

November 2015

Thomas & Thomas E-News

Waiter, waiter!

Westminster's licensing policy provides few exceptions where a licence will be granted in their Stress Areas. The most common example is a 'fully conditioned' restaurant licence. This usually requires:

- Customers are shown to their tables;
- Waiter/waitress service;
- Food served on non-disposable crockery;
- Meals prepared on the premises;
- No takeaway food for immediate consumption or takeaway food after 11pm;
- Alcohol served at a table and ancillary to a full table meal.

Complying with all these elements can be problematic for the upcoming trend of fast casual dining concepts. We have recently achieved dispensation from some of these conditions and also relaxation from the table-meal requirement particularly before 8pm. It is likely that the City Council's new licensing policy, due to be published soon, will make reference to some relaxation in these areas but also tighten up opening hours and use for private events.

Camden consults on late-night levy again

After a false-start, Camden are re-consulting on a Late Night Levy. If implemented, the levy would likely come into effect in early 2016. The levy would impose a charge on the majority of operators with premises licences authorising the sale of alcohol between midnight and 6.00 am. The amount would be calculated based on a premises rateable value. This could mean an annual fee ranging from £299 to £4,440. The proceeds of the levy would be split between the council and the police. It is imperative operators submit consultation responses if they wish to formally object to the levy. The consultation deadline is 9 November 2015.

The Immigration Bill 2015

The Government are set to introduce new legislation aimed at tackling illegal immigration. This has wide ranging impacts, even on the licensing regime. Under the legislation, only persons entitled to work in the UK can hold a premises licence in their own name. In addition, if an individual premises licence holder ceases to be entitled to work in the UK, the premises licence will lapse.

Christmas & NYE TENS

The deadlines for submitting TENS for the festive period are fast approaching. Please remember you need to submit TENS at least 2 weeks before the event. TENS can be used to extend your hours or add licensable activities for special events. Please also check if your licence includes later hours on New Year's Eve, if not you may need a TEN to stay open later.

Due Diligence – Enforcement Visits

We are noticing an increasing amount of scrutiny by licensing authority officers and the police during enforcement visits. Basic breaches of the licensing legislation and licence conditions can lead to unnecessary attention from the authorities.

For example, we have seen operators put under the spotlight and even receiving closure notices for:

- Defective CCTV systems.
- Failure to display a notice requiring customers to leave quietly.
- Out of date licences on display without a Section 57 Notice.
- Changes to layout not reflected in the licence plans.

To prevent this happening to you we recommend a due diligence exercise on your premises licence and operating procedures. Please refer to our [August E News](#) for more information on due diligence.

Late Night Refreshment

The Government have recently published the *Licensing Act 2003 (Late-Night Refreshment) Regulations 2015*, which gives a list of prescribed premises which the licensing authority may exempt from the requirement to licence hot food after 11pm. This can include any premises with a licence that authorises the sale of alcohol after 11.00 pm.

However, the relevant local authority has to prescribe what premises are potentially exempt and what period any potential exemption might relate to. In practice, the vast majority of premises selling alcohol after 11pm will already have late-night refreshment as a permitted activity under their licence. Therefore, it's probably more useless and confusing de-regulation which in practice will either have no benefit or won't be implemented by councils in any event.

Finding the balance

A recent planning decision in Westminster found that new residential use adjacent to an existing public house was not acceptable. The decision was made at a similar time to the recently published Lord Mayor's Draft Supplemental Planning Guidance. This sets out potential protection for licensed premises from new residential developments. There is a consultation period ending on 8 December.

The guidance recognises that residential developments can enhance the mixed use character of an area but such developments need to be managed sensitively to ensure that residential uses do not predominate or constrain the varied mix of commercial, cultural, entertainment, leisure and evening activities in the area. The consultation also identifies Covent Garden and Soho as having the largest concentration of evening activities within the Westminster Central Activity Zone and identifies at least some benefit of having such uses in the context of the cultural and evening economy.

What we've been up to:

- Assisting with the opening of Milos in Regent Street St James's. <http://milos.ca/> and the New Balans' Soho Society.
- Obtaining a licence for the first semi-permanent incarnation of Sam Bompas' and Harry Parrs' alcohol architectural interpretation of the breathable gin cloud. This time, raising its head in Cathedral Street, Borough Market. After a fierce debate with the council's licensing officer as to whether the application is contrary to the council's stress area and with opposition from the appropriately named public health responsible authority Mr Gin, the new bar is open for all to see and breathe <http://bompasandparr.com/projects/view/alcoholic-architecture1>.

- Obtaining special event approval for MAC cosmetics on Carnaby Street and Ralph Lauren's Club Monaco in Seven Dials.
- Obtaining a new premises licence for London Union's new Market site in Canada Water.
- Re-licensing Covent Garden Piazza and Canary's Wharf's Crossrail development.
- Obtaining a licence for London's newest private club at 67 Pall Mall.

And finally

We are delighted to celebrate our second year as the only London licensing firm in the Chamber's Directory Top Tier. Thanks to all of our clients for your ongoing support encouragement.

If you have any queries in respect of the above or any other matter, please contact one of the partners

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