



City of Westminster

Committee Agenda

Title:

Licensing Committee

Meeting Date:

Monday 25th July, 2022

Time:

10.00 am

Venue:

Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP

Members:

Councillors:

Aziz Toki (Chair)	Md Shamsed Chowdhury
Maggie Carman (Vice-Chair)	Laila Dupuy
Concia Albert	Robert Eagleton
Melvyn Caplan	Iman Less
Jim Glen	Tim Mitchell
Louise Hyams	Angela Piddock
Jacqui Wilkinson	Caroline Sargent
	Judith Southern



Members of the public are welcome to attend the meeting and listen to the discussion in Part 1 of the Agenda.

Admission to the public gallery is via a visitor's pass which is available from the main ground floor reception at City Hall, 64 Victoria Street. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting..

If you require any further information, please contact the Committee Officer, Tristan Fieldsend, Senior Committee and Councillor Liaison Officer.

Email: tfieldsend@westminster.gov.uk
Corporate Website: www.westminster.gov.uk

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 2, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Director of Law in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. MEMBERSHIP

To report any changes to the membership.

2. DECLARATION OF INTEREST

To receive declarations by Members and Officers of the existence and nature of any pecuniary interests or any other significant interest in matters on this agenda.

3. MINUTES

To sign the minutes of the previous meeting held on Wednesday 1 December 2021.

(Pages 5 - 8)

4. THE POTENTIAL IMPACT OF THE LEVELLING-UP AND REGENERATION BILL ON THE LICENSING OF TABLES AND CHAIRS

To receive an update from the Head of Licensing and Regulatory Services.

(Pages 9 - 14)

5. LICENSING POLICY REVIEWS PROGRAMME 2022/23 TO 2024/25

To receive a report from the Head of Licensing, Place and Investment Policy.

(Pages 15 - 20)

6. UPDATE OF LICENSING APPEALS

To receive a report from the Principal Solicitor and Manager (Legal Services).

(Pages 21 - 26)

7. THE PERFORMANCE OF THE LICENSING SERVICE

To receive an update from the Licensing Service.

(Pages 27 - 36)

8. ANY OTHER BUSINESS

Stuart Love
Chief Executive
15 July 2022

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CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 1st December, 2021**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Matthew Green (Chair), Barbara Arzymanow, Susie Burbridge, Rita Begum, Maggie Carman, Aicha Less, Murad Gassanly, Jim Glen, Louise Hyams, Tim Mitchell, Karen Scarborough, Aziz Toki and Melvyn Caplan

1 MEMBERSHIP

- 1.1 Apologies were received from Councillors Heather Acton and Jacque Wilkinson.
- 1.2 The Chair reported that Councillor Richard Elcho had stepped down from the Committee and members provided their thanks for all his hard work and efforts on licensing. The Committee also welcomed Councillor Melvyn Caplan who had joined the Committee in his place.

2 DECLARATIONS OF INTEREST

- 2.1 There were no declarations of interest.

3 MINUTES

- 3.1 **RESOLVED:** That the minutes of the Licensing Committee held on 7 July 2021 were approved as a correct record of proceedings.

4 LICENSING SERVICE FEE REVIEW 2021-22

- 4.1 Daisy Gadd, Senior Practitioner for Licensing, introduced the report and provided details of the fee review that had been undertaken by the Licensing Service for all licensing regimes where the council were able to set a fee. The proposed amended fees were intended to take affect from 2 December 2021 and it was explained that these were in line with the annual inflation rate in the

United Kingdom which had increased to 3.1%. This was the rate of Consumer Price Inflation (CPI) and since CPI related to consumer goods it was considered the most appropriate measure of inflation to apply in this circumstance whilst maintaining a cost recovery process when reviewing fees.

- 4.2 In response to questions it was clarified that the proposed fees had been calculated on a full cost basis which considered both the direct and indirect costs associated with processing, monitoring and enforcing the licences plus a 3.1% inflation increase. When setting fees there was a statutory requirement to consider the income received for a licensing scheme compared to the overall cost of delivering the scheme. The fee level had to be set to recover the actual costs incurred by the Council in running the regime but not to make a profit.
- 4.3 The Committee noted that a full review of the charges relating to street trading licensing would be conducted in 2022. Therefore, the only consideration in the report before the Committee for street trading would be the proposed 3.1% increase for tables and chairs licences.

RESOLVED:

That the proposed fees set out in the report be approved and commence on the 2 December 2021.

5 INTRODUCING CHARGING FOR CLASSIFICATION OF FILMS

- 5.1 Daisy Gadd, Senior Practitioner for Licensing, introduced the report and highlighted that whilst the Licensing Authority had nominated the British Board of Film Classification (BBFC) as its standard classification body for films, the Licensing Authority was ultimately responsible for film classifications relating to the exhibition of films within Westminster and had the power to classify films.
- 5.2 The Committee was interested to note that in an average year before the pandemic, the Licensing Authority would receive over twenty feature length film classification requests and also hosted over twenty film festivals per year. The majority of the films for exhibition at these film festivals had not been classified by the BBFC classification process and required classification by the Licensing Authority. As a result, the Licensing Authority already operated its own film classification process. However, there was currently no fee charged for providing a film classification.
- 5.3 Therefore, the Cabinet Member for Business, Licensing and Planning had agreed proposals to introduce a fee scheme run on a cost recovery basis. The fees charged would purely cover the costs associated with the film classification process and it was anticipated that nearly £25,000 could be generated through this fee scheme.
- 5.4 The Committee discussed the proposal in detail and agreed that the proposals were an appropriate mechanism to classify films. It was recognised

that many other local authorities already operated similar schemes to the one proposed. The Committee was also pleased to note that the fee scheme would be run on a cost recovery basis and as a result it was not intended to impact upon community-run events. The fees charged would cover the costs associated with the film classification process.

