

Appeals & Licensing Committee – 31 August 2004

Minutes of the meeting of the **Appeals & Licensing Committee** held on **31 August 2004** when there were present:-

Cllr Mrs B J Wilkins (Chairman)
Cllr G A Mockford (Vice-Chairman)

Cllr K A Gibbs
Cllr K H Hudson

Cllr T Livings
Cllr R A Oatham

OFFICERS PRESENT

G Woolhouse	- Head of Housing, Health and Community Care
K Doylan	- Licensing Manager
N Khan	- Solicitor
J Bostock	- Principal Committee Administrator

368 MINUTES

The Minutes of the meeting held on 23 July 2004 were approved as a correct record and signed by the Chairman.

369 DECLARATIONS OF INTEREST

Councillor T Livings declared a personal interest by virtue of his daughter being a restaurant licensee.

370 LICENSING ACT 2003

The Committee considered the report of the Head of Housing, Health and Community Care on the primary considerations and implications for the Council in implementing the transitional provisions of the Licensing Act 2003. The report proposed a draft statement of licensing policy and addressed changes required to the Committee Structure/Constitution.

In presenting the report, the Licensing Manager detailed the background to the formulation of the draft policy and the intention of the Licensing Act. It was confirmed that, subject to document approval, officers intended to issue the draft statement to consultees by the end of the week. Members noted that a high number of licences would be issued by the Authority and that there was a likelihood that some of these would be contested. It was also noted that there would be some restrictions on Committee Members being involved in hearing an appeal. For example, a Member would be prohibited from determining an appeal involving the licensing of premises that fell within his/her own Ward.

The Committee concurred with the observation of the Chairman that, given the likely workload and the requirements under the Licensing Act that Sub-Committees of three Members determine licensing appeals, it would be

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appropriate for the Appeals and Licensing Committee to comprise fifteen Members.

It was noted that the current Committee Membership of six Members would continue to hear any Appeals currently within their terms of reference pending a report on constitutional changes to the Committee's next meeting and Full Council.

Responding to questions, officers confirmed that the requirement for Sub-Committees of three Members would only apply to the hearing of cases under the new Licensing Act and that the Committee could determine the approach it wished to take for other forms of appeal. In this regard, it was observed that there may be merit in considering the retention of the current Members for the purpose of hearing Non-Licensing Act appeals. It was also observed that, historically, some Members had demonstrated a particular interest in involvement with appeals and that Member availability for day-time appeal hearings was a factor.

The Committee reviewed the Draft Statement of Licensing Policy on a page by page basis.

Notwithstanding the statutory basis of the document, it was felt that there would be merit in reviewing some of the wording with a view to aiding interpretation. It could be recognised that some aspects, such as the fact that the Act did not regulate the provision of cold food, could be seen as somewhat incongruous.

Responding to questions, Officers advised that:-

- Each of the four licensing objectives set out under paragraph 1.5 fell to the remit of one or more agencies. The primary agency for the prevention of crime and disorder would continue to be the police.
- The legislation was intended to cover a wide variety of circumstances and documentation required by the Licensing Authority would vary depending on the particular nature of a case.
- The term "representations" had replaced the term "objections". Definitions associated with the term were set out at Appendix D of the draft statement.
- The documentation included reference to the rights of appeal for Licensing Authority decisions.
- Businesses would continue to have responsibility for managing their premises and there was no imposition on the Council to take responsibility for incidents of crime and disorder that may occur on premises.

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The Committee agreed the following amendments to the draft statement: -

- That the final bullet point of paragraph 1.28 should read “The power of the police, other responsible authorities or a local resident or business to seek a review of the premises licence or club premises certificate in question”
- That the wording “in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions will therefore be avoided and” in paragraph 1.30 be deleted.
- That the words “and at providing a ‘level playing field’ on which businesses can fairly trade” in the first sentence of paragraph 1.46 be deleted.
- That the words “the Council expects that such risk assessments would be documented” be added to the end of paragraph 2.4.
- That the word “additional” be removed from the penultimate line of paragraph 3.6.
- That the word “proactively” be removed from the third line of paragraph 5.1.
- That the third sentence of paragraph 6.6 be revised to read “areas that will require particular consideration in respect of children include:”
- That the words “if considered appropriate” be removed from paragraph 6.9.

With regard to paragraph 6.8, the Committee endorsed the observation of a Member that it would be inappropriate to expect a licensee to conduct an assessment of the suitability of a film for exhibition to children and to implement measures that restrict viewing by children if necessary. It was agreed that authority should be delegated to officers to review the options available and agree revised terminology to provide appropriate safeguards in consultation with the Chairman.

With regard to additional seats on the Committee, it was noted that Councillor C J Lumley would be the Liberal Democrat nominee.

Resolved

- (1) That authority be delegated to the Head of Housing, Health and Community Care to review the options available for providing appropriate safeguards within paragraph 6.8 and to agree revised terminology in consultation with the Chairman of the Committee.

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- (2) That, subject to the amendments detailed in the above pre-amble and to resolution (2) above, production of the draft Statement of Licensing Policy be approved for the purposes of statutory consultation.
- (3) That nine additional Members be nominated to serve on the Committee for the purpose of Member Training on the provisions of the Licensing Act 2003 on the basis that the arrangement will be confirmed at the next Meeting of Full Council. The additional Members to be appointed on a pro rata basis as follows:-

seven from the Conservative Group

one from the Liberal Democrat Group

one Non-Group Member from Labour, Hawkwell Residents or Independent. (HHHCC/HAMS)

The Meeting commenced at 2.00pm and closed at 4.23pm.

Chairman

Date