



**Westminster Citizens Advice
Licensing Advice Project**

Report: 1 April 2011 - 31 March 2012

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1. Introduction and overview

The Licensing Advice Project (“the Project”) provides a free, independent, impartial and confidential information, advice and representation service to residents of the City of Westminster (including residents’ associations and amenity societies) in respect of their rights and responsibilities as “interested parties” under Licensing Act 2003¹. The advice takes in a range of issues including problems with the current operation of a premises or objections to applications under Licensing Act 2003. The remit also includes publicising the rights and responsibilities of residents in relation to licensing matters, particularly in respect of Licensing Act 2003. It is funded by Westminster City Council, and is free to the end user. It is the only service of its kind in the country and has caused considerable interest among other stakeholders (for example other Councils and even central Government) for the innovative service it provides to local residents.

The remit of the Project dovetails with the twin aims of the Citizens Advice service nationwide, which are:

- To provide the advice people need for the problems they face.
- To improve the policies and practices that affect people’s lives.

To this end, the Project focuses not only on casework, but also on wider issues in licensing law on behalf of residents, for example ensuring that developments in the law or Council procedure are disseminated, and responding to consultations.

This Report covers the year of funding which ran from 1 April 2011 to 31 March 2012. The first quarter of each year is 1 April to 30 June, the second quarter is 1 July to 30 September, and so on.

The Project reports to a quarterly Steering Group chaired by Matthew Bennett, a resident of Westminster with experience of licensing issues from a resident’s perspective and from a licensee’s perspective, and comprising the adviser, a

¹ Since 25 April 2012, ‘interested parties’ are known as ‘other persons’, and the ‘vicinity’ test removed.

representative from the City Council (Chris Wroe), and the adviser's line manager. A Report is produced in advance of those meetings. These reports cover a range of issues, giving an overview of casework undertaken in the quarter, contact statistics, a case study, updates on development and expansion of the Project, adviser training and development and website statistics. The Reports have also brought to the attention of the Steering Group any particular examples of issues experienced by residents with the licensing regime. The Reports have appended other documents of interests, for example articles written for residents' publications. Thorough client feedback surveys have also been commissioned.

A Report covering the period of funding from 1st April 2008 - 31 March 2011 was produced and provided to the Steering Group. The Report is available on the Project's website, www.licensingadvice.org. Funding has continued since then on a 3 month rolling basis. The Project has been included in the City Council's 'Consultation on advice services'.

This Report sets out the work of the Project during the past year. It aims to demonstrate the value of the Project to local people and to the City Council, as well as showing how it is an innovative way of providing services within the CAB framework.

It will also set out how the Project can grow in the future if funding continues, particularly incorporating other areas of licensing in which local residents have an important role to play.

2. The Licensing Advice Project's Service

The Licensing Advice Project in the wider context of the licensing regime

The Licensing Act 2003 was preceded by the publication in April 2000 of a White Paper (Cm 4696) entitled 'Time for Reform: Proposals for the Modernisation of our Licensing Laws'. The White Paper set out three compelling reasons why the licensing functions at that time exercised by licensing justices sitting in the

Magistrates' Courts should be transferred to local authorities (who at the time has responsibility for public entertainment licensing but not alcohol licensing). Among these reasons were the following:

'Accountability: we strongly believe that the licensing authority should be accountable to local residents whose lives are fundamentally affected by the decisions taken'

'Accessibility: many local residents may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors.'

This philosophy of seeking to involve local residents in decisions which affect them informed the Licensing Act 2003, and indeed subsequent amendments, which have given local people a bigger say in licensing decisions and has helped to develop a more balanced equilibrium between the needs and aims of the licensed trade, local people, businesses, public bodies and others. The purpose of the Project is to facilitate and promote this partnership approach and help the licensing regime to be as efficient and fair as possible.

During the course of 2010, it became clear that the new Government wished further to encourage this process as part of what is often termed its 'localism' agenda. This manifested in a consultation entitled 'Rebalancing the Licensing Act 2003: A consultation on empowering individuals, families and local communities to shape and determine local licensing', to which the Project responded (the response is available on the website www.licensingadvice.org). Some of the measures proposed by the Government were taken forward in the Police Reform and Social Responsibility Act 2011. The majority of those provisions came into force on 25 April 2012. Residents can find further information on this on the Project website 'News' section. One of the measures which has not yet come in to effect is 'full costs recovery', to permit local authorities to recover their costs of exercising their statutory licensing function. It is not yet clear how this will work in practice. Further proposals have been predicated around the idea of local community involvement.

The project has been in existence for just over 7 years. It is currently staffed by:

- Licensing Solicitor, Richard Brown. Richard is a qualified solicitor specialising in licensing law, particularly in Westminster. Richard has run the Project for three and a half years.
- Project administrator: part time

There is also provision in the budget for line management.

3. Development of the Project 2011-12

The development of the Project from 2008-2011 is dealt with fully in the Report covering that period of funding. Suffice to say that it swiftly became clear that the Project provided a valuable service, but that this service needed to be promoted and made more widely known. A number of measures were implemented, and added to as time went by. Some of the ongoing measures are detailed below.

Promotion of the Project – measures implemented from 2009, and ongoing since then.

1. Attending Area Forums to talk to residents about licensing issues. This remains ongoing. I have also attended special 'Workshop' sessions at these Forums with Council officers.
2. Developing and maintaining a presence within the Institute of Licensing, and attend meetings on behalf of the Project. The Institute is the professional body for licensing practitioners, and has a heavy local authority presence. It also has a trade presence, but no-one devoted solely to the role of 'interested parties'. The profile of the Project has been raised by attending events and writing articles for publication, and Richard is the resident 'resident' contributor to a new national publication, the Journal of Licensing Law. The first two editions have been published and the third is due on mid-July, where the topic is the ramifications of the removal of the 'vicinity' test and the abolition of the term 'interested party'.

3. Expanding and updating the Project website – ongoing.
4. Developing and maintaining close links with amenity societies and residents' associations. Some such groups take a great interest in licensing, and some are highly capable at dealing with applications. However, even for these groups it is useful to have the Project as a 'sounding board'.
5. Attending the Westminster Entertainment Forum, a cross-party forum facilitated by the City Council, to keep abreast of issues from operators' perspective and to present residents' perspective and raise issues of importance, where necessary.
6. Raising issues with the City Council which potentially impact on residents' ability to engage fully with the licensing regime.
7. Articles are written regularly for residents' magazines/newsletters– eg SEBRA.
8. Responding to queries from officers or Councillors from other local authorities as to the work of the Project.
9. Responding to WCC or Government consultations

The lessons learned from this – that, as this is a unique service, efforts must be made on an ongoing basis to stimulate awareness – have continued to inform the development of the Project and uptake of the Project has remained high.

