

<b>LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)</b>	<b>Agenda Item 2</b>  Brighton & Hove City Council
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**BRIGHTON & HOVE CITY COUNCIL**

**LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)**

**3.00PM 14 MARCH 2013**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Duncan (Chair), Deane (Deputy Chair), Cobb (Opposition Spokesperson), Lepper (Opposition Spokesperson), Gilbey, Hamilton, Hawtree, Hyde, Jones, Marsh, Pidgeon, Rufus, Simson, C Theobald and Wakefield

**Apologies:** Councillor Buckley

**PART ONE**

**18. PROCEDURAL BUSINESS**

**18a Declaration of Substitutes**

18.1 Councillor Wakefield declared that she was substituting for Councillor Buckley.

**18b Declarations of Interest**

18.2 There were none.

**18c Exclusion of the Press and Public**

18.3 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).

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

**19. MINUTES OF THE PREVIOUS MEETING**

- 19.1 Councillor Simson referred to the comment attributed to her in Paragraph 16.2 of the minutes stating that she wished to clarify that she had been referring to the value of periodic licensing visits e.g., the Committees' annual licensing visit, she was not advocating that visits take place prior to consideration of every application.
- 19.2 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 22 November 2012 be agreed and signed as a correct record.

**20. CHAIR'S COMMUNICATIONS**

- 20.1 There were none.

**21. PUBLIC INVOLVEMENT****21a. Petitions**

- 21.1 There were none.

**21b Written Questions**

- 21.2 There were none.

**21c Deputations**

- 21.3 There were none.

**22. ISSUES RAISED BY MEMBERS****22a Petitions**

- 22.1 There were none.

**22b Written Questions**

- 22.2 There were none.

**22c Letters**

- 22.3 There were none.

**22d Notices of Motion**

- 22.4 There were none.

**23. WORK OF THE LICENSING AUTHORITY 2011/13**

- 23.1 The Committee considered a report of the Head of Planning and Public Protection which set out the licensing functions carried out between 1 April 2011 and 31 January 2013.
- 23.2 The number of premises in Brighton & Hove during 2011/12 (latest figures reported to Home Office) was 1507 made up of 1460 premises licences and 47 club premises certificates. Included in that figure are 58 applications for new licences with 53 applications for new licences being granted (5 refused).
- 23.3 In 2011/12 the Council had received 36 applications for variations to premises licences, 32 of which were granted. 58 premises went to panel hearings. 41 minor variations were received during this period; 38 of which were granted. 10 reviews were carried out of premises licences.
- 23.4 Between 1 April 2012 and 31 January 2013, 34 applications for new licences had been received with 24 new licences being granted. 22 applications for variations to premises licences were received of which 12 were granted. 45 premises went to panel hearings. 69 minor variations were received during this period; 50 were granted. Two reviews of premises licences had taken place.
- 23.5 2011/12 had seen 946 Temporary Event Notices (TENs) being processed 51 of which were withdrawn and 381 personal licences issued during that time; 3 personal licence applications went to a hearing. The number of TENs and personal licences issued from 01.04.12 to 31.12.12 are 768 and 241.
- 23.6 Councillor Simson welcomed the report stating that this level of detail it contained was both helpful and very informative. The number of reviews undertaken had decreased and hopefully this was an indication that operators were aware of the diligent approach taken when their premises fell short of the standards expected of them. The fact that very few appeals had been lodged was also indicative of the hard work put in by Panel Members to ensure that they made reasoned and robust decisions. It was clear there was consistency in the decision making process and that Panel Members took their duties very seriously.
- 23.7 Councillor Simson also enquired regarding the apparent increase in the number of TENs applied for, especially over recent months. The Licensing and Health Manager explained that there could be a number of reasons for this but, often this was a consequence of premises wishing to hold more than the permitted number of events within any given year.
- 23.8 Councillor Marsh echoed Councillor Simson's comments, in her view the report gave "the bigger picture" and indicated that the Licensing Authority and Panel's were standing firm on their agreed policies and that they had been successful in doing so. It was also pleasing to note the proactive working that was going on e.g., the "Marwood's" application had been resolved with the consent of all parties.
- 23.9 Councillor C Theobald sought clarification of the wording "with costs to the Council" which appeared in relation to 5 of the appeals set out in Appendix 2 to the report. The Legal Adviser to the Committee explained that this meant that the Council had been awarded its costs, rather than that costs had been awarded against it.

