

PRESENT

Committee Members

Cllr Janet Evans (Chair)
Cllr Toby Benton (Vice-Chair)
Cllr Laura Burns (Vice-Chair)
Cllr Marie-Therese Rossi (Vice-Chair)
Cllr Aarien Areti
Cllr Preety Hudd
Cllr David Lindsay
Cllr Abdullahi Nur
Cllr Stéphanie Petit
Cllr Dori Schmetterling
Cllr Linda Wade

Council Officers

Heidi Titcombe, Principal Solicitor
Lindsey Le Masurier, Senior Licensing Solicitor
Fiona Johnson, Licensing Manager
Sharon Dyball, Principal Licence Business and Finance Officer
James McCool, Transport Planning Manager
Holly Weaver, Senior Governance Coordinator
Nimca Muhudin, Governance Assistant
Daniella Hele, Governance Assistant

72 Seconds' Silence

The Chair of the Committee invited those present to stand in silence for 72 seconds to remember all those who lost their lives in the Grenfell tragedy.

1 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Isse and Councillor Knight.

Apologies for lateness were received from Councillor Benton, and he joined the meeting during item 6 – Performance Monitoring Report.

2 DECLARATIONS OF INTEREST

No declarations of interest were made.

3 MINUTES OF MEETING HELD ON 19 SEPTEMBER 2024

It was requested that the word “premise” be corrected to “premises” on page 4 of the minutes. Governance presented an amended version to the Chair with this correction, and the minutes of the meeting held on 19 September 2024 were then signed by the Chair as a correct record of the meeting.

4 PAVEMENT LICENSING, BRITISH SUMMERTIME LICENSING, AND LICENSING AMENITIES ON THE HIGHWAY FEES AND CHARGES 2025/26 [FOR DECISION]

Mr James McCool introduced the report. He explained that the first part of the report related to pavement licensing fees. These were regulated by the Business and Planning Act 2020. This Act had been modified through the Levelling and Regeneration Act 2023, which brought in new fees, a modified application process, longer maximum term for pavement licences, and provided clarifications on enforcement procedures. The Director of Highways and Regulatory Services at RBKC decided last year to change the fees to align with the maximum permitted under the modifications to the Business and Planning Act 2020, and this had been done in consultation with the Chair to be retrospectively approved by the Committee. The maximum fees allowed for new pavement licences was £500, and for renewing licences was £350. This was explained in Table 1 of the officer’s report. The second section of the report related to British summertime licensing, and the scheme the council had put in place to enable summertime terraces to be licenced during daylight savings time. In 2024, there had been approximately 100 sites in the borough with summertime terraces, and since beginning charging two years prior, roughly 90% of sites originally permitted during the pandemic (at zero cost) were continuing to apply for licences and were willing to pay the fee set out in Table 2 of the officer’s report. A new addition to the charges had been proposed, with a late payment fee included to begin to recover costs incurred by chasing late payments. Mr McCool explained that the late payment charge should be amended to read “Late payment charge if monitoring fee invoice is not paid within 30 days of the due date stated on the invoice”. It was confirmed that invoices were sent to licensees by email.

Mr McCool added that the fees and charges in Table 2 would be applicable from the date of the Licensing Committee meeting, as a guidance note would be sent to all previous licensees the following day by email to inform them of the changes. Hospitality businesses would be invited to apply for their summertime licence 2025, and this would be a two-step process – first, the request would be considered, and a suspension of traffic and parking would be arranged, then the pavement licence would be applied for.

Mr McCool concluded his summary of the report by explaining that under the Business and Planning Act, the tables and chairs licences of the borough could not be licenced under the Highways Act if they could be licenced under the Business and Planning Act instead. The Business and Planning Act related to hospitality, so only businesses who wanted a Tables and Chairs Licence without hospitality could apply for them under the Highways Act instead. Only a small number of businesses in the borough had this apply to them, including an estate agent and some salons. The proposed fees and charges were calculated to bring the cost in line with inflation.

In response to a question about sending reminders to licensees, officers explained that approximately a third of premises were late paying. Legislation was in place to determine how much interest could be charged, but it was based on the number of days the payment was late, and it was such a small amount that the cost recovery would not be worth the time it took. The Licensing Authority was able to charge every time action was taken however, through phone calls, emails or letters in order to recuperate costs.

