photographs and stated that they had no objection to these being shared with the panel.
- 19) Mr Thind commenced by saying that he felt that the vast majority of the mitigating proposals put forward by the applicant implied that the concerns of residents were valid. He therefore requested that the Sub Committee reject the application outright. He went on to illustrate his point by saying that the proposal from the applicant that no drinks would be permitted outside the premises appeared to be a recognition that people would regularly leave the premises to smoke – something which residents felt would be unworkable and may lead to noisy disagreements between drunken patrons and staff. Mr Thind stated that he appreciated that local residents would be provided with a telephone number on which to report any noise disturbance but added that he would rather not have to frequently utilise this in the early hours of the morning. Mr Thind informed the Sub Committee that, where Newbury Street widened slightly was where the entrance to the premises was situated. The pavement here was therefore narrower and posed a real health and safety risk in terms of those leaving the premises having to step in to the road and in to the path of any oncoming traffic. Mr Thind concluded by stating that the applicant had proposed that no waste would be left outside the premises between 11pm and 8am. According to the City of London's regulations no waste was permitted to be left out between 8pm and 6am. This therefore meant that the only opportunity for the premises to leave waste outside would be during their peak trading hours which was not sensible and also presented further health risks.
- 20) The Chairman offered the Applicant the opportunity to cross examine those making representations. The Applicant declined.
- 21) The Chairman invited the Applicant to make their presentation and to also respond to any outstanding queries. Ms Mathias, on behalf of the applicant,

stated that it was felt that the amended hours proposed were reasonable and modest. She added that the applicant was confident that residents would not be disturbed by the business due to both the style of the operation and the way it would be run. Ms Mathias reiterated the conditions already agreed with the City of London Police and the details of the further amendments to the licence now proposed which were set out in full on pages 9 and 10 of the applicants bundle. Ms Mathias reported that, due to the small scale of the operation, with a maximum of 26-28 people at capacity, the applicant believed it would be possible to control noise from the venue and to encourage patrons to have taxis booked by staff before exiting the premises. As this was primarily a dining establishment, there was no expectation of any disagreements with drunken patrons. Ms Mathias noted that it was illegal to serve alcohol to individuals who were already intoxicated. With regard to concerns raised about waste, Ms Mathias highlighted that it was proposed that waste be collected between 6pm-11pm and put out a maximum of 30 minutes before collection. The applicant proposed to use a private waste contractor for this purpose. Mr Langley added that he was confident that the waste and recycling could be adequately stored on site during the day. In terms of patrons leaving the premises, Ms Mathias highlighted the proximity of Barbican tube station. Where it was necessary to book taxis, staff would use a local taxi firm and would instruct drivers to pick up on Long Lane on the opposite side of the road. Patrons would be encouraged to wait inside the premises, on the ground floor, for taxis to arrive. A member of staff would accompany patrons to the ground floor level to oversee dispersal.

- 22) Ms Mathias stated that, in addition to the Noise Management Policy already circulated, the applicant would be happy to continue dialogue with the City's Environmental Health team if the licence were granted. With regard to noise management, all staff would be trained in the use of noise limiting equipment, all doors (two double doors to the entrance and two double doors to the restaurant) would be self-closing, noise levels would be regularly checked and monitored and made available to the City's Licensing Team, a dedicated telephone number would be provided to local residents to report noise disturbance and there would be no deliveries to the premises between 6pm and 8am every day. Mr Langley added that a noise limiter would prevent any sound above a certain level and confirmed that speakers would be placed in the basement area only.
- 23) Ms Mathias went on to highlight that the co-owners of the Disappearing Dining Club had over 20 years' experience in managing high end dining establishments. Past ventures in both Brick Lane and Bermondsey, on a temporary basis, had both been an overwhelming success and this would be the company's first permanent lease. She referred to the sample menu and wine list circulated to all which also included a description of the Disappearing Dining Club and clearly set out the concept behind it. She reported that the menu would be changed on a daily basis and demonstrated that the emphasis would be on quality with a price point to match. Photographs and 'mood boards' circulated to all within the applicants bundle illustrated that the premises would be given a high quality finish.

- 24) Ms Mathias concluded by stating that the premises was currently unused and abandoned. It was the applicant's belief that it had previously been used as a bar/restaurant as there was already a fully functioning kitchen and bar area inside. They were unclear as to when the premises ceased to be used in this way. She added that the applicant did not propose to install any new extraction/ventilation equipment but reported that the existing equipment had now been cleaned and serviced and that the performance of this and any noise emitted from it would therefore be significantly improved.
- 25) Mr Langley clarified that the Disappearing Dining Club chose the style of business best suited to its location. He added that the premises would be for locals as well as for those living elsewhere listed on the company's database. He stated that the business was very passionate about people as well as good food and drink and that what was proposed here was a high end, small scale, informal dining establishment. He added that he was confident that the venture would be a success and that the way he proposed to operate the premises should defend the location/environment. Ms Mathias highlighted that the demographic of those on the database was primarily 25-45 year olds from the creative, corporate market. The database also meant that all patrons were traceable. The applicant would typically expect parties to dine in groups of 2 or 4 with 5-6 staff on duty each evening. The Sub Committee were informed that, whilst families were welcome, it was very rare for children to dine at the Disappearing Dining Club.
- 26) Mr Langley concluded by stating that he wanted the venture to work for everyone in the local area. Whilst he accepted that some noise from those arriving at or leaving the venue would be inevitable, he did not feel that this would constitute a noise problem and looked forward to working closely with Environmental Health on this matter should the licence be granted. He confirmed that any music on the premises would be background music only, intended to accompany dinner whilst still allowing for conversation.
- 27) In response to questions from Mr Dennis, Mr Langley confirmed that a delivery taken at the premises this morning was for an event being overseen by the Disappearing Dining Club elsewhere. He added that the delivery had been made after 8am. He confirmed that he had already secured a lease on the premises for 5 years and that, if the licence application were rejected, it would continue to be used as storage. He confirmed that, if a licence were to be granted, the premises would be used as a restaurant with deliveries for events elsewhere sent to other sites.
- 28) In response to further questions from residents, Mr Langley reported that his customers typically enjoyed being looked after and that staff ordering taxis for those leaving the premises could therefore reasonably be built into the service. He clarified that, generally, no bookings for the restaurant would be taken after 9pm. He added that no seating would be set aside for those wanting to order drinks only and that, in his experience, those wanting drinks and snacks only constituted less than 20% of all bookings taken.

- 29) In response to final questions from residents, Mr Langley stated that, with two sittings each evening, there would be a clear break point. Due to the nature of the business, the arrival and departure of customers would be staggered and there would be ample staff to deal with the quiet dispersal of individual groups. He accepted that this was difficult to put into any sort of legal condition. Mr Langley reported that there would be no heating, seating or covers outside of the venue and that customers would not be permitted to leave the premises with drinks. Staff would also regularly attend at ground floor level to encourage any smokers to re-enter the premises as quickly as possible. Those making representations were informed that the premises (including the basement area) would have full customer Wi-Fi coverage and that a seating area would also be installed at the ground floor, entrance level for those wishing to make telephone calls or use the internet.
- 30) Those making representations summed up by stating that, despite the additional conditions proposed by the applicant, the consensus remained that there would be too much outside of the Disappearing Dining Club's control and reliant on encouragement/customer compliance only.
- 31) The Chairman invited the Applicant to sum up. The Applicant stated that they had nothing further to add.
- 32) The Chairman thanked all parties and explained that the Sub-Committee would now retire to deliberate on the application.
- 33) The Chairman explained that written confirmation of the decision would be circulated to all within five working days.
- 34) The Sub-Committee retired at 12.25pm.

-----  
Chairman

**Contact Officer: Gemma Stokley**  
**Tel. no. 020 7332 1407**  
**E-mail: [gemma.stokley@cityoflondon.gov.uk](mailto:gemma.stokley@cityoflondon.gov.uk)**

**Town Clerk's Office**  
John Barradell  
Town Clerk & Chief Executive



Disappearing Dining Club Limited  
c/o Interax Accountancy Services Ltd  
Basepoint Oakfield Close  
Tewkesbury Business Park  
Tewkesbury  
Gloucestershire  
GL20 8SD

**Telephone** 020 7332 1407  
**Fax** 020 7796 2621  
**Email:**  
gemma.stokley@cityoflondon.gov.uk

**Our ref** GS/LIC

**Date** 7 June 2016

Dear Sir/Madam

<b>Applicant:</b>	<b>Disappearing Dining Club Limited</b>
<b>Premises:</b>	<b>24-26 Newbury Street, EC1A 7HU</b>
<b>Date / time of Hearing:</b>	<b>Thursday, 2 June 2016 – 11.00am</b>
<b>Venue:</b>	<b>Committee Room 1, 2<sup>nd</sup> Floor, West Wing, Guildhall, London EC2P 2EJ</b>

I write to confirm the decision of the Licensing (Hearing) Sub-Committee at the hearing held on 2 June 2016 in relation to the above-mentioned application. The Sub Committee's decision is set out below.

The Sub-Committee comprised of Peter Dunphy (Chairman), Deputy John Barker and Deputy Jamie Ingham Clark.

Ms Anna Mathias – a barrister representing the applicant and Mr Stuart Langley, Founder and Co-owner of the Disappearing Dining Club Limited, made submissions in support of the application.

Rachel Sambells (Environmental Health Department of the City of London), Mr Brendan Barns, Laura Daly, Peter Dennis, Julian Ingall and Kieran Thind appeared to oppose the application.

1. This decision relates to an application made by Disappearing Dining Club Limited, for a new premises licence in respect of the premises situated at 24-26 Newbury Street, EC1A 7HU.

The application originally sought to provide the following activities:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed</u>
Supply of Alcohol, Recorded Music, Anything	N/A	Mon - Wed 11:00 – 01:00

of a similar description to recorded music.		Thu – Sat 11:00 – 02:00 Sun 12:00 – 01:00
Late Night Refreshment	N/A	Sun – Wed 23:00 – 01:30 Thu – Sat 23:00 – 02:30

2. On 14 April 2016, the applicant sought an amendment to the application with an addition to the operating schedule and non-standard timings as follows:
  - ‘No Promoted Events’ to be added to the operating schedule.
  - The installation of a more intricate CCTV system to that described in the original operating schedule.
  - The licensing activities to be extended on New Year’s Eve to 03:00 only.
  
3. On 25th May 2016 the Applicant informed those making representations that it would be seeking a further amendment to the application to reduce the permitted hours for licensable activities as follows :-
  - A terminal hour of 22:00 on Sundays, 23:00 Mon-Thurs and 00:00 on Fridays and Saturdays, with a further 30 minutes at the end of these hours during which the premises will remain open to the public.
  
4. At this stage, the applicant also proposed the following further conditions in response to the concerns of Environmental Health and to those of residents:
  - Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
  - No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
  - Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
  - Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
  - All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
  - No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.



- No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
  - Before the premises open to the public, the plans as deposited will be checked by the Environmental Health Consultation Team to ensure they are an accurate reflection of the premises constructed. Where the premises layout has changed during the course of construction new plans shall be provided to the Environmental Health Consultation Team and the Licensing Authority.
  - Any taxis called by staff to collect patrons shall be instructed to pick them up on the corner of Cloth Street and Long Lane.
  - Patrons shall be encouraged to wait inside the premises for any taxis that have been called to collect them to arrive.
  - Recorded music shall only be played in the basement and not in the ground floor entrance area.
  - A noise management policy shall be in place setting out measures to prevent noise break out from the premises affecting the residential premises.
5. The Sub Committee considered the application and carefully deliberated upon the representations submitted in writing and orally at the hearing by those making representations and the Applicant. The Sub-Committee also viewed additional photographs of waste and deliveries recently left outside the premises submitted at the hearing by those making representations. The applicant agreed to their submission.
  6. In reaching the decision the Sub-Committee were 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 2013.
  7. Furthermore, the Sub-Committee had regard to 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 and appropriate to impose conditions on the granting of the application in order to promote one (or more) of the licensing objectives.
  8. 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 being the prevention of public nuisance.
  9. The Sub-Committee heard representation's from the City of London's Environmental Health Officer who expressed grave concerns in respect of the application. She explained to the Sub-Committee that Newbury Street had very low

background noise levels compared with most other areas of the City meaning that there were no alternative noise sources (e.g. traffic) to mask any added sound.