- 2310 Councillor Hawtree stated that recent items appearing in the media seemed to indicate that Central Government was back tracking in relation to its alcohol pricing policy, enquiring regarding any impact this was having locally. It was explained the conditions placed on premises licences in respect of “offers” and how alcohol was displayed were rigorous.
- 23.11 Councillor Gilbey referred to a recent letter which had appeared in the “Argus” which had been misleading in that it had indicated that no licences had been revoked during the year. The Head of Regulatory Services, Environment and Licensing referred to several cases which had involved the sale of counterfeit alcohol and or the sale of alcohol on which the appropriate level of duty had not been paid and on which investigations remained on-going.
- 23.12 – **RESOLVED** - (1) That the Committee notes the contents of the report; and
- (2) That Members consider the significant rise in temporary event notices as a matter for future policy consideration.

#### **24. GAMBLING LICENSING AUTHORITY REVIEW**

- 24.1 The Committee considered a report of the Head of Planning and Public Protection setting out recent gambling licensing issues which had been dealt with by the city council over the past year. The Licensing authority took responsibility for Licensing Authority functions, extending the range of regulations covered by the Primary Authority including age restricted sales of gambling, co-regulation and intelligence sharing between the Licensing Authority, Gambling Commission and the Police, premises licence trends in relation to Betting Shops and local trends.
- 24.2 Councillor Wakefield stated that she had concerns in relation to the London Road area of the city centre where there appeared to be a proliferation of gambling establishments, enquiring regarding measures available to limit their proximity to one another. The Head of Regulatory Services, Mr Nichols explained that this could be prove difficult. Three recent applications submitted in December 2012 had not given rise to any objections, hence licences had been granted in January 2013. Whilst in some parts of the country problems had arisen where such premises were situated in close proximity to one another, such problems had not been experienced in Brighton and Hove and in consequence its Policy was concise whilst recognising this as a potential issue. However any future policy review could, if necessary, address an emerging situation were gambling establishments/betting offices etc to become a source of disorder.
- 24.3 Councillor Hawtree stated that he was aware by virtue of his position as Chair of Planning Committee that the use classes which included these types of establishment were very wide.
- 24.3 Councillor Simson referred to the extant licence mentioned in paragraph 3.5.1 of the report and sought clarification as to whether if an alternative venue was subsequently found the operator would need to apply for a new licence. It was explained that the Grosvenor Casino’s licence was current but the owners would not be operating until such time as the economy picked up and they could find a viable venue within the city.

- 24.5 **RESOLVED** – (1) That the Committee note the contents of the report;
- (2) That officers should continue to monitor trends of applications and illegal activity to inform future policy; and
- (3) That officers report to BRDO (Better Regulation Delivery Office) that proposed changes to test purchasing and regulation are unnecessary and inappropriate.

## 25. ARRANGEMENTS FOR LICENSING PANELS

- 25.1 The Committee considered a report of the Head of Legal and Democratic Services which proposed changes to the current arrangements for the organisation and administration of Licensing Panels with a view to creating a fairer and more efficient process that could be used in future to better meet the demands of licensing within the authority. The report gave information on the contextual background; the current process; suggestions for improvements and outlined the proposed new arrangements.
- 25.2 The Democratic Services Officer, Mr Keatley, explained that in the past there had often been difficulties with Members coming forward to sit on Panels and that this could put pressure on the authority's statutory obligation to hear applications within set deadlines, this also impacted on the amount of work required in setting up Panels and could result in additional stress and uncertainty around a process which was already constrained by statutory deadlines.
- 25.3 As a way forward for the future it was recommended that:
- (1) the Committee note the current arrangements, and the problems these had caused in the administration of Licensing Panels; and
- (2) that the Committee agreed to proceed with the new arrangements outlined in paragraph 3.8 of the report for the 2013/14 municipal year with the appointment of the Sub Committee taking place at the first meeting of the Licensing Committee in the new municipal year.
- 25.4 Councillor C Theobald stated that she considered the tables indicating the number of Panels attended by individual Members were unhelpful. Some Members had greater availability/ flexibility to attend Panels whilst other Members who sat on a number of other Committees or had more onerous responsibilities might be less able to attend. This did indicate that they were unwilling to attend, they did so when they were available to do so. Councillor Hamilton concurred stating that he had been appointed to the Licensing Committees following the Councillor Turton's resignation he had limited availability and if he was expected to cover a large number of Panels on a regular basis that would seriously compromise his ability to sit as a Member of the Committee and under such circumstances he would need to review his position.
- 25.5 Councillor Marsh stated that she saw no reason to change from the current system, as she was not aware of any instances where meetings had been unable to take place due to a lack of Panel Members. She stated that often places on Panels were filled very quickly, Panels appeared to be allocated on a "first come, first served basis", she had often been informed that Panels were already "full". In the past, a few days delay had

