

BRIGHTON & HOVE CITY COUNCIL
LICENSING PANEL (NON LICENSING ACT 2003 FUNCTIONS)

10.00am 19 DECEMBER 2014

COMMITTEE ROOM 1, BRIGHTON TOWN HALL

MINUTES

Present: Councillors: Cobb, Marsh and Simson

Officers: Sarah Cornell (Senior Licensing Officer); Rebecca Sidell (Lawyer) and Ross Keatley (Acting Democratic Services Manager)

PART ONE

9 TO APPOINT A CHAIR FOR THE MEETING

9.1 Councillor Simson was appointed Chair for the meeting.

10 PROCEDURAL BUSINESS

10A Declaration of Substitutes

10.1 There were none.

10B Declarations of Interests

10.2 There were none.

10C Exclusion of Press and Public

10.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

10.4 **RESOLVED** - That the press and public are not excluded from the meeting.

11 APPLICATION FOR REVIEW OF A PREMISES LICENCE- UNDER THE GAMBLING ACT 2005, METROBET BOOKMAKERS LTD, 56 BOUNDARY ROAD, HOVE

11.1 The Panel considered a report of the Director of Public Health in relation to a review of a premise licence under the Gambling Act 2005 for Metrobet Bookmakers Ltd, 56 Boundary Road Hove. In attendance were Mark Savage Brookes on behalf of the Licensing Authority; Andy Issacs from the Gambling Commission, George Moakes from Roar Betting and Andrew Woods the legal representative for the operator.

Introduction from the Licensing Officer

11.2 The Senior Licensing Officer introduced the report and stated that the hearing was for a review of the Betting Premises Licence for Metrobet, 56 Boundary Road brought under the Gambling Act 2005. The Licensing Authority had called for the review under the Protecting Children gambling objective due to two failed test purchases at the premises. One representation had been received from the Gambling Commission supporting the review application which sought to add additional conditions to the licence or other actions that the Panel felt to be appropriate. Supplementary information had also been provided by the premises prior to the hearing.

11.3 During this review hearing the licensing authority must: consider the application made in accordance with Section 200 and consider any relevant representations. Reference was made to guidance that the purpose of the review would be to determine whether the licensing authority should take any action in relation to the licence. If action were justified, the options were to:

- (a) Add, remove or amend a licence condition imposed by the licensing authority
- (b) Exclude a default condition imposed by the Secretary of State (relating to, for example, opening hours) or remove or amend such an exclusion
- (c) Suspend the premises licence for a period not exceeding three months
- (d) Revoke the premises licence.

11.4 In determining what action, if any, should be taken following a review the Licensing Authority must have regard to the principles set out in section 153 of the Act:

- (a) In accordance with any relevant Code of Practice issued by the Gambling Commission,
- (b) In accordance with any relevant guidance issued by the Gambling Commission,
- (c) Reasonably consistent with the licensing objectives, and
- (d) In accordance with the Authority's Licensing Policy.

11.5 If the Panel were minded to add additional conditions to the licence Gambling Commission Guidance stated that any conditions imposed by the Licensing Authority must be proportionate to the circumstances which they are seeking to address.

Representation from the Applicant

11.6 The Licensing Officer, Mark Savage-Brookes, gave a representation on behalf of the Licensing Authority as the applicant. He drew attention to the representation within the report and highlighted that the premises had failed a test purchase by allowing an

underage person to gamble on a machine. Following the failure a visit had been made to the premises and the operations manager was aware of the authority's intention to retest. The premises then failed the second test, and a review was then submitted on 30 October 2014.