10. Furthermore, the proposed licensed premises would change the acoustic character of the area with noise resulting from patrons leaving the premises, taxis collecting patrons on their departure from the premises and patrons gathering outside the premises to smoke and make telephone calls would likely cause nuisance to local residents. The nuisance would likely be exacerbated by the fact that the narrowness of the street and the construction of the buildings create a 'canyoning' effect when it comes to the transmission of noise.
11. The Environmental Health Officer also expressed concerns as to the "Noise Management/Dispersal Policy" put forward by the Applicant to address the concerns of those making representations against the application. She felt that the policy lacked sufficient detail to be able to provide a critical analysis of the proposals and how they were to be put into effect.
12. The residents who made representations against the application also submitted that the granting of a licence to the applicant would create a nuisance for those who resided in the vicinity. Particular concerns related to the departure of patrons late in the evening whether on foot or by taxi, patrons smoking outside the premises, the noise caused by waste collection either late in the evening and nuisance caused by deliveries to the premises.
13. The Applicant put forward a number of proposals to address the concerns raised by those making representations against the application.
14. With regards to the noise caused by taxis collecting patrons, the Applicant indicated that it would make arrangements with a local taxi firm to collect patrons with the collection point being in Long Lane as opposed to Newbury Street. This proposal was rejected by those making representations against the licence on the basis that the Applicant could not exercise control over patrons who chose to make their own taxi arrangements.
15. The Applicant also stated that it would discourage patrons from congregating outside the premises to smoke and would prohibit patrons from taking drinks out with them. It would also encourage patrons who wished to make telephone calls to do so in the ground floor foyer. Those opposing the application argued that the Applicant could not exercise control over patrons and their conduct once they left the premises.
16. With regards to waste collections, the Applicant stated that it would make arrangements with a private waste collector to ensure that the waste was collected between the hours of 18.00-23.00 and that waste would not be placed outside for collection until 30 minutes prior to collection.
17. In reaching its decision the Sub-Committee took into account its duty to promote the licensing objectives, particularly the duty to prevent public nuisance. In determining whether a public nuisance would arise the Sub-Committee relied upon the definition

of “public nuisance” contained in Halsbury’s Laws of England which defines public nuisance as “one which inflicts damage, injury or inconvenience on all the Queen’s subjects or on all members of a class who come within the sphere or neighbourhood of its operation...The character of the neighbourhood is relevant to determination of the question of whether a particular activity constitutes a public nuisance.”

18. The Sub-Committee took into account the somewhat unique character of the Street which is one of the few areas in the City of London which is relatively quiet. The Sub-Committee also took into account that the City of London Corporation could find no record of the premises being previously licensed and that, at present, there are no licensed premises at all on this residential street. The lack of background noise coupled with the canyon effect created by the buildings also made the area more susceptible to noise nuisance. The Sub-Committee found the concerns raised by those opposing the application convincing.
19. The Sub-Committee also considered the measures proposed by the Applicant to address the concerns raised. It found the Applicant to be genuine in its intentions, illustrated by the reduced hours of operation put forward in advance of this hearing. However, the Sub-Committee was not convinced that the measures put forward to reduce the potential of noise nuisance to local residents would be effective. The proposal relating to the Applicant arranging taxis on behalf of its patrons was not practical as it could not prevent patrons making their own arrangements with taxi companies.
20. The Sub-Committee concluded that the proposal to seek to restrict patrons smoking outside the premises was unenforceable as the Applicant would be unable to exercise any control over patrons once they left the premises.
21. The Sub-Committee found the Applicant’s “Noise Management/Dispersal Policy” to be weak. Whilst the policy expressed a willingness to engage with the Environmental Health Service it lacked any firm measures as to what was to be put in place to ensure that the risk of noise nuisance was minimised.
22. The Sub-Committee was satisfied that, due to the character of the area, there was a likelihood that there would be public nuisance should the application be granted. Furthermore, it was not convinced that the measures proposed by the Applicant would prevent such public nuisance. Accordingly, it decided that it was necessary and appropriate to refuse the application.

23. If any party is dissatisfied with this decision, he or she is reminded of the right to appeal, within 21 days of the date of this letter, 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.

Yours faithfully,

**Gemma Stokley**

Clerk to the Licensing (Hearing) Sub Committee

**Useful Numbers/Websites:**

An 'Out of Hours' noise response service is available 24 hours a day by telephone:  
0207 6063030

The City's Environmental Health Team can be contacted at:

[publicprotection@cityoflondon.gov.uk](mailto:publicprotection@cityoflondon.gov.uk)

The City's Licensing Department can be contacted on: [licensing@cityoflondon.gov.uk](mailto:licensing@cityoflondon.gov.uk)

Licensing Policy and Code of Good Practice for Licensed Premises:

<http://www.cityoflondon.gov.uk/business/licensing/alcohol-and-entertainment/Pages/Licensing-policy.aspx>

CC: Anna Mathias, Woods Whur 2014 Limited, Devonshire House, 38 York Place, Leeds, LS1 2ED

<b>Committee(s)</b>	<b>Dated:</b>
Licensing	11072016
<b>Subject:</b> Revenue Outturn 2015/16	<b>Public</b>
<b>Report of:</b> The Chamberlain Director of Markets and Consumer Protection	<b>For Information</b>
<b>Report author:</b> Jenny Pitcairn, Chamberlain's Department	

## Summary

This report compares the revenue outturn for the services overseen by your Committee in 2015/16 with the final budget for the year. Overall total net expenditure during the year was £33,000 whereas the total budget was £43,000 representing an underspending of (£10,000) as set out below:

<b>Summary Comparison of 2015/16 Revenue Outturn with Final Budget</b>			
	<b>Final Budget £000</b>	<b>Revenue Outturn £000</b>	<b>Variations Increase / (Reduction) £000</b>
<b>Direct Net Expenditure</b>			
Director of Markets and Consumer Protection	(120)	(121)	(1)
<b>Capital and Support Services</b>	163	154	(9)
<b>Overall Totals</b>	43	33	(10)

The underspend was largely due to changes in the cost and attribution of central department recharges. A local risk underspend on Late Night Levy related costs was fully offset by a reduction in Late Night Levy income.

The Director of Markets and Consumer Protection has submitted a request to carry forward underspendings, and this request will be considered by the Chamberlain in consultation with the Chairman and Deputy Chairman of the Resource Allocation Sub Committee.

## Recommendation(s)

Members are asked to:

- Note the report and the proposed carry forward of underspendings to 2015/16.

## Main Report

### Revenue Outturn for 2015/16

1. Actual net expenditure for your Committee's services during 2015/16 totalled £33,000, an underspend of (£10,000) compared to the final budget of £43,000. A summary comparison with the final budget for the year is tabulated below. In this and subsequent tables, figures in brackets indicate income or in hand balances, increases in income or decreases in expenditure.

<b>Summary Comparison of 2015/16 Revenue Outturn with Final Budget</b>				
	<b>Final Budget</b>	<b>Revenue Outturn</b>	<b>Variation Increase / (Reduction)</b>	<b>Variation Increase / (Reduction)</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>%</b>
<b>Local Risk</b>				
Expenditure	579	525	(54)	(9)
Income	(699)	(646)	53	8
Total Director of Markets and Consumer Protection	(120)	(121)	(1)	(1)
<b>Capital and Support Services</b>	163	154	(9)	(6)
<b>Overall Totals</b>	43	33	(10)	(23)

2. The most significant local risk variations were:
- An underspend of (£56,000) on employee costs and contingencies due to Late Night Levy funds not spent; offset by
  - A reduction in income of £56,000, as any unspent Late Night Levy income is carried forward to spend in future year(s) in accordance with legislation.
3. The reduction in capital and support services is due to minor changes in the level and attribution of central costs.
4. Appendix 1 shows the movement from the 2015/16 latest approved budget (as reported to your Committee in October 2015) to the final budget.

### Local Risk Carry Forwards to 2016/17

5. The Director of Markets and Consumer Protection has a local risk underspending of (£1,000) on the activities overseen by your Committee. The Director also had local risk underspendings totalling (£955,000) on activities overseen by other Committees. The Director is proposing that £366,000 of his maximum permitted underspend of £390,000 be carried forward, none of which relates to activities overseen by your Committee.

## **Appendices**

- Appendix 1 – Movement from 2015/16 Latest Approved Budget to Final Budget

### **Jenny Pitcairn**

Chamberlain's Department

T: 020 7332 1389

E: [jenny.pitcairn@cityoflondon.gov.uk](mailto:jenny.pitcairn@cityoflondon.gov.uk)

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**Licensing Committee - Analysis of Movements 2015/16 Latest Approved Budget to Final Budget**

	Original Budget 2015/16 £'000	Latest Approved Budget* 2015/16 £'000	Final Budget 2015/16 £'000	Movement £'000	Notes
<b>Local Risk</b>					
<b>Expenditure</b>					
Employees	420	417	417	0	
Premises	45	45	45	0	
Supplies and Services	15	17	17	0	
Third Party Payments	0	42	54	12	(i)
Contingencies	70	58	46	(12)	(i)
<b>Total Expenditure</b>	<b>550</b>	<b>579</b>	<b>579</b>	<b>0</b>	
<b>Income</b>	<b>(632)</b>	<b>(699)</b>	<b>(699)</b>	<b>0</b>	
<b>Total Local Risk</b>	<b>(82)</b>	<b>(120)</b>	<b>(120)</b>	<b>0</b>	
<b>Capital and Support Services</b>					
Insurance	2	3	2	(1)	
Admin Buildings	30	41	33	(8)	
Support Services	111	56	56	0	
IS Recharge	7	15	23	8	
Capital Charges	2	2	2	0	
Tables and Chairs**	27	27	27	0	
Directorate Recharge	24	24	20	(4)	
<b>Total Capital and Support Services</b>	<b>203</b>	<b>168</b>	<b>163</b>	<b>(5)</b>	(ii)
<b>Total</b>	<b>121</b>	<b>48</b>	<b>43</b>	<b>(5)</b>	

\* Latest Approved Budget as reported to your Committee in October 2015

\*\* Recharge from Planning & Transportation Committee.

Notes

- (i) Transfer of Late Night Levy contingency to specified budget for agreed spend.
- (ii) The recharge budgets reported to your Committee in October 2015 were estimates based largely on the previous year's outturn, as the majority of recharges had not yet been finalised by central departments at that stage due to the overall timing of the budget setting process. The subsequent movements are therefore due to the finalisation of those recharge budgets.

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<b>Committee(s)</b>	<b>Dated:</b>
Licensing	11 07 2016
<b>Subject:</b> Delegated decisions of the Director of Markets and Consumer Protection pertaining to premises licences.	<b>Public</b>
<b>Report of:</b> Director of Markets and Consumer Protection	<b>For Information</b>
<b>Report author:</b> Peter Davenport - Licensing	

## Summary

This report details the premises licences, and variations to premises licences, granted under the Licensing Act 2003 by the Licensing Service from 1 April 2016 to 19 June 2016. 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.