RESOLVED:

- 1) That the Committee supported the film classification process agreed by the Cabinet Member for Business, Licensing and Planning including the reasonable costs to cover the classification process.
- 2) That the Committee supported the proposals agreed by the Cabinet Member for Business, Licensing and Planning for the fees charged to the applicant to be based on the following criteria as shown in appendix 3 of the report:
 - The length of the film submitted was based on a Band 3.5 officer minute rate.
 - The application fee was based on a Band 3.5 officer hourly rate.
 - The appeal classification, where the applicant was requesting the film to be reclassified would be referred to the Team Manager and would be charged based on band 4.4 (Team Manger minute rate).

6 LICENSING APPEALS UPDATE

- 6.1 Heidi Titcombe, Principal Planning and Licensing Solicitor, introduced the report which provided a summary of recent appeal results. The Committee noted the summary which included details of the four appeals that Legal Services had been dealing with since March 2021, two of which had now been withdrawn and two which were pending determination. The Committee was informed that further details of the outcomes of these would be provided once additional information was available.
- 6.2 The Committee expressed its thanks to Legal Services for an outstanding record on appeals and the excellent advice they provided to Committee members. The Chair also thanked the Committee members for their sound judgment and the balanced way they adjudicated applications.

RESOLVED:

That the report be noted.

7 ANY OTHER BUSINESS

- 7.1 Councillor Karen Scarborough raised the topic of licences in Special Consideration Zones and encouraged Environmental Health and the Police to maintain their representations for such applications, particularly when there

had been issues arising from the operation of the Premises. The Committee noted the suggestion.

The Meeting ended at 11.03 am

CHAIRMAN: _____ **DATE** _____

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City of Westminster

Licensing Committee Report

Date of Committee:	25 July 2022
Classification:	General Release
Title of Report :	Licensing Policy Reviews Programme 2022/23 to 2024/25
Wards Affected:	All
Decision Maker:	Licensing Committee
Financial Summary:	None
Report's author:	Kerry Simpkin, ksimpkin@westminster.gov.uk Head of Licensing, Place and Investment Policy

1. Introduction

- 1.1 This report provides an overview of the licensing policy review programme that officers will be undertaking over the next three years.

2. Recommendations

- 2.1 That the report be noted.

3. Background

- 3.1 The Council has a range of licensing policies that should be reviewed at regular intervals as best practice and a result of specific statutory requirements. Although the Council has kept policies up to date for the most frequently used licensing regimes, e.g. alcohol, late night refreshment and gambling policies other policies have not been updated for some time.
- 3.2 This report provides a summary of the proposed Licensing Policy Review Programme for the next three years. This programme is subject to change and there may be external factors, for example changes in legislation associated with existing or new licensing regimes, which may need to be accounted for within this programme which are, as yet unknown.
- 3.3, The programme of policy reviews are set out below along with the intended start date.

Statement of Gambling Policy (July to November 2022)

- 3.4 The Gambling Act 2005 requires the Licensing Authority to prepare, consult on and adopt a statement of the principles (Gambling Policy) it will apply when exercising its functions under the Act.
- 3.5 The Licensing Authority undertook a review of its Gambling Policy in 2021. That review took the form of republishing the then current Gambling Policy to achieve the statutory deadlines associated with the review and to consult upon a completely new Gambling Policy.
- 3.6 Consultation on both proposals ended in October 2021. In November 2021, the Licensing Authority re-adopted its existing statement of principles to comply with the statutory requirements of reviewing every three years whilst allowing for a longer consultation on a full review of the policy.
- 3.7 The new Gambling Policy was further revised following comments made during the consultation phase. The new Gambling Policy will provide greater clarity and establish a host of new policies relating to the geographical area where they are located, the potential risk associated with operating a gambling premises in parts of the city and who could be affected and what the Council's expectations are on operators who wish to or do operate within Westminster.
- 3.8 Whilst the statutory deadline for reviewing the Gambling Policy is now not until November 2024, it is intended to seek approval to adopt and publish the new Gambling Policy by the end of this calendar year.

Street Entertainment Licensing Policy (July 2022 – March 2023)

- 3.9 In April 2021 the Council introduced a new Street Entertainment Licensing policy under the City of Westminster Act 1999. The policy applies to performances by musicians, magicians, comedians, artists including street artists, dancers, acrobats and mime artists amongst other things.
- 3.10 When adopting the policy the Council committed to reviewing it after its first full year of operation. This review is about to take place and will look at the policy and whether there is a need to revise it in light of any views and issues that have occurred over the first year of operation.
- 3.11 The Street Entertainment Policy review will be conducted in four stages. Stage one will be an internal review of data and views from officers involved in the licensing process of ensuring compliance with the Street Entertainment licensing regime. Stage two will involve engagement with key stakeholders and interested parties to establish their views, data and potential options for improvements or revision within the policy. Stage three will be a non-statutory consultation that will request views and comments on a number of possible options associated with the scheme and the Street Entertainment Policy. Finally, stage four will, subject to the outcome of the first three stages, be the statutory consultation process and governance approach to adoption of a revised Street Entertainment Policy.

Street Trading Policy (November 2022 – December 2023)

- 3.12 The Council's Street Trading Policy outlines the Council's approach to street licensing and its standards for those engaged in street trading under the City of Westminster Act 1999.
- 3.13 The Street Trading Policy was last reviewed in 2012, despite there being no statutory deadline for reviewing it, due to the age of this policy it is proposed that it should be reviewed and updated.

