

PLYMOUTH CITY COUNCIL

Subject: Licensing Activity Report 2014/15
Committee: Licensing Committee
Date: 16 June 2015
Cabinet Member: Councillor Brian Vincent
CMT Member: Kelechi Nnoaham (Office of the Director of Public Health)
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Ref: ERS/LIC/
Key Decision: None
Part: I

Purpose of the report:

This report has been compiled to give the Licensing Committee an overview of the various aspects of the work undertaken by agencies involved in regulating the licencing regimes within the remit of the Committee. The report will also highlight future work plans and potential changes in legislation or guidance which will have an impact on the Committee.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

This report links to the delivery of the City and Council priorities. In particular:

1. Growing Plymouth

Licensing systems aim to assist in the delivery of a safer, more vibrant Plymouth. This in turn should attract more visitors to the City and also support an increase in the numbers of citizens of Plymouth who will utilise the social, cultural and sporting offers available. Opportunities for increased levels of employment should follow.

2. Confident Plymouth

A safe and vibrant leisure economy will allow Plymouth to be positively marketed attractive destination both nationally and internationally.

3. Caring Plymouth

The policy will allow for effective control of alcohol supply, which will assist in reducing alcohol harm and thereby reduce inequality. Whilst alcohol misuse affects individuals from all sections of society, those from the most disadvantaged communities experience the highest burden of harm.

See http://www.plymouth.gov.uk/corporate_plan.pdf

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Not applicable

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

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.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

That member consider this report and note its contents

Alternative options considered and rejected:

None

Published work / information:

For more information please see the below links.

Licensing Policy http://www.plymouth.gov.uk/statement_of_licensing_policy.pdf

Licensing Act <http://www.legislation.gov.uk/ukpga/2003/17/contents>

Licensing Act Guidance

<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing/guidance-s182?view=Binary>

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7

Sign off:

Fin		Leg	23123/ag/2 .6.15	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? Yes													

Enforcement Activity Report – 2014/15

1.0 Introduction

- 1.1 This report has been compiled to give Members of the Licensing Committee an update of the work undertaken by agencies involved in regulating licensable activities and in particular management of the Evening and Night Time Economy (ENTE). It will also outline specifically the work of the licensing team from the 1 April 2014 to the 31 March 2015.

2.0 Licensing Act 2003

- 2.1 Licensing Officers with administrative support, undertake all aspects of the licensing function covered by the Licensing Act 2003. During the twelve months to the 31 March 2015, Officers processed the following number of applications:

	2014/15
Licensing applications, transfers and variations	340
New Personal licences	174
TEN's (of which 104 were 'late' TEN's)	374

- 2.2 Responsible authorities, in particular the Police and Environmental Health continue to submit formal representations in respect of licensing applications. In the majority of cases the applicant will agree with the advice given, thereby allowing them to be mediated out. Members receive regular updates of all the mediated applications by way of a report.

- 2.3 The Licensing Sub-Committee undertook the following activities:

	2014/15
Applications or variations	11
Review of premises licences	3

This resulted in 1 refusal (relating to 3 TENs).

These numbers are representative of previous years

3.0 Licensing Act Fees

- 3.1 The last government undertook a consultation considering changes to the current fee structure by the introduction of locally set fees. The Home Office have recently announced that they do not intend to take forward any proposals to change the current licensing fee system. Fees have remained unchanged since the introduction of the Act in 2005.

4.0 Legislative changes

- 4.1 There have been a number of de-regulatory measures introduced by the Government. The majority have been to reduce the number and range of licensable activities. Significant changes are outlined below:

- Generally live and recorded forms of music will not need a licence where a licence to sell alcohol is in place, has an audience of below 500 and takes place between the hours of 8am and 11pm

- School, hospital and Local Authority organised events no longer require a licence between the hours of 8am and 11pm, except for the provision of alcohol
- Other activities deregulated include circuses, community premises, Greco-Roman wrestling or freestyle wrestling.
- The number of TENs in relation to the same premises has increased from 12 to 15 pa
- There is no longer a requirement to report the loss or theft of a licence to the Police
- It is no longer an offence to sell liquor coffee to a person under the age of 16
- Personal licences no longer have an expiry date (previously was 10 years)

4.2 This is a summary of the changes as there are a number of different factors that can affect whether any activity requires a licence. This has created a highly complex system both for the licensing team and businesses or event organisers. Existing licence conditions will have no effect until after 11pm where they relate to any of the deregulated activities. Where a premises causes problems in relation to the licensing objectives then a review may be called and where Committee can re-instate or add conditions to be in place prior to 11pm.

4.3 The Anti-Social Behaviour Crime and Policing Act 2014 came into effect in October 2014. This replaced existing powers to immediately close premises with similar provisions. The main changes regarding licensing involved the repeal of Designated Public Places Orders (DPPO). Members have considered Police applications for DPPOs previously and a number exist across the City. A DPPO provides a power for Police Officers to prevent public drinking and confiscate alcohol if necessary. The DPPO has been replaced by similar provisions under Public Spaces Protection Orders (PSPO).