As the Project has become more well-known (and probably as a result of an overall increase in applications) there has been a concomitant increase in representation of clients at Sub-Committee. This trend has continued in 2012. In addition, there have been a number of cases where an application has been withdrawn, often shortly before a hearing. It is my view that in a number of these cases, it is the fact that residents have shown an organised, united front and have specialist legal representation that has informed the view of the applicant to withdraw the application.

Website: www.licensingadvice.org

The Project has a dedicated website offering in-depth, clear advice on licensing matters and residents' role as 'interested parties'. The website is an important

resource. It is designed such that it is perfectly possible for residents to obtain the information they need from the website without ever contacting the Project direct. It does not of course provide premises-specific advice and so the resident can contact the adviser for specific or technical advice using the contact details on the website.

It also has the advantage of effectively providing a 24/7 service. A client who works during the day can access this information in the evening at his or her leisure, without the need to take time out from their working day. In addition to advice on making effective representations, there is information on reviews and the procedure at Council hearings. There are links on the site to a range of useful information and resources. The website is easy to navigate and is set up to enable disabled users to use the site. There is also a 'Jargon buster', to help residents to understand the licensing procedure and terminology better.

The 'News' section of the Project's website is updated to inform residents of updates in law or procedure which affect them (for example, the changes brought in by the Police and Social Responsibility Act 2011, changes to Council contact details and items of general interest). Informative documents are also uploaded.

The website statistics showing download numbers for the various advice/information documents are at appendix C, along with an analysis of the figures. Suffice to say here that the website is well used, although it is not of course restricted to Westminster residents. The information on the website makes it perfectly possible for a resident to participate fully in the licensing regime without ever contacting the Project directly for case-specific advice. The number of people who actually benefit from the Project's advice is therefore likely to be higher than the recorded number of clients. This should be taken into account when assessing the value of the Project.

Due to changes in the law, the website will need updating in the coming year.

Innovations

The Project is unusual in that it is a Citizens Advice service which represents groups

rather than just individuals. The service most commonly associated with Citizens Advice is the traditional bureau arrangement, where clients attend in person and have either booked an appointment or have to wait in a queue before speaking to an adviser. The Project works completely differently; relatively few contacts are in person as most of the Project's advice is given by email and telephone or by visiting clients, and clients very rarely need to come to the office. This means that clients can access the service outside traditional hours by emailing. Crucially, clients don't have to take time off work in order to receive advice, and most importantly of all do not have to take time off work to be represented at hearings (although in practice they are always advised of the importance of attending whenever possible). Those who need to communicate face-to-face are seen by the adviser in person, often at short notice.

Sensible preliminary advice to a client may be to talk to neighbours and try to marshal support for the objections/application for review. Westminster has a number of amenity societies and residents' associations who take a keen interest in licensing matters. Developing links with such groups, eg Paddington Waterways and Maida Vale Society, SEBRA, the Soho Society and the Knightsbridge Association, has proven to be an excellent way to maximise the impact of the Project as these groups represent and act on behalf of a large number of residents and disseminate information to local residents. In addition to working on specific cases, advice is also given on policy, and general legal issues or developments, so that they are fully briefed.

The Project is also unusual for a CAB service in that it often acts for more than one individual in each case. Additionally, where there are residents who have made representations but have not attended at a hearing, their views tend to be represented by proxy as part of the case in support of residents who are represented at the hearing. Again, this should be taken in to account when assessing the value of the Project.

When Richard is unavailable to attend hearings, for example due to annual leave, I endeavour to arrange alternative representation for residents from a barrister acting

pro bono. If he cannot do this, he ensures that they are fully briefed, for example by providing a 'crib sheet' to guide them at the hearing.

4. Casework analysis

The Project provides a flexible service in terms of what is provided to clients. The service is tailored to the individual needs and aims of each client and can range from simply informing a client of the last date on which he or she can make a representation to complex and in depth case work. Most cases involve more than one resident. Broadly speaking, there are two main types of enquiry and three levels of service. The case studies at Appendix A give a wide range of examples of each type of enquiry and level of work.

Type of enquiry

- applications for new premises licences/provisional statements or variation of premises licences
- resolving problems with the operation of licensed premises, including reviews

Additionally there are regular queries about other licensing issues such as Temporary Event Notices, unlicensed premises which may be carrying on licensable activities, or premises which have premises licence but are causing problems when they are not operating under the authority of the licence. The Project provides tailored, case specific advice on each of these types of enquiry.

Although the Licensing Act 2003 is the main piece of legislation, advice must also take into account the various statutory instruments under Licensing Act 2003, the Environmental Protection Act 1990, the Clean Neighbourhoods and Environment Act 2005, the Health Act 2006, the Noise Act 1996, the Policing and Crime Act 2009, Police and Social Responsibility Act 2011, the City of Westminster Act 1999, the London Local Authorities Act 1990 (as amended), the Local Government (Miscellaneous Provisions) Act 1982, Violent Crime Reduction Act 2006, Anti-Social

Behaviour Act 2003 and, more recently, Gambling Act 2005. Awareness of planning legislation and policy is also important (eg tables and chairs licensing). This requires a holistic approach, and regular periods of time to be set aside for research and updates.

Staying up to date with case law - partly through training, partly through research - is also important, particularly in the context of representing clients at Sub-Committee. It is extremely important to keep up to date with developments as licensing is a fluid area.