Cumulative Impact Assessment (November 2022 – August 2023)

- 3.14 The Licensing Authority must produce a cumulative impact assessment (CIA) if the authority believes that the cumulative impact of licensed premises in part of the Licensing Authority's area is such that, granting further licenses would not promote the licensing objectives. The Licensing Authority should then have regard to any cumulative impact assessment. Westminster produced, consulted on and published its first CIA in 2020.
- 3.15 The Licensing Act requires the Licensing Authority to review the CIA and its conclusions at least every three years. The current CIA must be reviewed by October 2023

Statement of Licensing Policy (September 2023 – November 2024)

- 3.16 The Licensing Act 2003 requires the Licensing Authority to prepare, consult on and adopt a statement of the principles it will apply when exercising its functions under the Act. The Statement of Licensing Policy must be reviewed at least every five years. The Licensing Authority reviewed the Statement of Licensing Policy in December 2020. Further amendments were made in October 2021 to introduce policies to address emerging issues.
- 3.17 The statutory deadline for reviewing the Statement of Licensing Policy is October 2026. However, the last full review in 2020 was done in the context of the Covid-19 pandemic and its impact on licensed venues. Minimal changes to the policy were made to ensure regulatory consistency for venues. As such, It is proposed that a more detailed review is conducted before the statutory deadline, taking into account the updated CIA, which will be produced by November August 2023.
- 3.18 The Council may also develop new policies outside of those that already exist, any proposals will be presented to the Licensing Committee as and when appropriate.

Sex Shops and Cinemas and Sexual Entertainment Venues Policies (November 2024 – April 2025)

- 3.19 The Council's Sex Shop and Sex Cinema policy was last reviewed in June 1999. The policy is limited in its scope and effectively only establishes the

limitations on the number of sex shops and sex cinemas that can be granted within areas of the city.

3.20 The Sexual Entertainment Venues (SEV's) Policy was adopted in February 2012 and has not be revised since then. SEV's are classified under the Local Government (Miscellaneous Provisions) Act 1982 (1982 Act) as a sex establishment. Sex shops and sex cinemas are also categorised under the same legislation as sex establishments.

3.21 The review of these policies will seek to establish one policy that will cover all sex establishments under the 1982 Act. The policy will be brought up to date and look at the number and location where such applications should be permitted or restricted. The policy will also look at the key considerations that will be considered before determining such applications. We intend to take a modern approach to this policy to account for technological developments, the changing attitudes and views on pornography, sex toys, other sex articles and striptease, lap dancing entertainment. A key focus of this review will be on preventing crime and disorder, protecting children from harm and protecting performers.

4. Financial Implications

4.1 There are no financial implications arising from this report.

5. Legal Implications

5.1 The Statement of Licensing Policy under the Licensing Act 2003 must be reviewed at least every five years, following consultation. Any proposed changes have to be considered and approved by Full Council of the Council.

5.2 Similarly, the Gambling Act 2005 requires that the Licensing Authority's Gambling Policy must be reviewed at least every three years, following consultation being carried out. If the Licensing Authority wishes to make changes to this policy the changes need to be considered and if appropriate approved by Full Council.

5.3 Licensing regimes under the City of Westminster Act 1999 (Street Entertainment and Street Trading) or Local Government (Miscellaneous Provisions) Act 1982 (sex Establishments) do not have statutory timeframes for the review and development of licensing policies. However, they do provide specific requirements associated with consultation and governance on developing and adopting new or revised policies.

6. Carbon Impact

6.1 It is believed that there is no carbon impact as a result of this report as this relates to the review of policies. The carbon impact of each individual policy will be assessed as part of that policy's review.

7. Consultation

7.1 Each policy will be consulted on as part of its review.

8. Equalities Implications

8.1 The Council must have due regard to its public sector equality duty under Section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

8.2 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

8.3 The Council believes there are no direct equalities implications arising from this report. An Equalities Impact Assessment will be undertaken as part of each policy review.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Kerry Simpkin, Head of Licensing, Place and Investment Policy
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City of Westminster

Licensing Committee Report

Date of Committee:	25 July 2022
Classification:	General Release
Title of Report :	Update of Licensing Appeals
Wards Affected:	All
Decision Maker:	For information
Financial Summary:	None
Report's author:	Ms Heidi Titcombe Principal Solicitor (Licensing and Highways Legal Team) Heidi.Titcombe@rbkc.gov.uk For the Director of Law

1. **Introduction**

- 1.1 This report provides a summary of recent appeal results.

2. **Recommendations**

- 2.1 That the report be noted.

3. **Reasons for Noting**

- 3.1 To be aware of the current appeals being received and their outcome.

4. **Background**

- 4.1 Legal Services has been dealing with six appeals since March 2021, four of which have been withdrawn and two are pending determination as specified in section 5 below.
- 4.2 To date, 483 appeals have been received since the Council took over the licensing functions from the Magistrates' Court in February 2005. 481 of these appeals have been heard / settled / withdrawn, leaving two to be determined as shown below:

- ☐ 2 pending
- ☐ 59 dismissed
- ☐ 16 allowed
- ☐ 13 allowed only in part
- ☐ 166 settled
- ☐ 227 withdrawn.

