

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)	Agenda Item 2 Brighton & Hove City Council
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BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.00PM 8 MARCH 2012

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Deane (Chair), Sykes (Deputy Chair), Cobb, Duncan, Gilbey, Hyde, A Kitcat, Lepper, Marsh, Pidgeon, Rufus, Simson, C Theobald and West

Apologies: Councillor Turton

PART ONE

20. PROCEDURAL BUSINESS

20a Declaration of Substitutes

20.1 There were none.

20b Declarations of Interest

20.2 There were none.

20c Exclusion of the Press and Public

20.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee 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).

20.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

21. MINUTES OF THE PREVIOUS MEETING

- 21.1 RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 17 November 2011 be agreed and signed by the Chair as a correct record.

22. CHAIR'S COMMUNICATIONS

- 22.1** The Chair reported that on Friday 17 February, Salvatore Capuano had appeared in court on two counts of exposing alcohol for unauthorised sale. He had pleaded guilty to the first count but not guilty to the second, claiming that there was a personal licence holder on site, he had however been found guilty on both counts. He had received a £300 fine for the first offence and £450 for the second, he had also been ordered to pay £650 costs and a £15 victim surcharge. In addition he had also forfeited his personal licence which would prevent him from being a designated premises supervisor (DPS) from now on.
- 22.2 RESOLVED** – That the position be noted.

23. PUBLIC QUESTIONS

- 23.1** There were none.

24. CONSULTATION RESPONSE ON LATE NIGHT LEVIES AND EARLY MORNING RESTRICTION ORDERS

- 24.1** The Committee considered a report of the Head of Planning and Public Protection reporting on the consultation response on proposed Late Night Levies (LNLs) and Early Morning Restriction Orders (EMROs).
- 24.2** The Head of Regulatory Services advised the Committee in respect of the relevant background information and Chronology of key events. Early Morning Restriction Orders could be applied by licensing authorities flexibly between midnight and 6am to restrict the sale of alcohol. Licensing authorities could apply these orders to areas where they considered that restricting the late night supply of alcohol was appropriate to promote the licensing objectives. Before such powers were commenced, regulations had to be made which would prescribe details of the process for making an EMRO and the kinds of premises that would be exempt from an EMRO.
- 24.3** The imposition of a Late Night Levy (LNL) would allow licensing authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy would apply to all premises (on and off-trade) throughout the licensing authority's area which were authorized to sell or supply alcohol in the time period set by the licensing authority (anytime between midnight and 6am). The levy would not apply to Temporary Event Notices (TEN's). Prior to making a decision to implement the levy discussions would have to take place with the Police and Crime Commissioner (yet to be appointed) and the local Police to decide whether it would be Appropriate to introduce the levy in its area.

- 24.4 There would be a fee payable by premises within the LNL area, based around the rateable value of the premises. Fees would be collected by the licensing authority, and money raised from the levy, minus administration costs would be shared with a minimum of 70% going to the Police and a maximum of 30% going to the licensing authority.
- 24.5 In answer to it was explained that questions by Councilor Lepper that exemptions/discounts could apply in some cases, the fee payable was based on the rateable value of a premises but the formula for making these calculations was complex and would create a large amount of additional work to be carried out, possibly requiring more staff. Any errors could result in additional budgetary pressures. Officers were also concerned about the number of free Minor Variation applications which would need to be dealt with. The levy would not apply to Temporary Event Notices and officers were concerned that these would be used as a loop hole in order to hold (possibly many) late night events and to circumvent payment of the levy. There would be differentiation between for example a local convenience store and a city centre night club in that they would have a different floor area and rateable value
- 24.6 Councilor Mrs Theobald sought confirmation, that the monies payable to the Police via any levy could be ring fenced. The Head of Regulatory Services stated that whilst there was an expectation that the Police might use their 70% for high profile policing initiatives to tackle violent or disorderly behaviour, multi-agency education and information programmes, they could not be compelled to do so.
- 24.7 In response to questions by Councillors Rufus and Sykes it was explained that the 30% which could be top-sliced by the local authority could be used to fund late night services such as late night street wardens, late night taxi marshalls and late night street cleaning. Licence holders wishing to avoid the effects of an EMRO or LNL would be able to make a minor variation to bring back their hours. Whilst this would normally cost £89 under this new legislation it would be free of charge to them whilst potentially involving the licensing authority in a great deal of work. Councillor Rufus expressed the opinion that the issues in relation to different types of venue and premises in the city centre and those on the outskirts could be very different.
- 24.8 Councillor Hyde sought clarification regarding what could constitute a “minor” variation and Councillor Cobb enquired whether premises licences could be transferred over using “Grandfather Rights” as had occurred with the inception of the 2003 Licensing legislation.
- 24.9 Councillor Simson stated that whilst it appeared that imposition of a levy could be useful in certain circumstances it was important to know the number of premises which could potentially be affected and the impact arising there from.
- 24.10 Councillor Duncan stated that in the absence of an appointed Police and Crime Commissioner it was difficult to ascertain what their approach and that of the Police would be. At present there remained a number of unanswered questions in that respect. Councillor Marsh concurred in that view.
- 24.11 In answer to questions of Councillor Gilbey, the Head of Regulatory Services explained that if implemented EMRO’s or a LNL could be amended or dispensed with

after a specified period of operation, however the whole process would need to be fully re-advertised. The timetable to be used was set out in the Act and there was no flexibility in respect of that. Members also agreed that Officers should seek endorsement for the consultation response from the three local MPs and pursue the points raised with Ministers in the resolution on LNL.

24.12 **RESOLVED** – (1) That the contents of the report be noted;

(2) That the consultation response be agreed; and

(3) That Officers seek endorsement for the consultation response from the three local MPs and pursue with Ministers in the resolution of the LNL.

25. SCHEDULE OF REVIEWS

25.1 Councillor Simson was pleased to note that the Panel's decision to revoke the licence of "Allsorts" Newsagents had been upheld, the licensing objectives had been compromised on a number of occasions and revocation had therefore been entirely appropriate.

25.2 **RESOLVED** - That the contents of the report be noted.

26. SCHEDULE OF LICENSING APPEALS RECEIVED

26.1 An updated schedule was circulated which included additional information which had been received following circulation of the agenda papers.

26.2 **RESOLVED:-** That the contents of the report be noted.

27. ITEMS TO GO FORWARD TO COUNCIL

27.1 There were none.

The meeting concluded at 4.10pm

Signed

Chairman

Dated this

day of