

**Manchester City Council
Report for Information**

Report To: Licensing Committee – 16 January 2017

Subject: Licensing (Premises) Quarterly Report Qtr 2 16/17 (1 July 2016 and 30 September 2016)

Report of: Head of Planning, Building Control & Licensing

Summary

To inform the Committee of decisions made in relation to applications managed by the Premises Licensing Team.

Recommendations

That Members note the report.

Wards Affected:

All

Community Strategy Spine	Summary of the contribution to the strategy
Performance of the economy of the region and sub region	Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.
Reaching full potential in education and employment	
Individual and collective self esteem – mutual respect	

Neighbourhoods of Choice	The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives; in relation to the Licensing Act these are the prevention of crime and disorder, the prevention of public nuisance, public safety, and the protection of children from harm.
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Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

None

Financial Consequences – Capital

None

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Background documents (available for public inspection):

The individual licence applications and associated documentation disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of these documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

1.0 Introduction

- 1.1 This report provides the Licensing Committee with information on the decisions taken in respect of premises licence applications. The information included within the report provides an overview in respect of the full range of premises licensing but the majority of the applications relate to premises involved in the sale of alcohol.
- 1.2 Section 6 provides information regarding the Licensing Multiagency Partnership, which is made up of representatives of the responsible authorities and relevant partner agencies.

2.0 Background

- 2.1 As Members are aware the Premises Licensing Team is responsible for the administration of licence applications submitted in respect of the Licensing Act 2003 and the Gambling Act 2005.
- 2.2 Under these Acts, when no representations are made against an application, or where all representations against an application have been withdrawn, the application must be granted as applied for and authority to do this is delegated to officers.
- 2.3 Where a representation is made (and not withdrawn) against a licensing application, it must be considered by a Sub-Committee, which acts under delegated authority from the Licensing Committee and a hearing will be held to consider the matter to which all parties (Applicant and those who made representations) will be invited to attend. Where agreement is reached between the applicant for the licence and all persons who have made representations, the applicant may request the licensing authority to grant the application subject to any conditions agreed between the parties. Such cases will be put before the Sub-Committee for their 'determination' and the parties not normally required to attend. However, it is a matter for the Committee to consider the agreement reached and to determine the application. Should the Committee consider it necessary, they have the discretion to invite the parties to attend a hearing to make submissions to the Sub-Committee before making any final decision on the application.
- 2.4 Beyond the Licensing Act 2003 and Gambling Act 2005, the Premises Licensing Team is responsible for a range of other licensing regimes (see Section 5) and, in total, dealt with 873 applications during this quarter.
- 2.5 This report provides Members of the Licensing Committee with information on all applications considered not only by the Licensing Sub-Committees but also those granted under delegated authority by officers.

3.0 Licensing Act 2003

- 3.1 The Licensing Act 2003 covers premises providing the following licensable activities:

- The sale or supply of alcohol
- The provision of regulated entertainment
- The provision of late night refreshment

New Premises Licences

- 3.2 During the quarter, the Licensing Authority determined a total of 30 new premises licence applications, 28 of which resulted in licences being granted.
- 3.3 Of the 28 granted licences, 14 were granted by way of determination as agreement was reached between all parties, 7 licences were granted following decisions made by the Licensing Sub-Committee, and 7 were granted by officers under delegated authority as no representations were received.
- 3.4 Two applications were refused following hearings in respect of the following premises:
- The African Social Centre (Manchester), 2 Empire Street, Manchester, M3 1JA
 - Dixy Chicken, Unit 1, 5a Wilbraham Road, Manchester, M14 6JS

Table 1 – Premises Licences (New)

Total applications	30
Granted by Determination	14
Granted by LSC Decision	7
Granted by Officers following no representations	7
Refused	2

Premises Licence Variations

- 3.5 A total of 42 applications for the variation of licensable activities of premises licences were determined during this quarter. 19 were 'full' variations under s34 of the Act and 23 were minor variations under s41a.
- 3.6 All 19 of the 'full' variations were granted; 5 by way of determination as agreement was reached between all parties; 2 following decisions made by the Licensing Sub-Committee and 12 were granted by officers under delegated authority as no representations were received. No variation applications were refused.
- 3.7 In respect of the 23 minor variation applications received, 21 were granted as it was considered that the variation proposed could not adversely impact upon the licensing objectives. 2 minor variation applications were refused.

