

Licensing Committee – 6 December 2005

Minutes of the meeting of the **Licensing Committee** held on **6 December 2005**
when there were present:-

Chairman: Cllr Mrs R Brown
Vice-Chairman: Cllr D G Stansby

Cllr T G Cutmore
Cllr K A Gibbs
Cllr Mrs S A Harper
Cllr T Livings
Cllr R A Oatham

Cllr Mrs M A Starke
Cllr M G B Starke
Cllr Mrs C A Weston
Cllr Mrs B J Wilkins

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors K H Hudson and A J Humphries.

OFFICERS PRESENT

K Doyland - Licensing Manager
N Khan - Solicitor
J Bostock - Principal Committee Administrator

488 MINUTES OF LICENSING SUB-COMMITTEES

The Minutes of the Meetings of the Licensing Sub-Committees held between 2 August 2005 and 29 November 2005 were approved as correct records and signed by the Chairman.

489 REVIEW OF STATEMENT OF LICENSING POLICY

The Committee considered the report of the Head of Housing, Health and Community Care on proposed amendments to the Council's Statement of Licensing Policy.

The Committee reviewed each of the proposed amendments in detail, noting that:-

- All Essex Authorities were in the process of reviewing their Statements.
- It had always been envisaged that Authorities would need to adjust the policy template originally recommended by the Essex Joint Licensing Officers Forum to suit individual circumstances.
- The recent judicial review pointed to the dangers of being too prescriptive in areas where the law is silent. Legislation in place prior

to the 2003 Licensing Act was such that all the information associated with applications could be contained on one side of A4 paper.

- Whilst Grandfather Rights remained in the legislation, they are no longer relevant on the basis that licences were converted during the transitional period.
- Current enforcement protocols based on multi-agency roles are applied to the administration of licensing, the District Council being the lead for this particular area. In serving the Licensing Authority, the Council's Licensing Section cannot trigger a review. However, Responsible Authorities and/or persons living in the vicinity can, at any time, trigger a review on an evidentiary basis. If a responsible Authority identifies a breach associated with unlawful activity, then they have the option of prosecuting. The Council's Environmental Protection Unit can trigger a review.
- None of the proposals could be applied retrospectively, unless it is identified that an original decision was manifestly unreasonable.
- Any new statutory guidance from the Department for Culture, Media and Sport would apply to all Local Authorities. The indications are that fresh guidance is unlikely to be available in the near future.
- The Council's Head of Legal Services would be consulted on whether there is a need to undertake a consultation exercise on any amendments proposed by the Committee. Notwithstanding this, Full Council would need to approve a finalised policy.
- Whilst there had been some reference in former legislation, the Licensing Act 2003 is silent on the question of capacity limits for premises. There had been some lobbying on the inclusion of capacity limits at the time the legislation was formulated. Experience had established that, where the County Fire and Rescue Service makes recommendations on capacity to applicants, these are adopted. Given the high level of applications associated with the transitional period, the Fire and Rescue Service had taken a risk-based approach visiting premises where it was considered there was likely to be issues.
- The Authority cannot be sued for not imposing maximum occupancy levels – it would be beyond the powers of the Authority to do so. Conditions can be imposed if they emanate from a formal representation.

During discussion of experience at recent hearings reference was made to the value of highlighting that it would be sensible for applicants and clubs to consult with Responsible Authorities when operating schedules are being prepared to allow for proper liaison before representations are proved necessary. Reference was also made to the value of a communication to the

Fire and Rescue Service asking that the Service remain mindful of possible capacity issues when considering each application.

The Committee agreed a Motion relating to report recommendation (2), moved by Councillor M G B Starke and seconded by Councillor T G Cutmore, and it was:-

Resolved

- (1) That the proposed amendments to the Statement of Licensing Policy, as set out at Appendix A to the report, be approved for consultation.
- (2) That the Head of Housing, Health and Community Care be authorised to consult appropriate bodies on the amendments at the necessary time.
- (3) That a communication be sent to the County Fire & Rescue Service asking that the Service remain mindful of possible capacity issues when considering each application. (HHHCC)

490 GAMING ON LICENSED PREMISES

The Committee considered the report of the Head of Housing, Health and Community Care on various issues relating to the transfer of responsibility from the Justices Licensing Committee to the Licensing Authority for gaming on licensed premises.

Responding to questions, the Licensing Manager advised on the different types of premises that can hold gaming machines and related legislation. With regard to the new responsibilities under the Licensing Act 2003 it was noted that, whilst the law is silent on age restrictions for amusement with prizes machines, the Child Protection Committee replicated the requirements of the former Licensing Justices in identifying that machines should remain in sight of bar staff who should restrict use to persons aged 18 and above. The Committee also noted that:-

- The wider Gambling Act would come into force in September 2007.
- The Licensing Permit Fee was set by statute at £32 per application.
- The Department for Culture, Media and Sport encouraged the delegation of powers to officers to determine applications wherever possible.
- The Licensing Authority cannot resolve to ban or limit the existence of amusement with prizes machines on alcohol licensed premises, nor can the Authority impose any conditions on the grant or renewal of a permit.

- Should the report recommendation be agreed, officers would bring any issues of concern to the Committee.

Resolved

That it be confirmed that the determination of all applications for gaming on licensed premises, other than those contested, are within the general scheme of delegation to officers. (HHHCC)

The meeting commenced at 10.00am and closed at 11.54pm.

Chairman

Date