



CITY OF WESTMINSTER

# MINUTES

## Licensing Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** Committee held on **Wednesday 24th March, 2021**, This will be a virtual meeting.

**Members Present:** Councillors Matthew Green (Chairman), Heather Acton, Barbara Arzymanow, Susie Burbridge, Rita Begum, Maggie Carman, Richard Elcho, Aicha Less, Murad Gassanly, Jim Glen, Louise Hyams, Tim Mitchell, Karen Scarborough and Aziz Toki

**Apologies for Absence:** Councillor Jacqui Wilkinson

#### 1 MEMBERSHIP

- 1.1 Heidi Titcombe, Legal Advisor to the Committee opened the meeting with the first order of business, for the appointment of a new Chairman. The Committee appointed Councillor Matthew Green as Chairman and Councillor Jim Glen as the new Vice Chairman following nomination and approval.

#### 2 DECLARATION OF INTEREST

- 2.1 There were no declarations of interest.

#### 3 MINUTES

- 3.1 **RESOLVED:** That the minutes of the Licensing Committee on 23<sup>rd</sup> September 2020 were approved.

#### 4 REVIEW OF LICENSING FEES FOLLOWING THE IMPLEMENTATION OF FURTHER RESTRICTIONS UNDER THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (ENGLAND) REGULATIONS 2020

- 4.1 The Licensing Committee received a report from the Interim Director of Public Protection and Licensing. Mr Andrew Ralph, Head of Licensing, informed the Committee that this was the second report that had been brought to the

Licensing Committee to consider in relation to fees resulting from the Covid-19 Pandemic. He informed the Committee that the first report was considered by a Licensing Urgency Committee in June 2021.

- 4.2 Mr Ralph advised the Committee that the report in front of them, sought approval to waive the fees for the Street Traders who had been legally unable to trade due to the various lockdowns and also to reduce Part B of the fee for a number of other licensing types as specified in the report. He advised the Committee that Part B related to the monitoring and enforcement element of the licensing fees. He confirmed that many of the premises referred to in the report had been unable to operate legally as a result of the lockdown and had resulted in a reduction in costs for the Council as less inspections had been carried out.
- 4.3 Members of the Committee queried whether the costs for waving the fees would impact the Council's budget and if the Council would be reimbursed from central government under the Covid-19 regulations. Mr Ralph advised the Committee that under the regulations and extraordinary measures the Council would be reimburse for up to 75% of the costs. The Chair commented on the fairness of the approach and hoped to see many traders take advantage and bring the city back to life in the very near future.

- 4.4 **RESOLVED: Unanimously (14 Votes).** Approved:

That the Licensing Authority can waive the full fees for non-essential market traders that were and are unable to trade during the COVID-19 restrictions in November 2020 and again in December 2020, January, February, March 2021 and up to April 2021.

That the Licensing Authority is authorised to reduce renewal fees and/or Part B fees, on a pro-rata basis, for businesses that are closed and not permitted to trade, whilst the COVID-19 restrictions are in place in November 2020 and again in December 2020, January, February and March 2021 for the licensing regimes specified in paragraph 3.3 of this report, where the Licensing Authority has the discretion to set the fees.

That the Licensing Authority be at liberty to waive fees for street traders of essential goods, should the government impose further restrictions restricting their trading.

## **5 AMENDMENT TO THE COUNCILS LICENSING ACT 2003 MODEL CONDITIONS**

- 5.1 Mr Kerry Simpkin, Head of Licensing, Place and Investment addressed the Licensing Committee and advised the Committee the report before them related to a proposed revision to the Council's pool of model conditions under the Licensing Act. He informed the Committee that the reason for the revision follows on from the adjustment and revision to the Statement of Licensing Policy that was completed last year. Mr Simpkin advised the Committee that

officers had undertaken a review of the current pool of model conditions and had put forward suggested amendments that related to the changes that were made to the Statement of Licensing Policy and specifically around restaurants conditions (66, 38 70 and 70A).

- 5.2 Mr Simpkin advised the Committee that the Metropolitan Police had put forward an adjustment to condition 1 which related to CCTV and had also put forward a number of other conditions which were detailed within the report. He advised that the Council's Environmental Health Service and the Licensing team had also commented and made some minor adjustments to existing model conditions relating to major events. Mr Simpkin noted that the pool of model conditions was there as a supportive document that is available to applicants, residents and the Committee.
- 5.3 Mr Simpkin advised the Committee that that the pool of model conditions are not standard conditions, as standing conditions are not permitted under the Licensing Act 2003. Mr Simpkin informed the Committee that the proposal put forward was to amend the current pool of model conditions and to delegate the authority to make further revisions and changes as and when needed to the Director of Public Protection and Licensing.
- 5.4 The Chair thanked Mr Simpkin, his team, and officers across the Council for their work. The Chair opened the discussion and queried the new Class E usage. the Chair sought confirmation that Planning colleagues had reviewed the model conditions through the premise of the new Class E usage. Mr Simpkin confirmed that he had engaged specifically with Planning colleagues on this issue, however, currently there were no proposed conditions to address the issues that may arise as a result of the change of use class.
- 5.5 Mr Simpkin advised the Committee that his team would continue to monitor the situation, and this was the rationale behind delegating the authority to amend the pool of model condition to the Director of Public Protection and Licensing. He stated that this enabled changes to be made to the model conditions as and when necessary, particularly around use classes. The Chair welcomed the flexibility at the early stage of the implementation, he noted that members can add their own conditions and did not always need to follow the model conditions.
- 5.6 Members requested that any changes made by delegated authority should be made in consultation with the Chairman of the Licensing Sub-Committee. Members also raised issues with regard to the Police agreeing conditions prior to licensing committee hearings. Members felt constricted when the Police agreed conditions in advance of the hearing, as the Committee were unable to clarify matters with them at the hearing, and such proposed conditions appeared to take precedence over the Committee's ability to make a determination of the conditions which should or should not be attached to the licence. Members felt that it would be helpful, if the Police could attend meetings in future, even if they had agreed conditions as this would allow Members to ask relevant questions.
- 5.7 Mr Simpkin advised the Committee that the Police, as a responsible authority