The report gives a summary of the enforcement action taken under the Licensing Act 2003 between 1 April 2016 and 19 June 2016. This report also presents data from the 'traffic light' risk scheme introduced within the City of London on 1 April 2013. The data covers the period 1 November 2015 to 30 April 2016.

## Recommendation(s)

Members are asked to:

Note the report

## Main Report

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 April 2016 and 19 June 2016. Each of these appendices contain details of any conditions attached to the premises licences.
2. The report also contains information appertaining to the number of personal licences issued. This information is also contained in Appendix II.
3. Any questions of detail concerning premises licences can be obtained from the Corporation's public register which can be found on:

<http://www.cityoflondon.gov.uk/business/licensing/alcohol-and-entertainment/Pages/Search-the-public-register.aspx>.

or by contacting Peter Davenport, Licensing Manager, on extension 3227 or by email to the Licensing Team at [licensing@cityoflondon.gov.uk](mailto:licensing@cityoflondon.gov.uk).

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 April 2016 to 19 June 2016.
6. Licensing Officers undertake routine enforcement visits checking on premises licence conditions where there are concerns, e.g. closing times, compliance with Temporary Event Notices and managing numbers of people consuming alcohol outside venues, and also in response to complaints. The Departmental Policy Statement on Enforcement is followed prior to escalating action and taking legal proceedings.
7. The Departmental Policy Statement on Enforcement conforms to the Regulators' Compliance Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006. It sets out the general principles and approach which Officers are expected to follow and addresses issues of proportionality, consistency, targeting, transparency and accountability.
8. More widely, enforcement arrangements are currently coordinated at the Licensing Liaison Partnership meetings that are held monthly and are attended by representatives from all enforcement agencies. Joint visits are organised via this forum and subsequent reports are used to add to the top level premises list that comprises those premises that have accrued the most points under the 'traffic light' risk scheme. These are then targeted by relevant enforcement officers.
9. This report details data produced from the 'traffic light' risk scheme for the period of 1 November 2015 to 30 April 2016. Two premises have a sufficient number of points to be classified as 'red' and seven premises have a sufficient number of points to be classified as 'Amber'. Further details can be seen in Appendix IV.
10. There is a very good working relationship between the Port Health & Public Protection (PH&PP) Licensing Team, The City of London Police Licensing Team and the PH&PP Pollution Control Team, all of whom are based at Walbrook Wharf.
11. The Memorandum of Understanding (MoU) between the City of London Police and the Markets and Consumer Protection Department agreed in November 2011 outlines specific arrangements for cooperation between the Licensing Teams.
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 so, officers from this Department seek authorisation to take the appropriate enforcement action.

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 will 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.

### **Appendices**

- Appendix 1 – New Licence Applications issued between 1 April 2016 and 19 June 2016
- Appendix 2 – Applications to vary a licence issued between 1 April 2016 and 19 June 2016
- Appendix 3 - Enforcement Action carried out between 1 April 2016 and 19 June 2016 (Including complaints received)
- Appendix 4(Non-Public) – Premises reaching red and amber on the risk scheme between 1 November 2015 and 30 April 2016.

### **Background Papers**

None

### **Peter Davenport**

Licensing Manager

T: 020 7332 3227

E: [peter.davenport@cityoflondon.gov.uk](mailto:peter.davenport@cityoflondon.gov.uk)

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## Appendix I

### New Licence Applications Issued by way of Delegated Authority (01 April – 19 June 2016)

Name	Address	Ward	Details
Marks & Spencer	9-10 Ludgate Circus	Castle Baynard	A 21:00
Weil Gotshal & Manges	110 Fetter Lane	Farringdon W/out	A, L 00:00
Proposed Dev Site	27-32 Poultry	Walbrook	A, L, (b),(c),(d),(e),(f),(g) 05:00
Kitty Hawk	11 South Place	Coleman St	A, L 01:30
Coppa Club	40 Lower Thames St	Tower	A, L, (e), (f) 02:00
The Livery Hall	5-7 St Helens Place	Lime Street	A, L, (a),(b),(e),(f),(g) 00:00
Hachette UK Ltd	50 Victoria Embank't	Castle Baynard	A 23:00
Flavour Garden	70 Mark Lane	Tower	A, (f) 23:00
Octagon Point	5 Cheapside	Bread Street	A 00:00
Essentials	45 London Wall	Coleman St	A 23:00
Royal Exchange Grind	34 Royal Exchange	Cornhill	A 23:00
Jackson & Rye	30 Old Jewry	Walbrook	A, L, (f) 01:30
Leon	13-15 Leadenhall Mkt	Lime Street	A, L 00:00
Smiths of Smithfield	25 Walbrook	Walbrook	A, L 01:30
Ed's Easy Diner	Mezzanine Liv St	Bishopsgate	A, L, (f) 01:00

Total Licences Issued = 15

Key to Details:

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

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

#### Number of Licences by Ward

WARD	No.	WARD	No.
Bishopsgate	1	Farringdon w/out	1
Bread Street	1	Lime Street	2
Castle Baynard	2	Tower	2
Coleman Street	2	Walbrook	3
Cornhill	1		

## Conditions Applied to Licences Granted by way of Delegated Authority

### Marks & Spencer

1. The premises shall install and maintain a comprehensive digital colour CCTV system. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days. A staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.

2. A Challenge 25 Scheme shall operate to ensure that any person attempting to purchase alcohol who appears to be under the age of 25 shall provide documented proof that he/she is over 25 years of age. Proof of age shall only comprise a passport, a photo card driving licence, an EU/EEA national ID card or similar document, or an industry approved proof of age identity card.

### Weil Gotshal

1. None

### Development Site

1. There shall be no sales of alcohol for consumption off the premises after 23.00 hours.

2. There shall be no sale of alcohol in unsealed containers for consumption off the premises.

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

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

- (a) all crimes reported to the venue
- (b) all ejections of customers
- (c) any incidents of disorder (disturbance caused either by one person or a group of people)
- (d) seizures of drugs or offensive weapons
- (e) any faults in the CCTV system or searching equipment or scanning equipment
- (f) any refusal of the sale of alcohol during the hours the premises is licensed to sell it.

5. There shall be a minimum of 2 SIA licensed door supervisors engaged to control entry to the premises at all times (1 at each entrance at Poultry and Princes Street).

6. The external spaces on the 5<sup>th</sup> floor terraces, the roof garden and the roof terraces shall be closed to patrons between the hours of 23.00 and 07.00.



7. There shall be no promoted events on the premises. A promoted event is an event involving music and dancing where the musical entertainment is provided at any time between 23:00 and 07:00 by a disc jockey or disc jockeys one or some of whom are not employees of the premises licence holder and the event is promoted to the general public.
8. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.
9. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly.
10. Customers permitted to temporarily leave and then re-enter the premises e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
11. The Licence holder shall make available a contact telephone number to nearby residents and the City of London Licensing Team to be used in the event of complaints arising.
12. A 'Challenge 21' Scheme shall operate to ensure that any person attempting to purchase alcohol who appears to be under the age of 21 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, a photo card driving licence, an EU/EEA national ID card or similar document, or an industry approved proof of age identity card.
13. There shall be no self-service of alcohol on the premises, except for in the guest bedrooms.
14. An additional hour may be added to all standard and non-standard times permitted by this licence for boxing/wrestling and indoor sports events on the day that British Summertime commences with the exception of sale of alcohol.

### **Kitty Hawk**

1. The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points and the street environment, will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.
2. Promoted events will not be held at the premises. A promoted event is an event involving music and/or dancing where the musical entertainment is provided at any time by a disc jockey or disc jockeys one or some of whom are not employees of the licensee (premises licence holder) and/or the event is (independent of the licensee) promoted to the general public.

### **Coppa Club**

None

### **The Livery Hall**

None

### **Hachette**

1. The general public shall not be admitted to the premises to partake in any licensable activities. Licensable activities will be provided only for employees of the premises licence holder, subsidiary companies, agents, servants and invited guests.

2. The premises shall maintain a CCTV system. The ground floor reception and communal areas will be covered. Recordings shall be kept available for a minimum of 31 days. A staff member who is conversant with the operation of the CCTV system shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.

### **Flavour Garden**

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

### **Octagon Point**

1. The premises shall install and maintain a comprehensive CCTV system that will cover reception, every floor, and the lounge (where any events would be).

### **Essentials**

1. The premises shall install and maintain a comprehensive CCTV system. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.

### **Royal Exchange Grind**

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

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

### **Jackson & Rye**

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

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

### **Leon**

1. All alcohol purchased for consumption off the premises will be in sealed containers and as part of a takeaway meal, other than drinks purchased for consumption in the outside area shown on the drawing attached to this premises licence.

2. The supply of alcohol for consumption on the premises shall only be to customers seated at tables.

3. The supply of alcohol shall be by counter staff and/or waiter/waitress service.

### **Smith's**

1. In the rear area of the premises hatched in green on plan number 1340 \_011, alcohol shall only be sold to a person sitting down eating a meal and for consumption with that meal.

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

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

### **Ed's Easy Diner**

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

## Appendix II

### Licence Variations Issued by way of Delegated Authority (01 Apr-19 Jun 2016).

Name	Address	Ward	Variation
The Three Tuns	36 Jewry Street	Tower	<ul style="list-style-type: none"> <li>• Changes to plans to include a roof terrace</li> <li>• Removal of 'carry over' conditions</li> <li>• Addition of CCTV condition and conditions restricting use of roof terrace</li> </ul>
Mermaid Theatre	Puddle Dock	Castle Baynard	<ul style="list-style-type: none"> <li>• Increase in capacity of premises</li> </ul>
Victorian Bathhouse	7-8 Bishopsgate	Bishopsgate	<ul style="list-style-type: none"> <li>• Terminal hour for alcohol extended to 02:00</li> <li>• Terminal hour for LNR extended too 02:30</li> </ul>
Tokenhouse	4 Moorgate	Coleman Street	<ul style="list-style-type: none"> <li>• Alcohol sales to commence at 07:00 from 10:00.</li> </ul>

Total Number of Variations = 4

#### Number of Licences by Ward

WARD	No.		
Bishopsgate	1	Coleman Street	1
Castle Baynard	1	Tower	1

#### Conditions Applied to Licences Granted by way of Delegated Authority

##### **The Three Tuns**

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

2) Speakers shall not be located in the roof terrace area.

3) After 23:00 hours no customer is permitted to use the roof terrace for any purpose.

4) The sale of alcohol is permitted from opening time on New Year's Eve until closing time on New Year's Day.

**Mermaid Theatre**

None

**Victorian Bathhouse**

1) After 01:00 every day, all licensable activities will only be available to persons attending private, pre-booked functions.

**Tokenhouse**

None

**Personal Licences Issued by way of Delegated Authority**

01 April 2016 – 19 June 2016

6

**Enforcement Action Carried out Under the Licensing Act 2003  
1 April 2016 – 19 June 2016**

Total Number of Inspections	35
Number of Warning Letters	7
Number of Premises advised	19
Number of simple cautions	0
Number of suspension notices	7
Licence lapsed*	1
‘Dead’ Suspensions**	3
‘Live’ Suspensions***	3
Suspension imminent	3

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

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

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

**Number of Complaints received between 1 April 2016 and 19 June 2016**

**Outcome Code**

**No action possible** - Complaint unjustified or unsubstantiated

**Resolved Informally** - Complaint justified but not statutorily actionable - informal action taken results in satisfactory outcome.

**Resolved / Compliance** - Complaint justified and statutorily actionable; formal or informal action taken results in satisfactory outcome.