5. **Appeals**

5.1 **Scotch, 13 Mason's Yard, London SW1Y 6BU – Withdrawn**

- 5.2 Ground Support Equipment DMCC (“Applicant”) applied for the grant of a shadow licence in respect of the above Premises on the basis that the Applicant had an interest in the business.
- 5.3 The application was opposed by 21 residents on the grounds of the prevention of public nuisance. The Licensing Sub-Committee refused the application on 4 February 2021 on the grounds that there was insufficient evidence in the operating plan to demonstrate how the Applicant would operate the business for the hours requested without undermining the licensing objectives. The Applicant appealed the Decision, but subsequently withdrew the appeal and agreed to pay the Council £18,391.20 in costs by the end of September 2021. Those costs have not been paid and we are considering the feasibility of pursuing a civil claim.

5.4 **56 Wardour Street, London, W1D 4JG - Withdrawn**

- 5.5 Wardour Street Trading Ltd applied for a new licence for a restaurant and bar for the above premises which is in the West End Cumulative Impact Zone. The application was opposed by Environmental Health, the Metropolitan Police, the Licensing Authority, Soho Estates Limited and the Soho Society on the grounds that public nuisance, and crime and disorder would be caused because of the potential numbers of customers entering the cumulative impact area.
- 5.6 On 3 June 2021, the Licensing Sub-Committee refused the application on the grounds that the premises would not promote the licensing objectives. The Applicant appealed and the case was scheduled to be heard at Westminster Magistrates’ Court on 7 February 2022. However, the Appellant decided to withdraw the appeal in October 2021.
- 5.7 The Council was entitled to recover its legal costs as a result of the withdrawal and Wardour Street Trading Ltd agreed to pay the Council £6,000 towards its legal costs in instalments of £1,000 a month. Wardour paid £1,000 in January 2022 but failed to pay any further instalments, so civil proceedings have been issued against them to recover the balance. Wardour have since paid a further £2,000, leaving a balance of £3,000 plus costs and interest. The civil claim is being pursued.

- 5.8 **Bellaria Restaurant, Basement and Ground Floor, 71 Great Titchfield Street, London, W1W 6RB - withdrawn**
- 5.9 We received two appeals in relation to the same premises, one from the Operator and the other from the Langham Hotel who did not consider the Operator should have any extension of hours.
- 5.10 By way of background on 18 March 2021 the Committee determined a variation application by Mr Nimet Oner who sought to extend the hours of the licence until 1:30 hours in the morning. Environmental Health opposed the application, as did a number of residents, including the Langham Hotel which is adjacent to the restaurant. The representations mainly related to the prevention of public nuisance licensing objective.
- 5.11 The Police had initially opposed the application, but they withdrew their representation when they were able to agree conditions with the Applicant which included the requirement to have a minimum of one door supervisor on duty from 21.00 hours to 30 minutes after the closing time, on the assumption that the hours would be extended to 1:30 am hours on Thursday, Friday and Saturdays.
- 5.12 The Licensing Sub-Committee granted the application in part by limiting the extension of hours to 00:30 hours on Thursday, Friday, and Saturdays, whilst retaining the door supervisor condition as agreed with the Police. The Applicant appealed the decision on two grounds. Firstly, that the door supervisor condition was unnecessary and disproportionate as the Committee had only extended the hours to 00:30 hours. Secondly, because there was an administrative error in the Decision, which referred to live music being permitted to 00.30, when it should have said midnight.
- 5.13 The Langham Hotel also appealed and argued that no extension of hours should have been granted because this would be contrary to the Council's licensing policy in terms of core hours; secondly, that the Committee failed to require an acoustic report to be provided and that the Committee had no regard of the objectors' submissions. The Langham Hotel wanted the case to be remitted back to the Committee for further consideration and they objected to the removal of the door supervisor condition.
- 5.14 The Case Management Hearing took place on the 2 November 2021, where the two appeals were joined, directions agreed, and the appeals were listed for a full hearing on the 4, 5 and 6 April 2022 at City of London Magistrates' Court. However, both Appellants subsequently withdrew their appeals and costs were negotiated whereby the Langham Hotel paid £3,200 costs on the 15 March and Mr Oner paid £3500 costs on the 31 March 2022. The costs have been paid in full.

5.15 ADMIRAL, 1A, BEDFORD STREET LONDON WC2E 9HH – pending

5.16 Luxury Leisure applied under Section 159 of the Gambling Act 2005 (2005 Act) for the above premises to operate as a 24 hour Adult Gaming Centre (AGC). The Metropolitan Police supported the application.

5.17 The Licensing Authority, The City Inception Group, Covent Garden Community and Association, The Northbank Bid, and a local business owner opposed the application. They had concerns about the proposal to trade 24 hours a day in a high-risk area where there were vulnerable persons and the Applicant had failed to provide a comprehensive risk assessment to demonstrate that vulnerable persons would not be impacted by this new premises.

5.18 On 4 November 2021 the Licensing Sub-Committee refused to grant a premises licence because it did not have confidence that the risks to children and other vulnerable persons from being harmed or exploited by gambling had been suitably mitigated, given the compelling evidence produced by those opposing the application.

5.19 Luxury Leisure has appealed the Decision on the following grounds:

1. the Decision to refuse was wrong;
2. the Sub-Committee failed to take into account all relevant considerations; and
3. the Sub-Committee took into account irrelevant considerations.

5.20 The appeal will be heard in City of London Magistrates' Court over two days, starting on 19 September 2022 and Members will be advised of the outcome.

5.21 16 Charles Street, London W1J 5DR – pending

5.22 16SC Operations Ltd applied for the grant of a new premises licence for a fine dining restaurant until 23:30 on Mondays to Thursdays, until midnight on Fridays and Saturdays and until 22:30 on Sundays. The premises is not in a cumulative impact area so the application was in accordance with policy.