Table 2 – Premises Licences (Variations)

Total applications	42
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Granted by Determination	5
Granted by LSC Decision	2
Granted by Officers following no representations	12
'Full' Variations refused	0
Minor Variations granted	21
Minor Variations refused	2

Temporary Event Notices

- 3.8 A standard temporary event notice (TEN) must be submitted no later than ten working days before the event period begins, whereas a late TEN can be submitted no later than five working days, but no earlier than nine working days, before the day the event period begins.
- 3.9 A total of 337 TENs were submitted to the Licensing team, of which 229 were standard TENs and 108 were late TENs.
- 3.10 8 of the standard TENs submitted were rejected as not properly made and 10 were withdrawn by the premises user prior to the event taking place. 6 of the Late TENs were likewise rejected as not properly made.
- 3.11 In respect of the remaining 211 standard TENs, 4 objections were received from Environmental Health and 1 objection from both GMP and EH. The decision of the Licensing Sub-Committee with regard to one of these five TENs was to serve a counter notice. The other 4 were withdrawn by the premises user prior to the hearing taking place.
- 3.12 Of the 102 correctly made Late TENs, 1 was subsequently withdrawn by the premises users before the event took place.
- 3.13 10 objections were received from either Greater Manchester Police or Environmental Health against Late TENs. When an objection is made against a late TEN, a counter notice must be issued and there is no provision for a hearing. Counter notices were therefore served by officers preventing the events from taking place.
- 3.14 A total of 206 standard TENs and 91 late TENs were acknowledged by the Premises Team on behalf of the Licensing Authority.

Table 3 – Temporary Event Notices

	Standard TENs	Late TENs	Totals
Total Notices received	229	108	337
Rejected not properly made	8	6	14
Acknowledged by Officers	206	91	297
Notice withdrawn by applicant	10	1	11
TEN modified	-	-	-

Counter Notice served	1	10	11
Conditions added by sub-committee	-	-	-
Counter Notice not served, no conditions	-	-	-
Notice withdrawn by applicant prior to hearing	4	-	4
Objection withdrawn prior to hearing	-	-	-

Premises Licence Transfers

- 3.15 A total of 37 applications to transfer a premises licence were received. All 37 applications were granted by officers under delegated authority as no objections were received from Greater Manchester Police.

Variation of the Designated Premises Supervisor

- 3.16 A total of 114 applications to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003 were received. All were granted by officers under delegated authority as no objections were received from Greater Manchester Police.

Interim Authority Notices

- 3.17 Where a premises licence lapses following the death, incapacity or insolvency of the holder, a person who has a prescribed interest in the premises concerned, or is connected to the former licence holder, may, during the period of 28 days beginning with the day after the day the licence lapses, give an "interim authority notice" to the licensing authority in respect of the licence to temporarily re-instate the licence for a maximum period of up to 3 months starting from the day the notice was given. The premises licence lapses again at the end of the 3 month period, unless a transfer application is made to the licensing authority during that time.
- 3.18 One Interim Authority Notice under the Licensing Act 2003 was received in respect of Red Hot World Buffet, Ground Floor, Maybrook House, 40 Blackfriars Street, Manchester, M3 2EG. An application to transfer the licence was made during the 3 month period the Notice was in force thereby ensuring the premises licence remains in effect.

Premises Licence Reviews

- 3.19 One application for a summary review of a premises licence under section 53A of the Licensing Act 2003 was submitted during this quarter in respect of Boom Off Licence, 51 Wilmslow Road in Rusholme ward.
- 3.20 The grounds of the application for review were that in the opinion of a senior police officer the premises were associated with serious crime or serious disorder or both, in relation to allegations that stolen debit and credit cards were used at the premises to undertake bogus and/or unlawful purchases for significant sums between August and November 2015

- 3.21 On receipt of an application for a summary review, the licensing authority must, within 48 hours, consider whether it is necessary to take interim steps pending the determination of a review of the premises licence; as well as subsequently review the licence.
- 3.22 Following a hearing, the licence for Boom was suspended as an interim measure pending the full review of the licence. An application for judicial review of that decision was made to the High Court by Boom to quash the imposition of the suspension, but was dismissed by the judge (see 3.24 below).
- 3.23 The review of the licence subsequently took place on 26 August, where following a hearing, the decision of the committee was to revoke the licence.

Judicial Review – Boom Off Licence

- 3.24 As advised at 3.20 above, following the decision of the Licensing Hearing Panel to suspend the licence for Boom Off Licence, pending the full review, an application for judicial review was made by the licence holder, Bobby Bhuiyan, to the High Court.
- 3.25 In accordance with s53(a) of the Licensing Act 2003, the chief officer of police may apply under this section to the relevant licensing authority for a review of the premises licence for any premises if.....(b) a senior member of that force has given a certificate that it is his opinion that the premises are associated with serious crime or serious disorder or both.
- 3.26 “Serious crime” is defined as offences where a 21 year old (or over) who has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; as well as offences where the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
- 3.27 The fundamental basis of the judicial review application was that the premises licence holder claimed that the offences upon which the summary review had been made did not constitute “serious crime” i.e. did not meet the threshold as stated above. Therefore, she asserted that the certificate issued by the Chief Superintendent was ‘unlawful’ because it had not complied with statutory requirements for making a summary review. On this basis, she claimed that the Council, as the licensing authority, did not have the power to impose interim steps.
- 3.28 The judicial review sought the quashing of the licence suspension and the award of costs to the licence holder. The application sought urgent consideration of the matter by the High Court due to the financial impact of the suspension. Therefore, following receipt of the judicial review on 10 August, the matter was heard at the High Court as soon as 17 August.
- 3.29 The Council contested the claim on the grounds that under s53A of the Licensing Act 2003 it is no part of the licensing authority's function to