**Unresolved** - Noise not reduced or controlled, nor have preventive measures to prevent recurrence been implemented.

Number of complaints received between

01/04/2016 and 19/06/2016

Total number of complaints: 12

Details	Date	Time	Outcome	Ward
1 Lombard Street, Restaurant, 1 Lombard Street, London, EC3V 9AA				
Noisy waste collections early in the morning and late at night.	14/06/2016	15:05	Case still in progress	Walbrook
Dion Winebar, Retail Unit 2, Paternoster House, 65 St Paul's Churchyard, London, EC4M 8AA				
Complaint of loud music	No date provided	00:05	Resolved informally	Bread Street
Harpers, 14 New London Street, London, EC3R 7NA				
Music noise from PH and warned by Police to control noise.	09/05/2016	12:08	Resolved informally	Tower
Natural Kitchen, 171-176 Aldersgate Street, London, EC1A 4HT				
Complaint about extractor fan noise.	13/04/2016	22:34	Resolved informally	Farringdon Within
Madison, Roof Terrace Restaurant, 1 New Change, London, EC4M 9AF				
Complaint of loud music	21/05/2016	15:57	Resolved informally	Bread Street
Complaint of loud music	04/06/2016	17:52	Resolved informally	Bread Street
Padron T/a Japanese Canteen, 13 Harrow Place, London, E1 7DB				
People and music noise	10/06/2016	22:35	Case still in progress	Portsoken
Patch, 58-62 Carter Lane, London, EC4V 5EA				
Noise form music and patrons	13/06/2016	10:27	Resolved informally	Farringdon Within
Noise form music and patrons	06/06/2016	22:49	No action possible	Farringdon Within
The Butcher's Hook and Cleaver, The Butcher's Hook And Cleaver Public House, 61 West Smithfield, London, EC1A 9DY				
Complaint of people noise from guests at the Butchers Hook & Cleaver PH, West Smithfield	11/06/2016	22:22	Case still in progress	Farringdon Within
The Shakespeare, The Shakespeare Public House, 2 Goswell Road, London, EC1M 7AA				
Complaint of loud music	20/05/2016	19:30	Ceased not likely to reoccur	Cripplegate
Williams Ale and Cider House, 22-24 Artillery Lane, London, E1 7LS				
Complaint was for another unit and was visited by SEOs	19/06/2016	10:20	Case still in progress	Bishopsgate



<b>Committee(s)</b>	<b>Dated:</b>
Licensing	11 July 2016
<b>Subject:</b> Licensing Act 2003: Review of Statement of Licensing Policy	<b>Public</b>
<b>Report of:</b> Director of Markets and Consumer Protection	<b>For Decision</b>
<b>Report author:</b> Peter Davenport - Licensing	

## Summary

The City of London Corporation in its capacity as Licensing Authority published its first statutory Statement of Licensing Policy under the Licensing Act 2003 in January 2005. Subsequent reviews were published in January 2008 and again in January 2011 and January 2013.

Although not statutorily due for a further review until 2018 it was felt that due to changes in the Corporation's policies and procedures, improvements to the code of practice and major legislative changes to the Licensing Act 2003 there was a need to revise and update the Statement of Licensing Policy sooner.

The revised draft text of the Policy is appended to this report with a timescale for consultation and publication. Following consultation the revised final Policy will be brought back for final discussion and agreement by your Committee on 26 October 2016.

Appendices to the Policy have not been included in this report as they have not changed and are documents you will be familiar with. They will be included in the consultation and future reports to your Committee.

## Recommendation(s)

Members are asked to:

- Agree the draft Licensing Policy for consultation.
- Agree the time table and methodology to determine the final text and adoption of the Statement of Licensing Policy

## **Main Report**

### **Background**

1. As part of the implementation of the Licensing Act 2003 the City of London Corporation, in its capacity as Licensing Authority, published its first statement of licensing principles in January 2005. This document was agreed by your Committee in November 2004. Final approval by Common Council was granted the following month with the document being formally published on the statutory day of 7 January 2005.
2. The legislation stated that licensing authorities must review and republish the statement of licensing policy every three years. A subsequent review was undertaken and agreed by your Committee to reflect the new period that commenced in January 2008 and again in January 2011.
3. The Licensing Act 2003 was amended in April 2012 which extended the period between policy reviews from three to five years. The current City Corporation Policy was reviewed earlier than the statutory time limit in January 2016 to update it following changes in legislation and internal procedures.
4. However, since the current Statement of Licensing Policy was adopted in January 2016 there have again been significant changes to the Licensing Act 2003 and the policies and procedures operated by the licensing team including improvements to the safety third scheme. These should all be reflected in the text of the Policy.

### **Current Position**

5. The licensing policy provides transparency for everyone including local residents and businesses, who will be able to refer to the policy when making representations, and applicants for premises licenses when preparing their applications. The Government recommend that the policy should also describe how the licensing authority's approach to licensing will be integrated with local council planning, crime prevention, transport and cultural strategies and any action plan or strategy for the management of the evening economy. The statements should also avoid duplicating other requirements e.g. health and safety regulations which already place a range of general duties on employers and license holders.
6. The text of the current policy has been amended to reflect the changes made since its last adoption whilst still meeting the above criteria. It is attached to this report as Appendix 1.
7. The main changes to the policy are as follows:
  - A change of layout to make it easier to find areas of interest to the reader

- Changed text to reflect recent legislative changes (throughout)
- New sections on cumulative impact, late night levy and licensing hours
- Greater in-depth information on TENs
- Further emphasise on the importance of fully completing an application's operating schedule

## **Proposals**

8. When revising its licensing policy it is a legal requirement for a licensing authority to consult the following:-
  - The Chief Officer of Police for the licensing authority's area,
  - The Fire and Rescue Authority for that area,
  - Each Primary Care Trust or Local Health Board for an area any part of which is in the licensing authority's area,
  - Each local authority whose public health functions are exercisable in respect of an area any part of which is in the licensing authority's area,
  - Such persons considered to be representative of holders or premises licences issued by the licensing authority,
  - Such persons considered to be representative of holders of club premises certificates issued by the licensing authority,
  - Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority,
  - Such other persons as the licensing authority considers to be representative of businesses and residents in its area

The City Corporation will fulfil these statutory obligations as far as its area of jurisdiction is concerned.

9. Consultees will be sent a copy of the amended policy and asked if there are any changes they would like to see incorporated. This process will start on Thursday July 21 2016 and finish on Thursday September 29 2016. In addition to those persons mentioned above, details of the consultation will be placed on the Corporation's web site.
10. Once the consultation is complete the responses will be considered and the Statement of Licensing Policy further amended where considered appropriate. A copy of this amended policy will be sent to the Licensing Reference Sub-Committee for their comments and to finalise any text.

11. The final report will then go before your committee on 26 October 2016 for final agreement and then be formally adopted by the Court of Common Council on 8 December 2016. This is a mandatory process to comply with statutory requirements.

### **Corporate & Strategic Implications**

12. The proposals within this report will meet one of the objectives contained within the Licensing Business Plan for 2016/17, namely, 'Produce and publish a revised Statement of Licensing Policy under the Licensing Act 2003.'
13. The licensing policy is also in line with the City's Core Strategy in protecting amenities of the residential population.

### **Implications**

14. There are no direct financial or risk implications for the Corporation's services associated with this report. Costs for the publication of the new policy can be met within current budget.

### **Appendices**

- Appendix 1 – Statement of Licensing Policy 2017

### **Background Papers**

- Licensing Act 2003 Section 182 Guidance

### **Peter Davenport**

Licensing Manager

T: 020 7332 3227

E: [peter.davenport@cityoflondon.gov.uk](mailto:peter.davenport@cityoflondon.gov.uk)

City of London Corporation

**STATEMENT OF  
LICENSING  
POLICY 2017**

Licensing Act 2003



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Appendices: ***(Not included for the purpose of this report)***

i	Code of Good Practice
ii	'Traffic Light' Risk Scheme
iii	Model Conditions
iv	Mandatory Conditions
v	Licensing Exemptions
vi	Persons Consulted
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# FOREWORD

To Be Added

# SCOPE

1. The Licensing Act 2003 (the 'Act') relates to the sale of alcohol, the provision of certain entertainment and late night refreshment.
2. Activities that require a licence under the Licensing Act 2003 and covered by this Policy Statement include:
  - a) retail sale of alcohol
  - b) supply of hot food or drink from premises from 23.00 to 05.00 hours
  - c) supply of alcohol to club members
  - d) provision of entertainment listed below (known as regulated entertainment) to the public or club members or with a view to profit:
    - i. film exhibitions
    - ii. performance of a play
    - iii. indoor sporting events
    - iv. a boxing or wrestling entertainment
    - v. some live music performances
    - vi. playing of recorded music
    - vii. dance performances
    - viii. provision of facilities for making music
    - ix. provision of dancing facilities
3. The Live Music Act 2012, which came into effect on 1 October 2012, removes the licensing requirements for certain types of live music performances. The exemptions are set out in Appendix X of this document.
4. There are a number of other activities that are exempt from the licensing requirement, details of which are also set out in Appendix X of this document.
5. The Act prescribes:
  - a) personal licences which cover the licensing of individuals for the retail sale of alcohol
  - b) premises licences which cover the retail sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment
  - c) club premises certificates which are required to allow the supply of alcohol or the provision of regulated entertainment to certain clubs
  - d) temporary event notices which are required for certain licensable activities on a temporary basis
6. The scope of the Policy Statement covers new applications, transfers and variations of premises licences and club premises certificates, temporary event notices and renewals where applicable. It also includes the policy on the review of licences and certificates which could lead to revocation of the premises licence.



- 7 In general, a reference in the Policy Statement to a premises licence will include a club premises certificate. This policy Statement will cover the period January 2017 to January 2022 but may be amended if there are significant changes in City policy, legislation or case law.
- 8 In carrying out its licensing functions, the authority will promote the licensing objectives set out in the Act. These are:
  - a) the prevention of crime and disorder
  - b) public safety
  - c) the prevention of public nuisance
  - d) the protection of children from harm
- 9 To achieve these objectives, the authority will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The authority will enter into appropriate partnership arrangements, working closely with the Police, Planning Department, the Fire Authority, local businesses, community representatives and local people in meeting these objectives.

# INTRODUCTION

10. The City of London is the world's leading international financial and related business services centre – a global powerhouse at the heart of the UK's financial services. It provides dedicated services to the City, from maintaining its infrastructure to top level economic development, as well as carrying out all the services expected of a local authority. It also provides services that affect people outside its geographical boundary – making a contribution to both regional and national prosperity.
11. Although the City is predominantly a business area, there are significant pockets of residential accommodation. In addition to the well-established, concentrated housing developments at the Barbican, Golden Lane, Mansell Street and Middlesex Street, there are smaller scale residential areas including Queenhithe, the Temples, Carter Lane and parts of Smithfield. Residential development has also occurred on a scattered basis in the rest of the City, often involving the redevelopment and conversion of former business premises.
12. The City of London is unlike the vast majority of other licensing authorities in that the ratio of residents to the number of persons coming into the City of London to work and socialise is quite small. It is however vital that their residential amenity is protected and this is emphasised in the City's Core Strategy which aims 'To protect existing housing and amenity and provide additional housing in the City, concentrated in or near existing residential communities...'.
13. The City Corporation fully supports the provision of recreational and cultural activities and sees these as being of great benefit to the community, especially people working in a high pressure business environment. To this end, the City Corporation is the third biggest sponsor of the arts in the country, after the Government and the BBC. The LDF Core Strategy contains two specifically relevant strategic policies encouraging, where appropriate, the provision of a wide range of public and private recreational, art, heritage and cultural facilities.
14. The City Corporation aims to reconcile all these facets of life in the City to minimise the potentially damaging tensions that could arise between the business, residential and leisure communities. This Policy Statement sets out the framework within which the City Corporation will consider, where it can, the grant of licences for activities controlled by the Licensing Act 2003.