Level of work

- **information;** Some clients contact the Project simply requiring some information or clarification on an application. For example, sometimes a document is not available to view on the Public Licensing Register. In such a case, Richard would find out the details, which allows the resident to make an informed decision as to whether to object or not rather than putting in a representation that may not be necessary had they had access to the information they needed. In this way, the Project is a potential timesaver for residents, the City Council and, arguably, operators. It could be that something in the application is not clear or there is a legal issue which needs explaining. Answering such queries can save unnecessary representations and therefore time and expense.
- **advice and assistance;** this typically includes situations where the client wishes either to object to an application or report an ongoing problem with a premises. Typical levels of work include writing letters and emails to the premises licence holder and the Designated Premises Supervisor, liaising with Council officers, advising the client on the basis of this, arranging site visits and meetings either with the client or with the client and representatives from the premises. It is often necessary to do extensive research, particularly where there has been a long history of problems and/or applications, in order to advise the client properly. For example it may transpire that a similar

application was refused previously, and it can be informative and helpful to note any comments made by the Sub-Committee in that case. It also involves drafting representations and applications, entering into correspondence with solicitors and preparing the client for the hearing. In short, it is a full advice service up to the hearing. Case study 6 at appendix A gives an example of how the Project can be a time and resource saver not just for residents and the local authority, but also for an Applicant in certain circumstances.

- **Representation at Sub-Committee hearings:** for when the client wishes to be represented at the Sub-Committee hearing. It involves all the above plus preparing for the hearing, including submitting any further evidence as appropriate, and attending at City Hall for the hearing, including corresponding with the Applicant's solicitors prior to the hearing and discussing conditions and advising the client accordingly. Hearings tend to last for anything from 30 minutes to a whole day and there is often a considerable amount of waiting involved. It also involves follow up work in advising residents on the appeal process (for example, when the decision will come into effect) and what they can do to assist the City Council on appeal.

The advantage of a client being represented is that the adviser is likely to be better versed in the legal and policy issues which can crop up. Clients can become quite stressed by the procedure, particularly where there is a serious danger that the quality of their lives will be disproportionately damaged if an application is granted, or review refused. Being represented by a solicitor can relieve much of this pressure, which in itself can encourage residents to engage properly with the licensing regime.

It is always beneficial if the residents attend the hearing and speak also if required, if they are comfortable doing so.

There are a number of case studies at Appendix A which cover the different levels and areas of work undertaken by the Project.

Benefits of the Project

Benefits for clients

The Project has delivered a wide range of benefits for residents of Westminster:

- Access to specialist legal representation – professional legal advice is difficult to obtain due to prohibitive costs. Licensing is a specialist area and more ‘general’ solicitors may not have the required expertise. Additionally, specialist solicitors usually act predominantly for the licensed trade. Feedback from clients (see Appendix D) shows how appreciative they are that this disparity is addressed by the City Council funding a specialist Project of this kind.
- The Project is a “one-stop” resource of information as well as advice and representation – i.e. the Project liaises with Environmental Health officers and managers, Licensing Inspectors, Metropolitan Police, licensees and other parties on behalf of residents, who often get passed from one agency to another and lose faith in the local authority and give up. The Project has the knowledge and resources to conduct effective research on behalf of a client, which is often of great benefit to their case.
- Representation in terms of direct feedback and policy reporting to the local authority on issues affecting residents
- Representation in terms of consultation – the Project participates in local and national consultations, e.g. Home Office and local authority reviews/consultations
- The dedicated website for residents – www.licensingadvice.org allows a resident to use the service without ever contacting the Project directly. There is access to 24 hour a day advice and information/365 days per year
- Client feedback surveys have been commissioned throughout the funding period to ascertain client satisfaction and request feedback. The results of each survey have been fed back to the Steering Group. The result of the most recent survey is at Appendix D. It shows that 91% of respondees rated the service as ‘excellent’. This is in line with previous surveys.

Wider benefits for the local authority and responsible authorities

The Project acts as a one-stop resource for residents, who otherwise may contact various council departments to complain and are unaware of existing conditions to refer to licensing enforcement, or who are unaware of their right to review the licence and often give up. The Project advises on how to gather evidence, and contacts all council departments on their behalf. It also acts as a focus point where there are multiple residents involved, who may not know of each others existence. This results in a more coordinated response.

The Project corresponds with premises licence holders and, where necessary, brings review proceedings on behalf of residents and liaises between residents and enforcement officers, reducing the workload for both officers (particularly where there are multiple residents all making the same query) and residents.

The Project facilitates partnership working between residents, Environmental Health, the Police and Licensing Service, as well as between residents and licensees, and ensures that residents are directing their attention to the correct statutory body and that the complaints they make are clearly explained, and proper records are kept as evidence. As well as meeting residents' needs, this saves officer time and ensures that officers only have to deal with relevant information. Case study 1 is a good example of effective partnership working with the police. This case study is a good example of how the Project can work in a way which may not necessarily be apparent but nevertheless helps the system to run in an efficient and fair way.

Residents generally have no knowledge of the importance of licensing conditions, and crucially, the fact that conditions can resolve the problems they have with premises. The Project advises clients on specific conditions to seek and obtains them at hearings, often leading to compromises between residents and licensees, and in workable conditions being requested and imposed on review, or undertakings agreed to outside of a review application. The Project assists residents in collecting

evidence in a methodical and consistent way, providing them with the information to do so and contacting groups of residents to ensure that residents work together with their neighbours to gather evidence.

Residents can be unaware of how the system works and sometimes complain that there is a lack of enforcement by the local authority. This is often because residents have not reported re-occurrences of nuisance and have made one-off complaints rather than providing further evidence to assist the council officers, or have not directed their complaint to the correct department. Richard can explain the procedures that must be followed when, for example, enforcing licensing conditions. The Project liaises directly with council departments and ensures that officers have the correct relevant information.

Of course, Environmental Health can and do initiate reviews on behalf of residents; but, while officers work extremely hard and with great professionalism and diligence in following up residents' complaints, a review can only be taken by Environmental Health when they have actually witnessed sufficient problems themselves. For example, in many cases, noise from late night licensed premises is transitory and unless an officer happens to be passing when it occurs, it is often difficult to witness. Sometimes, a Noise Team officer can witness the problems, but if the problems are of a transitory nature and therefore difficult to witness, advising residents on how best to resolve problems with licensed premises, including gathering their own evidence for their own review, is vital in ensuring that they can fully engage in the licensing regime and exercise their rights by submitting their own reviews. The operator is likely to be represented by specialist licensing solicitors, and the Project addresses this disparity.

The Project makes residents aware of their role in the licensing process, of their rights and, crucially, their responsibilities – for example, responding to City Council correspondence about hearing dates.

It has been recognized that the involvement of the Project leads to increased efficiency at hearings, by focusing submissions on relevant factors (see Case Study

2 at Appendix A for an example).

