



CITY OF WESTMINSTER

MINUTES

Licensing Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Wednesday 18th November, 2015**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Nickie Aiken (Chairman), Heather Acton, Rita Begum, Susie Burbridge, Melvyn Caplan, Jean Paul Floru, Peter Freeman, Murad Gassanly, Angela Harvey, Louise Hyams, Tim Mitchell and Aziz Toki

Apologies for Absence: Councillor Nick Evans, Councillor Jan Prendergast and Councillor Shamim Talukder

1 MEMBERSHIP

- 1.1 Apologies for absence were received from Councillors Nick Evans, Jan Prendergast and Shamim Talukder.

2 DECLARATIONS OF INTEREST

- 2.1 There were no declarations of interest.

3 MINUTES

- 3.1 The minutes of the Licensing Committee meeting held on 15 July 2015 were agreed as a correct record and were signed by the Chairman.

4 TRAINING FOR MEMBERS

- 4.1 Jonathan Deacon, Senior Committee & Governance Officer, introduced the report. He referred to the fact that a report had been considered by the Standards Committee in July 2015 on the topic of Member development. One of the proposals put forward by the Committee was that refresher training should be provided for Members who sit on quasi-judicial bodies. The Licensing Committee had previously received licensing training from David Matthias QC in July 2012. It was proposed on this occasion that training

would be provided to Members at the conclusion of the next meeting of the Committee scheduled for 9 March 2016 by experienced legal and policy advisers who attend the Sub-Committee meetings. They currently offer training to all new Members of the Licensing Committee and Licensing Sub-Committee. The cost of the training would be met from within existing resources. Mr Deacon added that in the event that the Committee endorsed the proposals for refresher training to be provided, officers would be grateful for any Member feedback in terms of the topics covered. The training programme would then be tailored accordingly.

4.2 Councillor Tim Mitchell made the point that Members of the Sub-Committee did benefit from regular input from legal and policy advisers both prior to and during the meetings and were therefore likely to be well informed. He was of the view that there was value in having a training session in March 2016, particularly taking into account the effect of the adoption by the Council of revised licensing and gambling policies. Councillor Melvyn Caplan stated that refresher training was taking place for Members of the Planning Committees following the Standards Committee's recommendations. He recommended that an additional date to 9 March 2016 was also scheduled as it was likely that not every Member of the Committee would be able to attend the session then. He also recommended that the licensing training sessions include matters which tend to arise at Sub-Committee meetings on a frequent basis. The Chairman advised that officers contact Members of the Licensing Committee at least a month prior to the training session in March 2016 to enquire whether there were any specific topics that they would like to be covered there. Mr Panto, Senior Assistant Solicitor, responded that Members were welcome to contact him or Mr Wroe, Licensing Policy & Strategy Manager, at any time prior to the meeting if there were any licensing matters that they would like clarification on. Officers would give thought to identifying the licensing matters that do arise on a frequent basis and reflect those in the training session.

4.3 **RESOLVED:** (i) That the proposals set out in the report relating to Member licensing training taking place on 9 March 2016 be endorsed and,

(ii) That Members be contacted at least a month prior to the licensing training taking place to enquire whether there are any specific topics that they would like to be covered at the session.

5 LICENSING FEES REVIEW 2016/2017

5.1 Mr Simpkin introduced the report. It set out the proposed fees for those licensing regimes where the Council has the power to set its own fees for 2016/17. Mr Simpkin advised that there had been some delays to undertaking licensing fees reviews whilst awaiting the outcome of, and taking into account the requirements of, the Hemming sex establishment licensing fees case. There had now been a Supreme Court ruling which enabled the Council to recoup some of its enforcements costs specifically in relation to sex establishments. Mr Simpkin referred to the major restructure involving Public Protection and Licensing which had taken place earlier in the year. The fees

before the Committee had been calculated following a review of all the costs associated with the new structure and the changes to personnel. The proposed fees were set to enable the Council to recover its reasonable costs in processing and determining applications and ensuring compliance with the appropriate legislation and the conditions of the licence. Mr Simpkin described the fee methodology which was calculated by assessing the time it takes for each step in the process from receipt of application to determination and also aspects such as the perceived cost for the compliance and enforcement function carried out by the City Inspectors.