In response to a question regarding the distinction between pavement licences and tables and chairs licences, Mr McCool explained that most tables and chairs licences in the borough were licenced under different legislation. A key decision had been taken in 2022 to have British summertime licensing for tables and chairs in order to support alfresco hospitality. On the footway licensees can apply for a year-round licence, but in the summer period temporary footways were created. If the tables and chairs were left out permanently, then a premises could end up getting deemed consent for them, but the Licensing Authority felt it was appropriate that they be removed after British summertime ended. The broadest definition of summer the licensing authority could find was related to daylight savings time, and so that was applied to this type of licence.

In response to questions by the Committee regarding the dates applicable for summertime licences, Mr McCool clarified that it was in accordance with British summertime, so from the final Sunday in March when the clocks went forward, to the final Saturday in October when the clocks went back to daylight savings time.

The Committee RESOLVED that the proposed pavement licensing fees for 2025/26 be approved as set out in Table 1 of the officer's report.

The Committee also RESOLVED that the proposed temporary footway extension fees be approved as set out in Table 2 of the officer's report, subject to the modification of the third row of the table to now read "Late payment charge if monitoring fee invoice is not paid within 30 days of the due date stated on the invoice".

Action: Director of Transport and Regulatory Services

5 REVIEW OF LICENSING FEES [FOR DECISION]

Ms Sharon Dyball presented the report. She explained that before the fees and charges working group meeting in December 2024, the animal welfare licensing fees, for inspections undertaken by the City of London on the council's behalf had not been known, These had been received in January 2025 however, and the fees had increased approximately 40% or 50% on previous years. This increase was largely due to higher costs being levied by the City of London for inspections and more accurately reflect the amount of time involved in the inspection and writing the report. These costs are recharged in full to licensing applicants as part of the application fee. A qualified animal health inspector is required to undertake inspections under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, which is outsourced to the City of London as the council does not have a qualified officer in-house.

In response to a question regarding the qualification required to carry out inspections, Ms Dyball explained that a recognised qualification was needed, and that the City of London carried out most of the London boroughs' inspections, as most councils did not have their own in-house experienced team. The fees they charged for inspections were the same as for the other London boroughs.

In response to a question regarding the number of animal premises in the borough that required a licence, Ms Dyball responded by saying that there were six premises in the borough, with eight licences, as two premises had a "pet a pooch" licence as well as the standard daycare licence. She also explained that there were no premises in the borough licensed for hiring out horses.

The Committee RESOLVED that the proposed fees set out in Tables 1-5 in Appendix A of the officer's report for the period commencing 1 April 2025 be approved.

Action: Director of Transport and Regulatory Services

6 PERFORMANCE MONITORING REPORT [FOR INFORMATION]

Ms Dyball presented the report. She explained that the council now had as many applications submitted on average as was received pre-Covid, which was shown on pages 39 and 40 of the agenda pack. The TENs were at the highest number the council had ever received, bar when the 2012 Olympics was hosted in London. Approximately 100 come in for Notting Hill Carnival alone, and these were largely within the footprint of Carnival. The number of special treatment licences had also increased by one hundred percent in the previous 10-15 years.

In response to questions regarding special treatment licences, the officers explained that:

- Nail bars were regulated, but at the present time injectables weren't.
- There had been discussions about injectables being regulated by licensing authorities previously, but this had been spoken about for a while and no definitive change had taken place.
- At the time when special treatments were required to be licenced, there were approximately 70 premises in the borough, and these were mostly pedicures, manicures and electrical treatments, but the number of such premises needing licences had grown in number significantly.
- The definition of special treatments under the act was broad in scope, and it was the responsibility of the licensing authorities to decide what should fit under this umbrella term. The term "special treatments" included saunas, sunbeds, tattoos, acupuncture under special treatments, but officers spent a large amount of time undertaking research into different treatments, and it was a judgement call for the council to make.
- Healthcare practitioners registered with a recognised body of health practitioners are exempt from needing a special treatments licence.
- IV drips were considered to be medical but had only begun in the last 10 years.

