



City of Westminster

Minutes

Meeting:

Licensing Committee

Date of meeting:

**Wednesday 14 November 2012 at City Hall, 64
Victoria Street, London, SW1E 6QP**

Attendees:

Councillors: **Audrey Lewis (Chairman)**
 Alan Bradley
 Melvyn Caplan
 Nicholas Evans
 Jean-Paul Floru
 Lindsey Hall
 Gwyneth Hampson
 Andrew Havery
 Tim Mitchell
 Jan Prendergast

Apologies:

**Councillors Ahmed Abdel-Hamid, Michael Brahams,
Harvey Marshall, Patricia McAllister and Aziz Toki.**

Contact:

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1. DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

2. MINUTES

2.1 The minutes of the Licensing Committee meeting held on 11 July 2012 were agreed as a correct record and were signed by the Chairman.

3. LAMP POST NOTICES – NEW PROPOSALS

3.1 Members of the Committee received a report in order to consider whether to remove the requirement to advertise new and variation applications on lamp posts (Option 1) or amend the existing lamp post notices for Licensing Act 2003 and Gambling Act 2005 applications (Options 2 and 3 were included in the report). Option 2 was to amend the notice to remove the details of the application so as not to confuse anyone viewing the notice and to clearly set out how anyone who wished to examine the application and its accompanying documentation would be able to view it via the Council's online Licensing Register. Option 3 required officers to create individual lamp post notices for each application, providing more detailed information as to what was being applied for.

3.2 Claire Hayes, Senior Practitioner – Licensing, advised that the placing of notices on the nearest two lamp posts to the premises was not a statutory requirement. It had, however, been the Council's practice to do so prior to the implementation of both the Licensing Act 2003 and the Gambling Act 2005 legislation and the practice had continued up to the present day. She stated that the Licensing Service had received a number of comments, particularly from applicants but also from residents, that the notices could be misleading. They contained information that had no bearing to the actual application except the basic premises information and the opening hours. The notices were A5 size and only a limited amount of information could be included. There was no additional cost attached to Option 2. Option 3 would create additional work for the Licensing Service and have an additional cost implication.

3.3 The Chairman commented that the Council would be likely to receive criticism if Option 1 was selected. Applicants' notices were often obscure and local residents were not always familiar with the licensing process. Notices on lamp posts were a key element of advertising both licensing and planning applications. Applications in newspapers were not seen by local residents. Councillor Mitchell stated that he favoured Option 2. It was cost effective to retain the lamp post notices and whilst Option 3 had some merit, it was dependent on the officers concerned providing all the information required and even this could be misleading. The information could be obtained in its entirety from the Council's website as set out in Option 2. Councillor Prendergast added that Option 3 would be time consuming for officers. Councillor Caplan was concerned that Option 3 could cost additional money and not achieve the aims intended for it. Matters such as lamp post notices

required an automated solution and should not be restricted by the current restrictions of the 'Uniform' licensing database. Councillor Hampson made the point that the wording of the document needed to be easily understood by the general public. Peter Large, Head of Democratic and Legal Services, confirmed that it would be possible to use more colloquial language for the lamp post notices. It was agreed that Option 2 would be taken forward and that the final wording would be finalised by officers in consultation with the Chairman. Any suggestions by Members of the Committee would be forwarded to the Chairman.

- 3.4 **RESOLVED:** That the requirement for lamp post notices be retained but the format to be amended as described in paragraph 4.12 of the report with the final wording to be finalised by officers in consultation with the Chairman.

4. IMPLEMENTATION OF NEW APPLICATION FORMS, FEES AND RULES OF PROCEDURES AS A RESULT OF THE MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES) (AMENDMENT) REGULATIONS 2011

- 4.1 The Committee received a report advising of the requirement to provide updated application forms, fees and Rules of Procedures due to the implementation of The Marriages and Civil Partnerships (Approved Premises)(Amendment) Regulations 2011. Nick Nelson, Environmental Health Case Officer, stated at the meeting that the Regulations enabled religious premises to be used for the formation of civil partnerships. The Marriages and Civil Partnerships (Approved Premises) Regulation 2005 (2005 Regs) had made provision for the approval of premises for civil marriages and the formation of civil partnerships. Prior to the 2011 amendment, the Regulations had only provided provisions for secular (non-religious) premises to hold marriage and civil partnership ceremonies in approved premises. The Sub-Committee was being asked to approve the proposed documentation in the report, including the separate proposed application forms and Rules of Procedures for secular and religious premises. The Sub-Committee was also being asked to approve the proposed fees set out in the report, the proposed three year duration of a licence for religious premises only (this was also currently the duration of a licence for secular premises), the public consultation method for the local authority to advertise the applications on its website and that any amendments to the application documents with the exception of an amendment to licensing fees be delegated to officer level.