Benefits to Applicants

There are some tangible benefits to Applicants (see Case Study 6). Additionally, where there is a large number of residents, it can help an applicant to have one point of contact for all the residents.

Appeals

The Project advises residents on the appeals procedure and lets them know how they can assist the Council on appeal and what evidence will be needed – for example it will be important, particularly on an appeal following a review where the decision of Sub-Committee does not take effect unless and until the Magistrates' Court refuse the appeal, to continue to collect evidence where appropriate.

5. Expansion of the Project

Some years ago, the Project did investigate the possibility of expanding to other boroughs. Contact was made with Camden, City of London and Kensington and Chelsea some years ago, and discussion with Camden reached a particularly advanced stage, but no formal links were established. In fact, Richard has been approached by other Council officers and Councillors at training events who say that they think the Project is a fantastic idea!

Recently, the City Council has indicated the possibility of widening the scope of the Project to include Gambling Act 2005 applications and Local Government (Miscellaneous Provisions) Act 1982 applications for sexual entertainment venues. The latter type of premises almost always have a Licensing Act 2003 licence. The Project has already advised a number of clients on these aspects.

6. Social Policy work

This is an important aspect of the work which the Project does and emphasizes why the link with the CAB brand is important. The second of the twin aims of the Citizens Advice service nationwide is to ‘improve the policies and practices that affect people’s lives’. In this way, the Project can help residents to engage in the licensing regime and have their voices heard in a way which cannot necessarily be quantified by statistics but is nevertheless just as important as the day-to-day case work. One example is responding to consultations on behalf of residents. As the only service of its type in the country, it is particularly important that views on licensing issues from residents are fed in.

As well as assisting residents in general, these issues can result in resource savings for the City Council. These ‘social policy’ issues are an example of how the Project helps the residents of Westminster in a way that cannot be quantified by statistics (rather like the existence of the website). There is no way of knowing how many people benefit from improvements in accessibility of information, but if the Project does what it can to ensure that information available to residents is as complete as possible and available promptly, it is fulfilling a valuable service to the whole borough, not just to the clients who seek advice from the service.

7. The future

The long term future obviously depends on funding renewal. The Project is currently operating on a rolling 3 month funding basis, pending a decision as to longer term funding.

As stated above, it has been suggested that the Project can be expanded to incorporate elements of Gambling Act 2005 and Local Government (Miscellaneous Provisions) Act 1982 applications. In this context, both these Acts envisage local community engagement in a similar way to the Licensing Act 2003 and procedures apply. The 1982 has recently been amended (introducing a new category, ‘sexual entertainment venues’), and one of the explicit intentions of this was to give local people more of a say.

The ramifications of recent changes to the Licensing Act 2003 have not yet had time to manifest. Additionally, the Live Music Act 2012 will come into force probably in October 2012. Then there is still the looming shadow of the DCMS's proposals to deregulate Schedule 1 of Licensing Act 2003 (effectively removing regulated entertainment from the scope of the Act). How far that goes may depend on the effect of the Live Music Act, but either or both could increase problems for residents, and put a further strain on Council resources. In this context, a service advising and supporting residents on such issues is even more important.

8. Conclusions

Due to its uniqueness, the Project must evolve to meet the needs of the local community. The experience gained by providing the service for over 7 years will be invaluable. The *raison d'être* of the Citizens Advice service – to provide the advice people need for the problems they face and to improve the policies and practices which affect people's lives – dovetails perfectly with the remit of the LAP. The Licensing Act 2003 is a piece of legislation which can have a profound social effect due to the rights and responsibilities which it provides to local communities. Licensing issues are well and truly on the political agenda at both central and local government, and in the media. Providing residents of City of Westminster with access to expert advice and assistance is a vital and innovative step in ensuring that residents utilise their rights and responsibilities and that the views of all stakeholders are fully taken into account so that the legislative scheme can function as effectively as possible.

The project is an excellent model of effective, project-based partnership working between the local authority and the third sector providing a valuable resource for the local community in a cost-effective and efficient way without compromising the independence of either organisation.

Richard Brown

June 2012

APPENDIX A: Case studies

The case studies set out below are intended to give examples of some of the levels of advice given to clients. They are therefore set out as follows: applications for new

licences or variations with full representation at Sub-Committee; advice and information cases without representation at Sub-Committee eg when the application has been withdrawn; information only cases eg where a residents wants to check what an application seeks; and reviews/problems with licensed premises.

Full representation case studies

Case Study 1

Premises: Bar/nightclub

Location: Marylebone

Client type: Individuals

Application: New Premises Licence

Date: April – May 2011

The background

The premises is a bar/nightclub operation which also serves food in an area of mixed commercial/residential use with numerous existing licensed premises, the vast majority of which are restaurant-style operations and close much earlier. The main use above ground floor level and in a number of self contained blocks, is residential.

The application

The operator of the premises made an application (through specialist licensing solicitors) for a new premises licence which would run concurrently with the current licence (the times overlapped somewhat) for supply of alcohol and late night refreshment from 2am to 5.30 am on Fridays to Sundays, to a maximum of 50 people, and subject to supply of alcohol being ancillary to table meals ie it would operate under 'restaurant' conditions when this licence was in operation.

I was contacted by an individual resident who lived in the immediate vicinity of the premises, and was concerned that the disturbances which she already experienced from the operation of the premises until the early hours would inevitably become worse. I met the client at her property and she ran through the current problems she and her family experienced. Apart from the public nuisance concerns, there had been a recent incident which appeared to be related to serious crime and disorder. I

explained the nature of the application, the procedure that would be followed and the way that she could best put her concerns before the Licensing Sub-Committee, and the best way to raise the crime and disorder concerns. I said I would liaise with the police in this regard.

I drafted a representation on behalf of the client and it was sent in. Meanwhile I had been contacted by another individual resident and I repeated the advice process. Both clients instructed me to represent them at any subsequent hearing.

Work in support of clients' case

I asked the police to do a check on the premises for crime reports and it transpired that the incident witnessed by my client was a serious GBH, and that there had been other serious incidents at the premises in recent months. This of course was extremely important in the context of an application seeking permission to sell alcohol until 5.30am.

Unfortunately, due to an oversight the police did not submit a relevant representation. I suggested that they contact Environmental Health, as a responsible authority, and seek to put in their evidence of the crime and disorder problems that way.

