



Sandwell

Metropolitan Borough Council

Licensing Committee and Licensing Panel Annual Report 2015/16

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
Chair – 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

Unlike the previous year there have been few significant changes to the Licensing Act 2003.

Section 71 of the Deregulation Act 2015 came into effect permitting Licensing Authorities to relax the requirements for licensing late night refreshment in certain circumstances.

The provision of late night refreshment is regulated primarily because it is often linked to alcohol-fuelled crime and disorder in the night-time economy, such as at fast-food takeaways where late-night drinkers congregate. However, these safeguards may not be needed everywhere or for every type of late night refreshment business.

The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- a) on or from premises which are wholly situated in a designated area;
- b) on or from premises which are of a designated description; or
- c) during a designated period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.).

In 2014 the Home Office consulted on amending the Licensing Act 2003 to deregulate the licensing requirements were Community groups and small businesses want to sell small amounts of alcohol as part of a wider service. For example, small bed and breakfasts wishing to provide a welcome drink to guests must be at present licensed in the same way as a large hotel with a public bar. These plans didn't get introduced as part of the Deregulation Act 2015 because the Government ran out of Parliamentary time. However the changes remain on the Governments agenda.

The authority's Gambling Policy was reviewed for the first time in 2015. A Local area Profile has been drawn up and operators are required to take into account any sensitive locations within close proximity to proposed gambling premises and provide the Licensing Authority with details of how they propose to mitigate and monitor any risks. The profile will be available to applicants on the authorities' website.

The licensing software being developed for the Licensing Team has been further delayed due to the migration of part of the system that Planning use. That work has been completed and the provider will now concentrate on finalising the implementation of the system for the Licensing Team.

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 2015 – 31 March 2016. 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:-

Reviews

Trading Standards	4
Police	2
Total Reviews	6

Reason for review

Serious Crime and Disorder	2
Crime and disorder	4
Total	6

Other Hearings

Grant application	12
Vary premises licence application	1
Sex Establishment applications	1

Total other hearings 14

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.

The limit on the number of temporary events that can be held at a premise increased from 12 to 15 per year with effect from 1st January 2016.

During the course of this year there were 138 such notice given. 4 Counter notices were issued and 4 applications void as submitted out of time and/or the fee was not paid.

The role of Trading Standards

The Trading Standards team is responsible for ensuring 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.

The work on reducing the availability of alcohol to young people from off-licences has two main strands; educational work and enforcement.

Educational work

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.

The department recognise that most businesses want to comply with the law and Trading Standards will endeavour to help those businesses and their staff to meet legal requirements. It's the department's policy to offer advice before a business is subjected to a test purchase by Trading Standards in relation to age restricted products. Trading Standards provided legal advice to 55 local retailers in 2015/16.

Trading Standards is part of the Community Alcohol Partnerships (CAP). This is a national initiative which is delivered in local communities by bringing together local retailers, trading standards, police, public health, education providers and a range of other community groups and service providers to tackle the problem of underage drinking and associated anti-social behaviour. The partnership has already achieved a number of projects.

These include the provision of free training sessions to local independent retailers regarding the law and best practice on preventing underage sales together with a range of point of sale materials; two multi-agency night audits (patrols) of the hotspot areas namely Tipton and Rowley Regis, offering a range of youth diversionary activities to young people as positive alternatives to drinking alcohol.

Trading Standards and the Police worked together during these two patrols, using child volunteers to carry out undercover test purchases. This resulted in a number of local retailers being warned for selling alcohol to an underage person.

Trading Standards working in conjunction with Public Health and CAP developed a short film, highlighting the harms of selling tobacco and alcohol to young people. The film is primarily aimed at offending retailers, highlighting the long term impact of underage alcohol /tobacco sales on individuals, families & their communities.

The film is an additional tool in combating the issue of underage sales of alcohol and tobacco. Offending retailers and sellers will be offered the chance to watch this short film and pass a multi choice test as an alternative to enforcement action, similar to a 'speeding awareness course'. This new initiative is the first of its kind in the country, with some other local authorities already expressed an interest in replicating the idea.

Enforcement work

Regulation has a long tradition of contribution to the protection of health and the prevention of crimes to the citizens of Sandwell through regulatory and educational activities.

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

Only Weights and Measures Inspectors (Senior 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.

Alcohol

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.

The effects of alcohol on young people are not the same as they are on adults. While alcohol misuse can present health risks and cause careless behaviour in all age groups, it is even more dangerous for young people. As young people's bodies are still growing, alcohol can interfere with their development. This makes young people particularly vulnerable to the long-term damage caused by alcohol.

Young people who drink are also much more likely to be involved unsafe sex, unwanted pregnancy, antisocial behaviour, criminal behaviour, failing to meet potential at school and more vulnerable to child sexual exploitation (CSE).