## Legal Background

15. The Licensing Act 2003 (the 'Act') repealed most of the previous legislation relating to liquor, entertainment and night café licensing and replaced it with a totally new licensing regime. In respect of liquor licensing, responsibility

was transferred from the Magistrates Court (Licensing Justices) to local authorities.

16. This gives the City Corporation authority to grant or reject applications for the sale of liquor, the provision of entertainment or late night refreshment. Conditions designed to ensure public safety, protect children from harm, prevent crime and disorder and public nuisance can be attached to licences. For example, to prevent residents or businesses being disturbed, the City Corporation may restrict licensed hours where it can be shown to be appropriate. However, the ability of local authorities to take decisions is limited either by provisions in the Act, Regulations made under the Act or by guidance from the Home Office (see also paragraph 34).
17. The City Corporation is legally obliged to have regard to the Home Office guidance. The City Corporation may, however, if it is considered appropriate, deviate from the guidance but would need good reason to do so. This Policy Statement takes full account of the current Home Office guidance.
18. In addition, in formulating this Policy Statement, the City Corporation has had regard to the provisions of the European Convention on Human Rights that everyone has the right to respect for his home and private life and that every person is entitled to the peaceful enjoyment of his possessions. The Human Rights Act 1998 makes it unlawful for a public authority to act in a way that is incompatible with a convention right. Consequently, an aim of this Policy Statement, particularly in relation to the decision-making process of the City Corporation, is to ensure that a licensing decision does not breach such a right.
19. The Equality Act 2010 and prior legislation requires the City to give due regard to the elimination of unlawful discrimination when exercising its public duties, to promote equality and good relations between people who share and do not share a particular protected characteristic.
20. The Equality Act 2010 defines a number of protected characteristics and generally provides that no one should be discriminated against or subject to less favourable treatment on the basis of these characteristics. The characteristics are age, disability, ethnicity & race, gender, gender reassignment, marriage or civil partnership status, pregnancy or maternity status (including nursing mothers), religious or philosophical belief or non-belief and sexual orientation. It also ensures rights of access to everyday facilities and services and, in the context of disability, may require service providers to consider making permanent physical adjustments to their premises.
21. The City Corporation will expect licensees to be familiar with the contents of any codes of practice issued by the government under the Equality Act 2010.
22. The City Corporation has taken account of the provisions of the Crime and Disorder Act 1998. This requires local authorities to have regard to the likely

effect of the exercise of their functions on crime and disorder in their area and to do all they can to prevent such crime and disorder.

23. The Policing and Crime Act 2009 introduced further powers for local authorities regarding the regulation of lap-dancing and other sexual entertainment venues. It also contains provisions on alcohol misuse and imposed new mandatory licensing conditions (see Appendix X for all the current mandatory conditions).
24. The City Corporation has taken account of the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012, which both brought in legislative changes to the Licensing Act 2003. The changes have been reflected in this policy.
25. The Licensing Act requires that licensing authorities consult with other responsible authorities and representatives of licensees of all types, together with representatives of local residents and businesses. The City Corporation will have regard to the views of these persons in the determination of this policy and its periodic review. Those persons consulted prior to the introduction of this policy can be seen in Appendix X.

## Licensing hours

26. In the night time economy the terminal hour is often a significant factor in determining the nature of the venue.
27. The Licensing Authority has not set framework hours believing that it is best placed to make decisions about appropriate opening hours in the area based on its local knowledge, in consultation with the responsible authorities and other persons. However, residents have a reasonable expectation that their sleep will not be unduly disturbed between the hours of 23.00 and 07:00.
28. In preparing the operating schedule applicants who wish to provide licensable activities between these hours should have particular regard to:
  - a) The location of the premises, the proximity of residents or other sensitive receptors and the character of the area in which they are located
  - b) The proposed hours during which licensable activities will take place
  - c) The adequacy of the applicant's proposals to prevent crime and disorder and prevent public nuisance
  - d) How customers will arrive and leave the premises and the use of public transport, taxis etc.
  - e) Policies and proposals for the orderly dispersal of customers
29. Applications that give rise to particular concern are those that operate during the daytime and early evening as a restaurant style venue and then as the evening progresses become alcohol led, changing significantly in nature. For applications such as these that are subject to a hearing, the Licensing Authority will impose conditions appropriate to the style of operation and category of the business.
30. When the current licensing regime passed to local government in 2005, one of the aims was to prevent concentrations of patrons exiting the premises at 23:00 as happened under the inflexible licensing hours of the previous liquor licensing arrangements. The Government has abolishing fixed licensing hours in favour of hours suitable for individual premises.
31. In areas containing a number of licensed premises, the policy of the City Corporation will be to encourage licensees to vary their closing times so that patrons leave for natural reasons over a longer period. Notwithstanding that, each application will be determined on its merits. (See also section x 'Cumulative Impact')
32. In relation to shops, supermarkets and stores the Licensing Authority will look to allow opening hours the same as the other retail part of the premises, for sales of alcohol for consumption off the premises.
33. However, limitations may have to be imposed in the case of premises known to be a focus of disorder, in particular following police representations about the premises. The control of hours for the sale of alcohol may have to be used in order to meet the licensing objectives.

## MAKING AN APPLICATION

- 34 The City of London Licensing Authority only has discretion on whether to grant applications for new premises licences or variations to licences, or to impose conditions on granting or varying licences, if representations relevant to the licensing objectives are made by 'responsible authorities' or by 'other persons'. If no representations are received the Licensing Authority must grant all applications for premises licences.
- 35 Applicants for premises licences and club premises certificates are required to complete an operating schedule to accompany their application. In completing the operating schedule, applicants should set out in some detail how they intend to run the premises in order to promote the four licensing objectives. Applicants are expected to have regard to this statement of licensing policy when completing their operating schedules.

In all cases, the granting of a licence will depend on the impact of an activity, particularly on local residents or late night businesses. Consideration will be given to relevant matters including, but not limited to, the level of noise and vibration, litter, people coming and going, queuing and any potential for criminal activity or disorder.

- 36 The City Corporation takes note of the nuisance and potential danger to pedestrians and particularly to disabled people and those using access equipment or items such as pushchairs by the obstruction of the highway, which includes the footway, by customers of the licensed premises smoking, drinking and eating on the public highway.
- 37 The City Corporation will expect that all operating schedules indicate in detail the steps an applicant is taking to comply with the licensing objectives.
- 38 Any operating schedule submitted in respect of premises shall include proposed times of operating and details of how the applicant intends to comply with the licensing objectives and in particular, how the outside areas will be managed to prevent noise, smell, or obstruction nuisance to neighbours and the public
- 39 The City Corporation will expect:
- a) all applications to be accompanied by a covering statement explaining in some detail the nature of the proposed operation. If the application is for a licence variation, the statement must also set out the reasons for the variation and whether there are any proposals to change the nature of the operation at the premises
  - b) all applicants to address the licensing objectives in their operating schedule which they are required by the Act to prepare

- c) all applications to be accompanied by a plan scaled at 1:100 in electronic format together with a hardcopy on A3 size paper using colour where necessary
- d) the operating schedule to have regard to the nature of the area where the premises are situated, the proximity of residents or other sensitive receptors, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community
- e) the applicant to demonstrate in the operating schedule that they have taken appropriate measures to ensure that the premises will be 'good neighbours' and where appropriate demonstrate that consideration has been given to arrangements for the quick, safe and quiet dispersal of customers from their premises
- f) applicants will complete their own detailed risk assessments on their businesses using the Code of Good Practice for licensed premises as a guide
- g) any proposed changes to the operating schedule, including change of use, to be notified to the Licensing Authority and, depending on the nature of the changes proposed, the Licensing Authority may require a new premises licence application or the submission of an application to vary the existing licence

- 40 A failure to complete the operating schedule in sufficient detail could result in representations being made against the application.
- 41 The City Corporation has produced a Code of Good Practice for Licensed Premises to assist applicants in completing their operating schedules for the promotion of the four licensing objectives. The Code forms part of the City Corporation's statement of licensing policy and is attached as Appendix X to this document. The City Corporation will expect all applicants to have regard to the Code and to make a positive commitment to preventing problems from occurring at their premises.
- 42 In order to reduce the number of representations and the cost for all parties in having to attend a hearing, applicants are strongly urged to attend a pre-application meeting with officers of the City of London. This will give the applicant the opportunity to discuss any issues with the licensing officers and if necessary, the police and environmental health. Officers can discuss all aspects of the application and compliance with the City of London Licensing Policy to pre-empt any unnecessary representations and hearings.
- 43 The costs falling on all parties can be materially reduced if the applicant has early and detailed discussions with local residents in order to prevent representations from being made. Almost all representations made against the granting of a licence are made either by 'responsible authorities' or local residents.



## **Notification of new applications**

44. It is the policy of the City Corporation that it will always endeavour to make all those affected by an application aware of applications and of the opportunity to make representations. In doing so, every application for a premises licence will be required to be advertised by both the licensing authority and the applicant which will bring the details of the application to the notice of residents and other persons.
45. In addition to statutory requirements, the licensing authority will advertise all new licence applications, applications to vary existing licences and Temporary Event Notices on the City of London web site. We will also notify any person by email the details of new licence and variation applications where a person so requests to be kept informed.
46. Representations must be relevant and not vexatious or frivolous. To be relevant the representation will be accepted if it relates to the likely effect of the grant of a licence on the promotion of at least one of the licensing objectives. In other words representations should relate to the impact of licensable activities carried on from premises on the objectives. Representations based on vague references to what may happen if the licence is granted will almost certainly not be considered relevant.
47. Representations that are founded in whole or in part on stereotypical comments that are based on nothing more than protected characteristics as defined by the Equalities Act 2010, will be treated as vexatious and not considered relevant representations.
48. The grant of a licence could have a significant impact on the lives or businesses of those living or working in the area around the premises for which a licence is sought. It is only right, therefore, that all those likely to be affected by an application are made aware of it and of the opportunity to make representations.

## **Personal Licence Applications**

- 49 The City Corporation recognises it has little discretion regarding the granting of personal licences. In general provided an applicant has a qualification, accredited by the Secretary of State or a certified equivalent, and does not have certain serious criminal convictions, the application is required to be granted.
- 50 If an applicant has a relevant conviction the Police may oppose the application, in which case a hearing will be held.
- 51 Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the City Corporation under the Crime and Disorder Act 1998. A person holding a personal licence should be properly qualified and be able to assist the action against crime. Granting a licence to a known



criminal will in many cases undermine rather than promote the crime prevention objective.

- 52 At any hearing the licensing authority will consider the seriousness and relevance of the disclosed conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The City Corporation will refuse the application if it is satisfied that granting it would not promote the licensing objectives.