However, it transpired on receipt of the Report to Sub-Committee that there had been no police evidence submitted. This raised the prospect that the very serious crime and disorder problems would not be before the Sub-Committee and the accordingly that the residents' concerns would not be fully heard as, although the incident was of course included in their representation, there was no corroboration from police or details of the other incidents that had occurred.

I contacted the police and informed them again of the crime and disorder problems and that the hearing was in a couple of days time. The police then produced a statement which gave all the background on the crime and disorder problems and the reluctance of the management to properly engage with the police in respect of eg. producing CCTV evidence expeditiously.

The hearing

I appeared on behalf of my clients at the Sub-Committee hearing. The Sub-Committee made it clear that they accepted the existence of public nuisance and crime and disorder associated with the premises, as set out in the residents' representations and in the police evidence which was provided due to residents' concerns. On a practical level, it was noted that two premises licences which overlapped could cause enforcement problems for City Council officers. The application was refused in its entirety.

Conclusion

This case demonstrated how the Project ensures that residents' concerns are presented in the best possible light. It also demonstrates how various stakeholders can work together by liaising and sharing information so that the Sub-Committee can make a decision based on the best information available to them. In a wider context, and relevant to Social Policy, this assists in allowing the licensing process to function as smoothly, and as fairly, as possible.

Case Study 2

Premises: Bar

Location: Soho

Client type: Individuals and Amenity Society

Application: Variation of premises licence

Date: August-September 2011

The background

The premises is part of a well known bar chain. It is located in an area of mixed commercial/residential use, but the main use above ground floor level is residential, including a block of 22 social housing flats directly above the premises. The operator had previously tried to gain longer hours and had either been refused by Licensing Sub-Committee or withdrawn the application.

The application

The last such application was due to be heard in March 2011, and attracted

representations from the residents living above the premises, as well as a local amenity group. I was instructed by the amenity group on that application, which was withdrawn a couple of days before the hearing. It was therefore no great surprise to learn that, just six months later, another application had been made in similar terms. The application sought longer hours for alcohol and late night entertainment, and a range of regulated entertainment not permitted by the current licence. In fact, it sought longer hours than the previous application had done.

I was aware that residents had previously objected, and had experienced problems with the operation of the premises to its current hours; music emanation through the structure of the building, despite the presence of a noise limiter; noise from customers smoking and drinking outside the premises; noise and anti-social behaviour from customers leaving the premises late at night. I was contacted by the amenity society, and advised that they include in their representation details of the previous applications, and details of what residents' concerns have been. I also advised that the individual residents may find it helpful to contact me for assistance with drafting representations and/or with representation at the hearing.

Unfortunately, I was only contacted a couple of days prior to the hearing. She was aware of the date of the hearing and her and a number of other local residents were planning to attend the hearing. They would like me to represent them. However, they had not informed the City Council that they were attending and so had not been sent copies of the hearing papers. I contacted the City Council immediately to inform the case officer that a number of residents would be attending.

The hearing

I appeared on behalf of the amenity society and the individual residents at the Sub-Committee hearing the following day, presented their views to the Sub-Committee, and responded to points made by the Applicant's solicitor. The Sub-Committee made it clear that they accepted the existence of public nuisance associated with the premises, and that granting the application would not promote the licensing objectives. The application was refused in its entirety, and the decision was greeted with applause from the residents.

Conclusion

This case demonstrated how the Project ensures that residents' concerns are presented in the best possible light, and helps to steer them through the sometimes difficult procedural quagmire of such applications. It also shows how the Project is beneficial in assisting the smooth discharge of the licensing function by the local authority, as the case officer was forewarned that a number of local residents would be attending. Had they turned up without papers or representation, it is reasonable to surmise that the hearing would have taken a lot more time.

Case Study 3:

Premises type: Restaurant

Location: Mayfair

Client type: Individuals

Application: Variation of premises licence

Date: July-Sept 2011

The premises is a well known restaurant situated below residential units. The restaurant had given rise to public nuisance problems. The application was for an extension of hours and a relaxation on the conditions pertaining to the outside area. It became apparent that the premises had made a number of previous applications, all of which had incrementally increased what the licence permitted. Each increase in itself was small, but cumulatively the increases were relatively large.

I advised residents of how best to approach the application, and drafted representations for residents. I represented residents at the hearing, where the application was refused.

Case Study 4

Premises: Hotel

Location: Marylebone

Client type: Individuals

Application: new premises licence

Date: Jan-Mar 2012

The application concerned the development of a site which had been ongoing for some years. Residents had already been involved with the planning regime in some detail. I advised a number of them on the licensing application, and made sure that they were aware of the difference between the planning and licensing regimes, and the different factors which the Council could lawfully take into account when reaching their decision on the licensing application. As there were a large number of resident involved, I sent a comprehensive email informing them of how the licensing application process would work, and how and when they should object if they wished.

I drafted a number of representations for residents, and liaised with the responsible authorities and Applicant's solicitors regarding conditions; the application was very widely drafted. Last minute proposals were received from the Applicant's solicitors, which I explained to the residents. I tried to focus residents on those parts of the application which they opposed, as none of them opposed the grant of a licence at all. The residents' concerns were quite specific.

The application was granted, but conditions were added which broadly addressed the residents' concerns.

Case Study 5

Premises: Pub

Location: Victoria

Client type: Individuals and residents' association

Application: New premises licence

Date: August - October 2011

The application concerned a pub that had lain empty for a number of years, and was without a licence. A large number of residents had objected to the application, although they had differing views as to what, if anything, should be granted. I advised some of them as to what the application sought and the legal basis on which a decision would be made, and assisted with drafting representations.

Conditions were proposed prior to the hearing and I explained to residents what the conditions meant. A number of residents wished to attend the hearing, and I

ensured that they were well prepared and could focus their objections on matters relating to the licensing objectives. I represented a number of the residents at the Sub-Committee meeting. The Applicant was represented by a QC. I discussed the application and proposed conditions prior to the hearing, on behalf of the residents.

The application was granted, but with conditions which were broadly acceptable to the residents.