determine the validity of the certificate based on the merits of the chief superintendent's opinion giving rise to it. The authority is bound, however, to consider what is raised in the certificate when making its 'interim steps' determination. This principle had been established in a separate case (*Lalli v Commissioner of the Metropolis* [2015] EWHC 14 (Admin)).

- 3.30 The issue for consideration by the Licensing Authority is not whether the matter should or should not be before the Licensing Authority, but what is necessary to do, on the evidence presented, to promote the licensing objectives. Therefore, it was submitted that the Council had acted lawfully in imposing the interim steps in accordance with the summary review process.
- 3.31 At the High Court, the judge dismissed the application for judicial review describing it as “wholly misguided” and awarded the Council costs of £7500.

Surrendered / Lapsed Licences

- 3.32 14 premises licences were surrendered by the respective licence holders during this quarter.
- 3.33 5 premises licences lapsed due to insolvency of the licence holders.

Personal Licences

- 3.34 A total of 105 applications for personal licences were received. All were granted under delegated authority by officers as no objections were received from Greater Manchester Police.
- 3.35 2 personal licences were surrendered during this quarter.

Appeals

- 3.36 No appeals were made in respect of any of the above decisions and there are no ongoing appeals.

4.0 Gambling Act 2005

- 4.1 The Gambling Act 2005 came fully into force in September 2007. It introduced a new system of licensing and regulation for commercial gambling which, amongst other changes, gave licensing authorities new and extended responsibilities for licensing premises for gambling.

Premises Licences

- 4.2 Premises licences granted by the Licensing Authority may authorise the provision of facilities on:
- casino premises;
 - bingo premises;
 - betting premises, including tracks;

- adult gaming centres; and
- family entertainment centres.

4.3 Except in the case of tracks e.g. greyhound racing track such as Belle Vue (where the occupier of the track who gets the premises licence may not be the person who actually offers the gambling), premises licences may only be issued to people with a relevant gambling operating licence (issued by the Gambling Commission). For example, to obtain a bingo premises licence the applicant must hold a bingo operating licence. Premises licences are transferable to someone else holding a valid operating licence.

New Premises Licences

4.4 One application for a new premises licence under the Gambling Act 2005 was received during this quarter in respect of Paddy power, 30 Hulme High Street, Manchester, M15 5JS. The application was granted by an officer under delegated authority as no representations were received.

Premises Licence Variations

4.5 No applications to vary a premises licence under the Gambling Act 2005 were received during this quarter.

Premises Licence Reviews

4.6 There were no reviews of any premises licences under the Gambling Act 2005 during this quarter.

Transfer of a Gambling Premises Licence

4.7 There were no applications to transfer a premises licence under the Gambling Act 2005 during this quarter.

Surrendered / Lapsed / Revoked Licences

4.8 No premises licences granted under the Gambling Act 2005 were surrendered, lapsed or revoked during this quarter.

Permits / Notifications / Small Society Lotteries

4.9 The 2005 Act introduced a range of permits for gambling that are granted by licensing authorities. Permits are required when premises provide a gambling facility but either the stakes or prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.

4.10 Holders of alcohol-licensed premises gaming machine permits and club permits are required to comply with codes of practice, drawn up by the Commission, on the location and operation of machines.

- 4.11 The following are the various permits that the licensing authority is responsible for issuing:
- Part 24 – family entertainment centre gaming machine permits
 - Part 25 – club gaming permits and club machine permits
 - Part 26 – alcohol-licensed premises gaming machine permits
 - Part 27 – prize gaming permits
- 4.12 It is only possible to grant or reject an application for a permit as no conditions may be attached to a permit.
- 4.13 No applications for an Alcohol Licensed Premises Gaming Machine Permit were granted during this quarter.
- 4.14 There were no applications for a Club Gaming and Machine Permit during this quarter.
- 4.15 Licensing authorities are also responsible for receiving, from holders of alcohol-licensed premises (under the 2003 Act), notifications that they intend to exercise their automatic entitlement to two gaming machines in their premises under section 282 of the Act. Such applications are made to the authority upon the expiry of the 3-yearly permit issued under the previous licensing regime.
- 4.16 During the quarter, 3 notifications under section 282 were received and acknowledged by the Premises Licensing team.
- 4.17 The Gambling Act 2005 requires the local authority to register non-commercial societies who wish to conduct fund-raising lotteries. It is possible to refuse a registration based on certain criteria as defined in the Act. One example is if the Authority is not satisfied the society in question cannot be deemed non-commercial.
- 4.18 Eight registrations to conduct a small society lottery were received and granted during the quarter.