- 11.7 In response to Councillor Cobb it was explained that the Gambling Commission had supported the authority when undertaking the test purchases, and the young people used were considered to appear 'underage'.
- 11.8 In response to queries from Councillor Simson it was explained the age challenge policy was set out in the operational licence. Following the second test purchase and the submission of the review request it was believed that the premises was now under a new management contract; the licence was in the name of 'Metrobet' and the premises was now managed by 'Roar Betting'. In the period up to the review hearing there had been meetings with the new management and the Licensing Authority; there had also been positive conversations since the premises had instructed counsel.
- 11.9 In response to Councillor Marsh it was explained by the Licensing Officer that the current configuration would allow young people to enter the premises and use the machines near the door with minimal interaction with the staff.
- 11.10 At this point the Legal Advisor suggested it would be useful for the Panel if the Licensing Officer expressed any views on the conditions proposed by the operators. In response the Licensing Officer noted they were generally supported but there were some areas they could be strengthened. In relation to the use of a Maglock it was currently proposed that this be used on a risk assessed basis; however, the Licensing Authority was keen to ensure it would help prevent children from entering the premises. The Licensing Officer noted the conditions that had been proposed and highlighted that the premises had suggested they would also undertake their own test purchasing; the Licensing Authority had also suggested the installation of a door chime and the relocation of the gaming machines that were at the front of the premises; however, instead of moving these a screen had been placed to prevent them being visible from outside of the premises.
- 11.11 Councillor Simson pursued the issues of the Maglock further and it was explained by the Licensing Officer that he had suggested it be in use between 1500 and 1700 hours to deter children from entering the premises.
- 11.12 It was clarified for Councillor Marsh that screen installed at the front of the premises screened the machines from the street, but did not comply with the suggestion of placing them beyond the service counter.

Representation from Responsible Authorities

- 11.13 Andy Isaacs addressed the Panel on behalf of the Gambling Commission and stated that operators were subject to dual regulation, and highlighted the three objectives set out in the Gambling Act 2005. The third objective related to the protection of young, vulnerable people, and the licence should impose conditions to manage this. The Gambling Commission had become involved when it was clear that the procedures had not sufficiently upheld that objective, and there was no evidence that the premises were actively testing their own procedures. The Gambling Commission encouraged and

supported regular action by the Licensing Authority and, as such, had put in a representation in support of the application.

- 11.14 In response to Councillor Simson it was explained that it was perfectly normal for conditions that were mandatory in the licence from the Gambling Commission to also appear in the licence from the Local Authority – the premises must satisfy both authorities that they had sufficient measures in place.
- 11.15 Councillor Marsh asked for the position of the Gambling Commission in relation the additional conditions proposed by the Licensing Officer – the installation of a door chime and the relocation of the gaming machines at the front of the premises. In response it was explained that both of these measures would be useful; however, it was noted that there could be some commercial impact with more prescriptive use of the Maglock.

Representation from the Licence Holder

- 11.16 Mr Andrew Wood gave a representation on behalf of the licence holder. He stated that the conditions proposed by the licence holder went over and above the necessary provision to uphold the objectives of the Gambling Act, and these proposals were also specific to this premises – the premises would accept further conditions if the Panel were fully of the view they were proportionate. The two failed test purchases were unacceptable, and it was accepted that the young people should have been challenged – since the second failure this had been looked at in some detail. The premises had not sought to blame the staff who had failed to request ID, but felt this was a failure of the premises, at an operations level, to provide proper training and support to allow confident to challenge. This had led to the appointment of 'Roar Betting' to manage this and four other premises; the previous manager had also been made redundant.
- 11.17 It was explained that Mr George Moakes was now responsible for the operational management of the premises; he had 37 years of experience in the industry, and was very clear on the social responsibility codes. The operators had looked careful at the why the premises had failed the two test purchases and responded with additional measures. There were now daily reminder on the premises' computer systems that would 'flash up' for staff on matters to do with age challenging; Mr Moakes now undertook weekly visits and the team were now keeping challenge records. Staff were now vigilant for underage customers, and the operators were of the view that moving the machines from the front of the premises would not have any impact as staff were now being routinely challenged when entering the premises – this was also easier as the premises was small.
- 11.18 It was note that there were no national issues in relation to young people trying to access gambling venues, and it was considered that the use of the screens at the front of the premises would be a sufficient deterrent. All premises operated by 'Roar Betting' were fitted with Maglock. The use of Maglocks was focused on preventing large groups, and they had a greater application in London for crime and security reasons. It was considered that the permanent use of them could seriously harm the business as customers would not want to have to press a buzzer and wait for admission.
- 11.19 The types of signs and notices that had been highlighted in the additional materials had been put up in the premises and staff training had taken place using guidance from the

Gambling Commission – there would also be an ongoing programme of refresher training for staff. There were proposals to use an external company to undertake age related checks, and all of these matters would be recorded in the incident book. The operators were of the view that the measures proposed were proportionate, and they did not feel the installation of a buzzer would be necessary if the staff were vigilant.

