

Licensing Committee and Licensing Panel Annual Report 2014/15

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.

To enable the Licensing Committee to undertake all of its functions, a continual programme of training and informing is undertaken at every full Licensing Committee meeting every three months. This is provided by our own officers or partners and enables the Licensing Committee members to respond appropriately to the work the Licensing Panels undertake when dealing with licensing reviews.

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).

The Committee has established 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.

The Authority's Fees and Charges are reviewed every year. Fees and charges for 2015/16 have been approved.

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.

General

The year 1 April 2014 – 31 March 2015 has seen a number of changes to the Licensing Act, in particular through deregulation, although not all the Deregulation Act 2015 making changes is yet in effect.

Deregulation removes a number of places from the licensing regime from 6 April 2015 including places of public worship, village halls, church halls schools, hospitals and local authority premises. From that date a licence is not required for live music, or the playing of recorded music between 8am and 11pm if it takes place at an alcohol on-licensed premises and the audience is no more than 500 people. Unamplified live music has been removed at any place or at a workplace between the same hours and provided the audience is no more than 500 people. Similar changes are made to dancing and indoor sporting events and there have been increases in audience numbers for some activities before a licence is required.

All sex establishment applications are now considered by the Licensing Committee. This ensures an overview of those premises being licenced and those considerations permitted for such applications are taken into account. There are currently three Sexual Entertainment Venues and three Sex Shops. The licence is valid for twelve months and subject to committee consideration on renewal.

Recent Guidance issued under S182 of the Licensing Act requires licensing authorities consider the need to protect children from sexual exploitation when undertaking licensing functions.

The authority Gambling Policy has to be reviewed in 2015. For the first time there is a requirement to include local area profiling and applicants will have to consider this and formulate a risk assessment as part of their application. The Gambling Commission have revised the codes of practice and guidance is due to be issued.

The licensing software being developed for the Licensing Team, intended to provide more immediate access to information by members of the public and statutory bodies, as well as bringing improvements to the service is being progressed. Such progress has not been without technical problems and although the majority

of the licences are now entered onto the system, and it is in use for the issue of some general licences the full operational date is not yet confirmed.

Applications considered by the Committee

Detailed in the table below is a breakdown of the type of applications considered by the Licensing Panels together with further information on the responsible authority requesting the review for the period 1 April 2014 – 31 March 2015. The number of grant applications subject to representations increased and whilst some were dealt with by negotiation, as required by Licensing Act guidance, it was apparent in the last twelve months that people are becoming more aware of the application process. The main cause of reviews through the year was the finding of illicit or non-duty paid goods on licensed premises:-

There were 21 hearings overall.

Reviews

Trading Standards	8
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Total Reviews	8
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Reason for review

Crime and disorder	5
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Crime disorder/public safety	3
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Total	8
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Other Hearings

Grant application	11
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Police objection to a Temporary Event Notice	1
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Sex Establishment applications	6
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Total other hearings	18
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Temporary Event Notices.

Temporary Event Notices permit licensable activities on unlicensed premises, or outside the hours of a licence, for short periods of time and subject to restrictions on the number that can be given for premises or by an individual.

A notice given more than ten working days before the event is a standard notice, when given between nine and five working days before the event it is a late notice.

Only the Police or Environmental Health may object. Objections to a standard notice may result in a hearing, for a late notice a counter notice is given and the event cannot go ahead.

During the course of this year there were 180 such notice given. Police objected to one standard notice that was considered by the committee, and three late notices to which a counter notice was issued.

The role of Trading Standards

The risks of drinking to excess are well established. Long term alcohol abuse can lead to numerous health problems, including liver and kidney disease, acute and chronic pancreatitis, heart disease, high blood pressure, depression, stroke, foetal alcohol syndrome and several cancers.

A report by Public Health England 'Alcohol treatment in England 2013-2014' found that the total annual cost to society of alcohol related harm is estimated to be £21 billion. The NHS incurs £3.5 billion a year in costs related to alcohol.

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.

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.

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 last financial year, Trading Standards provided free legal advice to 82 businesses concerning age restricted products.

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 willingness of businesses within Sandwell to supply alcohol and tobacco to underage persons is tested by Trading Standards who consensually use young persons to attempt the test purchase the age restricted products.