## CRIME AND DISORDER

- 53 This section details criteria that the applicant should have in mind when drawing up an operating schedule in relation to 'The Prevention of Crime and Disorder' licensing objective. The criteria apply to all applications and will be a consideration when responsible authorities or 'other persons' are deciding whether to make representations or whether to call for a review.
- 54 The City of London Licensing Authority sees the Police as the main source of advice on crime and disorder. The Authority also work closely with the Safer City Partnership and co-operate with other bodies such as the Security Industry Authority (SIA).
- 55 The following are matters that the Licensing Authority will seek advice particularly from the Police:
- a) The levels of crime and disorder currently experienced in and around the premises.
  - b) Whether suitable use of CCTV is proposed both inside and outside the premises.
  - c) Any measures in place that promote sensible drinking and discourage excessive drinking and drunkenness.
  - d) The management competency of designated premises supervisors and licence holders in circumstances where poor management competency could give rise to issues of crime and disorder and/or public safety.
  - e) The use of SIA registered door supervisors where appropriate.
  - f) Search policies for the detection of drugs and weapons where appropriate.
- 56 Of particular relevance to the prevention of Crime and Disorder is the number of problems associated with premises operating promoted events. A promoted event is defined as, 'an event involving music and/or dancing where the musical entertainment is provided at any time by a disc jockey or disc jockeys one, or some, of whom are not employees of the premises licence holder and/or the event is (independent of the premises licence holder) promoted to the general public.'
- 57 Where it is considered that operating a promoted event could give rise to issues of crime and disorder it is expected that these matters are to be addressed in the operating schedule. If the premises are deemed not suitable to operate a promoted event a 'No Promoted Events' condition would expect to be found.
- 58 If it is the intention to run promoted events the Licensing Authority would expect to see in the operating schedule:
- a) a comprehensive risk assessment undertaken by the licence holder to ensure that crime and disorder and public safety matters are identified and addressed

- b) that the appropriate City of London Police Promoted Event Risk Assessment Form be used for each event and submitted to the Police at least 14 days before the event takes place
  - c) that promoters have obtained BIIAB Level 2 for Music Promoters
  - d) that the door supervisor per customer ratio should be 1 : 50
- 59 Recent surveys indicate the use of illegal drugs is still prevalent within premises licensed to sell alcohol. This is particularly true of what are often referred to as 'recreational drugs' with the range of substances increasing. The misuse of such drugs holds grave danger and has led to fatalities.
- 60 Other factors may have contributed to these deaths, such as a lack of drinking water, excessive drinking of water, an overly hot environment with inadequate ventilation, or a lack of adequate information about drugs.
- 61 Drugs alter the way people behave, so their distribution and possession is controlled by law. Controlled drugs are usually manufactured and supplied illegally, which attracts criminal involvement in their distribution. Drugs manufactured illegally often vary in quality and strength which puts people taking such drugs in further danger.
- 62 The City Corporation recognises that drug use by young people in a club environment is not something that applies to all licensed premises. However, many entertainment venues, such as night clubs and dance venues, can be popular with both drug users and suppliers.
- 63 In particular, the City Corporation will expect licensees of such venues to be familiar with the contents of Chapter 4 (drug awareness) of the BIIAB Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook. The BIIAB is a legal entity, and is the British Institute of Inn Keeping Awarding Body. The City Corporation will also expect licensees to be following the recommendations of the book 'Safer Clubbing' issued by the London Drug Policy Forum and endorsed by the Home Office.

The City Corporation will expect licensees of venues to take all reasonable steps to prevent the entry of drugs into premises under their control, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent tragedies as a result of drug misuse by way of management and design of the premises.

Failure to follow these recommendations, and those set out in the Code of Good Practice for Licensed Premises, on a voluntary basis could lead to the licence being reviewed with the possibility of revocation.

- 64 The City of London Corporation runs a Safety Thirst scheme whereby licence holders can show their premises are operating in a way that promotes the four licensing objectives. It is recognised by the Licensing Authority that premises which meet the safety thirst criteria are less likely to cause problems which will be looked at favourably if ever they were to come before a licensing hearing.

# PUBLIC SAFETY

- 65 This section details criteria that the applicant should have in mind when drawing up an operating schedule in relation to the 'Public Safety' licensing objective. The criteria apply to all applications and will be a consideration when responsible authorities and 'other persons' are deciding whether to make representations or whether to call for a review.
- 66 Public safety is about protecting the safety and the lives of patrons. It is the wish of the City Corporation that anyone visiting a licensed venue in the City can do so in complete safety and premises may be inspected to ensure that they have been constructed with safety in mind and are well managed and maintained. The City of London Licensing Authority sees the London Fire Service as one of the main sources of advice on public safety.

The City Corporation will expect:

- i) the premises to be presented to the highest possible standards of safety
- ii) the applicant to have addressed the requirements of Health & Safety at Work and Fire Safety legislation and, where appropriate, the Technical Standards published by the District Surveyors Association. The plans of the premises which must be submitted will be expected to provide evidence of compliance with health and safety matters. Evidence of current safety certificates may be required
- iii) the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times

- 67 It is the policy of the City Corporation that there should be comprehensive facilities and access for people with disabilities wherever practicable. The City Corporation will, therefore, expect the needs of disabled people to be addressed in the operating schedule.
- 68 Wherever practicable, disabled people should not be treated in a less advantageous way than non-disabled people. In addition, there are responsibilities under the Equality Act 2010 and prior legislation that place statutory duties on licensees to ensure that such facilities cater for everyone's needs.
69. With regard to the licensing objective of public safety, the issue of capacity should be addressed in the fire risk assessment for the premises use. This does not mean that every premises must have a capacity figure. However

there should be evidence that the responsible person has considered the number of persons who can be safely evacuated through the available exits.

70. A safe capacity figure will however be expected in the following circumstances:
- a) In premises that could potentially become overcrowded, for example bars, pubs, clubs, and other places of public assembly, particularly when a promoted event is to take place
  - b) Where an engineered solution or BS 9999 has been used to increase capacity
  - c) Where capacity is risk critical, for example where the premises use has a higher occupancy factor than that which the building was designed for
  - d) Where applicable, capacity should normally be inclusive of staff and performers. Management should be able to demonstrate a realistic method of controlling capacity
71. In order to promote the licensing objective of public safety, the issue of the use of candles should be addressed in the fire risk assessment of all premises where candles may be used. The City Corporation requires all measures identified and recommended by the London Fire Brigade during their audit/ inspection to be adopted and implemented at all times, so as to reduce or remove the risk of danger to public safety.

## PUBLIC NUISANCE

- 72 This section details criteria that the applicant should have in mind when drawing up an operating schedule in relation to 'The Prevention of Public Nuisance' licensing objective. The criteria apply to all applications and will be a consideration when responsible authorities or 'other persons' are deciding whether to make representations or whether to call for a review.
- 73 Although largely commercial, much of the City is very sensitive to the impact of licensed activities because it is close to either residential areas or areas of late night financial business. The impact of traffic going to and from licensed premises can be considerable. Even where a majority of customers arrive on foot or by public transport, the numbers of people dispersing may be significant.
- 74 The view of the Government is that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance and ensuring that nuisance is minimised to local residents. The Government believes that shops and public houses should generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers should be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community.
- 75 The City Corporation understands the view of the Government, but considers that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example, the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 02.00 than at 23.00. Residents have a reasonable expectation that their sleep will not be unduly disturbed between the hours of 23.00 and 07:00.

It is therefore 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 merits

- 76 In particular, the City Corporation will expect the applicant to be proposing practical steps to prevent disturbance to local residents. The City Corporation will expect the applicant to supply an acoustic report in applicable circumstances confirming that there will be no noise breakout from the premises that is likely to cause public nuisance to persons living or working in the area around the licensed premises. Any doubts as to whether such a report is required can be discussed in the pre-application meeting. Any sound leakage must be addressed in practical ways such as:

- i) keeping doors and windows closed and providing adequate mechanical ventilation
  - ii) reducing sound levels and installing an approved sound limiting device to prevent sound exceeding the appropriate level, both the device and the level to be approved by a suitably qualified acoustic consultant
  - iii) providing double door entry to premises with a ventilated lobby, to reduce noise levels generally and during entry and exit of persons to the premises
  - iv) installing soundproofing measures to contain sound and vibration
  - v) mounting speakers in carefully considered locations using rubber mounts
77. The Licensing Authority expects that premises intended for the provision of noise generating licensable activities are acoustically controlled and engineered to a degree where the noise from the premises when compared to the ambient noise level will not cause undue disturbance. The Licensing Authority recognises specific difficulties associated with other premises structurally linked to would-be licensed premises and the limit of sound insulation performance that can be achieved. In some circumstances licensed premises with amplified music adjoining, or in very close proximity to, residential properties may not be appropriate.
78. The aim of the Policy is, therefore, to achieve a holistic and balanced approach to these difficult issues although, it must be realised that there may be circumstances where measures within the control of the applicant are likely to be insufficient to prevent one or more of the licensing objectives being undermined. In these circumstances it may not be appropriate for a premises licence to be granted.
79. The City Corporation acknowledges the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, it will also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in anti-social activities to the detriment of nearby residents or businesses. Furthermore, it will also take into account its responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the City.
80. In order to mitigate the noise from patrons leaving a premises, particularly late at night or early in the morning, the Licensing Authority will expect the applicant to operate a dispersal policy and to include in the operating schedule practical steps such as:
- a) Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors
  - b) At appropriate times making announcements to the same effect within the premises
  - c) Instructing door staff to ask customers leaving the premises to leave the area quietly



- d) Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down
  - e) In appropriate cases, having door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it
  - f) Banning from the premises people who regularly leave in a noisy fashion
  - g) Increasing outside lighting levels
  - h) Instituting a mini cab/taxi booking scheme
81. However, a situation can arise in relation to disturbance caused by the dispersal of customers where in some circumstances, large numbers of customers leaving a premises late at night or early in the morning is simply not appropriate.
- 82 The City Corporation will expect the operators of popular venues, which attract queues, to formulate a system to avoid disturbance to residents. This may sometimes be achieved by simply ensuring that the direction of the queue is away from residential accommodation.
- 83 However, excessive noise and/or disorder will require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. Door supervisors will generally be expected to carry out this role, but they must be given clear instructions as to their duties and responsibilities which should cover other areas of crime and disorder, for example underage drinking and drugs.
- 84 Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the footway. It may also be caused by the customers being noisy on departure or leaving litter. The impact of noise generated by these activities, especially customers departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.
- 85 Since a change in legislation in 2007 preventing people from smoking in premises, public nuisance is now a real possibility from customers smoking outside the premises.
86. Therefore, the proposals in the operating schedule should include an assessment of the potential for public nuisance arising from customers smoking, eating, drinking and smoking in outdoor areas and on the public highway outside the premises and how this is to be managed with particular reference being made to:
- a) restricting the number of customers permitted in certain outside areas and/or at certain times
  - b) limiting the number of customers permitted on the premises at any one time

- c) not permitting customers who are smoking to take drinks outside with them
- d) the arrangements in place for the regular removal of used glasses, crockery and cutlery
- e) locating smoking areas away from residential premises
- f) using door supervisors and employees to monitor possible public nuisance issues with a ratio not less than 1 door supervisor for every 100 customers
- g) providing a form of demarcation and or physical barrier acceptable to the Highways Authority to be used to mark the boundary of the area outside the premises where customers are allowed to drink
- h) the steps they intend to take to educate their customers and prevent public nuisance arising from litter and prevent the use of alleyways, street corners, and open pavements in the area around their premises as urinals
- i) how they will work with other licensees in the area to combat nuisance caused by night time visitors creating noise and urinating in the alleyways, street corners and open pavements in the area around the premises

When considering whether any licensed activity should be permitted, the City Corporation will assess the likelihood of it causing unacceptable adverse impact, particularly on local residents and businesses, by considering the following factors amongst other relevant matters:

- i) the type of use
- ii) the proposed hours of operation
- iii) the means of access to and exit from the premises by patrons
- iv) the measures that are proposed to avoid nuisance being caused to residents and businesses in particular from outside smoking, drinking and eating in terms of noise, obstruction of the highway and anti-social behaviour
- v) any negative cumulative impact of licensed premises in an area and, in considering any application for review of premises already licensed, the City Corporation may take into account evidence of the following:
  - a) past demonstrable adverse impact from the activity especially on local residents and businesses
  - b) any appropriate measures which have been agreed and put into effect by the applicant to mitigate any adverse impact
  - c) adoption of the City Corporation's Code of Good Practice for Licensed Premises

## PROTECTION OF CHILDREN FROM HARM

- 87 This section details criteria that the applicant should have in mind when drawing up an operating schedule in relation to 'The Protection of Children from Harm' licensing objective. The criteria apply to all applications and will be a consideration when responsible authorities or 'other persons' are deciding whether to make representations or whether to call for a review.
- 88 The protection of children from harm is an important licensing objective. Nevertheless, the City Corporation will not normally impose conditions requiring or prohibiting the admission of children to any premises, believing this should remain a matter of discretion for the licence holder. However, it will, where appropriate, impose conditions designed to protect children.
89. The Licensing Authority will take strong measures to protect children from harm and introduce additional controls where appropriate. Examples of premises likely to receive additional controls are:
- a) where entertainment or services of an adult or sexual nature are commonly provided
  - b) where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
  - c) where there is a known association with drug taking or dealing
  - d) where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)
  - e) where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
90. The Government position is that everyone working in an environment where there may be children present should safeguard and promote the wellbeing of children. All such persons must follow Government guidance entitled, 'What To Do If You're Worried A Child Is Being Abused'.
91. A policy entitled, 'Safeguarding Children Policy for Licensed Premises' has been drawn up by the Pan-London Safeguarding Board. The licensee is responsible for ensuring that they and their staff are familiar with, and competent in following both the Safeguarding Policy and the Government guidance referred to in XX.
92. All owners/licence holders and their staff should have a basic awareness of child protection issues. This includes:
- a) Being alert to the possibility of child abuse and neglect, i.e. the definition, prevalence, identifying features in a child or adult, legal parameters and social consequences.