The Department of Health estimated that alcohol misuse costs the health service around £2.7 billion per year. However it does not stop there; it also imposes wider costs on society, such as crime and disorder, social and family breakdown, and sickness absence, therefore the true cost could be up to £25 billion.

The local picture for alcohol

Using the Department of Health's Alcohol Ready Reckoner it's estimated that Sandwell have 10,680 harmful/higher risk drinkers and 9,187 dependent drinkers.

The Local Alcohol Profile England (LAPE) 2014 shows that Sandwell is statistically significantly worse than the national average across a range of alcohol related harms.

The alcohol mortality rate for Sandwell is 20.1 per 100,000 populations whereas the rate in England is only 14.3 per 100,000 populations.

The alcohol hospital admission for under 18s is 43.1 per 100,000 population, slightly worse than the overall rate for England which is 40.1 per 100,000 population.

Alcohol related healthcare costs for Sandwell (A&E attendances, inpatient admissions and outpatient attendances) are estimated to cost £18.1m per annum. This equates to a cost of £74 per adult in Sandwell- higher than the regional average cost of £63 per adult.

The impact of alcohol is not only health related. Alcohol misuse also has a detrimental effect on families and society; as well as accounting for over 40% of violent crimes locally.

Tobacco

According to Action on Smoking & Health (ASH), smoking causes around 80% of deaths from lung cancer.

Half of all life-long smokers die prematurely losing on average 10 years of life.

The risk of developing lung cancer or heart disease is related to the length of time a person has smoked, thus people who take up smoking before the age of 18 faces a greater than-average risk of developing the conditions.

A report by Cancer Research UK 2013 revealed that around 207,000 children aged between 11- 15 years start smoking every year in the UK. One of the main sources of tobacco for young smokers are retail businesses even though it is illegal to sell tobacco products to young people under 18 years.

Teens who smoke are three times more likely than non-smokers to use alcohol, eight times more likely to use marijuana and 22 times more likely to use cocaine. Smoking is associated with a host of other risky behaviours such as fighting and engaging in unprotected sex.

The Department of Health 2013 report 'Reducing Smoking' concluded that smoking remains the greatest preventable cause of death in England, accounting for nearly 80,000 deaths a year, costing the National Health Service (NHS) up to £2.7 billion per year and wider society almost £14 billion.

The local picture for tobacco

Sandwell has a lower smoking prevalence at age 15 (WAY Survey) in all measureable indicators in comparison to the West Midlands, and England.

Sandwell has the highest mortality rate which is attributable to smoking. 338.5 deaths per 100,000 populations compared to 283 per 100,000 population in the West Midlands, and 288.7 per 100,000 population in England.

This includes smoking attributable deaths from:

- Lung cancer, 75.9 deaths per 100,000 population in Sandwell, compared to 58.9 per 100,000 population in the West Midlands, and 59.5 per 100,000 in England.
- Chronic obstructive pulmonary disease, 63.9 deaths per 100,000 population in Sandwell, compared to 51.6 per 100,000 population in the West Midlands, and 51.7 per 100,000 population in England. Heart disease 39.9 deaths per 100,000 population in Sandwell, compared to 33 deaths per 100,000 population in the West Midlands and 32.7 deaths per 100,000 population in England.

- Stroke 13.7 deaths per 100,000 population in Sandwell, compared to 11 deaths per 100,000 population in the West Midlands and England.

It is suspected that smoking, particularly at a young age is more of a social norm in other EU countries as it is with people from outside the EU. Therefore it is likely that there will be an increase in underage smoking locally due to the ever changing demographic in Sandwell.

In conclusion Sandwell have a higher than average mortality rate for Smoking in all measurable indicators in comparison to the West Midlands and England highlighting the need to keep tobacco control a top priority in this area.

The good work in changing lifestyle choices and not smoking at an early age (15 years) will have a long term effect which is unlikely to be evident for another 20+ years.

