

Licensing Committee and Licensing Panel Annual Report 2013/14

Foreword – Chair of the Licensing Committee

My role involves chairing, leading and co-ordinating the activities of the Licensing Committee. The Committee seeks to add value to the Council by ensuring the effective and efficient discharge of the Licensing functions and by assisting the Executive with the development of any policies and procedures.

Amongst other things this involves ensuring that:-

- i) Licensing functions are undertaken in a positive, constructive and non-partisan manner which enhances the reputation of the Council;
- ii) that performance is monitored;
- iii) that functions are carried out within budget and that the regulatory processes which underpin the Committee's work are promoted.

The Licensing Committee is responsible for exercising the powers and duties of the Council with regard to licensing matters under relevant legislation conferring powers and duties relating to the same upon the Council.

The Licensing Committee is also authorised, to appoint such sub-committees as it considers necessary to discharge powers and duties specified by the Committee. Four sub-committees, or Licensing Panels, have supported the work of the main Licensing Committee primarily in order to deal with issues related to the Licensing Act 2003 and the Gambling Act 2005.

Councillor Peter Allen
Chairman – Licensing Committee

The Licensing Committee

Each year the Council establishes the Licensing Committee to:

- i) deal with all matters relating to the discharge of the functions of the Licensing Authority under the Licensing Act 2003 and any regulations made under that Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 5 of the Licensing Act 2003 (Statement of Licensing Policy) and any function discharged under Section 7(5)(a) of that Act by a committee other than the Licensing Committee;
- ii) deal with all matters relating to the discharge of the functions of the Licensing Authority under the Gambling Act 2005 and any regulations made under the 2005 Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 166 of the 2005 Act (Casino Resolution) and Section 349 of the 2005 Act (Statement of Principles).

At its meeting on 24 May 2013 the Committee met to establish four Licensing Panels which predominantly meet to determine applications under the Licensing Act 2003 and the Gambling Act 2005. Further detail on the work of the Licensing Panels is set out below.

Members considered the proposed Licensing Committee and Licensing Panel Annual Report 2012/13 on 6 September 2013 and agreed to submit the report to Council for ratification.

A review of the Authority's Fees and Charges under the Gambling Act 2005 was discussed at the meeting on 31 January 2014, at which the Committee approved the fees and charges for 2014/15.

Licensing Panels

The Licensing Committee establishes four Licensing Panels to exercise its functions under the Licensing Act 2003 and Gambling Act 2005 and any regulations made under these Acts.

Applications considered

Detailed in the table below is a breakdown of the type of applications considered by the Licensing Panels, under the Licensing Act 2003, together with further information on the responsible authority requesting the review:-

Reviews

Police	2
Trading Standards	16
Interested Party	1
Environmental Health	1

Total Reviews	20
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Reason for review

Protect children from harm	10
Public nuisance	1
Crime or disorder	3
Protect children/crime and disorder	1
Protect children/crime and disorder/public nuisance	5

Total	20
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Other Hearings

Grant application	12
Police objection to a Temporary Event Notice	10
Personal licence application Police objection	2

Total other hearings	24
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Total All Hearings	44
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The role of Trading Standards

The Trading Standards team is responsible for ensuring that the law relating to underage sales of alcohol is obeyed by those who normally supply those goods in the course of a trade or business.

Only Trading Standards Officers and Police Officers are able to legally ask a person under the age of 18 years to purchase alcohol. It is therefore necessary for Trading Standards working in partnership with the police to lead on this area of work.

The Chief Medical Officer advises that young people should not drink any alcohol at all under the age of 15 and that if 15-17 years old drink, it should be with parental supervision, not more than once a week and never more than recommended levels for adults.

The Chief Medical Officer's guidance that young people under 15 should not drink alcohol at all is based on the fact that young people who start drinking alcohol at an early age drink more frequently and more than those who start drinking later; as a result, they are more likely to develop alcohol problems in adolescence and adulthood.

Trading Standards work on reducing the availability of alcohol to young people from off-licences has two main strands; business advice and enforcement.

The willingness of businesses within Sandwell to supply alcohol to underage persons is tested by Trading Standards who consensually use young persons to attempt the test purchase of alcohol. The young persons are fully protected, briefed and instructed to tell the truth if challenged, except in exceptional circumstances.