5.23 The Police, Environmental Health, and 27 local residents along with the Rosebery Mayfair Resident Association Limited (RMRAL) and Balfour Property Investments (BVI) Ltd (BPIL) objected to the application on the grounds that the premises would undermine the licensing objectives. However, the Police withdrew their objection after agreeing certain conditions with the Applicant.

5.24 Prior to the hearing the residents association and BPIL agreed certain conditions should be attached to the licence which included, However, the Sub-Committee granted the licence on 18 November 2021, subject to a number of conditions, but did not impose some of the conditions requested because the Committee considered they were not appropriate and proportionate.

- 5.25 RMRAL and BPIL appealed the Decision on the grounds that their conditions were not attached to the licence. The Council is awaiting the date of the Case Management hearing at the Magistrates' Court when directions will be given for the disposal of the appeal.

6. JUDICIAL REVIEWS

6.1 Hemming and others v Westminster City Council

- 6.2 Members will be aware that Hemming and a number of other proprietors of sex establishments in Soho have challenged the fees charged by Westminster for sex shop licences. They have alleged that the Council was only entitled to recover the administrative costs of processing the application when assessing the licence fee, and not the costs of monitoring and enforcing the whole licensing regime against unlicensed and licensed operators.
- 6.3 The High Court and the Court of Appeal both held that the European Directive prevented Westminster from recovering the fees for monitoring and enforcing the licensing regime, against licensed and unlicensed operators. Westminster was therefore ordered to repay this element of the fees which related to monitoring and enforcement costs.
- 6.4 Westminster appealed to the Supreme Court who decided after various hearings on 19 July 2017 that Westminster could recover a reasonable fee for the monitoring and enforcement of the sex licensing regime in Westminster (including the costs of enforcement against unlicensed operators).
- 6.5 An application has been made to the Administrative Court to recover the costs payable to the Council for monitoring and enforcing the licensing regime, but this has been delayed pending the COVID-19 pandemic. The casework team at the Administrative Court have referred this case to a Casework Lawyer and the case will be listed for a directions hearing.

7. Financial Implications

- 7.1 Financial implications should be completed by the relevant Finance officer.

8. Legal Implications

- 8.1 Any applicant making an application under the Licensing Act 2003 and any other party who has made a representation, is entitled to appeal a decision of the Licensing Sub-Committee provided they apply to the Magistrates' Court within 21 days of the full licensing decision being issued. Such an appeal takes the form of a complete rehearing of the case, where new witnesses can be called and often such an appeal lasts many days. A Magistrate's Court has the power to grant or dismiss the appeal or to remit the case back to the Licensing Sub-Committee for reconsideration.

- 8.2 A Magistrates' Court has the power to make any order it considers appropriate in terms of legal costs. If the Committee provides a fully reasoned decision of the application, the onus is on the Appellant to prove that the Sub-Committee's decision was wrong.

9. Carbon Impact

- 9.1 It is believed that there is no carbon impact as a result of this report as this relates to appeals and judicial proceedings.

10. Consultation

Ward Councillors have not been consulted as the determination of licensing applications is a statutory function and the Council is an automatic party if an applicant or other party decides to appeal the decision of the Licensing Sub-Committee.

11. Equalities Implications

- 11.1 The Council must have due regard to its public sector equality duty under Section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

- 11.2 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

- 11.3 The Council believes there are no direct equalities implications arising from this report.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Ms Heidi Titcombe, Principal Solicitor at 07739 314073 or by email at email: heidi.titcombe@rbkc.gov.uk



City of Westminster

Licensing Committee Report

Date of Committee:	25 July 2022
Classification:	General Release
Title of Report :	The Performance of the Licensing Service
Wards Affected:	All
Decision Maker:	For information
Financial Summary:	None
Report's author:	Steven Rowe and Rebecca St Rose, Licensing Managers

1. Introduction

- 1.1 This report sets out an overview of the Licensing Service over a period of 2 financial years. The report will set out the types of regimes and applications covered by the Licensing Service, team performance, significant trends and high-profile premises.

2. Recommendation

- 2.1 That the Committee notes the report.

3. Licensing Regimes

- 3.1 The Licensing Service deals with applications received over approximately 25 different licensing regimes. The majority of applications received by the Licensing Service are governed by the Licensing Act 2003, including those, but not limited to, temporary event notices, new premises licence applications and applications to transfer the premises licence holder. Other legislation is frequently utilised by the Licensing Service covering the broad and vast range of licence applications it deals with, namely:

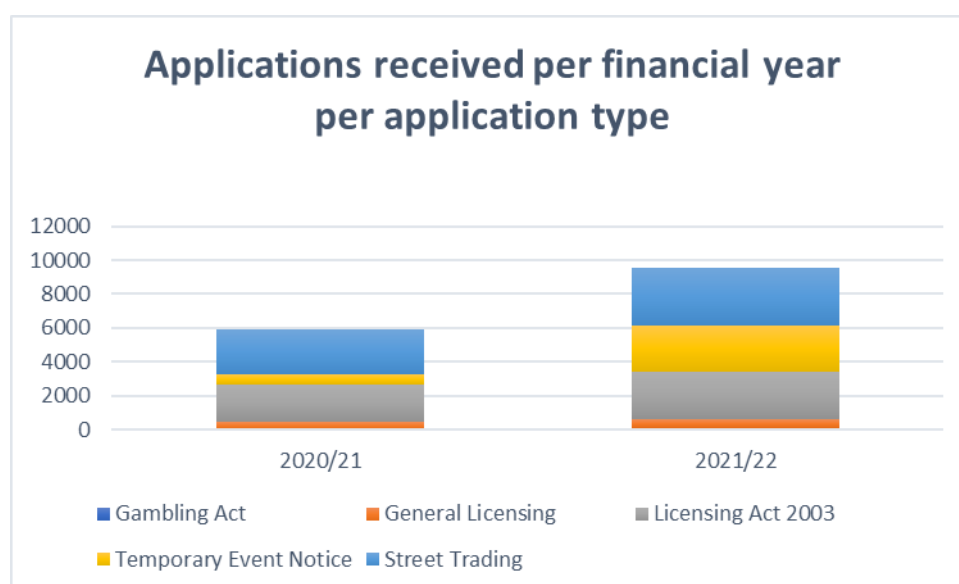
- Gambling Act 2005: including casinos and betting shops.