Table 4 – Permits and Notifications (GA2005)

Permit Type	Total (granted)
Alcohol Licensed Premises Gaming Machine Permit (more than 2 machines) (new permit)	0
Alcohol Licensed Premises Gaming Machine Permit (more than 2 machines) (variation to existing permit)	0
Alcohol Licensed Premises Gaming Machine Notification (1 or 2 machines)	3
Club Machine Permits	0

Club Gaming Permits	0
Family Entertainment Centre Gaming Machine Permits	0
Small Society Lottery Registration	8
Transfer of Licensed Premises Gaming Machine Permit	0

5.0 Other miscellaneous licences

5.1 The Premises team is responsible for a range of other licences and permits as listed below:

Table 5 – Other Permits and Licences granted

Permit / Licence Type	Total (granted)
Animal Boarding Establishment Licence (Renewal)	0
Chaperone Registration	9
Hairdresser Registration	4
House to House Collection Licence	6
Hypnotism Licence	0
Juvenile Employment Licence	124
Juvenile Employment Work Permit	9
Leaflet Distribution Permit	149
Performing Animals Registration	0
Personal / Practitioner Registration (body piercing, tattooing, ear piercing, electrolysis)	26
Premises Registration (body piercing, tattooing, ear piercing, electrolysis)	4
Pet Shop Licence (Renewal)	0
Riding Establishment Licence (Renewal)	0
Scrap Metal Licence	1
Second Hand Goods Registration	16

Sex Establishment Licence (Renewal)	1
Sex Establishment Licence (Transfer)	1
Street Collection Permit	41
Street Trading Consent	9
Street Trading Licence	4
Tables and Chairs on the Highway (New)	7
Tables and Chairs on the Highway (Renewal)	21

6.0 Work of the Licensing Multiagency Partnership

- 6.1 The Multiagency Partnership is made up of the responsible authorities under the Licensing Act 2003 as well as representatives of neighbourhood teams across the city. Other external agencies, such as Border Control, are invited to relevant meetings. A meeting is held weekly and chaired by the Principal Licensing Officer, to scrutinise applications currently in consultation and to review relevant licensing matters.
- 6.2 By the agencies considering the applications jointly, this aims to ensure that an agreed, consistent approach is taken towards applications and that agencies are aware of all relevant intelligence held by partners. In turn, this leads to a more comprehensive assessment of the application, a reduced risk of duplication of effort and avoids conflicting approaches being taken by different agencies.
- 6.3 As well as applications, agencies provide updates on ongoing licensing-related matters they are dealing with, or looking to undertake either themselves or in partnership with other agencies, for example, test purchase exercises in respect of underage sales.
- 6.4 During the quarter, some of the work undertaken through the Multiagency Partnership included:
- Consideration of premises in the city centre offering ‘all you can drink’ promotions e.g. “bottomless brunch”. Following identification of these promotions, visits were carried out to licensed premises to discuss the promotions being offered to consider the potential impact on the licensing objectives. Whilst none of the promotions were found to be in breach of the mandatory condition prohibiting irresponsible promotions, it has been agreed that these promotions will be kept under review by the Partnership
 - Underage test purchase operations were carried out at two off licence premises in July, both of which failed. As it was the first sale for both premises, the seller in each case received a fixed penalty notice which

was issued by an officer from GMP. Action plan meetings were also held by Trading Standards and GMP with the premises licence holder/ DPS for each premises to agree steps they could bring in to avoid future sales. They have both been retested in August and neither premises sold alcohol to our young volunteer.

7.0 Contributing to the Community Strategy

7.1 Performance of the economy of the region and sub region

7.1.1 Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.

7.2 Reaching full potential in education and employment

7.3 Individual and collective self esteem – mutual respect

7.4 Neighbourhoods of Choice

7.4.1 The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives; in relation to the Licensing Act these are the prevention of crime and disorder, the prevention of public nuisance, public safety, and the protection of children from harm.

8.0 Key Policies and Considerations

8.1 Legal Considerations

8.1.1 All applications have to be processed in accordance with the requirements of their respective legislation. The Licensing Act 2003 and Gambling Act 2005 are prescriptive in terms of who should be consulted on applications and the timescales that have to be applied.

9.0 Conclusion

9.1 The report provides the Committee with statistical information regarding premises licensing applications processed between 1 July and 30 September 2016. The information provides Members with an update and overview of the number of applications being processed and the decisions made in respect of those applications.