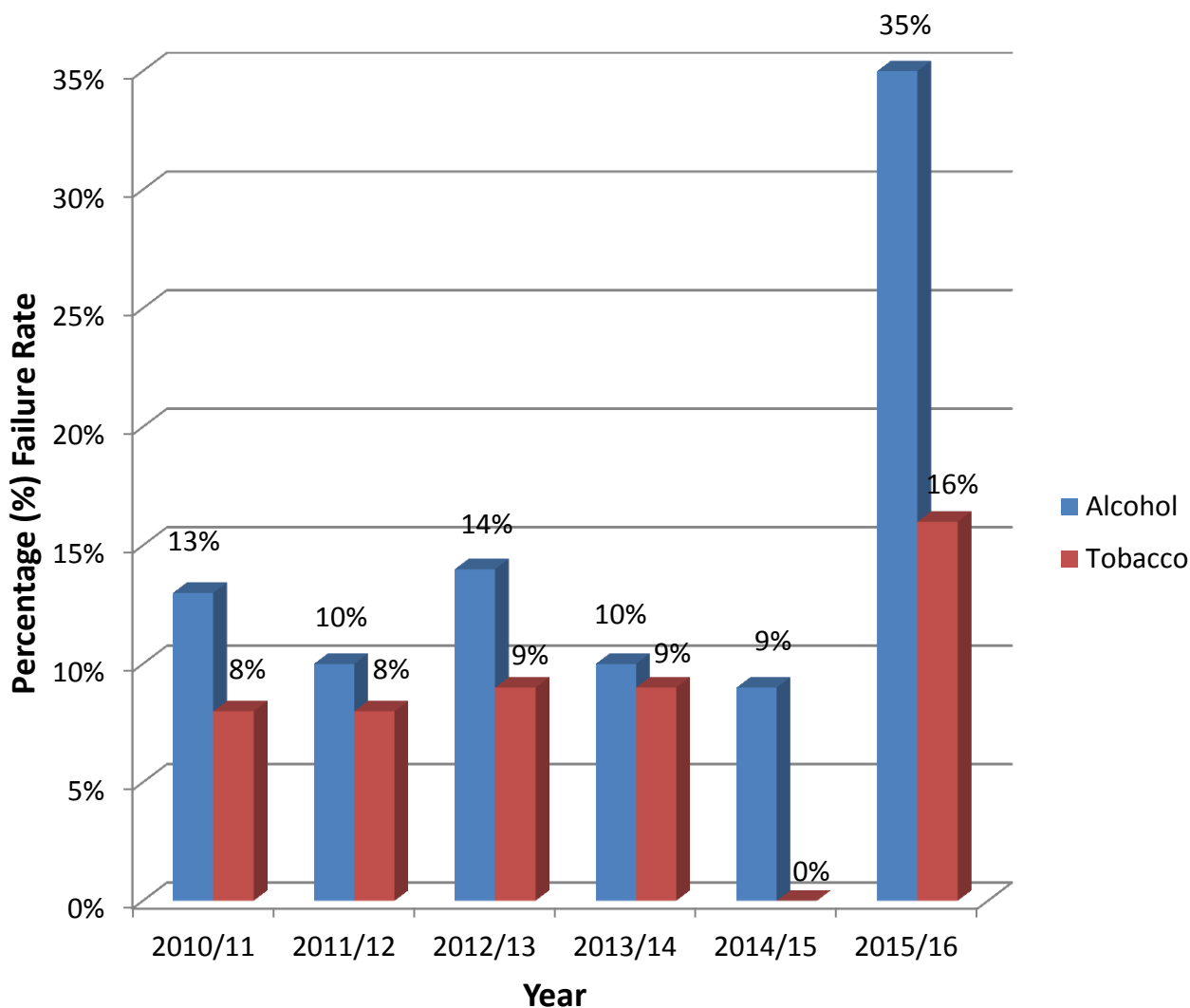
What have we done in 2015/2016?

- We carried out a series of undercover operations against the illegal selling of cigarettes and alcohol to persons aged less than 18 years old.
- We monitor our progress in this area of work, so we can keep track of how we are performing.
- For alcohol, we conducted four undercover test purchase operations, visiting 20 different shops and seven shops sold alcohol to a young person. All offending traders were issued with a failed test purchase letter warning them a further test purchase will be carried out in the near future.
- The seven offending shops were re-visited, however one shop was closed, and so six shops were subjected to a second test purchase, of which two shops sold.
- In total 26 undercover visits were made to local shops, resulting in nine sales (35%), including two repeat offenders.
- For tobacco, we conducted four undercover test purchase operations, visiting 23 different shops and three shops sold

tobacco to a young person, of which two were off-licensed premises. All offending traders were issued with a failed test purchase letter warning them a further test purchase will be carried out in the near future.

- The three offending shops were re-visited, however one shop was closed, so two shops were subjected to a second test purchase and one shop sold.
- In total 25 undercover visits were made to local shops, resulting in 4 sales (16%), including one repeat offender.
- All repeat offenders are now facing enforcement action
- Issued 11 press releases surrounding the work on underage sales and illicit tobacco, including naming and shaming offenders. Most of our releases were featured in the Express and Star and Halesowen News.

Percentage Failure Rate for Underage Test Purchases



- The 35% and 16% failure rates represent a significant increase compared to last year's figures of 9 % and 0 % for alcohol and tobacco respectively. This is due to Trading Standards carrying out undercover test purchase operations late evenings and weekends.
- In one operation conducted on a Sunday, a trader sold an age restricted product to a child volunteer. When challenged about the sale, the trader replied, "***oh it's a Sunday and I wasn't expecting you guys to be working on a Sunday.***"

Electronic cigarettes (E-cigs)

As from 1 October 2015, it's illegal to sell e-cigarettes to those under the age of 18.