Advice and assistance case studies

Case Study 6

Premises: Department store

Location: Soho

Client type: Individuals/amenity society

Application type: Application for new premises licence

Date: August-September 2011

A local resident had misunderstood the application, which was for a change of layout and to change the areas in which alcohol could be sold, without increasing the overall total capacity or hours. The resident contacted me shortly before the hearing. The police and Environmental Health had already withdrawn their objections. When the application was explained to the resident and the amenity society, they decided to withdraw their objections, the day before the hearing. I contacted the case officer to inform them, and contacted the Applicant's solicitor.

This resulted in a time and cost saving for the Council (As a hearing did not need to be held), for the Applicant (as they stood down Counsel who had been instructed for the hearing), and for the resident who did not have to spend the morning at a licensing hearing.

Case Study 7

Premises: bar/restaurant

Location: Nr Edwgare Road

Client type: Individual

Application type: n/a

Date: July-September 2011

I was contacted by a resident who had been experiencing problems with the operation of the pub opposite her residential block. Attempts to resolve the problem had not worked. I visited the resident's flat, explained the review procedure, and

offered to write to the licence holder before any formal proceedings were issued. The correspondence had the effect of resolving the problems to the resident's satisfaction without the need to take matters further. The resident commented that 'the quality of my life has improved, and I may add, that includes other residents in the same area'.

Case Study 8

Premises: Betting shops

Location: Various

Client type: Community group, amenity society, individuals

Application type: Variation of premises licence

Date: Jan 2012- ongoing

The service has recently been informally extended to include advice on Gambling Act 2005 applications, specifically for new betting shops, or variations to betting shop licences to remove the 'default condition' relating to hours.

There has recently been a flurry of applications by the major operators to extend the hours for betting shops (technically, removing the 'default conditions' on all licences which states when they must close. These sorts of applications (and applications for new betting shops) have provoked a great deal of concern in some communities throughout the country, and attracted the attention of the national media. I have advised amenity societies, a residents' group and residents on the legal position, and on how applications can best be opposed.

The legal position with these applications is quite different to applications under Licensing Act 2003. It is proposed that in due course the Service Level Agreement is formally amended to include this.

Information only case studies

Case Study 9

Premises: general query

Location: N/A

Client type: Individual

Application type: information

Date: January 2012

I had a query from a resident as to how they could use the Licensing Register. They could not manage to track applications in their area. I explained what the Register can be used for, and how useful it can be in looking at the licensing history of premises when they make applications eg to see if they have made a similar application before which has been refused, how to find the Minutes for that hearing etc. I explained to the resident how to track applications. Answering such queries in this way can lead to a significant saving of officer time.

In addition to these case studies, I regularly speak to amenity societies informally about licensing applications in their areas.

Review/enforcement cases

Case Study 10

Premises: Public house

Location: Fitzrovia

Client type: Individual

Application: review of premises licence

Date: May 2011 – February 2012

The background

The premises is a public house, occupying the ground floor and first floor, on the corner of two streets. It has the benefit of a premises licence permitting it to sell alcohol to 11pm each night (10.30pm Sunday), closing 30 minutes later. They are also entitled to private entertainment with no restriction on hours. The closing time of the premises is 11.30pm Mon-Sat, 11pm Sun. It is located in a mainly residential area, although there are a number of other licensed premises in the vicinity.

The application

One resident who lived in a large residential block adjacent to the premises had experienced problems with the premises for some time, mainly due to outside drinking. The premises is particularly popular with office workers and is very busy on Thursday and Friday nights, meaning that she could not enjoy her own property in the evenings. The resident lived on her own. Licensing inspectors had attempted to

mediate, and provided advice to the premises licence holder as to how he could better promote the licensing objectives, such as considering restricting the times that the outside area below the resident's window could be used, and putting up notices asking patrons to be quiet. I advised the resident on how she could ask the Council to review the licence under s51 Licensing Act 2003, and impose restrictions on the licence to address the problems which she had experienced. I first advised on the procedure involved, and did a site visit. I then advised on the evidence which would be required for an application to be successful, including that the issue in question was that of 'public nuisance' which, although not defined in the legislation, had been subject of much case law and that she would accordingly benefit if any of her neighbours were willing to get involved.

I liaised with officers from the City Council, who had previously been involved in attempting to resolve some of the problems experienced. I wrote to the premises licence holder and his solicitors on several occasions, with no material improvement in the situation. It became apparent that the licence holder was unwilling to put into place any of the measures suggested by myself or the inspectors which would actually help matters. In the end, my correspondence went unanswered.

Accordingly, I advised the resident that notwithstanding the potential difficulty in her being the only complainant, she had little option but to apply for a review. She had gathered the necessary evidence. I drafted the application, drafted a detailed witness statement for the resident and collated the appendices to the application based on evidence which they had provided, including DVD footage. The application was then issued and served on the City Council, the premises licence holder and the various statutory authorities. The application sought to impose conditions requiring the licence holder to manage the outside area proactively and requiring that outside drinking cease after a certain time.

Representations were received in support of the application from the Fitzrovia Neighbourhood Association and from Environmental Health. Representations against the application were received from numerous individuals, although most lived outside the area (and indeed many lived outside London) and many were not

relevant as they seemed to think that the point of the application was either to shut down the pub, or shut down a folk music club held in the pub on a monthly basis, neither of which were the focus of the application (although the folk club had been problematic from time to time).

The hearing

I represented the resident at the hearing. She was very nervous, as she remained the only complainant.

The first hurdle to cross at the hearing was to establish that a 'public' nuisance existed. This was accepted by the Council. A number of options were explored at the hearing, including the possibility of moving the drinking/smoking area round the corner away from the complainant's property. The potential time at which outside drinking could cease was discussed, with the Applicant's solicitor seeming to suggest that a time of 9pm would not be appropriate because the evidence demonstrated that the problems were lessening by then. Our suggestion was that the time should be earlier, for the same reason.

Conditions were discussed, with the licence holder seemingly unwilling to accept even conditions which are seen as standard by most operators.

The Sub-Committee decided against imposing a time limit for outside drinking, or as limit on the numbers of customers. However, they did impose a 'no noise emanation' condition and added a condition requiring the licence holder to ensure that customers drinking outside do not obstruct the pavement or cause a public nuisance.

Since then, I have been liaising with the inspectors to ensure that the decision is implemented by the licence holder.

Case Study 11

Premises: Nightclub

Location: Mayfair

Client type: 38 Individuals

Application: ‘summary’ review of premises licence

Date: March 2011 – November 2011

The premises was a nightclub in Mayfair. It is situated beneath and adjacent to residential blocks, and has a premises licence permitting licensable activities until up to 4am. The operators leased the premises from a company, who in turn leased it from another company, the freeholder.

