

**Subject:** Enforcement Activity Report - 2009  
**Committee:** Licensing Committee (Miscellaneous)  
**Date:** 2 February 2010  
**Cabinet Member:** Councillor Brookshaw  
**CMT Member:** Director for Community Services  
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**Ref:** ERS/LIC/PREM  
**Part:** I

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### **Executive Summary:**

This report has been compiled to give the Licensing committee (Miscellaneous) an overview of the various aspects of the work undertaken by agencies involved in regulating the evening & Night Time Economy during 2009.

It is anticipated that representatives from the Police Licensing Department and Fire Service will also be present to answer any questions.

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### **Corporate Plan 2009-2012:**

This report links to the delivery of the corporate improvement priorities. In particular:

1. Informing and involving residents.
  2. Providing more and better culture and leisure activities.
  3. Keeping Children Safe
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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

There are no financial implications associated with this report.

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### **Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.**

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

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**Recommendations:**

That Committee note the attached report.

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**Alternative options considered and reasons for recommended action:**

None

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**Background papers:**

None

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**Sign off:**

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|---|--------------------------------|-----|----------------------------------|----|--|--------------|--|----|--|---------------|--|
| Fin                                     | <b>EM<br/>DevF9<br/>100065</b> | Leg | <b>AG/7<br/>349/1<br/>8/1/10</b> | HR |  | Corp<br>Prop |  | IT |  | Strat<br>Proc |  |
| Originating SMT Member : Carol Burgoyne |                                |     |                                  |    |  |              |  |    |  |               |  |

## **Licensing Committee – 2<sup>nd</sup> February 2010**

### **Enforcement Activity Report – 2009**

#### **1.0 Introduction**

1.1 This report has been compiled to give the Licensing Committee (Miscellaneous) an insight into the work undertaken by agencies involved in regulating the Evening and Night Time Economy (ENTE) during 2009. The main policy initiatives conducted during 2009 have been

- The adoption of a DPPO covering the City Centre and Stonehouse Neighbourhoods effective from the 1<sup>st</sup> August 2009.
- Report detailing a 12 month review of the Cumulative Impact Policy covering five areas across the City, namely Union St (including Derry's Cross), The Barbican, Mutley Plain, North Hill, and Stoke Village considered by Scrutiny Panel.
- Review of The Gambling Statement of Policy with the revised version being adopted by Council on the 30<sup>th</sup> November 2009.
- Members considered a report giving officers delegated powers to grant or refuse minor variation applications. This is a procedure to streamline the application process whereby minor changes are requested to existing premises licences.

1.2 The debate over concerns surrounding pole/lap dancing premises has continued and proposals to amend the existing legislation (Local Government (Miscellaneous Provisions) Act 1982) to include these types of establishment to be known as 'sexual entertainment venues' are likely to be implemented this year.

#### **2.0 Licensing**

2.1 Licensing Officers with administrative support, undertake all aspects of the licensing function covered by the Licensing Act 2003. These responsibilities cover the regulatory process for premises and club premises certificates, personal licences, Temporary Events Notices (TEN's) and gambling establishments (casinos, betting shops, adult gaming centres, bingo halls)

2.2 During 2009 278 new applications, transfers, DPS variations, 204 TEN's and 216 personal licences were processed.

2.3 Statutory agencies, in particular the Police and Environmental Health continue to submit formal representations in respect of applications having regard to the four licensing objectives and in the majority of cases the applicant agrees with the officer's recommendations thereby enabling the representations to be mediated out. The committee are kept aware of the mediated applications by way of report.

Applications that are not mediated out with the statutory agencies (and local residents) have the opportunity to put forward balanced and reasonable reasons why Members should, for example attach additional conditions to the premises licence.

- 2.4 Licensing Sub Committee has held 22 meetings and has considered 26 licensing applications where representations have been made by statutory agencies and/or members of the public. Of these decisions 3 have been the subject of appeals to the Magistrates Courts.
- 2.5 During 2009 Members also considered 13 applications for review of premises licences 9 of which were submitted by the Police and 4 by Environmental Health (noise and public nuisance). Members also considered its first expedited review application submitted by the police on the grounds of series disorder, that resulted in interim steps being imposed on the premises to restrict hours of opening, prior to a full review hearing.

### **3.0 Gambling Establishments**

- 3.1 Licensing Officers with administrative support, also undertake all aspects of the gambling function covered by The Gambling Act 2005, which became effective on the 1<sup>st</sup> September 2007. The Statement of Principles under the Gambling Act is also the subject of a 3 year review and the revised policy went out for public consultation during July/August 2009. On the 30<sup>th</sup> November 2009 the Council resolved to formally adopt the Statement of Principles which became effective on the 31<sup>st</sup> January 2009.
- 3.2 Licensing Committee also delegated responsibility for setting the annual fees payable by gaming establishments such as casinos, bingo halls, adult gaming centres and betting shops. A revised fee structure will be presented to Members in the near future. All establishments are the subject of routine inspection to ensure they comply with statutory obligations under gambling and associated legislation.
- 3.3 The City Council is also responsible for licensing sex shops, scrap metal dealers, motor salvage operators, street collections and house-to-house collections.