As part of a national project funded by the Department of Health, on 24 March 2016 Sandwell Trading Standards carried out a test purchase operation on electronic cigarettes. Out of the five shops visited, the child volunteer was able to purchase electronic cigarettes and associated products from four shops, giving a failure rate of 80%. Clearly this is an area of concern, which Trading Standards will be focussing on in this financial year.

Illicit alcohol

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.

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, 2014/15 and the non – compliance levels were reduced to 15%, 13% and 9% respectively, a massive improvement from 2011.

In 2015/2016, as part of UK day of action against illicit vodka, Sandwell Trading Standards visited 35 business premises and found 9 counterfeit bottles of vodka from two premises (6% non-compliance rate). Some of the samples were analysed and were found to be of industrial alcohol. There is a criminal investigation against the two shops concerning the counterfeit vodka.



Illicit Tobacco

Tobacco smuggling remains a significant threat both to UK tax revenues and to public health. HM Revenue & Customs (HMRC) estimates that in 2012-13 over £2 billion was lost through illegal and illicit tobacco. The availability of illegal tobacco products undermines efforts by the government to reduce smoking prevalence by making it more affordable and accessible.

A recent report by The Royal United Services Institute (RUSI) for defence and security studies found that the impact of illicit trade in the UK is much more serious than the Government or the public recognise.

As a result of the global economic recession, illegal trade in goods and services has become socially acceptable among the British public, making the UK an attractive market for organised criminal gangs (OCG) in the illicit trade, especially tobacco. The high profit margins associated with the illicit trade are used to fund other criminal and terrorist activities. It has been recognised that OCGs are more likely to engage in the illicit trade in tobacco and alcohol than drug trafficking as it is a lower risk and higher value activity.

Illicit tobacco is fast becoming a problem in Sandwell. In the financial year of 2014/15, Trading Standards carried out an intelligence gathering exercise where 47%, 9 shops out of 19 sold illegal tobacco. This was followed up with operations Henry and Bruno, using sniffer dogs and over £77,000 worth of illegal tobacco was seized over the course of the two days.

In 2015/16, Trading Standards carried out four illicit tobacco operations using sniffers dogs where nine shops were caught with illicit tobacco. In total around 37 kg of hand rolling tobacco and 120,000 cigarettes were seized with a retail value of £65,000. Some shops were caught selling single cigarettes, making it more affordable to low income people and children.

This resulted in six cautions issued and three pending criminal prosecutions. Of all the offending traders, one shop made a minor variation to the premises licence adding additional conditions at the request of Trading Standards. One trader surrendered the alcohol licence after the seizures of illicit tobacco.

Three licencing reviews were requested, resulting in one shop having tougher conditions imposed on their licence, one licence got suspended for seven days and another licence had their alcohol licence revoked.

Retailers have become increasingly sophisticated in their approach, adapting their methods in order to avoid detection, for example, by carefully concealing illegal products in hard to find locations. Some of the illegal tobacco was found hidden in an oven, behind a false wall, up in the loft, inside an old boiler, concealed underneath some stairs, hidden amongst some drinks and inside a rubbish bin.



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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.

Sandwell Licensing Group

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.

Although the visits have proved successful for some members of the group, they have been less so for others, they are resource intensive and have become more difficult to arrange due to operational commitments. In 2015 the group took the decision that in the future any visits would be intelligent lead and limited to those members of the group who could directly assist in solving the identified problem. There were no such activities in 2015/16.

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, the police also joined the visits on the 13 August 2015.

Three days were put aside to visit several premises namely, Public Houses, Members Clubs and Takeaway shops. All visits were made jointly with a Licensing Officer and an Officer from the Gambling Commission. The Police Licensing Officer also joined the visit on one occasion. The premises visited were premises of which there were reports of potential poker machines being used or other illegally sited machines. On the first day only one of the seven premises visited were found to be compliant. On the second occasion of the nine premises visited only one was non-compliant. Two of the premises visited previously found to be non-compliant were revisited and found to be compliant. Some of the visits were revisits of premises visited last year, of which all were now fully compliant.

On the first visit any non-compliant Premises Licence Holders were given advice. Non-compliant premises were visited a further time. All premises were found to be fully compliant following a second visit.

The Licensing Team conducted Test Purchase Exercises 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.

Four premises were visited, one premises failed to challenge the volunteer straight away and two premises made no attempt to challenge the volunteer at any point. 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 general update training from Legal, Licensing and Trading Standards.

Additionally members also received training from Trading Standards on the work they carry out on underage sale, and illicit tobacco and alcohol.