Application to review premises licence

I had previously acted for a large number of local residents who live in close proximity to the premises in respect, firstly, of an application made by the police to review the premises licence under s51 Licensing Act 2003. The police application detailed a number of incidents of serious crime and disorder at the venue, and contained allegations as to the conduct and probity of the management in connection with these incidents. This was an unusual case as it involved acting for residents who wish to remain anonymous. This is not specifically permitted under the Act, as it is for example in Local Government (Miscellaneous Provisions) Act 1982) but is contemplated in certain circumstances by the s182 Government Guidance.

As the spokesperson said, ‘Given the violence of the alleged behaviour of nightclub owners and personnel and what we have seen and experienced, we and our neighbours are nervous about making individual representations - and exposing ourselves to their anger and possible violence - and feel more comfortable approaching this issue using the anonymous shield of a lawyer.’ Accordingly, I drafted a statement on behalf of all 38 residents, and attended the hearing before Sub-Committee to represent the residents, who were understandably unwilling to ‘put themselves in the firing line’ by attending in person.

The ‘summary’ review

The operator appealed the Sub-Committee decision to the Magistrates’ Court. Meanwhile, there had been a further violent incident at the premises, and the police

had applied for a further review under the expedited system under s53A of the Licensing Act 2003 (inserted by the Violent Crime Reduction Act 2006). The appeal was withdrawn following service of the expedited review. The Sub-Committee is empowered to take interim steps with 48 hours of such application, pending a full hearing. It resolved to suspend the licence indefinitely. The full hearing took place on April 13th. I was instructed to represent the same group of residents.

A large number of residents again wished to make representations supporting the police review. I acted on the same basis as before ie that they would remain anonymous.

Accordingly, I drafted a statement on behalf of all 39 residents and two residents' associations and provided the City Council with the names and addresses of the signatories to enable the City Council to be sure that the signatories lived in the vicinity of the premises.

I was instructed to appear at the hearing before Sub-Committee to represent the residents. A large amount of evidence was submitted by each party.

The hearing took place and this time the residents' anonymity was not challenged by the operator. In addition to the operator being represented by a solicitor and barrister, the freeholder was represented and the head leaseholder was represented by a solicitor and barrister. The Sub-Committee decided to revoke the premises licence.

The operator appealed and the matter was set down for an 11 day hearing in the autumn. I advised residents on the appeal procedure and on what is required of them, and I liaised with the relevant Council officer dealing with the appeal. Matters became even more complicated when the freeholder applied to transfer the premises licence to themselves. The application was refused, and that decision was appealed too. Both appeals were listed concurrently, and both were refused. Thus, the licence was revoked.

The two cases demonstrated the effectiveness of the Licensing Advice Project in giving a voice to residents who otherwise would not be heard, or would not be able to present their views to the fullest effect. This dovetails perfectly with the agenda of 'localism' coming from the Coalition Government regarding the engagement of local people and groups with local issues, including the licensing regime.

It is also useful for police and Environmental Health to have the input of residents into their own review applications. This is particularly helpful when the police have applied for a review on the basis of crime and disorder, but residents also experience public nuisance.

Case Study 12

Premises: Hotel with nightclub/bar/restaurant

Location: Covent Garden

Client type: individual and residents' association

Application: review of premises licence

Date: November 2011 - ongoing

This was another case with a long running history. Suffice to say that there had been some dispute between the operator and the Council as to what the premises licence permitted, with regard to an area of the hotel which had become a well-known 'celebrity' nightclub. The hotel also had a 'destination' bar and restaurant. The operation of these areas gave rise to public nuisance late at night.

The operator had applied for a new premises licence to replace the current licence. The application was refused, and the decision appealed. Before the appeal hearing, Environmental Health submitted an application to review the existing premises licence, to reduce the hours of the area incorporating the nightclub.

I had represented a number of local residents on the new premises licence application, and the same residents contacted me when they learned of the review. I explained that they were entitled to make representations in support of the application, which I drafted. A petition was also obtained. Upon receiving the Report papers, it became apparent that the evidence suggested that it was not just the

nightclub which caused a nuisance.

I represented the residents at the review hearing. The Sub-Committee reduced the hours for the ground floor of the hotel, not just the nightclub.

The decision has been appealed by the operator, and I have spoken at length to residents explaining the appeal procedure and how they can help the City Council in defending the appeal.

APPENDIX B:

How do clients contact the Project?

A wide ranging analysis was conducted for the 3 year Report covering 2008-2011. That exercise has not been repeated for this Annual Report but the information from 2008-2011 as to how clients contacted the Project is reproduced below:

	Initial contact from client	%	All contacts from clients	%
Email	103	43.7	1728	80.7
Telephone	104	44	349	16.3
Letter	4	1.7	34	1.6
Other (eg referrals)	25	10.6	28	1.4
Total	236	100%	2139	100%

While initial contact is split fairly equally between email and phone (about 44% each), 80% of subsequent contacts from client are by email. Just over 10% of initial contacts come via other methods, for example from Area Forums or referrals from Council officers.

More in depth statistics such as the nature of each contact – ie email, telephone, site visit for each month have been appended to each Steering Group Report, and can be provided on request.

An analysis of ward distribution of clients reveals that the majority of clients come from West End, Knightsbridge and Belgravia, Marylebone High Street and St James' wards, although the Project advises residents from almost every ward. As might be expected, the Ward with the most cases is West End, which includes Soho, Leicester Square, Piccadilly and Mayfair but also has a large residential population, often in close proximity to late night licensed premises.

This is a new client-base for Westminster Citizens Advice, in terms of where clients live. Westminster CAB's main client base mainly originates from the Church Street,

Churchill, Harrow Road, Queens Park and Westbourne wards.

The tables below show a breakdown of client data.