been built into the lead in time for preparation of papers enabling Members to consider their other commitments and to then volunteer if they were available. She considered that this arrangement had worked better as it provided a greater opportunity for more Members to sit on Panels, she considered that this arrangement should be reverted to, particularly as she was not aware that this was a significant problem. Councillor Gilbey concurred stating that this had also happened to her on several occasions.

- 25.6 Councillor Lepper stated that she considered that it was not appropriate for all Members to cover the same number of meetings, she considered that the onus was on the Administration and that the primary responsibility in covering Panels should fall to the Chair and Deputy Chair. Councillor Lepper stated that although she had limited availability due to her other commitments she would always cover a Panel meeting if there was a shortage of Members and she was available, Democratic Services were aware of this. Councillor Duncan, the Chair stated that he endeavoured to sit on the majority of Panels and that he was aware that a time delay was built in as he was aware that he was given several days to respond in order to confirm his availability.
- 25.7 Councillor Cobb enquired whether there had been instances where a Panel had needed to be cancelled due to a lack of Panel Members as she was not aware of instances where this had been the case. The Democratic Services Officer, Mr Keatley explained that although this had not actually happened, it had resulted on occasion, in an increased amount of pressure needing to be placed on Members to sit on Panels which in turn placed additional stress and uncertainty around the process which was already constrained by statutory deadlines. Councillor Cobb also asked if there was a requirement for Panels to be politically balanced. It was confirmed that there was no requirement for them to be so. Councillor Cobb stated due to a medical problem and to her other commitments she was unable to confirm that she was able to sit on a any given Panel a number of weeks in advance, however if she was available she would sit on Panels when dates were notified nearer to the actual meeting date.
- 25.8 Councillor Hyde stated that whilst she supported the proposals in principal, she was however, concerned as to how they would work in practice, considering that confusion could arise as a result. Councillor Gilbey agreed stating that she considered that it could very difficult for Members or their substitutes to commit their time so far ahead, notwithstanding that it was proposed that a substitute arrangement was proposed to be put into place.
- 25.9 Councillors Deane and Hawtree stated that they were aware of the problems that sometimes arose in setting Panels, Councillor Hawtree had been called to sit on a Panel which he had attended in order to observe from the Public Gallery. Councillor Rufus stated that the proposed amendment arrangement of setting up 5 fixed membership Panels would enable him to sit on a greater number of Panels although he noted the comments made by other Members regarding what they considered to be the draw backs of amending the existing arrangements.
- 25.10 Councillor Marsh proposed and it was seconded by Councillor Lepper that the current arrangements for raising Licensing Committee Panels remain in place but that Members be given a period of several days in which to respond before Membership of any given Panel was finalised.

- 25.11 A vote was taken and on a vote of 10 to 1 with 1 abstention Members agreed (Recommendation 1) to note the current arrangements for calling Panels and agreeing that they Panels should remain in place taking on board the comments made regarding further refinements which could be made.
- 25.12 A further vote was taken in respect of Recommendation 2 and this was lost on a vote of 10 to 1 with 1 abstention.
- 25.13 **RESOLVED** - That the current arrangements for raising Licensing Panels be retained but that the feedback received regarding time frame for contacting members and the other issues raised be taken into account when organising future Panels.

**26. SCHEDULE OF REVIEWS**

- 26.1 The Committee considered a schedule prepared by the Head of Planning and Public Protection detailing the number of reviews which had taken place during the period covered by the report.
- 26.2 **RESOLVED** – That the content of the Schedule be received and noted.

**27. SCHEDULE OF APPEALS RECEIVED**

- 27.1 None had been received during the period covered by the report.

**28. ITEMS TO GO FORWARD TO COUNCIL**

- 28.1 There were none.

The meeting concluded at 4.20pm

Signed

Chairman

Dated this

day of

