

Report

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Report to:	Licensing Committee
Date of Meeting:	2 November 2011
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Civic Government (Scotland) Act 1982 - Temporary Public Entertainment Licence – Debrief Report on Events held at Hamilton Park Racecourse – July 2011
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ inform the Committee of any issues which arose during the events held at Hamilton Park Racecourse on Friday 22 July 2011 and Saturday 23 July 2011.

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the contents of the report be noted.

3. Background

3.1. Before a person can hold Public Entertainment events, they require to apply to the Council for the appropriate licence. The temporary public entertainment licence for the above events was granted by the Licensing Committee at its meeting held on 22 June 2011. At that meeting, it was agreed that a debriefing report be prepared for Committee within 4 months of the events taking place.

4. Present Position

4.1. The events took place at Hamilton Park Racecourse, Bothwell Road, Hamilton on the above dates. A debrief meeting was held at Hamilton Park Racecourse on 23 August 2011. Present at the meeting were representatives from Strathclyde Police, Consumer and Trading Standards, Hamilton Park Racecourse, Administration Services and the Licensing and Registration Section of Legal Services. Environmental Services had previously lodged their comments in writing, as attached. Comments were also received from a nearby resident of "The Paddock" relating to stewarding at "The Paddock" situated next to the Racecourse. The resident alleged that there were no stewards present on the Friday evening. All of these comments were raised at the debrief meeting and the Racecourse representative was given the opportunity to respond. The representative confirmed that stewards were on duty on both days but stated that the stewards had been actively chasing people away from the area which is why residents may have been under the impression that no stewards were present on the Friday. This position was confirmed by Strathclyde Police.

4.2. Observations from Consumer and Trading Standards and the response from Hamilton Park Racecourse are as follows:-

It was noted that the Racecourse complied with condition “i” of the temporary public entertainment licence which stated that:- “In the course of a trade or business, all goods in possession for sale, custody or control must not bear signs identical to or likely to be mistaken for registered trade marks in contravention of the provision of the Trade Marks Act 1994”. It was also noted that Hamilton Park Racecourse would have already been aware that counterfeit goods were being sold by a number of unlicensed street traders on the Friday night, and of the fact that these goods were seized by Trading Standards. The Racecourse were advised that the Police found unlicensed street traders on Saturday evening selling unbranded goods on Bothwell Road. Additionally, one of the sellers on the Friday night was observed to be wearing a high-vis vest marked “event staff”. The vest was not the same uniform as Hamilton Park Racecourse’s own staff and appeared to be an attempt to give themselves some credibility and to look like an authorised seller.

4.3 With regard to condition “j” of the temporary public entertainment licence which relates to compliance with the Weights and Measures Act 1985, the Racecourse were advised that assurances were sought in advance from Sodexo that the metered dispense units/beer measuring instruments in the concession vans were UK stamped, however this was not the case.

They were reminded that beer and cider must be sold in a prescribed manner, as defined in The Weights and Measures (Intoxicating Liquor) Order 1988. Namely, it must be sold in a quantity of 1/3 pint, ½ pint or a multiple of ½ pint. It must be sold within a measure (ie stamped pint glass) or delivered from stamped measuring equipment. The liquor must be delivered after the buyer has ordered it, and the measure is delivered in a position that allows the customer to see the delivery.

In the vans supplied by the Supreme Group, there were 2 x “ExacTap” liquid measuring instruments which were found to be unstamped. These types of units can only be legally used when there is a pattern approval certificate granted and the equipment has been tested and passed, and stamped as fit for use for trade. Certificate 2843/4 exists for these units; however they were not sealed and stamped in accordance with the certificate.

A Consumer and Trading Standards Officer explained to Calvin Kayes from the Supreme Group and Kathryn Jones from Sodexo that these units could not be legally used to dispense ½ pints or multiple of ½ pints. However, to prevent closing this bar it was agreed that beer and cider could be sold using CE stamped glasses as a measure. This was a temporary “fix” for the problem and this practice should not be repeated at future events.

The racecourse was advised that the purpose of a beer measuring instrument is that a metered delivery is dispensed. The unit cannot be used as a free pouring draught tap as usual, only a set amount can be dispensed and the delivery cannot be interrupted. To ensure there were no instances of short measure, it was therefore essential for bar staff to use some liquid from a spare glass to “top up” the already dispensed drinks to ensure each glass was filled to the pint measure.