- London Local Authorities Act 1991/2000: including massage and special treatment premises.
- Zoo Licensing Act 1981 and The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018: including ZSL London Zoo and regulating other animal regimes such as dog boarding establishments, performing animals and pet shops.
- The Marriage and Civil Partnerships (Approved Premises) (Amendment) Regulations 2011
- City of Westminster Act 1999: regulating street trading applications and activity, including the designation of pitches in Westminster's markets, as well as isolated pitches where street trading is permitted.
- Business and Planning Act 2020: Permits local authorities to authorise the premises to place tables, chairs and other furniture on the public highway without the requirement for planning permission. Legislation that was created in response to the pandemic.
- Local Government (Miscellaneous Provisions) Act 1982: regulating the licensing of sex establishments, sex shops and sexual entertainment venues.

4. Applications received by the Licensing Service

- 4.1 Prior the pandemic the Licensing Service received over 8000 applications per year. The trend was approx. an 8% increase in applications received. Compared to previous years during 2020/21 the Licensing Service received 5895 applications. Notably there was a huge reduction in the number of Temporary Event Notices which are usually in their thousands, down to 573.
- 4.2 Since restrictions were lifted the Licensing Service has seen a significant increase in applications received and during 2021/22 the total number of applications received was 9546. The numbers of applications received this financial year has evened out as expected with 1944 applications being received within the first 3 months.

- 4.3 The graph below shows the number of applications received per financial year per application type for the years 2020/2021 and 2021/2022.



- 4.4 For the purposes of this report, General Licensing includes applications for massage and special treatment premises, sexual entertainment venues, explosives, auctions and film classifications.
- 4.5 The table below shows the actual number of applications received per financial year supporting the information provided in the graph above.

Financial Year	Total Number of Applications Received	Application Types				
		Gambling Act	General Licensing	Licensing Act 2003	Temporary Event Notice	Street Trading
2020/21	5895	33	433	2194	573	2662
2021/22	9546	46	539	2805	2775	3381

Pavement Licences and Tables and Chairs Licences

- 4.6 In July 2020, the Business and Planning Act 2020 was introduced by the Government. The Act introduced a new 'pavement licence' scheme so that operators of businesses selling food and drink could apply to their local authority for authorisation to put removable furniture such as tables and chairs on the highway in front of or adjacent to their premises so that their customers could eat and drink outside their premises to aide social distancing.

- 4.7 The number of applications for pavement licences increased by 18% from the previous year with the extension of the Business and Planning Act 2020 until September 2022, with a total number of 1794 applications received between April 2021 and March 2022.

5 Team Performance

- 5.1 The Licensing Service has an internal key performance indicator of processing applications within 2 working days of receipt. Over the last 2 financial years, more than 90% of applications were processed within this deadline.
- 5.2 The table below shows the total number of applications received by the Licensing Service year on year, as well as the number of those applications to have been processed within 2 days of receipt.

Financial Year	Total Number of Applications Received	Number of Applications Processed Within 2 Days of Receipt	Percentage of Applications Processed Within 2 days of Receipt
2020/2021	5895	5718	97%
2021/2022	9545	9259	97%

- 5.3 Considering the significant increase in applications received from 2020/21 to 2021/2022 as detailed above, the Licensing Service is encouraged by its ability to maintain its performance of processing at 97% with an increase of 3650 applications. This is also very positive given the operation of the Licensing Service had a decrease in staffing levels.
- 5.4 Furthermore, in order to ensure the continual provision of a high level of customer service and satisfaction, the Licensing Service also focuses on ensuring effective consultation on all applications received and determining applications within its legislative deadlines.
- 5.5 To support the above, the Licensing Service has improved its focus on issuing licences within our internal deadlines of 14 and 28 days, depending on the type of licence regime and application. The Licensing Service is embedding a change in mindset of the team by outlining the importance of issuing licences. It is envisaged that the Licensing Service will see a substantial improvement in the percentage of licences issued within the above deadlines over the coming financial year as a direct result of this change.