The Committee will no longer, therefore, receive applications for DPPOs. Applications for PSPOs will be considered via a Delegated Decision process and approved by the relevant Cabinet Member.

Existing DPPOs will continue until October 2017 where they must either be renewed with a PSPO or revoked.

5.0 Noise and Public Nuisance

- 5.1 During 2014/15, 155 formal noise complaints were registered against licensed premises, which is very similar to previous years.
- 5.2 Environmental Health Officers continue to use an escalation process when investigating noise complaints, discussing the circumstances of the complaint with the responsible person at the earliest opportunity in order to allow them to resolve the matter quickly without the need for further formal action. In most cases the complaint can be resolved by way of an action plan or minor variation with the agreement of the licensee.
- 5.3 An Out Of Hours noise service operates between 8pm and 1am on Friday and Saturday nights to respond to noise complaints involving licenced premises. Specific visits outside of these hours can be made by arrangement where necessary.

6.0 Crime and disorder / Policing

- 6.1 Alcohol continues to be a significant factor in violent crimes, with alcohol being a factor in approximately 70% of violence against the person crimes. The evening and night time economy is involved in 19% of all violence against the person crimes

- 6.2 The Police have dealt with 15 venues classified as Problem Premises and have engaged in extensive negotiations and mediation to deal with concerns. Only one of these has resulted in a review hearing.
- 6.3 The Police are actively engaged in supporting Plymouth Pubwatch, Barbican Pubwatch and the Plymouth Licensing Forum.
This has resulted in a partnership with other authorities regarding Operation Moderate, which is designed to identify drinking habits and social trends. It also gives the opportunity to become more efficient in identifying premises which habitually serve alcohol to seriously intoxicated people.

Other voluntary campaigns have included actively supporting the reduction in strength campaign and partnerships with other agencies to promote this initiative.

- 6.4 There are very early discussions with individual licensees who are in receipt of 24 hour licences or 6am terminal hours regarding the feasibility of the trade over a gradually staged period voluntarily reducing their opening hours. Early indications are the principal is accepted as being sound the difficulty is that all will have to agree to make it successful.

7.0 Under Age Sales Test Purchase Initiatives

- 7.1 Access to alcohol, from on and off licenses, by young people presents a risk to them and local communities from violence and crime or anti-social behavior. A large amount of work was done with the trade during 2013/14 by the Police and the Public Protection Service. Further test purchasing has been undertaken in 2014/15 where two premises failed out of 10 premises tested. This has resulted in a Simple Caution for one company and the other is still under investigation.
- 7.2 Where licensed premises failed a test purchase they were advised that they would be re-tested. Any person that sells to an underage person is liable to be issued with a fixed penalty notice which attracts a fine of £80.
- 7.3 Businesses are supported to minimize the potential for under age sales. All licensed premises in Plymouth have free access to a regional under age sales web based training system for their staff. Model age verification policies have been provided and officers are available to provide one to one advice.
- 7.4 There will be an on-going commitment to maintain test purchase and mystery shop initiatives as they have been proven to be of value in highlighting poor performance and obtaining improved standards.

8.0 Gambling Policy

- 8.1 Licensing Officers with administrative support are also responsible for licensing establishments such as casinos, betting shops, adult gaming centres, bingo halls covered by the Gambling Act 2005.
- 8.2 The Gambling Commission issue operators licences and regulates the gambling practices of the industry. They have recently updated their licence conditions and codes of practice.

As of April 2016 existing operators and applicants will be required to complete a local risk assessment, covering the impact of their activities on the local community. Matters that may be considered include:

- Socio-economic makeup of the local community, including new developments as they happen
- Vicinity of sensitive buildings such as schools, youth clubs, hostels etc

- Type of usage of the premises
- Layout and size, position of access points
- Density of gambling activities
- Operating hours
- Staffing and supervision of the licenced area

The assessment must also consider how any risks will be mitigated and monitored.

By April 2016 Operators will also be required to introduce systems that allow a customer to make a single request to self-exclude from all operators within their area (normally where they live or work). The Commission are working on a national online self-exclusion scheme due to be in place by 2017.

- 8.3 These changes will have an impact on the Councils Licensing Policy which is due to be republished in January 2016. The new policy will provide additional details regarding our expectations of these local gambling risk assessments. Councils will also have the discretion to create Local Area Profiles (LAPs). This is likely to consist of local area data, which should be used by operators when completing their local risk assessments.
- 8.4 Local data on gambling and problem gambling is, however, not readily available. A grant funded scheme, being undertaken by Westminster and Manchester Councils, is currently working on a tool kit that will help councils map risk factors relating to gambling. This research is likely to conclude in September 2015. This will be too late to develop our own LAPs by January 2016. It is proposed, therefore, that the policy will cover the use of LAPs, with the actual LAP data being published and refreshed as data becomes available. In this way LAPs can be updated without the need for City Council approval and will make them a more responsive tool
- 8.5 Licensing Committee has delegated responsibility for the setting of annual fees payable by gaming establishments. The latest fees were approved by Members on the 14 February 2011 and an update in July 2013 to remain at the maximum levels specified by Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Income generated has remained stable since its introduction.