1. Are you

	No. of clients	%
Male	21	49
Female	20	46
Decline to answer	2	5
Total	43	100

2. Which age group do you belong to?

	No. of clients	%
18-24	1	2
25-34	3	7
35-44	8	19
45-54	5	12
55-64	9	21
65-79	8	19
80 or over	0	0
Decline to answer	9	21
Total	43	100

3. Do you have children or other dependents living with you?

	No. of clients	%
Yes	7	16
No	31	72
Decline to answer	5	12
Total	43	100

4. Do you have a disability?

	No. of clients	%
Yes	4	9
No	37	86
Decline to answer	2	5
Total	43	100

5. What sort of accommodation do you live in?

	No. of clients	
Rented – council	2	5
Rented – housing association	5	12
Rented – private landlord	5	12
Owner-occupier	27	63
Other – please specify	0	0
Decline to answer	4	9
Total	43	100

6. Employment – are you

	No. of clients	%
Working, full-time	18	42
Working, part-time	2	5
Full-time student	0	0
A pensioner	10	23
Unwaged	4	9
Full time carer	1	2
Other	4	9
Decline to answer	4	9
Total	43	100

7. How would you describe your ethnic origin?

	No. of clients	%
Asian British	0	0
Asian Bangladeshi	0	0
Asian Indian	0	0
Asian Pakistani	0	0
Asian Other – please specify	0	0
Black African please specify	0	0
Black British	0	0
Middle Eastern or Arabic please specify	1	2
White British	32	75
White Irish	0	0
White Other –please specify	2	5

Mixed heritage – please specify	1	2
Decline to answer	7	16
Total	43	100

Is English your first language?

	No. of clients	%
Yes	38	88
No	3	7
Decline to answer	2	5
Total	43	100

NB Due to rounding, not all totals are precisely 100%

APPENDIX C: Website statistics

Each Steering Group Report since April 09 has included website download statistics. The website does not record number of times the site as a whole is visited, but the number of times that individual documents are downloaded is recorded, and produced below. The documents can be subdivided into a number of categories: information and advice for residents on the licensing regime, information on the Project and Policy responses by the Project.

Document	No. of downloads as at 1/4/11	No. of downloads as at 31/3/12	No. of downloads in the year
Hearings Guide	632	814	182
Guide to Licensing Act 2003	632	1960	1328
How to write a representation	2237	2859	622
Response to WCC consultation on Statement of Licensing Policy	140	503	363
Noise Log	1078	1275	197
Response to Government consultation ‘re-balancing’	146	419	273
Outline of LAP	540	1110	570
Response to Government consultation on regulated entertainment	-	94	94
Response to Institute of Licensing consultation on regulated entertainment	-	44	44
Licensing Advice Project Report 2008-2011	-	121	121

The figures relate to the number of times documents have been downloaded, not the number of times pages (such as the News section) have been viewed. The information and advice available on the website is clearly well used. Of course, there is no way of quantifying, or even estimating, how many of the users are residents of Westminster. Clearly, however, the website adds value to the Project in terms of its service to residents. It is perfectly possible to respond to a licensing application and even attend a hearing using just information taken from the website, although as the information is not case specific, it is always beneficial to contact the Project directly.

APPENDIX D:

**Licensing Advice Project
Client Feedback Survey & Comments
2011-12**

1. How did you find out about the Licensing Advice Project?	%	No. CI
Letter from Westminster City Council	18.6	8
Friend or family member	16.3	7
Referred by council department	16.3	7
Referred by councillor	14.0	6
Internet search	14.0	6
Referred by other advice agency	4.7	2
Other (eg by amenity society)	16.3	7
Total	100%	43

2. How did you contact us initially?	%	No. CI
Telephone	41.9	18
Email	55.8	24
Letter	2.3	1
Total	100%	43

3. How long did it take us to reply to your first contact?	%	No. CI
I heard back the same day	51.2	22
I heard back the next day	34.9	15
I heard back within a week	11.6	5
I heard back a week or more longer	0.0	0
I can't remember	2.3	1
Total	100%	43

4. Please rate the quality of advice and assistance you received	%	No. CI
Excellent	90.7	39
Good	7	3
Acceptable	0	0
Poor	2.3	1
Declined to Answer	0	0
Total	100%	43

5. Have you used Citizens Advice services before?	%	No. CI
Yes	27.9	12
No	72.1	31
Declined to answer	0.0	0
Total	100%	43

In addition, a client satisfaction survey has been carried out in each of the three years of funding from 2008-2011. The results for each of the individual surveys have been provided to the Steering Group at the appropriate meeting. The full results are in the 3 year Report 2008-2011.

Client Feedback 2011-12

“This is an excellent service providing clear informed advice to all members of the community. The response time to queries is excellent.’ **West End resident**

“The support provided was excellent and extremely helpful and useful throughout the process. We concluded with a very satisfactory outcome.” **St James resident**

“Excellent service – please do not cut it! a huge help, very knowledgeable and gives very good advice” – **Marylebone resident**

“first class standard, highly reassuring but most of all, totally invaluable for the lay person” **Covent Garden resident**

“A really high quality service. In the circumstances (where there were more serious criminal/violence issues) we also felt much safer from having a lawyer to front our involvement ” **West End resident**

“Given the sheer volume of licensing in Westminster, this service is both necessary and invaluable” **Amenity society**

“Great support to local community groups” **Community group**

“We are extremely grateful to the LAP, and to Westminster City Council, and we feel strongly that this project offers a valuable service to residents. We trust it will be continued and – if possible – extended to other, neighbouring boroughs” **Amenity society**

“We were unable to attend the licensing meeting. Richard gave us a full and thorough report, and I though put forward our views in a measured and sensible way.” **Warwick resident**

“More people ought to be aware of its existence...” **Amenity society**

“The advice was most helpful in guiding us and eventually a satisfactory result for the residents involved and I believe also the applicant who amended the application to allow for many of the objections filed” **Tachbrook resident**

“As always, excellent friendly service over past year” **Amenity Society**

“Extremely helpful. We do need the Citizen (Sic) Advice as not everyone can afford a solicitor. Furthermore, as residents we know what is happening our area and how it affects us, councils should listen and with the assistance of the CAB they do or at least curb their approvals” **Marylebone resident**

“Without this service my life would be very difficult.” **St James’ resident**

“It is not so much the objection but we were very grateful for the support and explanations” **Residents’ Association**

“...the quality of my life has improved, and I may add, that includes other residents in the same area...Thank you for this wonderful service.” **Bryanston Square resident**

“...excellent, succinct advice on the legal ins and outs of licensing, or great use to the mansion block in which I live” **Bayswater resident**

“very helpful and reassuring to have someone with knowledge to take up my problem” – **Maida Vale resident**