- b) Having enough knowledge to recognise an abusive or potentially abusive event or set of circumstances
  - c) Licensing Authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions
  - d) Knowing who in the organisation to raise your concerns with
  - e) Being competent in taking appropriate immediate or emergency action
  - f) Knowing how to make a referral to Local Authority Children's Social Care and/or the Police.
93. Where the exhibition of films is permitted, the authority will expect the age restrictions of the British Board of Film Classification (BBFC) or the City Corporation in respect of the films to be exhibited to be complied with.
94. In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC, the City Corporation will classify the films concerned. Adequate notice will need to be given by the Festival organiser if Corporation classification is required. To achieve consistency and the protection of children, the City Corporation will use the guidelines published by the BBFC.
95. In addition, the City Corporation will use its other statutory functions to ensure the protection of children from harm with particular emphasis on the sale of alcohol to underage persons.

While in some circumstances it may be appropriate to impose a complete prohibition, the City Corporation will in other situations consider imposing requirements such as:

- i) limitations on the hours when children may be present
- ii) limitations or the exclusion of the presence of children under certain ages when particular specified activities are taking place
- iii) limitations on the parts of premises to which children might be given access
- iv) age limitations (eg. no person under 18)
- v) requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)
- vi) full exclusion of those people under 18 from the premises when any licensable activities are taking place

96. These policies are designed to allow flexibility for the licensee to ensure that, where appropriate, licensed premises are suitable for children but to ensure they are adequately protected.

# TEMPORARY EVENT NOTICES

- 97 Temporary Event Notices (TENs) allow licensable activities to take place without the need for a premises licence where the event shall have less than 500 attendees.
- 98 The TEN can only cover a period up to 168 hours (seven days). A maximum of fifteen TENs can be submitted within one calendar year with a maximum number of aggregate days that the TENs may cover within a calendar year being twenty-one.
- 99 If any of the above limits are exceeded the City of London will issue the premises with a counter notice, nullifying the TEN, and prohibiting licensable activities from taking place.
- 100 A TEN submitted to the Licensing Authority at least ten working days before the event is due to take place is known as a 'Standard TEN' and can only be objected to by the Police or Environmental Health within three working days from receipt of the notice. The Licensing Authority has no discretion whether to allow a TEN. Where objections take place the matter is subject to a hearing by elected Members unless an agreement can be made between the 'objector' and the premises user, in which case the objections are treated as withdrawn.
- 101 A TEN submitted to the Licensing Authority between five and nine working days before the event is due is known as a 'Late TEN'. If objections are made by either the Police or Environmental Health the event will not be permitted and a counter notice issued nullifying the TEN. Because of the short timescales the matter is not subject to a hearing and therefore the event will not be permitted to take place.
- 102 It should be noted that a temporary event does not absolve the premises user of any responsibilities under any other legislation e.g. a terminal hour of operation on its planning permission.
- 103 A TEN will however supersede any condition already on the premises licence. The Licensing Authority strongly recommends that those giving TENS for premises already holding a licence in order to extend the terminal hour for licensable activities, to carefully consider applying any conditions on their licence to the TEN. This is particularly relevant for conditions relating to noise control as areas are likely to become more noise sensitive with later hours.

## LATE NIGHT LEVY

- 104 It is a requirement in the City of London that all licensed premises authorised to sell alcohol between 00:01 and 06:00 hours will have to pay an annual levy between £299 and £4,400 depending on their rateable value and whether the premises are primarily or exclusively used to sell alcohol for consumption on the premises.
- 105 It can be seen from local crime statistics that the majority of serious crimes, that have a connection with a licensed premises, are committed after midnight. The City of London therefore took the option to introduce the Levy in order to use the money raised to help reduce the incidence of crime and disorder and public nuisance. The Levy was introduced from 1 October 2014.
- 106 The Levy money is split between the City of London Police and the local authority.
- 107 The City Corporation is required to spend its allocation in specific areas namely:
- The reduction or prevention of crime and disorder
  - The promotion of public safety
  - The reduction or prevention of public nuisance
  - The cleaning of any highway maintainable at the public expense within the City of London (other than a trunk road) or any land to which the public are entitled or permitted to have access with or without payment and which is open to the air
- 108 A report detailing how the money raised is spent will be produced for the Licensing Committee annually. The effectiveness of the Levy, and whether it should be continued, will be carried out on a three yearly basis with the first review due in 2017.

## CUMULATIVE IMPACT

109. The Licensing Authority recognises that the cumulative impact of licensed premises can be experienced by residents in areas even where there is no current cumulative impact policy. Cumulative impact is not defined in the Licensing Act, but is addressed in national guidance which defines it as *“the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”*.
110. The Licensing Authority will consider any representation that refers to the impact of a number of premises in an area. The absence of a special policy in an area will not prevent any responsible authority or other person from making representations on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives in the area in question.
111. Representations referencing cumulative impact need to be evidenced based i.e. show how the present number of licensed premises are impacting on the objectives and demonstrate how a specific licensed premises in a particular area will add to those problems.

The Licensing Authority will then consider, amongst other things, the question of whether the grant of further premises licences, or club premises certificates, would further undermine one or more of the licensing objectives.

A decision will be made on the individual merits of each application and, if the application is likely to significantly add to the cumulative impact then the licence may not be granted. The converse is also true. If the application is unlikely to significantly add to the cumulative impact, then the licence may be granted.

112. If there are serious problems in a particular area which affect one or more of the licensing objectives, because of the number of licensed premises in the area, the Licensing Authority may implement a Cumulative Impact policy for that particular area. The Licensing Authority would first look to impose conditions on the individual premises in that area, where relevant representations are made.
113. The Licensing Authority will adopt the following procedures if a Cumulative Impact Policy (CIP) for a particular area is required:
- Identify the concerns from a responsible authority of ‘other person’.
  - Investigate the situation to identify the causes
  - Establish if one or more of the licensing objectives are being undermined by customers of a licensed premises

- d) Establish whether any issues can be alleviated using licensing functions currently open to them e.g. review of a particular licence
- e) Consult with those persons that appear appropriate
- f) Adopt and publicise a CIP

114. It is important to note that such a policy if adopted will not cause any existing licences to be changed. It can only apply to new applications and variations of existing licences. It is also not an absolute policy and it would be open to the applicant to show that what is being proposed will not add to problems related to the number of licensed premises in a particular area.



## CONDITIONS

115. The Licensing Authority will only issue a licence with conditions that are both necessary and appropriate. Where an application is not subject to a representation any conditions placed on the licence will only be taken that are deemed consistent with the application's operating schedule.
116. Where the application is subject to a representation, or a current licence is subject to review, the Licensing Authority will only place sufficient conditions on the licence in order that the licensing objectives are not undermined.
117. Licence conditions will not be disproportionate to the type of activity to be licensed will not be imposed where the Licensing Authority is satisfied that other regulatory regimes provide sufficient protection to the public eg. Health and Safety at work and fire safety legislation.
118. It is the policy of the Authority that, when considering and applying conditions, such conditions should be clear, appropriate and enforceable. Conditions will be focussed on matters that are within the control of the individual licence holder.
119. Suggested model conditions have been produced to assist applicants, responsible authorities and other persons when proposing and determining conditions for a premises licence, but all should ensure that the conditions apply specifically to the premises and meet the criteria of clarity, appropriateness and enforceability. (See Appendix X)
120. Suggested model conditions are neither exclusive nor exhaustive. They do not restrict applicants, responsible authorities or other persons in proposing additional or alternative conditions. Nor do they restrict the Licensing Authority, when determining contested applications, from imposing any reasonable condition on a licence that it considers appropriate for the promotion of the licensing objectives.
121. A premises licence that contains conditions imposed by the City Corporation, or agreed by the applicant, shall also be subject to the statutory mandatory licensing conditions (these mandatory conditions applying to all premises licences). See Appendix X for the full list of mandatory conditions.

## ENFORCEMENT AND OTHER LEGISLATION

122. Where necessary, enforcement action will be taken in accordance with the principles of good enforcement, as set out in the Legislative and Regulatory Reform Act 2006, the Enforcement Concordat and the Regulators' Compliance Code, which promote consistency of enforcement throughout the country. Action taken will meet the requirements of the City of London's Department of Markets and Consumer Protection's Policy Statement on Enforcement.
123. In particular, enforcement action will have regard to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:
- i) risk assessment – i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled
  - ii) consistency – i.e. similar approaches in similar circumstances to achieve similar ends
  - iii) transparency – i.e. helping licensees to understand what is expected and distinguishing between statutory requirements and guidance
  - iv) proportionality – i.e. action taken should be proportional to the risk presented
124. The authority will establish protocols with the local Police and the Fire Authority on enforcement issues to avoid duplication and to provide for the most efficient deployment of City Corporation, Police and Fire Authority officers in respect of inspection of licensed premises and the enforcement of licensing law.
125. The Licensing Authority operate a 'Traffic Light' risk scheme providing a simple but effective monitoring tool which brings together the findings of the licensing authority and responsible authorities in a way that flags up problematic premises at an early stage. It takes a holistic partnership approach to dealing with problem premises under all four licensing objectives and also recognises good practice.
126. Advice and support will be offered to problematic premises with a view to improving standards at their premises and to prevent or minimise subsequent 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.
127. The scheme does not override the right of any person or authority to review a premises licence or club premises certificate at any stage where problems occur at that premises that are relevant to the promotion of one or more of the licensing objectives. A copy of the scheme can be seen as Appendix X.

128. The policy of the City Corporation will always be a light touch inspection regime for well-managed and maintained premises, with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.

### **Planning**

129. Licensing and Planning are two separate regimes. As a matter of law the Licensing Authority cannot refuse an application because of the absence of appropriate planning consent.
130. However, It will be the policy of the City Corporation that applicants for premises licences will be reminded of the need to secure the necessary planning consent, if not already obtained, before carrying on their licensable activities. Applicants' attention will be drawn to relevant planning policies in order to assist their application process e.g. policies concerning managing night time entertainment. An application for any variation of a licence would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.
131. Also, the Planning Department is a statutory consultee and has the opportunity to identify premises where the planning permissions and premises licence(s) are not aligned.
132. Coordination of these functions will be facilitated by the Licensing Committee and the Planning & Transportation Committee, each committee being kept informed of the actions taken. In this way unnecessary duplication can be avoided with licensing applications not being a re-run of the planning process and not cut across decision made by the local planning authority.