- 5.2 Mr Simpkin took Members through the recommendations of the report. The first was that the proposed fees in Appendix 1 of the report save for the lower risk massage and special treatment premises licence renewal fee be approved commencing 1 January 2016. Mr Simpkin explained that the date of 1 January was being put forward because the majority of the fees had not been determined for over a year and it was therefore important that they were implemented as soon as possible. The second recommendation was to introduce a surcharge for paying the licence fee by cheque. There was now a move to promote online and telephone payments. The submission of cheques incurred a cost to the Council. This included the time it took for officers to process them and put the information on the system. The third recommendation was for the Committee to approve one of the proposed options for the increase in the lower risk Special Treatment Premises Licence renewal fee as set out in the report. Mr Simpkin made the point that it had been identified that the Council had not been recovering its costs relating to the special treatment regime for a number of years. Due to the nature of the fact that the businesses were often smaller in nature and that the fee increase would be significant for 2016/17, four options were being put forward as to whether the full increase would be implemented in 2016/17 or over the course of two, three or four financial years. If the Committee decided on option one the regime would be cost neutral in 2016/17. Other options would mean cost neutrality would not be achieved until the year when the costs for 2016/17 are finally recovered. There would therefore be a shortfall in projected income in future years. The fourth recommendation before the Committee was the proposed surcharge for late renewals of special treatment premises licences. Mr Simpkin explained that each year there are a number of licence holders that fail to renew their licence. The legislation which governed the licensing regime requires that once a licence has lapsed a new application is required. However, the fee involved for a new licence is significant and includes inspections and assessment that would not be necessary as the premises has already been licensed. Mr Simpkin added that the proposed surcharge fee would be less than the requirements for a new licence fee. Mr Simpkin also requested as part of the recommendations that the Committee note the need for further lobbying on amending the relevant regulations under the Licensing Act 2003 and Gambling Act 2005 to enable the Council to recover its reasonable costs in carrying out its functions under the Acts.
- 5.3 The Committee asked a number of questions and made a number of observations in response to the report and the points made by Mr Simpkin, including the following:

- Mr Simpkin was asked how many premises the proposed increase in the lower risk Special Treatment Premises Licence renewal fee was likely to affect in Westminster. He replied that it was likely to be approximately 229 premises.
- Mr Simpkin was asked how fees compared with neighbouring boroughs. He replied that in many cases the fees were more expensive than other London boroughs but it was calculated on recovering reasonable costs in Westminster.
- Mr Simpkin was asked whether fees could be apportioned depending on the size of the business providing the lower risk special treatments. Councillor Gassanly expressed concerns that the proposals would have a detrimental impact on smaller businesses. Mr Simpkin replied that when fees were calculated they were based on the work that officers had carried out and the work was the same for a large business as a small one. The fees could not be adjusted on the basis of the size of the business. Members appreciated that whilst there was a moral case for larger businesses paying more than smaller businesses for licensing applications they noted that the legal framework would not permit this.
- Councillor Freeman asked about the data in order to get a better appreciation as to how the fees had been arrived at. Mr Simpkin informed him that his team had worked very closely with Finance Department over the summer to make a number of calculations including costs for each licensing regime and average officer time for each application. Finance would have access to more detailed data. The Chairman emphasised the work that had taken place amongst officers to ensure that the figures were accurate and costs were recovered.
- Councillor Caplan stated that given the circumstances it was understandable why it was proposed that revised fees on this occasion were introduced on 1 January 2016. In general however the Council was looking to regularise the implementation of fees and charges and April was a more logical time for introducing this. He recommended that fees were either rounded up or down to the nearest pound. Thought could also be given to a surcharge for credit or debit card use given that this also resulted in a cost to the Council in terms of processing.
- The Chairman made the point in relation to concerns that smaller businesses could potentially struggle as a result of fee increases that the Council could not be seen to be subsidising any businesses with taxpayers' money. She also referred to the need for further lobbying with the Home Office in particular as the Council was not able to recover its costs in relation to applications received such as the big increase in numbers of Temporary Event Notices. Steve Harrison, Operational Director for Premises Management, referred to the fact that due to the Hemming case, the fees for the special treatment regime had not been reviewed since 2012/13. Had they been reviewed on an annual basis, the percentage increase would not have been so significant for 2016/17.