- 11.20 In response to Councillor Marsh the new management arrangements were outlined, and it was confirmed Mr Moakes was the Operational Manager for 5 premises. It would be the responsibility of Mr Moakes to ensure all staff were trained. There were currently two staff at the premises and both were managers.
- 11.21 In response to Councillor Simson it was explained that the front door to the premises was kept closed to regulate the temperature, and therefore customers had to make a very conscious decision to open the door and enter the premises. There was no policy on whether the door should be closed or not. In response to a further query the layout of the premises was explained, and the usual number of customers was between 5 and 10.
- 11.22 In response to Mr Isaacs it was explained that the premises was largely single operated by one of the managers.
- 11.23 Councillor Marsh had query about how the single member of staff would be able to check customers entering if, for example, they were busy serving. In response it was explained that the manager would be easily aware and look up when customers entered the premises; they would also be trained to work in this manner.
- 11.24 In response to the Licensing Officer it was explained that staff were routinely challenging customers now; if a customer were to come in and use the gaming machine at the front then the member of staff would feel confident to challenge them.

Summaries

- 11.25 The Senior Licensing Officer stated that the Panel had heard from all the parties present regarding the Review brought by the Licensing Authority on the bases that the objective of protecting children had been undermined. The Panel must have regard to: the application made in accordance with Section 20 and any relevant representations including those from the premises. In determining what action, if any, should be taken following a review the Licensing Authority must have regard to the principles set out in section 153 of the Act:
- (a) In accordance with any relevant Code of Practice issued by the Gambling Commission,
 - (b) In accordance with any relevant guidance issued by the Gambling Commission,
 - (c) Reasonably consistent with the licensing objectives, and
 - (d) In accordance with the Authority's Licensing Policy.
- 11.26 The purpose of the review would be to determine if any action should be taken in relation to the licence. If action was justified the options were to:
- (a) Add, remove or amend a licence condition imposed by the licensing authority

- (b) Exclude a default condition imposed by the Secretary of State (relating to, for example, opening hours) or remove or amend such an exclusion
- (c) Suspend the premises licence for a period not exceeding three months
- (d) Revoke the premises licence.

11.27 Once the review had been completed the Licensing Authority must as soon as possible:

- notify its decision to:
- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police
- HM Revenue and Customs.

Parties could appeal the decision of the Licensing Authority.

11.28 The Licensing Officer stated that he was pleased with how responsive the premises had been, and felt they had taken the matter very seriously. He noted conditions had been agreed in principle, and asked the Panel to carefully consider the wording.

11.29 Mr Woods noted the positive response of the premises, and the robust action to prevent this happening again.

11.30 At 1121 hours the Panel retired to make their decision and reconvened at 1200 hours to deliver this.

11.31 **RESOLVED:** The decision of the Panel was as follow:

“The licensing authority has decided to take the following action as a result of the review:

Add the following conditions to the premises licence under Section 169:

1. CCTV to be installed at the Premises which covers all of the Licensed area and images of which will be retained for 28 days and made available to a Police officer or Licensing Officer upon request.
2. A Maglock will be installed at the Premises. The use of which will be Risk Assessed by the Premises Licence Holder. The risk assessment will cover all 3 licensing objectives.
3. Challenge 25 will be operated at the Premises.
4. Prominent Signage and Notices will be displayed showing that the Premises operate ‘Challenge 25’.
5. Prominent Gam Care Documentation will be displayed at the Premises.
6. All staff will be trained on the ABB Training Guide and Workbook or similar Training Policy. All training to be recorded and made available to licensing officers upon request.
7. Refresher Training of Staff will take place and be recorded and made available to licensing officers upon request.
8. ABB approved ID Test Purchasing will take place at the Premises, every 3 months for the first 12 months and thereafter at regular intervals with records maintained and made available to the Licensing Officers upon request.