Under age sales of alcohol

Trading Standards are committed to promoting responsible sales of alcohol and to stop sales to those who are underage. Whilst maintaining a robust and fair enforcement policy against those traders who disregard their responsibilities, the service works closely with local businesses by offering advice and assistance to ensure compliance with the law. This is done for the benefit of Sandwell consumers and businesses and the protection of children.

During the municipal year of 2013/2014, Trading Standards provided free legal advice to 318 businesses concerning age restricted products. Twenty undercover test purchasing operations were conducted; visiting 124 shops in the process of which, thirteen (10%) premises were caught selling alcohol to a young person. This is a good improvement from last year's failure rate of 14%.

Eight sellers were issued with a £80 fixed penalty notice (FPN) by the police. Working closely with Trading Standards, four businesses voluntarily added additional conditions to their licences via a minor variation application. This is to ensure they have the necessary steps in place in order to prevent a further sale in future.

Six offending businesses were subjected to a review hearing resulting in two suspensions, one for fourteen days and one for two months. All the review hearings led to stricter conditions on their licences.

Two shops were prosecuted for selling alcohol to an underage person. Select & Save, Londonderry Road, Oldbury sold a bottle of WKD blue vodka to a sixteen year volunteer acting under the instructions of a Trading Standards Officer. The seller did not ask the volunteer his age nor did he ask for identification.

In court it was heard that the premises had sold alcohol to an underage person back in 2011 where the business was subsequently fined £200 plus £500 costs to the prosecution.

It was also noted that when the sale took place the licence holder had failed to comply with three conditions on his licence. The licence holder subsequently pleaded guilty and was given a twelve months community order with 120 hours unpaid work and ordered to pay £1100 costs. In addition, his personal alcohol licence was revoked by the court.

The personal licence holder and DPS of Costcutter, Vicarage Road, Oldbury sold a bottle of Bulmers Cider to a 16 year old volunteer working for Trading Standards. At court the seller pleaded guilty for one offence under the Licensing Act and was fined £525 and ordered to pay £865.07 costs.

Illegal alcohol

A growing concern for Sandwell Trading Standards is the prevalence of counterfeit, non duty paid and illicit alcohol. A project led by Sandwell Council Trading Standards back in 2011 involving multi agency teams including the Police, the International Federation of Spirits Producers (IFSP) and Her Majesty's Revenue and Customs (HMRC) and 13 other local councils across the midlands found that over a quarter of licensed premises have been caught selling counterfeit, illicit or non-duty paid alcohol. In total 879 business premises were visited by the Central England Trading Standards Authorities (CentTSA) and around £150,000 worth of illegal alcohol was seized. In Sandwell 32% of the 74 business premises visited were caught selling illegal alcohol. The total value of illegal alcohol seized during the project was in excess of £40,000.

Alcohol fraud is not confined to the CentTSA region but is fast becoming a national issue costing the UK around £1 billion a year in lost revenue. A survey by Trading Standards South East (TSSE) found that 20% of retail premises were selling spirits or wines that were either counterfeit, had no duty paid or incorrect origin labelling.

Not only is the sale of illegal alcohol a crime but it also poses a serious health risk to the public. Analysis found that some spirit drinks were contaminated with such a high level of methanol that they were 'unfit for human consumption'. Other drinks were found to contain chloroform, a banned chemical which can cause damage to the liver and kidneys.

The project proved successful in removing illegal and dangerous alcohol off the market. In the process it also disrupted businesses who were engaging in the illegal trade, thus ensuring a fair and equitable trading environment for legitimate businesses.

The success of the project has attracted huge media attention as it was heavily featured in local newspapers; radio stations, local television news programmes and even made it onto BBC prime time show namely 'Inside Out'. The high publicity has certainly helped in getting the message across to the public about the dangers of 'fake' spirits.

Sandwell Trading Standards has also won a special award from the International Federation of Spirits Producers in recognition of the outstanding work in leading the fight against counterfeit spirits.

The project was repeated again during 2012/2013 and the non – compliance level in Sandwell was reduced from 32% to 15%, a massive improvement from the previous year. To assist in this area of work an officer has recently been appointed within Trading Standards on a 12-month fixed term contract to drive down the levels of illicit, non-duty paid and counterfeit alcohol.