### **Tables and Chairs**

133. The provision of tables and chairs outside premises, either on the highway or on private land, can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. However, late at night these same tables and chairs can contribute to noise problems. This is because they can encourage patrons and passers-by to loiter rather than disperse.
134. The placing of tables and chairs on the public highway requires the consent of the City Corporation's Planning & Transportation Committee. On private land, such consent is not needed albeit this may constitute a 'material change of use' that requires planning permission. Applicants should also be mindful of current conditions attached to existing planning permissions and that the placing of tables and chairs outside their premises do not contravene any planning requirements.

135. The Licensing Authority may determine hours of operation, for example by setting additional conditions where appropriate to meet the licensing objectives, taking into consideration crime and disorder, noise safety and local residents' amenities and would wish to see details of the proposed operation in the operating schedule.
136. The City of London Corporation has produced a Tables and Chairs Policy which all applicants must adhere to. The policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to prevent problems concerning safety and nuisance.

### **Sexual Entertainment**

137. The City Corporation has a separate policy for applications for Sexual Entertainment Venues (SEV's) in the City and applicants should refer to that policy for guidance.
138. Applicants wishing to offer adult entertainment are expected to complete Box N of the operating schedule and give details of the entertainment to be provided.
139. Limited entertainment can be provided without the need of an SEV licence however, venues wishing to provide this kind of entertainment will generally be expected to offer the following conditions:
- a) No person under the age of 18 shall be admitted to the premises at any time
  - b) No person under the age of 18 shall be admitted to the premises when adult entertainment is taking place
  - c) The premises shall be so arranged that adult entertainment is not visible from the street.
  - d) There shall be no external advertisement at the premises for adult entertainment (including leafleting)
  - e) Nudity shall only be permitted by performers and not customers.
  - f) A minimum of one metre distance shall be maintained between dancers and customers during adult entertainment
  - g) A written code of conduct for staff participating in the provision of striptease or nudity shall be in place, and shall be kept on the premises for inspection by Police or a duly authorised officer of the Licensing Authority.
  - h) A written code of conduct for dancers participating in the provision of striptease or nudity shall be in place, and shall be kept on the premises for inspection by Police or a duly authorised officer of the Licensing Authority.

## ADMINISTRATION AND DELEGATION OF FUNCTIONS

140. The Act provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by its Licensing Committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The Licensing Committee may delegate these functions to sub-committees or, in appropriate cases, to officials supporting the licensing authority. Where licensing functions are not automatically transferred to licensing committees, the functions must be carried out by the licensing authority as a whole and not by its executive.
141. The discharge of functions are as follows:

<b>Matters to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence	If a Police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Application for transfer of premises licence	If a Police objection	All other cases
Application for interim authorities	If a Police objection	All other cases
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.		All cases

Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police or environmental health objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If Police objection	All other cases
Decision whether to consult other responsible authorities on a minor variation		All cases
Determination of a minor variation application		All cases

- 142 This statement of licensing policy will cover the period January 2017 to January 2022. It has to be replaced at least every five years with the next one due therefore in January 2022.
- 143 The City of London licensing authority will however review the policy at more frequent intervals and make any necessary and appropriate changes.

<b>Committee(s)</b>	<b>Dated:</b>
Licensing	11 07 2016
<b>Subject:</b> Late Night Levy – Interim report	<b>Public</b>
<b>Report of:</b> Director of Markets and Consumer Protection	<b>For Decision</b>
<b>Report author:</b> Peter Davenport - Licensing	

## Summary

A Late Night Levy has been operating within the City of London since 1 October 2014. A report detailing the first year of operation went to your Committee on 3 February 2016.

On 27 April 2016 your Committee requested a report detailing the expenditure of the Levy to date and plans for spending the remainder of any Levy money accrued to the end of March 2017.

This report details the income collected to date, and forecast to be collected over the next nine months, covering a total period of thirty months. Details in the three areas of expenditure to date are given namely, part funding of a staff member in the licensing team, additional cleansing costs and funding of an out of hours team.

This report also considers areas for future expenditure including an alcohol recovery centre, taxi marshalling and support for 'Club Soda' and assistance with the introduction of their non-alcoholic drink 'nudging pubs' idea.

## Recommendation(s)

Members are asked to:

1. State their preferences as to how they would like the Levy money to be spent, either from options given in the report or otherwise.
2. Say which of the three funding alternatives given in paragraph 10 they prefer if the Alcohol Recovery Centre was to be a considered an option.

## Main Report

### Background

1. The Police Reform and Social Responsibility Act 2011 introduced the power for licensing authorities to impose a Late Night Levy on those premises selling alcohol after midnight. The aim of the Levy is to empower local areas to charge businesses that supply alcohol late into the night for the extra costs that the night-time economy generates for police and licensing authorities.
2. The Levy is applied to all premises selling alcohol after midnight between the hours of 00:01 and 06:00. As at 24 June 2016, 308 premises were liable to pay the Levy by virtue of the fact that their terminal hour for the sale of alcohol permitted them to sell alcohol after midnight.

### Generated Income

3. The amount of the Levy is prescribed nationally and is based on the premises rateable value. The annual charges for the Levy, and weekly equivalent, are:

Rateable Value (£)	Rateable Band	Amount of Levy (£)	
		Annual Levy	Weekly Equivalent
0 – 4,300	A	299	5.75
4,301 – 33,000	B	768	14.77
33,301 – 87,000	C	1,259	24.21
87,001 – 125,000	D	1,365 (2,730*)	26.25 (52.50*)
125,001 +	E	1,493 (4,440*)	28.71 (85.39*)

*\* Where a multiplier applies for premises used exclusively or primarily for the supply of alcohol for consumption on the premises (bands D & E only)*

4. The City Corporation are required to spend their allocation of the Levy in specific areas namely:
  - The reduction or prevention of crime and disorder
  - The promotion of public safety
  - The reduction or prevention of public nuisance
  - The cleaning of any highway maintainable at the public expense within the City of London (other than a trunk road) or any land to which the public are entitled or permitted to have access with or without payment and which is open to the air



5. The total amount collected and apportioned to the City Corporation, and to be collected over the next few months, is as follows:

Levy Year	Collected £'000	Status
Oct 14 – Sep 15	126	Actual
Oct 15 – Sep 16	126	Forecast
Oct 16 – Mar 17 (part year)	40	Forecast
TOTAL	292	

6. The figures above are net figures after the Police portion and administration costs have been deducted. The six monthly income figure for 2016/17 is less than 50% of the annual figure as income is received disproportionately throughout the year. The final levy year forecast for 2016/17 is not expected to be any different than for previous years.

#### What has the money been spent on?

7. Any Levy money spent to date by the City Corporation are in the following three areas:

- **Out of Hours Team.** The team operate between 00:00 and 06:00 and can provide a rapid response to complaints relating to public nuisance – usually in the form of noise. In addition, the team are able to identify areas where, although no complaint has been received, problems do, or may exist. This information is fed back to the Licensing Service who are able visit the premises concerned and discuss ways in which problems can be avoided.
- **Part funding of new (temporary) posts.** In order to prevent problems occurring the City Corporation introduced a Risk Assessment Scheme whereby issues relating to premises carry a score which is recorded and used to identify where problems may occur. The Licensing Service and City Police are then able to meet with the premises and discuss ways in which problems can be avoided.

Linked with this scheme is the Safety Thirst scheme which has increasingly been the responsibility of the licensing team to operate. The 2016 scheme is operated solely by the licensing team.

Although the risk and safety thirst schemes are for all premises over 90% of those premises, either obtaining points on the risk scheme or achieving the safety thirst award, sell alcohol after midnight.

- **Cleansing.** Department of Built Environment provide a cleansing service through their term contractor Amey that is funded from the Night Time Levy. This service covers all areas of the City and operates Thursday to Sunday (inclusive) during the hours that the Night Time Levy is applicable.

The Night Time Levy team visit locations throughout the City, they sweep, clear litter, wash, disinfect and deal with any Anti-Social Behaviour issues and staining identified around licensed premises. They also provide a service for one-off licensed events. Scheduled flushing and washing is carried out on streets around these locations, as well as removal of flyers and other related litter that is generated by the night time economy. Part of the enhanced service also covers the flushing and washing of transport hubs.

This service has a positive effect on the cleanliness and image of the City. The cleansing management team believe that this service addresses the additional challenges raised by the increasing night time economy. The service is monitored by the Street Environment Team (COL) and the Amey Environmental Managers to make sure the required standards are achieved.

8. The following sums have been spent, or are likely to be spent, by the end of March 2017:

Item	Financial Year	
	2015/16 £'000	2016/17 £'000
Out of hours team	20	20
Part funding of licensing post	30	39
Cleansing	34	34
TOTAL	84	93

*Summary of money spent to date*

9. Therefore, a total of £177k has been spent, or programmed to be spent, by the end of March 2017. This will leave a total unspent of approximately £115k.

### **Future expenditure**

10. Various suggestions have been made by interested parties as to future expenditure. These include:

- **Taxi Marshalls.** The scheme has been in operation jointly funded by TFL (Friday nights) and the Community Safety Team (Thursday and Saturday nights) and covers the rank in Bishopsgate. Due to a reduction of income the Community Safety Team can no longer fund this project. Costs would be in the region of £15k per night of cover i.e. £30k in any one year for both Thursday and Saturday.

Further discussion would need to be held with the Police as to the continued effectiveness of this project as the increase in usage of the Uber 'application' would seem to have reduced rank size. Any funding could be joint with the Police.

- **Alcohol Recovery Centre (ARC).** Previous funding for this project has now ceased and the licensing team have been informed by Community Safety that, as in the run up to Christmas 2015, there will be no ARC this

year. The ARC is a mobile unit which can be situated wherever the need is greatest. It allows those persons who are suffering from the effects of alcohol to spend time recovering before they recommence their journey home.

As above, discussion as to the centre's effectiveness would have to be held with the Police and funding would be from a number of sources, not just the Levy. Total costs to be met from all funding sources range from:

Option One -10 nights at £50k (Thursday and Friday every week in the month leading up to Christmas and New Year)

Option Two – 22 nights at £110k (Every weekday in the month leading up to Christmas and New Year)

Option Three - 13 nights at £65k (Same as option one except for every weekday in the final week before Christmas)

- **Club Soda.** Following a presentation to this Committee on 27 April 2016 by Club Soda, it was the general view of Members that the projects they were running were in line with licensing principles around sensible drinking and choice.

Discussion would need to take place with club soda to ascertain the precise nature of projects they could run in the City of London which would involve working with licensed premises with a view to increasing their range of soft drink options. Costs would be in the region of £8k to £12k.

### **Corporate & Strategic Implications**

11. The proposals within this report will meet one of the overriding objectives contained within the service's business plan namely to 'Oversee the operation of a Late Night Levy'.

### **Implications**

12. Any money retained by the City Corporation from the Levy income must be spent on the areas referred to in paragraph 4, although it does not have to be spent in the same Levy year in which the income was generated.
13. Any expenditure in excess of the income received would need to be met from existing local risk budgets.

### **Background Papers**

Report to Licensing Committee 03 February 2016

Home Office 'Amended Guidance on the Late Night Levy ' – 24 March 2015

### **Peter Davenport**

Licensing Manager

T: 020 7332 3227

E: [peter.davenport@cityoflondon.gov.uk](mailto:peter.davenport@cityoflondon.gov.uk)

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