The Supreme Group bar was monitored throughout Friday and Saturday night and Calvin and Kathryn were reminded of the requirements. It was noted on the Saturday night that on many occasions glasses were sitting already dispensed, the unit had been used to dispense drinks before the customer had ordered and without the presence of the customer. They were also not being topped up to ensure full measure as previously agreed.

Kathryn Jones advised the Consumer and Trading Standards Officer that the ExacTap units will not be used again. The Racecourse were advised that it is essential that in the future, to avoid the commission of any offences under the Weights and Measures Act 1985 and subsequent enforcement action, any beer measuring instruments are stamped. The Consumer and Trading Standards Officer advised that physical checks should be carried out rather than assurances to ensure this in advance of any future events.

- 4.4 It was noted at the Debrief Meeting that a response had been received from Sodexo on behalf of Hamilton Park Racecourse. Prior to the concerts contact was made with their concession bar suppliers, Supreme, to find out what equipment would be being used at the racecourse. They were advised that it would all be metered dispense units – MDUs, which they know have all been UK verified as this has been checked previously with Supreme (at another venue). On the day of the concert, during Sodexo's inspection, it became apparent that Supreme were using exactor taps in one of the bars instead of MDUs. Supreme were under the impression, that because they were using stamped plastic glass, that they were complying with all legal requirements. It is subsequently apparent that this is not the case due to the exactor taps being designed to be metered. Sodexo have advised Supreme that until the Exactor taps are UK or EU verified they shall not accept them onsite.

Consumer and Trading Standards are satisfied with the follow up action in relation to the Beer Measuring Instruments but if there were similar problems found at any future events they may consider formal enforcement action.

- 4.5 With regard to condition "k" of the temporary public entertainment licence which concerned compliance with the Consumer Protection from Unfair Trading Regulations 2008, it was confirmed that the requirements had been explained to Sodexo. The main requirements of this legislation are that all material information is provided to customers before purchase and that no misleading statements are made, or that anything is misleading by omission.

As previously notified, on the Tuesday before the concert, information appearing on the Hamilton Park Racecourse website stated that Wonderland would be performing as support act for Westlife. However it appeared from other information published on the Hamilton Park Racecourse facebook page the previous week that Wonderland had withdrawn due to recording commitments and had been replaced by Glenn Cal. At this time, tickets were still being sold for the event.

The Consumer and Trading Standards Officer advised that it is important to ensure that any information being published is accurate and in the event of such changes, amendments should be made as soon as Hamilton Park Racecourse become aware to avoid any consumers being misled.

On the nights of the concerts the Consumer and Trading Standards Officer found that not all of the concession vans were displaying their business name and address details. As such, it was quite likely that any disgruntled customers would approach Hamilton Park Racecourse as the only point of contact they would be able to identify to make their complaint. It is advisable to request subcontracted food or merchandise vans to display their business name and address particulars.

- 4.6 Sodexo on behalf of Hamilton Park Racecourse advised that they prefer to have all complaints directed to them at the racecourse which is why there were no names and addresses displayed on the concession vans. This allows Sodexo to control any issues that come and they can use this information when deciding on which companies to choose to represent them on event days. If it is preferable, the sellers could be asked to display names and addresses. Consumer and Trading Standards have advised that they are satisfied with this explanation and it is fine to operate that way.
- 4.7 There appeared to be no major issues relating to the events although, for future events, the traffic management scheme will require to be looked at as will the music level as there had been complaints from people attending the events that the music level was too low. Both of these issues would require input from either Strathclyde Police (traffic management) or Environmental Services (noise level) prior to any future events going ahead.

5. Employee Implications

- 5.1. None.

6. Financial Implications

- 6.1. None.

7. Other Implications

- 7.1. The risk to the Council is that it fails to fulfil its duty to protect the public. This is mitigated by the application process and by holding a hearing to establish all of the background facts relating to the application and by the attachment of appropriate conditions to the licence. There are no apparent implications in terms of sustainable development.

8. Equality Impact Assessment and Consultation Arrangements

- 8.1. There is no requirement to carry out an impact assessment in terms of the proposals contained within this report.
- 8.2 In all cases, when an application under the Civic Government (Scotland) Act 1982 is received, it is copied to Strathclyde Police, Strathclyde Fire and Rescue, Roads and Transportation Services, Planning and Building Standards Services and Environmental Services for consultation.

Paul Manning

Executive Director (Finance and Corporate Resources)

29 September 2011

Link(s) to Council Objectives/Improvement Themes/Values

- ◆ Improve Community Safety

Previous References

- ◆ Licensing Committee, 22 June 2011

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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