9. An incident book will be maintained at the premises which will record all incidents of refusals and ID challenges and will be made available to a licensing officer or police officer upon request.

In addition, the licensee holder has offered to move the machines further away from the door and the panel request this be carried out as soon as possible.

Advisory: the Panel request that the licensee investigates the possibility of having a simple door alert attached to the front door as part of their alarm system in order that staff are fully aware of everyone entering the premises.

The Panel would request that the requirement to keep the front door closed at all times is added to the premises operating procedures if not there already.

The reasons for the licensing authority's decision are as follows:

The Panel considered the application for review of the premises licence and had regard to the relevant licensing codes, objectives and guidance and considered all the submissions made at the hearing. The Panel took into consideration the level of co-operation between the licensee, the licensing authority and the gambling commission, and also the fact that a new operational management structure has been put in place. The Panel is satisfied that the above conditions which were proposed by the licensee and discussed with the licensing authority will promote the licensing objective of protecting children from being harmed or exploited by gambling. The Panel considers that the action taken is a proportionate response to the serious failure of practice which prompted the review."

12 APPLICATION FOR REVIEW OF PREMISES LICENCES -UNDER THE GAMBLING ACT 2005, UNITS 1 -4 REGENCY ARCADE, 63-64 WEST STREET, BRIGHTON

- 12.1 The Panel considered a report of the Director of Public Health in relation to a review of a premises licence under the Gambling Act 2005 for Units 1-4 Regency Arcade, 63-64 West Street, Brighton. In attendance were Mark Savage-Brooke on behalf of the Licensing Authority; Mr Andy Isaacs from the Gambling Commission; Charles Heal on behalf of the premises; Phil Silver from BACTA and Brian Donnan as the legal representative for the applicant.

Introduction from the Licensing Officer

- 12.2 The Senior Officer, Sarah Cornell, introduced the report and stated that the hearing was for a review of the of the four adult gaming centres at Regency Arcade, West Street, Brighton brought under the Gambling Act 2005. The Licensing Authority had called for the review under the Protecting Children gambling objective due to two failed test purchases at the premises. One representation had been received from the Gambling Commission supporting the review application which sought to add additional conditions to the licence or other actions that the Panel felt to be appropriate. Supplementary information had also been provided by the premises prior to the hearing.
- 12.3 There were four separate licences within one premises as there were limits set by legislation on the amount of machines that each type of premises licence could have – these were categorised by limit of monetary stakes and prizes. It was confirmed this

type of arrangement and multiplicity of licence was normal procedure and referred to in Gambling Commission Guidance.

- 12.4 During this review hearing the licensing authority must: consider the application made in accordance with Section 200 and consider any relevant representations. Reference was made to guidance that the purpose of the review would be to determine whether the licensing authority should take any action in relation to the licence. If action were justified, the options were to:
- (a) Add, remove or amend a licence condition imposed by the licensing authority
 - (b) Exclude a default condition imposed by the Secretary of State (relating to, for example, opening hours) or remove or amend such an exclusion
 - (c) Suspend the premises licence for a period not exceeding three months
 - (d) Revoke the premises licence.
- 12.5 In determining what action, if any, should be taken following a review the Licensing Authority must have regard to the principles set out in section 153 of the Act:
- (a) In accordance with any relevant Code of Practice issued by the Gambling Commission,
 - (b) In accordance with any relevant guidance issued by the Gambling Commission,
 - (c) Reasonably consistent with the licensing objectives, and
 - (d) In accordance with the Authority's Licensing Policy.
- 12.6 If the Panel were minded to add additional conditions to the licence Gambling Commission Guidance stated that any conditions imposed by the Licensing Authority must be proportionate to the circumstances which they are seeking to address.