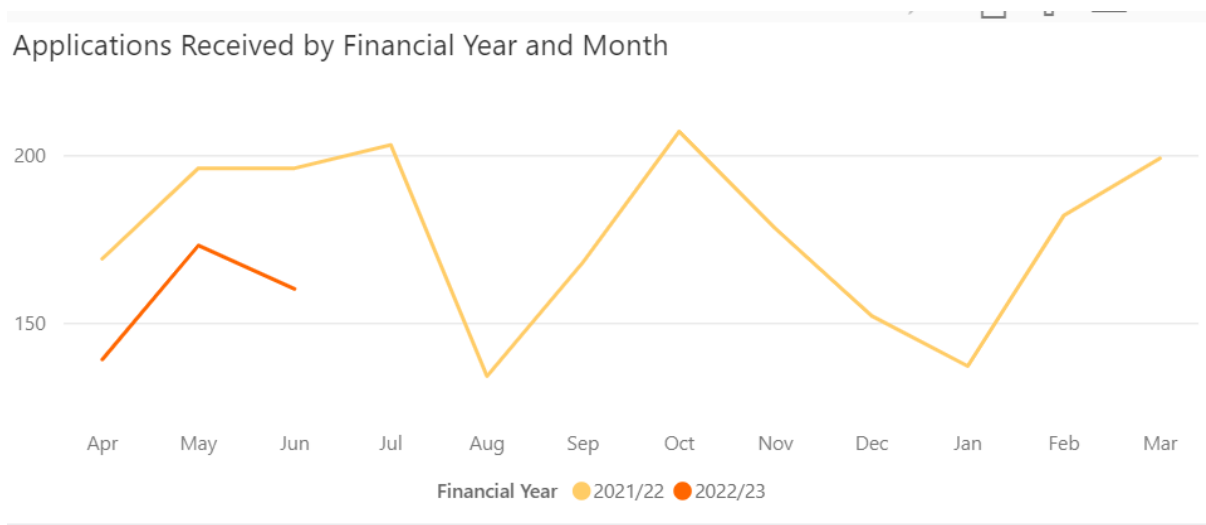
Role of the Licensing Authority

- 5.6 The Licensing Authority takes an important role throughout the consultation of applications; specifically, those for new and variations of premises licences for premises located within the cumulative impact areas and contrary to the Council's Statement of Licensing Policy. In 2021/2022, the Licensing Authority raised over 150 representations to these types of applications.

- 5.7 Given the percentage increase of applications received by the Licensing Service year on year, it is predicted that there will also be a correlated increase in the number of representations raised by the Licensing Authority.
- 5.8 The role in raising representations in accordance with the policy enhances the awareness and expertise of Senior Licensing Officers in regard to the locality, operation and management of licensed premises within Westminster. In turn, this provides Licensing Sub-Committee Members and Ward Councillors with policy expertise in the absence of a regular policy advisor at the Licensing Sub-Committee hearings. It also develops the internal and external profile of the officers involved and allows for further communication with applicants, local residents and other interested parties.
- 5.9 Over the last two years the Licensing Service has focussed on providing a mediation service for applications. The Service recognised that a number of the applications being determined by the Licensing Sub Committee could be dealt with out of the forum through conversations with the applicants and interested parties. The Service has therefore put conciliation at its forefront and carries out mediation at an early stage in the process to allow everyone to state their concerns and then the Service facilitates a structured process between all parties which has resulted in around a significant number of applications being determined under delegated authority rather than going before Members. This is resource intensive for the Licensing Service, but the result of this hard work is a reduced number of cases going to Sub-Committee unnecessarily which had been causing a waste of time and money to those involved. Feedback from interested parties and applicants has been extremely positive and the Service will be continuing to push forward with this in the future.
- 5.10 Officers within the Street Trading Team have expanded their role by working collaboratively with the market development team to enhance the market offering in the city. This has encouraged and supported traders back to the markets since the pandemic. By recognising the impact on traders, the Team has offered more casual trading so that residents and small businesses can try different markets bringing the flurry of business back to the streets for all to enjoy. The team have also begun licensing Rupert Street Market which had remained vacant since the expiry of the previous operator's licence. Working with the market development team to facilitate night time market events to increase footfall and exposure to the market and its traders.

6 Licensing application trends

- 6.1 The Licensing Service had received applications on a consistent trend year on year. The impact of the pandemic resulted in far less applications being received in the year 2020/21. Since restrictions have eased and the city is returning to a new 'normal' applications received have started to form a trend as per previous years. The graph below indicates the number of applications received each month for the years 2021/2011 and the current number of applications received this financial year 2022/2023 so far.



- 6.2 Just like previous years before the pandemic the Licensing Service expect a high volume of applications are received in the months of October and November, which is reflective of temporary event notices applied to take place in the month of December and January for Christmas and New Year events. Between October and November 2021, the Licensing Service received over 1072 Temporary Event Notice applications.
- 6.3 The Government is aiming to make the new pavement licences regime permanent in the Levelling Up and Regeneration Bill and the Service will expect the numbers of applications received to continue each year.

7 Trends and Projects

New IT system

- 7.1 Working with Farthest Gate Limited on the design and implementation of new licensing software, Liberator, fondly referred to as Libby. A new customer focused system which puts the customer in charge of their information and gives officer real-time licence/trader information out and about on any device. The team have so far rolled out the new software to all market traders for all types of street trading applications and more recently pavement licences and Business As Usual (BAU) tables and chairs applications to agents and businesses. This included giving personal training to traders, city inspectors, EHO's, highways planning and solicitors. The next phase of the design is to integrate finance onto Libby which will allow the customer to have access to their invoices and payments. This will also negate current practice of a manual invoice upload. It is hoped that Liberator will be rolled out to Premises Licensing sometime in 2023.

Debt Collection Street Trading

- 7.2 The end of lockdown saw a steep rise in monies owed to the street trading account. The decision had been made that there be a freeze on any form of debt collection during the 2 years of the Pandemic. There was a big drive to contact customers offering advice re. their account and offering ways to reduce their debt and/or to avoid incurring further charges. This included telephone consultations and face to face meetings to arrange payment plans, to discuss reducing days of trading as well reducing trading to one pitch rather than two. To date there are 48 payment plans in place.
- 7.3 Where agreement was unable to be reached, the licensed trader was referred to Licensing Officer Panels, to date 6 licences were revoked for failing to pay fees associated with their street trading account.