Under age sales of alcohol

In the financial year of 2014/2015 Trading Standards only received 4 complaints concerning the supply of alcohol to young people. Seven test purchase operations were conducted, visiting 45 premises of which, four or 9 % of shops sold alcohol to the underage person. The 9% failure rate represent a steady improvement in Sandwell, compared to the last two financial years' failure rates of 10% and 14 % respectively. As a result of the four sales, four cautions were given and two fixed penalty notices issued.

Across the Central England Trading Standards Authorities (CeNTSA) region, the average failure rate for alcohol test purchase operations is 10%.

As an intelligence scoping operation, Trading Standards carried out operations where the volunteers were permitted to lie about their age. In the two operations, ten business premises were visited resulted in three sales, giving a failure rate of 30%.

No formal action was taken against the offending shops, however they were all subsequently advised, warned and will be targeted for future test purchase operations.

Illegal Alcohol and tobacco

A project carried out by Sandwell Trading Standards in 2011 found 32% of the 74 business premises visited in Sandwell were caught selling illegal alcohol. The total value of illegal alcohol seized during the project was in excess of £40,000.

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.

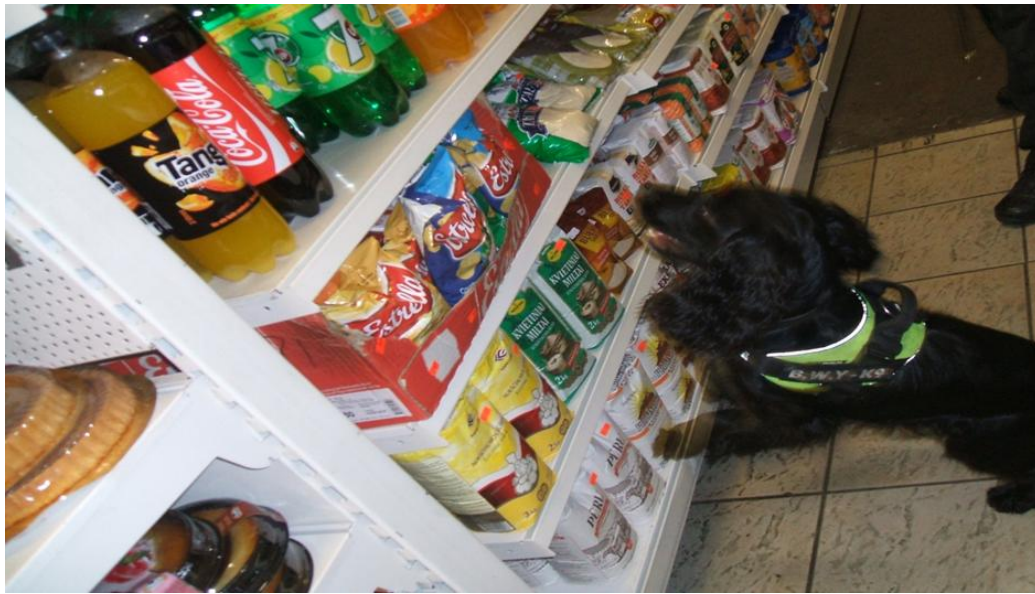


Illegal bottles of spirits

To assist in this area of work an officer was appointed within Trading Standards in order to drive down the level of illicit, non-duty paid and counterfeit alcohol. The project was repeated again and during 2012/2013 and 2013/2014 and the non-compliance levels were reduced to 15% and 13% respectively, a massive improvement from 2011. In the last financial year, Sandwell Trading Standards received 21 complaints concerning illegal

alcohol. Trading Standards Officers visited 109 business premises and 9% of them were caught selling illegal alcohol.

An emerging problem for Sandwell is the increase in the supply and availability of illicit and illegal tobacco. In this current financial year Trading Standards received 26 complaints in relation to illegal tobacco. An intelligence gathering exercise during 'Do Want You Want Day' in July 2014 found 47%, 9 shops out of 19 sold illegal tobacco. This was followed up with operations Henry and Bruno, using sniffer dogs where over £77,000 worth of illegal tobacco was seized for just the two days.



Sniffer dog detects illegal tobacco behind a box of crisps



Tobacco products as found by the dog

Seizures found some tobacco products to be mouldy and short weight as much as 40%. Certain illicit tobacco brands failed to comply with BS EN 16156, a safety standard which required a lit cigarette to be able to self-extinguish when not being actively smoked. The purpose of this is to reduce unintended fires, a common cause of death in smokers. A failure to pass the standard would render the products unsafe by virtue of the General Products Regulations 2005.