In response to questions regarding Temporary Event Notices (TENs), officers explained that:

- Premises could submit a total of 15 TENs in a year, for up to a total of 21 days. One TEN could last up to a maximum of seven days.
- Very few premises attempted to breach the number of TENs they were allowed per year, and most premises used TENs for events around the Christmas period.
- If a premises received complaints, then the Police and Environmental Health could object to TENs submitted, in which case the application would have to be determined by the Licensing Sub-Committee.
- Premises could submit TENs, and the Licensing Authorities could not prevent them from taking place unless an objection was raised by the Police or Environmental Health. However, weekly meetings took place with Noise and Nuisance, and the Police to keep track of problem premises.
- The Licensing Authority could issue a counter-notice to a TEN if the premises had exceeded the amount it was allowed within a year, but an automated system was in place to reject them automatically if this happened. They could also submit a counter-notice to a late TEN (between nine- and five-days prior to the event taking place), where the police or noise and nuisance had submitted an objection notice.

Ms Dyball explained that invoices were generated and sent to licensees in the borough one month before they were due to be paid. 21 days later a reminder was sent, and 10 days after that the final demand was sent out to those who were yet to pay. If they haven't paid after that date the council is required to suspend the licence. RBKC's Licensing team is required to give licensees a minimum of three days to pay after that date and send a notice to warn them, but they chose to give seven days to pay before the licence was suspended. In 2024 198 suspension notices were sent out, which was approximately 20% of all licenced premises in the borough receiving them, and 84 licences had been suspended following that time. Once the payment had been made to the council, the licence would be reinstated, but during the suspension period no licensable activities could take place at that premises. The suspension was the only sanction available to the council for non-payment of licensing fees.

In response to questions regarding suspensions and licensing fees, officers explained that:

- The licensing fees even if all paid and no licences were suspended, would not cover the cost of running the department and all that would entail, and the council could not charge more than the fixed fees specified in the Licensing Act 2003, let alone make a profit from the service.
- There had been talk of the fee set out in the Act being reviewed to bring it closer to the amount required for Licensing Authorities to recover their actual costs, but no increase has been made. All councils felt the strain of the maximum fee being set out in the Act as being lower than was required to operate, so it was not an RBKC or even London-wide specific issue.
- Often, the notice being sent out to premises may be the first time the council becomes aware a premises had changed hands, and the licensee could sometimes not even be aware the fee was outstanding.

Officers agreed to clarify in the report when "at the time of writing was written," to include the date when it was written in the event changes took place between the writing of the report and the meeting.

Ms Johnson informed the committee that the enforcement team was constituted of four officers, two working full time and two working part time. It would be physically impossible to complete 1187 visits to premises within a year along with any other visits as required, so the service had a risk-related system to determine which premises should receive mandatory visits. Those that were high or medium risk would need visits, and the data was set out in Table 6 of the officer's report. 218 complaints had been investigated by the Licensing team, and the subject of those complaints ranged of a number of issues. When complaints were received the licensee was liaised with, via a visit or unplanned inspection. Of the 218 that were investigated, 30 were operating in breach or one of more conditions, and this was summarised in Table 8 of the officer's report.

In response to questions regarding complaints, enforcement and inspections, the officers informed Members that:

- The 218 investigations related to complaints made to the Licensing team, not of any investigations undertaken by Noise and Nuisance.
- Some premises received multiple complaints, so it was not 218 premises that had been investigated. Officers offered to include figures relating to the number of investigations carried out for each premises in the next year's performance monitoring report.
- A monthly meeting was held between the Licensing authority and responsible authorities to discuss high risk premises. If concerns were raised by a responsible authority about a premises, then they would be considered high risk and inspections would be carried out. The risk a premises posed was determined in accordance with the licensing objectives.
- Inspections to test for serving regulated products to underage customers were carried out by the police and trading standards, but if the council learns a premises has been operating without a licence, Council officers would investigate with trading standards and the police. Such an instance happened with a premises in Notting Hill Gate, the details of which were explained on page 47 of the officer's report.
- Every complaint was investigated by the council.
- Inspections were also carried out if reports of modern slavery were received, and there had been an instance in the borough where a male was living outside of a premises in an electrical cupboard. A joint visit took place between the council, Immigration, Police and Trading Standards to investigate.
- Low risk premises would be investigated if complaints were received about them.