Annual Fee Retrieval Licensing Act 2003

- 7.4 As with street trading the end of the pandemic highlighted that a number of licensed premises had not paid their annual fees. It soon became apparent that there were a number of premises who had not paid their annual fees for a number of years. The Premises Licensing Team has therefore focussed on collecting historic debt for unpaid annual fees. It is hopeful that by the time the new financial year for 2023/24 comes in that all unpaid annual fees will be accounted for either through payment or suspension of licences.

8 Westminster Responsible Authorities Group

- 8.1 The Westminster Responsible Authorities Group (WRAG) is a fortnightly meeting attended by representatives of the responsible authorities (e.g., Environmental Health, Metropolitan Police, Licensing Authority, City Inspectors from all areas, and the Home Office) and chaired by the Licensing Service. Its purpose is to identify applications or premises of concern and develop a joint approach between the authorities.
- 8.2 The discussion features on any high profile or high-risk premises which may have applications scheduled for Licensing Sub-Committee, are proposing changes which may attract interest from relevant parties or have come to the attention of the Licensing Service by way of concern.
- 8.3 The WRAG is used as a platform to create a single point of contact between the area-based City Inspector teams and the Licensing Service. This allows for effective and efficient communication of information on high profile and problematic premises within Westminster.

9. High Profile cases and Events

- 9.1 Men's EUROs 2020 football tournament

To celebrate the postponed Men's EUROs 2020 football tournament, the service licensed a special fan zone in Trafalgar Square in June 2021 to screen all of England's football matches, as well as the semi-finals and final. The

Licensing Service worked collaboratively with other responsible authorities and the Greater London Authority to provide a space to screen the games with the aim of encouraging Londoners and visitors back into central London as part of the recovery from the pandemic. Whilst being a socially distanced event and operating within the parameters of COVID-19 restrictions, the fan zone was recognised in the national press as a success and the service is now working with the Greater London Authority for a fan zone site for the Women's EUROs 2022 football tournament starting in July.

9.2 British Summer Time

The British Summer Time concerts are back bigger and better than ever before. Following the grant of a variation application to change the number of days and weekends the event can take place over in 2021, BST is now taking place across 3 weekends with 9 concert days featuring legendary headliners, as well as a variety of food and drink stalls.

9.3 Queen's Platinum Jubilee

The Queen's Platinum Jubilee was an exciting opportunity for the Licensing Service to work with a variety of stakeholders including the Department for Culture, Media and Sport (DCMS), the Royal Household and the BBC, to name just a few. A licence was granted to the DCMS to cover licensable activities from Thursday to Sunday to cover a range of planned events. A large concert featuring some of the world's biggest music stars took place on the Saturday outside Buckingham Palace with spectator viewing down The Mall and around Trafalgar Square and Parliament Square. On the Sunday, a pageant took place around St James' Park celebrating all of what the country and Commonwealth has to offer, as well as organised and licensed street parties taking place in certain parts of the city. It was an amazing weekend of celebrations, and the Licensing Service played a pivotal role in ensuring all the relevant and necessary licences were in place for the events to run smoothly and successfully.

9.4 Notting Hill Carnival

2022 will see the return of Notting Hill Carnival for the first time since 2019. Notting Hill Carnival takes place over the August bank holiday weekend and is expected to draw one of the largest crowds ever experienced before. Stakeholder meetings are taking place between the Licensing Service, the Events & Filming team and the teams at Kensington & Chelsea to monitor applications for premises licences, temporary event notices and temporary street trading licences.

9.4 Ma Dames, 58 Porchester Road

Ma Dames, a nightclub operating at 58 Porchester Road, had its licence revoked following a review application submitted by the Licensing Authority on the grounds of public nuisance. High levels of noise nuisance and anti-social behaviour were taking place outside the premises and in nearby residential

streets which resulted in an increase of noise complaints and concerns over the hours of operation of the premises. The review application was heard by a Licensing Sub-Committee who determined that, based upon the evidence presented by the Licensing Authority, the Police, Local Ward Councillors, Amenity Societies and local residents, the licensing objectives were not being promoted by the operator and that it would be appropriate and proportionate to revoke the licence, remove the designed premises supervisor and the sale of alcohol with immediate effect. This was a fantastic result for the Licensing Authority given the hard work of officers throughout the review process, and prior mediation sessions with the venue and residents.

9.5 London Zoo

London Zoo is the world's oldest scientific zoo. With over 1.2 million visitors a year, ZSL London Zoo is one of the Licensing Service's most high-profile venues. Licensed under the Zoo Act 1981, London Zoo also has the benefit of a premises licence, an explosive licence for its marine flares and flash bangs and is an approved premises for marriage and civil partnerships. The Licensing Service receives numerous Freedom of Information requests in relation to the zoo and has a stringent inspection regime under the Zoo Act 1981 which requires annual inspections.

10. Financial Implications

101 There are no financial implications from this report.

11. Legal Implications

11.1 There are no legal implications from this report.

12. Equality Implications

12.1 S.149 of the Equality Act 2010 places a duty on local authorities to have due regard to the need to eliminate unlawful discrimination, to advance equality of opportunity between people who share a protected characteristic and to encourage good relations between those who share a protected characteristic and those who do not. The Council has had due regard to this duty when receiving, processing determining and issuing licences.

If you have any queries about this report or wish to inspect any of the background papers, please contact:

Mr Steve Rowe or Ms Rebecca St Rose - Licensing Managers

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