- 4.2 The Sub-Committee approved the recommendations set out in the report. Members of the Sub-Committee made a number of points and asked questions of officers as follows:

- Councillor Floru enquired why it was not possible to have one form for both secular and religious premises. He also queried why the proposed duration of a licence for religious premises should be three years as this would reduce bureaucracy. He made a general comment that fees for the services provided did not fully take into account the costs incurred by the Council and asked why specific questions were included on the

forms. In response Mr Large made a general point that the administering process was prescribed by Central Government. Mr Nelson commented on Councillor Floru's first question that the two regimes (secular and religious premises) were different. The forms reflected this and removed the likelihood for errors being made. Mr Nelson replied to Councillor Floru's second query that it was possible to permit a licence for religious premises for longer than three years. In addition to the three year period already being the status quo for secular premises, officers took into account the advice of the Superintendent Registrar. Limiting a licence to a three year period would enable premises to be inspected on a regular basis to assess whether they were still appropriate for holding a secular or religious premises licence. The proposed capacity could also be re-assessed. Deirdre Hayes responded to Councillor Floru's point in relation to fees that costings did include overheads for lighting and heating in addition to salaries. Councillor Floru commented that this still precluded capital and disbursement costs. Mr Nelson explained in response to Councillor Floru's final point that officers in the Licensing Service went through the legislation step by step and considered the requirements of consultees, registrars, Environmental Health and surveyors before the premises were assessed. The purpose of the specific aspects of the forms included preventing the duplication of visits by the London Fire and Emergency Planning Authority and enabling the Superintendent Registrar to decide whether premises were appropriate to hold ceremonies. The ceremonies were not permitted in private homes.

- Councillor Bradley also queried whether all the questions included on the forms within the report were strictly necessary and asked why premises users were required to submit their national insurance number on Temporary Event Notices. Ms Claire Hayes replied that the form for Temporary Event Notices was a statutory one which was created by Central Government and not the Council. It was intended to assist Police checks.
- Councillor Hampson stated that she had some corrections to the text of the forms which were in some cases either ambiguous or had grammatical errors. It was agreed that she would discuss these with Mr Nelson after the meeting.

4.3 **RESOLVED:** (i) That the proposed documentation annexed to the report be approved;

(ii) That any amendments to the application documents with the exception of an amendment to licensing fees be delegated to officer level;

(iii) That the proposed consultation method be approved;

(iv) That the proposed three year duration of a licence for religious premises be approved; and,

(v) That the proposed fees set out in the report be approved.

5. LICENSING ENFORCEMENT REPORT

- 5.1 Andrew Ralph, Service Manager – Noise and Licensing, introduced the report. He stated that the report had originally been requested by the Night Time Economy Member Working Group prior to a meeting in October 2012. The Working Group sought information on the current licensing enforcement arrangements and the report included the details of the Licensing Enforcement Protocol with the Police. The report also provided an insight into recent reviews at the Aura and Metra premises. The Chairman informed Members that she had specifically requested that the paper was included on the Licensing Committee agenda and would be grateful for their views on licensing enforcement and licensing policy in general. She would be giving evidence to the West End Commission the following week.
- 5.2 Councillor Evans referred to paragraph 7.3 of the report which noted the difficulty the Council had had in appointing a licensing analyst to research crime in Westminster. He added that this was an urgent appointment which would be extremely useful for Police, residents and the trade. The work of the licensing analyst would save money in the long run. The Chairman explained the background regarding the post. The post had unfortunately been lost on budgetary grounds over a year ago. Funding had however now been found for a one year contract for the licensing analyst post with a view to making it a permanent one. It was difficult to find an individual with the specific set of skills required for the role. It had been unfortunate that a licensing analyst had not been available to research information prior to the publication of the Gambling Policy in early 2013, including whether there was evidence of crime and disorder at betting shops after 10pm. Mr Ralph advised Members that the current position in respect of the licensing analyst role was that it would be advertised later that day. The analyst would receive specialist training and have the necessary access to Police information. The one year contract would provide an opportunity to identify a more permanent source of funding.
- 5.3 Councillor Floru asked for an explanation on the point made in paragraph 6.1 of the report that licensing inspectors tended not to prosecute under the Licensing Act 2003 as the outcome of prosecutions were not usually that much of a deterrent. Mr Ralph stated that when the Council applied to the court for costs, it was requested that the costs of the work undertaken in the particular case were covered. It was in the court's discretion as to the amount given to the Council. One of the main reasons why prosecutions were not always productive was that the company being prosecuted would apparently go into liquidation and then begin operating again with the same staff but with a different name and the Council would not always receive the money awarded to it. Health Act prosecutions resulted in a maximum fine of £2,500 but often the courts only decided on smaller fines which meant that it often cost more to prosecute than the amount received by the Council. The threat of a review of the premises licence was often a better way of encouraging problematic premises to promote the licensing objectives.