Representation from the applicant

- 12.7 The Licensing Officer, Mark Savage-Brookes, gave a submission of behalf of the Licensing Authority as the applicant calling for the review. The premises had failed two test purchases; the first on 20 April 2014 – following this Officers had met with Mr Heal; offered advice and stated that a further test purchase would take place. The second test purchase was failed on 9 October 2014, and following this the review was called for. It was noted that there were different licences and the test purchases had only taken place at two of the premises, but as all of the premises were together the review had been called for all of them. Following the request for the review Officers had again held discussions with Mr Heal and these positive discussions had continued following the appointment of Mr Donnan. It was noted that the premises had a challenging layout as there was a family gaming area at the front of the premises and this had been discussed. The Licensing Officer noted he was satisfied the operators had taken the matter very seriously.
- 12.8 In response to Councillor Marsh it was noted that the additional conditions had been agreed to in principle.
- 12.9 In response to Councillor Simson it was noted that the premises needed to achieve a balance between visibility and non-visibility, and the 'cash-box' in the adult gaming centre was highlighted and well as photos showing the changes to layout and signage

that had already been made. Both the Licensing Officer and Mr Isaacs noted there were still problems the layout that caused issues for access and supervision.

- 12.10 The Licensing Officer noted the authority was requesting regular recorded staff sweeps of the premises to help address some of the issues in relation to layout. Mr Donnan added that there was already a member of staff undertaking checks, and the proposed response was proportionate. The Licensing Officer then went over the proposed conditions for the Panel.

Representation from Responsible Authorities

- 12.11 Andy Isaacs addressed the Panel on behalf of the Gambling Commission and stated that operators were subject to dual regulation, and highlighted the three objectives set out in the Gambling Act 2005. The third objective related to the protection of young, vulnerable people, and the licence should impose conditions to manage this. The Gambling Commission had become involved when it was clear that the procedures had not sufficiently upheld that objective, and there was no evidence that the premises were actively testing their own procedures. The Gambling Commission encouraged and supported regular action by the Licensing Authority and, as such, had put in a representation in support of the application.
- 12.12 Mr Isaacs stated that he was of the view the breaches of the licence were a combination of the problems with the layout the lack of proper training.

Representation from the Licence Holder

- 12.13 Mr Donnan gave a representation on behalf of the operators. He stated that there was only one entrance to the adult gaming area, and there was clear line of sight to this area from the cash-box. There had also been changes to the signage. From his own experience of visiting the premises Mr Donnan had the impression that those using the adult gaming area were in the knowledge that they needed to show ID, and were clear they could be turned away. In terms of the proposed infrared beam this was industry standard and tested and would have a supply from the mains power – a log of testing would also be kept. The system was very simple and would make a noise when the beam was broken as someone passed through the two sensors. The premises were currently proposing that it be used when either of the two members of staff (one on the cash-box and one on patrol) were not at their stations – for example during their breaks.
- 12.14 The premises would hold a log book of incidents, and this had been seen by Officers at the Licensing Authority. There was also a condition requesting membership of the BACTA (or other appropriate body), and they would undertake quarterly test purchases. It was felt that these proposals demonstrated how seriously the premises had taken the matter. The premises would also retain CCTV footage for 3 months. It was felt that the comprehensive package of measures would address the problems.
- 12.15 In response to Councillor Cobb the following matters were clarified. There were additional conditions in relation to staff training, and there would be quarterly training from BACTA and in-house training every month to 6 weeks.

- 12.16 In response to the Licensing Officer it was explained that it was not the intention to have the infrared beam on at all times; only when one of the two staff in the area were not at their stations.
- 12.17 It was clarified for Councillor Simson that the operators did not intend to have the infrared beam on at all times as the noise could cause a nuisance for customers and potentially put people off using the area. The operators agreed that the beam could be permanently only until midday when staff were doing other duties during quieter period such as cleaning.