In the last financial year, 2013/2014 this officer visited 256 premises and seized in excess of 800 bottles of either duty evaded or counterfeit spirits with an estimated street value of in excess of £12,000.

In the main the stock seized has been duty diverted export stock which has had counterfeit back labels and duty stamps applied and then been passed off as being genuine UK stock .To date the vast majority of product has been what might be termed "budget" brand spirits, however towards the latter end of the year more premium brands such as Teachers have been found. All of the seized stock has been surrendered and has been or will be destroyed.

Overall 35 traders have received informal cautions, 3 traders have received simple cautions whilst two traders have been taken to review with one having their licence suspended for three weeks with the other having their licence revoked.

Licence suspended

A trader in Oldbury trading as Drink Stop, Hagley Road West was found in possession of 88 bottles of duty evaded spirits. All had counterfeit back labels and duty stamps. The trader claimed that this was existing stock that had been purchased with the business. However checks on the lot codes proved that it had not been bottled until after the business had been purchased. The trader still insisted that the stock must have come from a legitimate warehouse and provided invoices that purported to support this assertion however subsequent inspection of those warehouses did not reveal any infringing products.

Licence revoked

A trader in Wednesbury trading as Wednesbury Post Office was found in possession of a total of 16 bottles of spirits which did not bear the requisite duty stamps. In addition 3 bottles were counterfeit "Flying Grouses" whisky being passed off as Famous Grouse. The trader claimed that these products were existing stock that had been purchased with the business but as before the lot codes on these bottles proved otherwise. Prior to the review hearing an application was made for a transfer of the licence to a new proprietor however the committee were not satisfied this was a bone fide "arms length" commercial transfer revoked the licence.

Appeals

On the 13th May 2013 the Licensing Panel reviewed the premises licence for an off licence at 10/11 West Cross Shopping Centre, Smethwick and revoked the licence.

The Panel decided to revoke the licence due to the presence of smuggled alcohol and tobacco on the premises. The review application was by Trading Standards with supporting evidence provided by officers of HMRC.

The Panel's decision was appealed to Sandwell Magistrates Court. The appellant was represented by Counsel but the appeal was dismissed and the appellant was ordered to pay £900 towards costs of £1849. The effect of the appeal was that he was barred from selling alcohol, his sole licensable activity.

Sandwell Licensing Task Group

This group consists of representatives from Police Licensing Officers, Fire (Safety and Licensing), Air Pollution and Noise Control, Trading Standards and Licensing. It is additional to the arrangements with the Police for joint intervention of Police and Licensing Team where there are immediate problems, but supports those activities.

Premises that cause concern to any of the responsible authorities for any reason related to the licensable activities and licensing objectives can be proposed for a visit. Premises are identified for a visit by risk assessment process so not all those put forward are visited.

The visits are not primarily enforcement visits. The aim is to advise, point out non compliance and particularly to support the licence holder / DPS where that person is already working with the relevant authorities. The visits themselves are intended to be helpful as well as providing a warning system that things may be going wrong. Elected members have attended as observers on occasion.

Re-organisation within the authorities was still having some impact in the period April 2013 to April 2014 and there was only one outing.

Of the premises visited on that one outing one was for public nuisance and disorder, work with that premises continued until recently when the premises was subject to an arson attack and is currently closed.

Another visited for public nuisance and disorder was later closed by the brewery and remains closed.

One premises which was a cause of public nuisance and disorder has continued to cause concern, despite intervention by the police and agreed actions to prevent the problems. The work continues but this premises is likely to be reviewed unless it changes significantly.

One premises of concern for use by criminal elements during the period has been subject of intervention by the police and licensing team, however recent events are such that it is anticipated it will be subject of review.

Visits to Gambling premises

During the year a number of visits have been carried out by officers to premises licensed under the Gambling Act 2005. These visits have mostly been undertaken as joint operations with the Gambling Commission, specifically looking at the supply and siting of gaming machines in alcohol licensed premises.

Four separate exercises were carried out during the year. In total, 41 premises were visited. In the case of premises which were found to be using gaming machines without the necessary permission, advice was given to the licensee in each case and all premises are now properly licensed.