5.4 As part of the discussion on licensing policy and the evidence to the West End Commission, the Chairman expressed her concerns regarding the threshold point when reviews were called on the grounds of crime and disorder. It appeared to be the case that the Police would submit an expedited review when there was a specific incident at a venue such as a serious injury. However, where there were venues with dangerous or unpleasant behaviour over a number of years and were blighted by drunkenness and disorder, the Police were often advised by their lawyers to continue to work with the management and not bring a review. She was hopeful that a protocol could be agreed with the Police regarding the accepted threshold at which a review application would be submitted. Mr Large stated that if the Westminster Licensing Authority had a view on the appropriate threshold when reviews should be submitted then he would expect the Police to take this into account. The Chairman added that recent legislation enabled the Licensing Authority to submit a review on crime and disorder grounds and therefore the process was no longer dependent on the Police doing so.

5.5 **RESOLVED:** That the contents of the report be noted.

6. APPEALS

6.1 Mr Large provided Members with an update of the position in respect of licensing appeals since the previous meeting of the Committee in July 2012. An appeal, lodged by the St Martin's Lane Hotel in St Martin's Lane against the decision of the Sub-Committee, had subsequently been settled following an offer of compromise by the licence holder and the Appellants had agreed to pay the City Council's costs of preparing for the appeal proceedings. An appeal by the licence holder for Altitude 360 at Millbank Tower had now been withdrawn in respect of a decision made by the Licensing Sub-Committee to remove regulated entertainment from the licensable activities for the 29th floor of the premises and impose additional conditions. An application had recently been granted by the Licensing Sub-Committee for the 28th floor as expert advice had been received that there would not be noise emanating from this area. The Council had again received costs for preparing for the appeal proceedings for the Altitude case. Four appeals submitted by William Hill in respect of applications where they had sought at the Sub-Committee hearing to provide facilities for gambling to midnight had now been settled with authority being given to permit the premises to operate within the Council's Core Hours policy. The appeal by the Council in response to the Sex Establishment Licensing Fees case was scheduled in the Court of Appeal for 14 January 2013. Mr Large informed Members that letters advising of the potential implications of the case and seeking support in defending the claim had been sent to the Leaders of all major metropolitan authorities and to government departments. Letters had been received from some local authorities but there had been no response so far from The Home Office or The Department for Business, Innovation & Skills. An appeal had also very recently been lodged by the Quintessentially Group in response to a decision to refuse an application by the Licensing Sub-Committee in September 2012.

- 6.2 Councillor Bradley requested that all dates of Licensing Sub-Committee decisions which had led to the appeals were included in future appeals reports.
- 6.3 **RESOLVED:** That all dates of Licensing Sub-Committee decisions which had led to appeals being submitted be included in future appeals reports.
7. **LICENSING URGENCY SUB-COMMITTEE HEARING 20th SEPTEMBER 2012 – AMENDMENT TO THE SPECIAL TREATMENT STANDARD CONDITIONS AS A RESULT OF THE CESSATION OF WESTMINSTER’S THERAPIST REGISTRATION SCHEME**
- 7.1 The Committee received a report advising of the Licensing Urgency Sub-Committee decisions on 20 September relating to the amendment to the Special Treatment Standard Conditions as a result of the cessation of Westminster’s Therapist Registration Scheme.
- 7.2 **RESOLVED:** That the contents of 20 September 2012 Licensing Urgency Sub-Committee report and formal decision be noted.
8. **ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT**
- 8.1 Councillor Bradley stated that it appeared to be the case that Environmental Health did not withdraw representations objecting to applications at Licensing Sub-Committee meetings when they were contrary to policy in the Council’s designated stress areas. However, when an application was not contrary to stress area policy and Environmental Health withdrew their representation for a particular application, Members of the Sub-Committee were deprived of the Environmental Health officers’ specific knowledge of the premises concerned. The Chairman commented that in the past she had adjourned Sub-Committee hearings in order to enable an Environmental Health officer to answer questions that were of particular importance to Members in reaching their decision. Councillor Floru made the point that this was not always a workable solution as the specific officer who would have dealt with the application and then would have subsequently withdrawn Environmental Health’s representation was not always available at the hearing to answer the Sub-Committee’s queries. A replacement Environmental Health officer would attend and not necessarily be aware of the specifics of the application being considered.
- 8.2 Councillor Bradley stated that the withdrawal of Police representations for applications at Sub-Committee meetings was far more common. He expressed the view that the Police were the main beneficiaries of the Council’s stress area policy and that if an application was contrary to this policy the Police should not be withdrawing their representation. Steve Harrison, Operational Director for Premises Management, responded to some of the matters raised in relation to Environmental Health. Environmental Health did in some cases maintain their representation in order to assist the Sub-Committee in the event that local residents were objecting to an application. Occasionally Environmental Health had been asked at hearings

why they were continuing to maintain their representation in these instances. Environmental Health's approach to the applications would continue to be reviewed. The Chairman stated that it would be useful if the Chairmen or Members of the Sub-Committee informed her of specific examples of the applications where they had had concerns relating to Environmental Health or the Police withdrawing their representations.

9. FUTURE LICENSING COMMITTEE MEETING DATES

9.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 20 March 2013 at 10.00am and Wednesday 10 July 2013 at 10.00am.

10. CLOSE OF MEETING

10.1 The meeting ended at 11.53am.

Chairman

Date