### **4.0 Noise and Public Nuisance**

- 4.1 During 2009, 187 formal noise complaints were registered against licensed premises from activities such as live and recorded music i.e. bands, discos, karaoke and also noise and disturbance from patrons both on and off the premises. Three noise abatement notices were served on licensed premises as noise generated from these establishments was proved to be materially affecting the use and enjoyment of near-by residential property

- 4.2 Environmental Health Officers use an escalation process when investigating noise complaints and will discuss the cause of the complaint with the responsible person at the earliest opportunity in order to allow them the opportunity to resolve the matter quickly without the need for further formal action.

## **5.0 Enforcement**

- 5.1 Agencies continue to use a number of enforcement strategies that contribute towards providing a well-regulated ENTE to create an environment that assists in reducing levels of crime and fear of crime. Premises operating in the ENTE continue to receive good constructive advice from enforcement agencies such as Licensing, Environmental Health, Fire Service and the Police.
- 5.2 Interventions include unannounced and announced visits to assess the working environment against licensing conditions and other workplace regulations. The licensees, managers and staff being encouraged to attend training events and to participate in community schemes for the licensed trade such as CitySafe, Pubwatch and Clubwatch.
- 5.3 Other enforcement options include service of formal abatement or improvement notices and in serious cases prohibition. These interventions contribute towards managing crime and disorder and public safety within the ENTE areas throughout the City.

## **6.0 Training and Awareness**

- 6.1 Training seminars are a proven and cost effective method of providing information to licensed premises operating in the ENTE. Where appropriate training options focused at underage sales, noise at work, health & safety, licensing, trading standards and noise nuisance will continue to be targeted at licensed premises. Newsletters are produced to provide up to date information to operators of licensed premises and are of particular use to smaller independents that may not have the opportunity to be supported by trade bodies or organisations.
- 6.2 There are two key parts to the inspection of licensed premises. Firstly to assess the premises with the relevant legislation that applies and secondly to allow an opportunity to provide information and answer questions from owners, managers and staff on a one-to-one basis. This helps to ensure that the persons responsible are fully aware of their legal obligations that apply in licensed premises.
- 6.3 Joint visits are arranged between Environmental Health, Licensing, Police and Fire Service in order to target 'problem premises' so that an effective response is provided leaving the licensee and the DPS under no illusions of their legal responsibilities.

- 7.4 Members will have received an insight into the management and control within these types of premises when considering the 13 applications to review premises licences that were submitted during 2009. This is the last resort when all other methods have failed.
- 7.5 Officers have undertaken a series of inter-agency evening inspection operations focusing on fire safety, smoking, licensing and environment health.

## **8.0 Under Age Sales**

- 8.1 The Police Licensing Team continued to undertake test purchase operations of licensed premises (on sales & off sales). 22 on sales premises were tested of which 10 resulted in a positive sale, 262 off sales premises were tested of which 36 were positive. For positive sales each of the premises received a follow up with other actions with a reminder that they would be re-tested. Repeat offending resulting in a review of the licence.
- 8.2 The City Council are also responsible for the sales of other age-restricted products such as cigarettes, DVD's, fireworks, solvents and knives; and various publicity and education campaigns have been undertaken, supported by covert operations to ensure business are aware of their obligations.

## **9.0 Liaison**

- 9.1 There is a close link between the four licensing objectives in order to produce a fair and equitable set of conditions for licensees, a close working relationship between Licensing and the respective agencies Environmental Health (Noise and Disturbance), Police Licensing Team (Crime and Disorder) and Trading Standards (Under Age Sales) is essential.
- 9.2 The lead agencies meet on a bi-monthly basis to discuss working practices, problem premises and coordinate inspection programmes for premises operating in the ENTE.

## **10.0 Work Initiatives for 2010**

- 10.1 Officers from all lead agencies will continue to support licensed premises in the ways outlined above, to ensure that they are best placed to contribute towards a positive, well managed ENTE, having regard to the current economic conditions.
- 10.2 Regular meetings of the Joint enforcement liaison group will continue to ensure that all agencies have the opportunity to discuss strategies and on-going operations to ensure that resources can be best targeted on those premises that contribute significantly to undermining the licensing objectives.

- 10.3 Major projects for this year will focus on the 3 year review of the Licensing Policy that will include the Cumulative impact policy and the possible formulation of a policy in respect of Sex Establishment venues.
- 10.4 Test purchasing operations in premises in relation to age-restricted products such as alcohol, petrol, fireworks and cigarettes will continue.
- 10.5 Government is currently consulting on new proposals to introduce amendments that include the following;
- To remove the requirement that licensing authorities publish a licensing Statement of Policy every 3 years
  - To extend the time period from 7 to 28days to allow specific persons to notify interim authority following the death, incapacity or insolvency of the licence holder
  - To extend the period during which the police may object to a TEN from 48 hours to 2 or 3 days
  - To exempt small live music events from the Licensing Act 2003 up until 23.00.

## **11.0 Conclusion**

- 11.1 This report seeks to provide an on-going insight into the operations of lead agencies in regulating the ENTE and it is intended that this Committee continue to receive an annual report outlining the activity of the previous year and the major initiatives planned for the next 12 months. This will provide members with an insight of how statutory agencies will continue to undertake their respective roles individually and jointly when dealing with licensed premises operating within the ENTE.