

LICENSING COMMITTEE

WEDNESDAY, 16TH JANUARY, 2019

Present:

Councillor Emma Plouviez in the Chair

**Cllr Sam Pallis, Cllr James Peters,
Cllr Caroline Selman, Cllr Sophie Conway,
Cllr Sem Moema, Cllr Peter Snell, Cllr Harvey Odze
and Cllr Penny Wrout**

Also in Attendance:

**Cllr Aron Klein
Police Sergeant Guy Hicks (agenda item 6)**

Officers:

**Robert Gardner, Enforcement and Business
Regulation Manager
Butta Singh, Senior Lawyer – Licensing, Senior
Management Team
Gareth Sykes, Governance Services Manager
David Tuitt, Enforcement and Business Regulation
Manager**

Apologies:

**Cllr Brian Bell, Cllr Caroline Woodley,
Cllr Gilbert Smyth, Cllr Sharon Patrick,
Cllr Margaret Gordon and Cllr Ian Rathbone**

1 Apologies for Absence

1.1 Apologies for absence were received from Councillors Bell, Gordon, Patrick, Smyth, Rathbone and Woodley

2 Declarations of Interest - Members to declare as appropriate

2.1 There were no declarations of interest.

3 Minutes of the Previous Meeting

3.1 Councillors Snell and Odze highlighted a number of amendments to the minutes of the previous meeting, held on the 17th October 2018.

3.2 Councillor Snell's amendments were as follows:

- Clarification on the final sentence of the minute at 4.3. What was meant by "correspondence remaining stable"?
- Paragraph 4.4 needed to be clearer. Does this refer to the review of massage and special treatment?
- The discussion around charging for pre-application advice. Needed to include those concerns raised by the councillor about the practical impact. Councillor Snell at the time had expressed concern about fee charging service should not compromise the Council's duty to provide appropriate levels of free advice to all applicants who might subsequently be subject to enforcement action. This is a legal requirement on all enforcing authorities imposed by the Human Rights Act implemented in the UK through the "enforcement concordat".

3.3 Councillor Odze highlighted a number amendments including his name missing from the Present field and also a number of typographical errors.

RESOLVED the minutes of the previous meeting, held on 17th October 2018, were agreed, subject to a number of amendments highlighted by members.

4 Review of the Massage and Special Treatment licensing function

4.1 David Tuitt, the Business Regulation Team Leader (Licensing and Technical Support) introduced the report. The report provided information and an update on the reform of the Massage and Special Treatment (MST) licensing function. Licensing of MST was a discretionary power under the London Local Authorities Act 1991. Persons and/or businesses carrying on these types of activity have required authorisation from the Council following adoption of the provisions under Act in the mid-nineties. "Massage and special treatment" include any beauty treatment that involves massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light treatments, electrical treatments and other similar treatments. It also includes saunas, steam rooms and other baths.

4.2 The London Borough of Hackney's (LBH) Licensing Service was seeking to review the MST licensing function with a view to:

- Simplifying the process for applicants by reviewing and updating the various elements of the function
- Review and update the local regulations and guidelines
- Allow flexibility for persons wishing to carry on activities on a temporary basis
- Reduce red tape
- Update the fee structure
- Ensure the function is consistent with the European Services Directive 2009 and the Provision of Services Regulations 2009
- Reduce the number of submissions made offline and reintroduce an online application process
- Align the application processes with the forthcoming 'Business Launchpad' and 'Business Landing Pad' which will seek to make it easier to start up and grow businesses in the Borough.

4.3 The Licensing Service wanted to move the MST licensing function from the existing 'light' touch approach to a more advisory and compliance-based approach. The proposed streamlined application processes were designed to make application processes far less burdensome. Licensing Committee members noted that under the proposals MST practitioners must register, while exempt operators are not currently charged a fee to register.

4.4 The Licensing Service proposed to introduce a new system of temporary licensing. This will enable an operator to apply for and be granted a short term licence not exceeding three months. This new process will further support and offer flexibility to businesses by removing the need for a full 12 month licence whilst maintaining public safety.

4.5 Councillor Snell welcomed the news of the review of the MST function. He saw this as a very sensible move and would contribute to make the licensing process even better.

4.6 In response to a question from Councillor Moema, David Tuitt replied that businesses had a number of options available to them at the end of a short three months licence. They could either apply for another three months or apply for a 12 month licence.

4.7 In response to a question from Councillor Peters, David Tuitt replied that the licensing service were equipped to monitor compliance. Members noted that in relation to MST, under

current legislation, there was no power to revoke a business licence but it was possible to object to a licence being renewed.

4.8 In response to a question from Councillor Peters, David Tuitt replied that the primary focus now of the licensing service was to monitor risk. The licensing service was currently in a transitional period and they were well aware that the 'high risk' areas were primarily Tanning and Tattoo parlours. Currently, the Licensing Service employed six licensing officers and seven technical support officers, as well as providing administration support for areas such as Trading Standards, Environmental Health and Enforcement.

4.9 In response to a question from Councillor Odze, David Tuitt would ensure that Appendix A of the report, the listing of special treatments, would be amended so it was in alphabetical order.

4.10 In response to a question from Councillor Moema, David Tuitt replied that the Licensing Service would later in the year set the fees via a separate approval process.

4.11 David Tuitt explained to the Committee that when it came to licence renewals due to expire on the 31st March, the Licensing Service would contact the relevant businesses inviting them to submit their renewal forms in early February. Committee members noted that in reality that the Licensing Service would receive the majority of applications in the last two week of March. Those licence holders could carry on operating but if an objection was raised then the licence would have to be brought to Licence Sub-Committee meeting.