Income for 2014/15 totalled £55,000 with expenditure estimated to be the approximately £55,500. The Committee on the 14th February 2011 resolved that the fees would not be reviewed unless the difference between future fee income and future expenditure is 10% or more. As such fee levels will remain at the maximum level.

The development of the new policy and the creation of LAPs will be resource intensive. Fee levels will therefore be formally reviewed through the Committee after the new policy is in place.

9.0 Sex Establishments

- 9.1 A new Sex Establishments Policy was approved by Council on the 30 January 2012, effective from the 5 March 2012. This brought premises such as lap dancing clubs within the legislative control of the Local Government (Miscellaneous Provisions) Act 1982 as opposed the Licensing Act 2003.
- 9.2 Originally two lap dancing clubs were licenced, but subsequently one licence has not been renewed. The two sex shops are still licenced and remain in business

10.0 Scrap Metal Dealers

- 10.1 The Scrap Metal Dealer's Act 2013 reformed licensing requirements and was designed to curtail the profitable activities of metal theft. These changes prevent cash transactions (which are not traceable) and revised police powers of entry to check that these prohibitions are being complied with.
- 10.2 Officers have participated in joint operations with the police where vans believed to be carrying scrap metal vans were stopped and visits have been made to those businesses licensed since the introduction of the Act

So far no Police objections have been received in relation to any dealer or collectors and site visit have not identified any significant issues.
- 10.3 The new system has been very effective in reducing scrap metal theft and the new records kept by operators have been useful to the Police when investigating other crimes.

11.0 Partnership Working

- 11.1 Enforcement agencies meet on a regular basis to discuss enforcement options and consider strategies for dealing with 'problem premises'. Premises operating in the evening and night time economy (ENTE) continue to receive constructive advice from enforcement agencies such as Licensing, Environmental Health, Fire Service, Trading Standards and the Police to help encourage a responsible ENTE.
- 11.2 Interventions include unannounced and announced visits to assess the licensed premises against licensing conditions and other workplace regulations. The licensees, managers and staff are encouraged to participate in community schemes for the licensed trade such as Best Bar None, Pubwatch and Clubwatch.
- 11.3 Officers from all enforcement agencies undertake joint inspections where appropriate to ensure a consistent approach to enforcement is maintained and demonstrates to the licensee and designated premises supervisor that agencies work together. Enforcement agencies also undertake night-time inspections in order to assess how licensed premises comply with their regulatory responsibilities.
- 11.4 The Licensing Team and Police have supported the introduction of the Barbican Pubwatch scheme and are a member of the Best bar None Steering Group.
- 11.5 Best Bar None is currently developing a self-regulatory approach by undertaking their own mystery shop and under age sales audits.

12.0 Work Initiatives for 2015

- 12.1 The responsible authorities will continue to support licensed premises to ensure that they are best placed to contribute towards providing a positive and well managed ENTE.
- 12.2 All agencies will continue to meet to discuss enforcement strategies, best practice and on-going operations to ensure that resources are best targeted at those premises that contribute significantly to undermining the licensing objectives. Safeguarding measures are also being reviewed following the Jay and Casey reports issued as a result of the child sexual exploitation incidents in Rotherham.
- 12.3 Test purchasing operations for alcohol sales will continue at licensed premises. Further test purchasing will be undertaken at targeted facilities for gambling.
- 12.4 The licensing team has recently taken on responsibility for other forms of licencing, including pet shops, explosives, fireworks and petroleum. The team will review the processes and introduce systems to provide an effective and responsive service.

- 12.5 In line with corporate progress we will be reviewing the mechanisms for on line applications and payments. New systems are being investigated to offer applicants the ability to track the progress of their application.

13.0 Insight patrols

Opportunities exist for Committee members to be escorted around the night time economy to observe the operation of business, see how the night time economy is managed, and observe the operation of street pastors and the CCTV system and Policing methods. Officers can liaise with the Police to facilitate these evening visits should any members wish to take up this opportunity.

14.0 Conclusion

- 14.1 This report has sought to provide members with an insight into the range of work initiatives and enforcement operations undertaken by enforcement agencies responsible for regulating the evening and night time economy throughout 2014. In addition to provide details of the work initiatives planned for the coming year and how partner agencies will continue to interact to ensure that limited resources are targeted effectively.
- 14.2 Officers in tandem with the police will arrange an 'in-sight' patrol for any Members who would like to visit the ENTE areas at night, which would include access to the CCTV control room.