are independent from the Council in terms of their approach. He informed the Committee that the Council and the Police do work hand in hand, and he would raise with the Police the Committee's concerns when considering some applications to be satisfactory, when they withdraw their representations and fail to attend meetings.

- 5.8 In response to a question, Ms Heidi Titcombe, advised the Committee that the Council is not able to insist that the Police attend Licensing Sub-Committee meetings. The Police are entitled to withdraw their objection if they wish so, but it is important for the Police and Licensing Authority to work together to address the concerns raised.
- 5.9 Ms Titcombe advised the Committee that where the Police or indeed, any other party agrees proposed conditions in advance of a hearing, the Committee still has the discretion to decide what conditions are appropriate and proportionate to attach to licence, which includes amending conditions which may have been proposed by the parties involved. Ms Titcombe advised the Committee that where there is an issue about crime and disorder, the Secretary of State's Guidance says the Police should usually be the Committee's main source of advice as they are the experts on crime and disorder.
- 5.10 The Chair advised the Committee that he did recognise the specific case relating to gambling policy and he had pledged to launch a review of the Council's gambling policy, he hoped some of those issues could be addressed. Councillor Acton, the Cabinet Member responsible for Policing addressed the Committee, she advised that liaising with the Police is important and confirmed that such liaisons were taking place at the highest level. Councillor Acton advised the Committee that the conversations had already taken place and things were in motion with the Police.
- 5.11 Members discussed the model conditions, querying if a condition could be added regarding idle engines, however it was advised that this was already illegal. Members raised further queries with regards to premises that operate as restaurants but did not have a kitchen and premises that had outside space and have use of the public highway. Mr Simpkin advised the Committee that some premises have food prepared elsewhere which is brought in and reheated for consumption. The Chair suggested that using the delegated authority, Mr Simpkin and Ms Titcombe review the model conditions 65 and 70A and provide additional clarity to ensure they deliver the Committee's intentions.
- 5.12 Members welcomed the clarity in regards to a clear definition of a substantial meal, the sensible updates to reflect modern trading and endorsed the new model condition 66. Members also raised concerns regarding hubs that provided a click and collect service, it was thought this could be a problem if alcohol is provided for sale or delivery 24 hours a day. Members believed that this could cause nuisance to residents and was an issue the Committee needed to be aware of. Members raised a final point regarding restaurant deliveries after 10:00pm.

- 5.13 Mr Simpkin advised the Committee that this was something the Council was aware of and was monitoring with interest. He informed the Committee that if necessary, model conditions would be amended to reflect the specific requirement the Council may need to impose. Mr Simpkin also advised the Committee that he welcomed liaising the Chairmen of Licensing Sub-Committee's in relation to any proposed changes to the model conditions before agreement by officers. With regards to late night deliveries, Ms Titcombe informed the Committee that deliveries could only be restricted in relation to licensable activities granted.
- 5.14 **RESOLVED:** Unanimously **(14 Votes)**. That the proposed model conditions and delegated authority to the Director of Public Protection and Licensing are agreed.

## **6 LICENSING APPEALS UPDATE**

- 6.1 Ms Heidi Titcombe, Legal Advisor introduced the report and advised the Committee that this was a report to note which detailed the appeals that the Council have dealt with in the last year. Ms Titcombe informed the Committee that she was pleased to report there had only been two new appeals. She advised the Committee that the appeal referred to in paragraph three, related to 100 Wardour Street on the ground floor, where noise had been escaping into adjoining premises. She noted that one of the residents was not happy with the outcome of the review and attempted to appeal the decision, but quickly withdrew. Ms Titcombe advised the Committee that the Council were able to recover costs in December.
- 6.2 Ms Titcombe advised the Committee that the outstanding appeal related to Scotch, a premises in Mason's yard. She informed the Committee that we are waiting for the summons to be issued, as there have been delays with the magistrates courts during the Covid-19 pandemic. Ms Titcombe advised the Committee that the Council was also waiting for a case management hearing in relation to this matter and members would be updated further as the case progresses.
- 6.3 Ms Titcombe advised the Committee that the only other matter was Hemmings, she stated that members, would recall that the Council have sent papers to the Administrative Court of the High Court, who are only dealing with priority cases during the lockdown. No directions have been given at the present time.
- 6.4 The Chair thanked Ms Titcombe for an excellent record and believed that this was testament to her and her fellow solicitors, for the excellent advice given to Committee members. The Chair also thanked the Committee members for their sound judgment and the balanced way they adjudicate applications.
- 6.5 **RESOLVED:** That the report be noted for information.

The Meeting ended at 11.00 am

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_