Summaries

- 12.18 The Senior Licensing Officer stated that the Panel had heard from all the parties present regarding the Review brought by the Licensing Authority on the bases that the objective of protecting children had been undermined. The Panel must have regard to: the application made in accordance with Section 20 and any relevant representations including those from the premises. In determining what action, if any, should be taken following a review the Licensing Authority must have regard to the principles set out in section 153 of the Act:
- (a) In accordance with any relevant Code of Practice issued by the Gambling Commission,
 - (b) In accordance with any relevant guidance issued by the Gambling Commission,
 - (c) Reasonably consistent with the licensing objectives, and
 - (d) In accordance with the Authority's Licensing Policy.
- 12.19 The purpose of the review would be to determine if any action should be taken in relation to the licence. If action was justified the options were to:
- (a) Add, remove or amend a licence condition imposed by the licensing authority
 - (b) Exclude a default condition imposed by the Secretary of State (relating to, for example, opening hours) or remove or amend such an exclusion
 - (c) Suspend the premises licence for a period not exceeding three months
 - (d) Revoke the premises licence.
- 12.20 Once the review had been completed the Licensing Authority must as soon as possible:
- notify its decision to:
 - the licence holder
 - the applicant for review (if any)
 - the Commission
 - any person who made representations
 - the chief officer of police
 - HM Revenue and Customs.
- Parties could appeal the decision of the Licensing Authority.
- 12.21 The Licensing Officer reiterated that the operators had been responsive, and he recommended the proposed conditions before the Panel.

12.22 Mr Donnan stated that this was the first occasion of a review for the operators that had run the premises for over 30 years; they were a part of the local community and had taken action as soon as they had received the notice for the review.

12.23 At 1306 hours the Panel retired to make their decision, and they reconvened at 1346 hours to deliver this.

12.24 **RESOLVED:** The decision of the Panel was as follows:

“The licensing authority has decided to take the following action as a result of the review:

Add the following conditions to the premises licence under Section 169:

(1) Proposed Re-altered Layout

The licence holder to submit a new floor plan layout to the licensing authority indicating better lines of sight for staff and restricting further the ability to access the Adult Gaming Areas. Such plan to be to the satisfaction of the licensing authority.

(2) Infra Red Beam

To be positioned across the entrance to the Adult Gaming Areas. To be utilised whenever:

(a) The first member of staff is not positioned within the Cash Box or,

(b) The second member of staff is not on patrol.

The infra red beam is mains supplied but can be battery operated as back up.

The system will be tested daily and a record kept.

The sound produced to alert staff is distinct and required to be of a volume that it can be heard over other gaming machines in operation.

It is equipment that is compliant with British Standards and used in other commercial premises.

(3) Maintaining of a Refusal Register. This will be maintained in addition to the current Log Book.

(4) In-house Age Verification Testing

To be undertaken on a regular basis at least every 6 weeks and a record of those tests will be kept.

(5) The licence holder will be a member of BACTA or similar organisation who will undertake compulsory age verification testing every 3 months for the first 12 months and thereafter at least on an annual basis. Records will be maintained and available to licensing officers upon request.

(6) The operation of a CCTV system (already in place) and the footage currently being kept for 28 days will be upgraded to 3 months. Such footage will also be available

for inspection and production to disc on request from Brighton & Hove City Council's Licensing Team.

- (7) All staff to be trained in age restriction and challenge on a regular basis. This training to be refreshed on a regular basis and records made available to licensing officers upon request.
- (8) The premises will operate a 'challenge 25' policy and prominent signage and notices will be displayed showing the operation of such policy.

The reasons for the licensing authority's decision are as follows:

The Panel considered the application for review of the premises licence and had regard to the relevant licensing codes, objectives and guidance and considered all the submissions made at the hearing.

The Panel took into consideration the level of co-operation between the licensee, the licensing authority and the gambling commission, and the changes already made to the layout of the premises.

The Panel is satisfied that the above conditions which were mostly proposed by the licensee and discussed with the licensing authority will promote the licensing objective of protecting children from being harmed or exploited by gambling.

The Panel considers that the action taken is a proportionate response to the serious failure of practice which prompted the review."

12.25 The Chair formally thanked all the work that Officers had put into bring this work forward.

The meeting concluded at 1.50pm

Signed

Chairman

Dated this

day of