Mouldy pouches of counterfeit hand rolling tobacco

Section 182 guidance by the Home Office is clear in that licensing reviews are not limited to just alcohol related as they can include drugs firearms, money laundering by criminal gangs, the sale of contraband or stolen goods. The guidance goes further by stating that certain crimes including the sale of smuggled tobacco and alcohol must be treated seriously and it is expected revocation of the licence even in the first instant.

In total eight licencing reviews were requested by Trading Standards against offending traders for stocking illegal alcohol and/or tobacco on their business premises. As a result, four premises licences were revoked, one suspended for two weeks and two had stricter conditions imposed on their licences.

Appeals

A decision of the Licensing Panel can be appealed to a Magistrates' Court in the first instance. During 2014/15 there were two appeals;

1. Costcutter, 125 Hill Top, West Bromwich, B70 0RU-appeal to the Magistrates' Court. The appeal was listed for the 14th November 2014. The appeal was withdrawn and costs in the sum of £1000 were awarded to the Council.
2. Bargain Express, 416 High Street, Smethwick - appeal to the Magistrates' Court. The appeal was listed for the 7th November 2014. The appeal was withdrawn and costs in the sum of £1290 were awarded to the Council.

Visits to Licensed Premises

Visits have been undertaken by the Sandwell Licensing Group. These visits have been written into Trading Standards and Licensing annual business plan as a quarterly commitment.

This group consists of representatives from Police Licensing Officers, Fire (Safety and Licensing), Air Pollution and Noise Control, Trading Standards and Licensing, and Public Health. 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.

Public Health is now a responsible authority, although public health is not currently a licensing objective. During the year Public Health Alcohol Project Manager joined the Sandwell Licensing Group. In the course of time it is anticipated this post will be delegated the role of considering the impact of applications on the health matters.

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. The visits are not primarily enforcement visits but to advise, point out noncompliance and particularly to support the licence holder / DPS where that person is already working with the relevant authorities. The visits provide a warning system that things may be going wrong. Elected members have attended as observers on occasion. Passing attention is also given to premises that do not reach the criteria for a visit but have been identified as potentially problematic.

As has proven the case in previous year's operational commitments, for the Police in particular, industrial action and staff availability impacted upon the ability to undertake group visits.

In the period April 2014 to April 2015, there were three planned outings but only two were viable, 17 premises were visited.

Noise and public nuisance continue to be a feature of public concerns. It is not yet clear how the Deregulation Act will impact upon such complaints as it removes a number of nuisance causing activities from the licensing regime.

As intended the majority of visits carried out led to advice. One premise was found to have in use gaming machines that the Gambling Commission had identified as potentially illegal. The Gambling Commission was provided details.



Potentially illegal machine

To date no premises visited during this year has subsequently been called for review and none of them is, at the time of this overview, a cause of further concern.

Visits to Gambling premises

These visits have been written into Trading Standards and Licensing annual business plan as a quarterly commitment to one or other of the inspections.

During the year visits have been carried out to premises to check whether gaming machines were sited for use without the appropriate permission. Whenever possible, these visits are conducted as joint operations with the Gambling Commission.

Eleven premises were visited of which only two were found to be fully compliant. One applied for the appropriate permit as a result, the remainder will be revisited as part of an ongoing inspection programme.

The Licensing Team conducted their first Test Purchase Exercise in partnership with the Gambling Commission to test the effectiveness of underage gambling policies and procedures at gambling licensed premises.

The tests are designed to provide the authority and the Commission with evidence that licensed operators have sufficient safeguards in place to prevent underage gambling.

Five premises were visited, three premises made no attempt to challenge the volunteer at any point, one challenged the volunteer while playing a machine and one challenged the volunteer at some point between entering the premises and before being able to play the machine. Advice has been given to all operators as a result.

In addition gaming machines in licensed premises are checked as part of the Licensing Group visits, the results from these act as an indicator for further action or visits for gambling matters.

Training

During the year, the Licensing Committee received specific training In relation to sex establishment licensing.

Officers have received training on deregulation and changes to the Gambling Commission codes of practice.