In response to a question regarding whether operators tend to submit licensing applications or planning applications first, Ms Titcombe explained that operators could choose either to submit a licensing application or a planning application first if both were needed for a premises. Licensing applications tend to be processed much quicker in eight weeks, whereas planning applications take longer and require much more documentation to be submitted to justify an application, so often operators make the licensing application first to see if approval is obtained.

In response to a question regarding how the Licensing Department were handling the workload they had, Ms Johnson explained that following support from the Licensing Committee, the team would be recruiting for an additional Licensing Officer and a Licensing Administration Officer to help with additional workload demands. This would be essential for the service when injectables would be regulated by Licensing

Authorities, and a licensing scheme for cigarettes and smoking related products would be introduced. If a DPS was required for premises selling cigarettes, this would lead to another approximately 1000 premises for the council to regulate. 2024 had been an improved year for the service compared to 2023, as a staff member previously on long-term sick had been able to recommence work, and with attendance improved the service had been better able to meet its target of 90% of applications processed within 10 working days. Applications were prioritised based on whether the applicant would be more disadvantaged, for example in instances such as new grant applications.

In response to questions regarding prosecutions, officers explained that there were no cases at the time of the meeting going through the prosecution process, as there were lots of steps the Licensing Authority tried to take first to resolve issues, but it was likely that one would be necessary for a premises on Notting Hill Gate. In the past if a case was taken to court and the court found in the council's favour, the fine the premises would need to repay could be up to £20,000, but now the fine is unlimited and would be decided by the courts. There had been an instance where someone was prosecuted for breaching the terms of their licence, but the operator pleaded with the courts not to give them a fine so they would be able to take their child to Disneyland. This was a rare instance, and officers took several steps to try and resolve issues before they got that far.

In response to questions from the Committee regarding complaints, officers explained that:

- Residents and Ward Councillors were encouraged to submit complaints about premises if they felt it was necessary. This would allow enforcement to investigate issues raised.
- When a TEN was submitted, the Noise and Nuisance team would look at the complaints registered against a premises as the complaints database was shared between them and Licensing, and so they would be able to object to a TEN on the grounds of noise and nuisance based on that information.
- Licensing would accept complaints as would Noise and Nuisance, and these would be shared with the other directly.
- Photographic or video evidence of issues would help support complaints, but getting such evidence should only be attempted if residents and Councillors felt completely safe and comfortable to do so.

The Committee requested that the complaints policy for licensed premises be circulated to all Councillors as a reminder.

The Chair concluded by thanking officers in Licensing, Legal and Governance for keeping the service running successfully.

The Committee noted the report for information.

7 APPEALS UPDATE [FOR INFORMATION]

Ms Heidi Titcombe presented the report and explained that the council had dealt with two appeals in the previous calendar year. The first was regarding a review for the Pelican which had been requested by residents. The Council had been able to reach a settlement whereby the operators had agreed to add a few more conditions to the

licence to address issues raised by the residents by allowing 20 customers to sit outside each side of the premises as opposed to having 40 customers in All Saints Road. The Chair clarified that had there been better diagrams for the premises at the hearing it could have resolved at the hearing. Ms Titcombe concluded by informing the Committee that £31,000 had been paid to the council in costs by the operator.

It was explained that the other appeal was ongoing and related to Ricco Lounge which had been sought by the police. The Committee were told that there had been at least one and potentially four shots, and this had led to the request for the review of the licence. At the interim steps hearing, the licence was suspended with the consent of the premises, and this had not been appealed by the operator, but the decision in the full review hearing had been to revoke the licence and continue the suspension agreed at the interim steps hearing, and it was the revocation that had been appealed. The directions for the appeal hearing had been given a week prior, and in October the appeal hearing would take place where evidence would be provided by all parties. The police had applied to be added as a party to that hearing given the serious nature of the review, which emphasised the importance of the revocation. The decision of the appeal court would typically be given to the parties a month after the hearing.

The Committee noted the report for information.

8 ANY OTHER ORAL OR WRITTEN ITEMS WHICH THE CHAIR CONSIDERS URGENT

Ms Johnson informed the Committee that the Licensing Policy for the council was being updated, and as such a committee meeting would likely take place later in the year to consult the Members on the proposed updates.

The Chair asked officers to circulate the complaints policy to all Councillors, so they could be reminded how to report issues for premises in the borough to the council.

The meeting ended at 11.29 am

Chair