5.4 The Committee approved option one relating to the full increase in 2016/17 for the fees for special treatment premises licences which offer lower risk treatments. This would enable the regime to be cost neutral. The Committee approved the proposed surcharge for late renewals of special treatment

premises licences and also approved a proposed surcharge for paying the licence fee by cheque of £20. The fees would be rounded up or down to the nearest pound. Consideration would be given to whether a surcharge would be implemented for credit card payments. The Committee strongly supported the need for further lobbying on amending the relevant regulations under the Licensing Act 2003 and Gambling Act 2005 to enable the Council to recover its reasonable costs in carrying out its functions under the Acts.

5.5 **RESOLVED:** (i) That the proposed fees be rounded up or down to the nearest pound;

(ii) That taking account of (i) above, the proposed fees in Appendix 1 save for the lower risk Massage and Special Treatment premises licence renewal fee, be approved by the Committee without any recorded abstentions and objections, commencing 1st January 2016.

(iii) That a proposed surcharge of £20 for paying the licence fee by cheque be approved;

(iv) That taking account of (i) above, the Committee approve without any recorded abstentions and objections option one for the full increase in 2016/17 in the lower risk Special Treatment Premises Licence renewal fee;

(v) That the Committee approve the proposed surcharge for late renewals of special treatment premises licences;

(vi) That the need for further lobbying on amending the relevant regulations under the Licensing Act 2003 and Gambling Act 2005 to enable the Council to recover its reasonable costs in carrying out its functions under the Acts be noted and supported by the Committee; and,

(vii) That consideration be given to introducing a proposed surcharge for paying the licence fee by credit or debit card.

6 UPDATE IN STATEMENT OF LICENSING PRINCIPLES FOR GAMBLING DEVELOPMENT

6.1 The Committee received a report with an update on the development of the Council's Statement of Licensing Principles for Gambling under the provisions of the Gambling Act 2005. Mr Simpkin stated that the Statement was renewed every three years and the current Statement would no longer be in force after 30 January 2016. The Licensing Authority, in consultation with the Cabinet Member (and the Chairman of this meeting), was adopting a two staged approach to the preparation and publication of its new Statement of Principles. This was in the light of the change in national policy and the issues that Westminster faced in relation to gambling. The first stage document had been approved by Council on 11 November, would be published from 1 December for a period of four weeks and come into effect on 31 January 2016. The Licensing Authority was currently involved in stage two of the process which would replace the Statement of Principles coming into

effect on 31 January 2016. This would be significantly revised and be far more specific and detailed about what is required from gambling premises in Westminster. The revised Statement would focus particularly on local areas and issues.

6.2 The Chairman made the point that the local area profile would be beneficial to the local authority as well as the gambling operators. It would be important that gambling premises are particularly well run in the higher risk areas that would potentially be established within the local area profile.

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

7 LICENSING APPEALS

7.1 Hayley Davies, Litigation Appeals Manager, advised Members that three appeals which had been listed in the Magistrates' Court against the decisions of the Licensing Sub-Committee had recently been withdrawn. These were Bow Street Hotel in Bow Street, The Signature Restaurant and Basement Bar in Bow Street and Betfred in Harrow Road. Of the other appeals, the full hearing for Press in Panton Street was due to commence in January 2016. The appeal was now being proceeded with on the basis that the decision of the Sub-Committee (which was to revoke the licence) was correct but that a new operator was now proposed who it was stated would run the premises in a competent manner. Ms Davies also referred to the sex establishment licensing fees case that had been heard in the Supreme Court on 13 January 2015, informing Members that all the representations in writing to the European Court of Justice were unlikely to all be seen by the Council until the end of 2015.

7.2 The Chairman thanked Ms Davies and legal advisers employed by the Council for their hard work in defending against the licensing appeals and also Members and officers involved with the Sub-Committee meetings for making carefully considered decisions which could be defended in the appeal courts.

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

8 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

8.1 The Chairman recommended that all Members of the Committee experience the stress areas, particularly the West End, on a Friday or Saturday night at least once a year in order to inform decision making at Sub-Committee meetings. Members would be able to see the work of the City Inspectors and the operation of premises at first hand. It was agreed that Members who wished to join the City Inspectors' shift on a Friday or Saturday night should contact Andrew Ralph, Service Manager - Noise & Licensing.

9 FUTURE LICENSING COMMITTEE MEETING DATES

- 9.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 9 March 2016, Wednesday 6 July 2016 and Wednesday 30 November 2016. All meetings are scheduled for 10.00am.

The Meeting ended at 11.15 am

CHAIRMAN: _____ **DATE** _____