4.12 Councillor Peters highlighted, that if a licensee's future was indeterminate, this could be seen as a Human Rights violation. Members noted that the future of a licensee would have to be determined at a Licensing Sub-Committee meeting, if an objection was received by Hackney Council on any new or renewal application. The decision of the Sub-Committee could then be challenged at the Magistrates Court and then could even be appealed at the Crown Court.

4.13 The legal officer reminded committee members that some licences have been refused because of evidence of serious concerns and failings by management relating to how it was being operated with regards to:

- (a) Causing a nuisance by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
- (b) The persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence;
- (c) The premises have been or are being improperly conducted

4.14 In response to a question from the chair of the committee, David Tuitt replied that under the MST regime LBH would register the person as well as the actual business. The legal officer added that this would still be classified as a licence. David Tuitt added that the licensing service would determine proof of public liability insurance as part of the inspection process of a business.

RESOLVED the Licensing Committee noted the contents of the report and the Appendices, subject to an amendment to Appendix A; the current list of special treatments being placed in alphabetical order.

RESOLVED the Licensing Committee approved the proposed changes to the Massage and Special Treatment licensing function.

5.1 David Tuitt, Business Regulation Team Leader (Licensing and Technical Support) introduced the report. This was an update on the Late Night Levy (LNL) following the end of the first year of its operation.

5.2 The committee noted that LNL was a discretionary power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the Late-Night Economy (LNE).

5.3 Key factors considered when introducing the levy included:

- That the legislation requires the net revenue to be split with at least 70 per cent allocated to the Police and the remainder retained by the Licensing Authority
- The estimate by Hackney Police of the cost of policing the NTE around £1.4 million annually, of which £890,000 is specifically required to fund the dedicated NTE teams Evidence of a correlation between the locations of licensed premises and the level of crime and disorder The establishment of a local management board responsible for overseeing how the revenue is spent.
- 429 premises were authorised to sell alcohol between 00:01 and 06:00, with an estimate maximum income of £395450
- A voluntary levy in place the key NTE areas of Shoreditch and Dalston would no longer continue
- That no exemptions nor reductions would apply

5.4 Committee members noted the map at 3.6 in the report. This mapped the locations highlighting the spread of premises affected by the levy across the borough. A concentration could be seen in and around the Shoreditch Triangle. Premises were also located along the main arterial routes such as the A10 (Stoke Newington Road/High Street, Kingsland Road/High Street, Shoreditch High Street), Mare Street and Upper/Lower Clapton Road.

5.5 Under 3.9 of the report, it was noted that the Police spend in year one had been impacted by the Metropolitan Police Service (MPS) roll out of the Basic Command Units (BCUs) during 2018. The BCUs saw single borough command units replaced with operational police structures that cover between two and four local authorities. After initial pilot schemes in Barking and Dagenham, Havering and Redbridge and Camden and Islington, the Hackney and Tower Hamlets' Police merged into one BCU.

5.6 The Council has power to exempt certain premises from paying the levy. In addition, a reduction of up to 30 percent could apply to premises that are in receipt of Small Business Rate Relief (SBRR) and have a rateable value of £12,000 or less and operators participating in a suitable best practice scheme.

5.7 In response to a question from Councillor Pallis, David Tuitt replied that he did not have to hand those figures for how much uptake that had been for the SBRR.

5.8 The Licensing Service cited the example of the London Borough of Islington's involvement in the Best Bar None scheme. Operators there were entitled to a discount if they obtained accreditation. Best Bar None was a nationwide scheme with National Awards supported by the Home Office and the drinks industry which is aimed primarily at promoting responsible management and operation of alcohol licensed premises.

5.9 Councillor Snell commented that the report explained where LBH currently was, in terms of the LNL, but it was not clear on what the direction of travel was. He also suggested there needed to be clarification on the newly created LBH role of the LNL

Manager. The councillor added that the BBN scheme was seen as a good example of what a local council could do in the area of the NTE, in terms of tackling rogue off licences. Islington had shown what could be done with a clear approach and a dedicated team.

5.10 Councillor Odze sought clarification on the following section from the LNL report:

“However, on 5 December 2017 the Mayors’ Office for Policing and Crime (MOPAC) confirmed that the income would be pooled and the allocations of spend determined by the Management Board.”

5.11 Councillor Selman, Cabinet Member for Community Safety, Policy and the Voluntary Sector, responded that there was a memorandum of understanding with MOPAC, that the police will spend that money on issues specifically relating to the NTE. The committee members had expressed concerns previously that funding would have been swallowed up by the MPS because of wider policing concerns. The chair of the committee re-iterated those comments by committee members that needed to be clear direction by LBH and it was hoped that the LNL manager would be important in making this happen.

5.12 In response to a question from the chair of the committee, the Licensing Service explained that an outline paper had gone to the LNL board about how the budget would be spent in Year 2. The surplus accrued in the first year would be rolled over.

5.13 In response to a question from Councillor Peters, Robert Gardner replied that he would look into getting further information about what voluntary contributions that had been.

RESOLVED the Licensing Committee noted the contents of the report and the Appendix.

RESOLVED the Late Night Levy (LNL) board and its minutes would be a matters arising item on future Licensing Committee meeting agendas, when any LNL board meetings have taken place between Licensing Committee Meetings.

RESOLVED the job description for the Late Night Levy Manager would be circulated to the Licensing Committee members and an update would be given at the next Licensing Committee meeting.

6 WAVE Presentation

6.1 Committee members noted the Welfare and Vulnerability Engagement (WAVE) presentation by MPS Sergeant Guy Hicks.

RESOLVED the Licensing Committee noted the contents of the WAVE presentation.

Duration of the meeting: 19:00 – 20:30 hours

Councillor Emma Plouviez
Chairperson at the meeting on
Wednesday, 16 January 2019