

LICENSING AND HEALTH AND SAFETY COMMITTEE

MINUTES of a MEETING of the LICENSING AND HEALTH AND SAFETY COMMITTEE held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the 19TH APRIL 2007

PRESENT: Cllr. Goddard (Chairman);
Cllr. Weller (Vice-Chairman);
Cllrs. Allcock, Claridge, Feacey, Heyes, Koowaree, Mrs Larkin, Link,
Mrs Martin, Wallace.

ALSO PRESENT: Environmental Health Manager (Commercial), Licensing Manager, Senior Member Services & Scrutiny Support Officer.

604 DECLARATIONS OF INTEREST

Councillor	Interest	Minute No.
Feacey	Code of Conduct – Personal but not Prejudicial – His company sub-contracted to taxi firms	608

605 MINUTES

Resolved:

That the Minutes of the meeting of the Licensing and Health and Safety Committee held on the 29th November 2006 be approved and confirmed as a correct record.

606 GAMBLING ACT 2005 – PREMISES LICENCE FEES

The Licensing Manager introduced his report which recommended the proposed fees for the premises licence fees for premises used for gambling for the financial year 2007/08. He explained that as opposed to the Licensing Act where fees were set nationally, the Department for Culture, Media & Sport (DCMS) had devolved power to each Licensing Authority to determine their own fees for premises licence applications under the Gambling Act 2005, subject to a maximum fee payable for each category of licence. The DCMS had asked Licensing Authorities to set fees that ensured full cost recovery but not income generation. The levels should represent fairness and value for money for the gambling industry. The Licensing Manager explained that there had been extensive consultation with Officers from Licensing, Legal and Member Services to examine the time it would take to carry out the various tasks associated with an application and to produce an hourly rate for staff. This had helped produce the recommended fees at Appendix A to the report building in, at a reasonable level, the risk of appeals and hearings occurring. The maximum levels identified by the DCMS that could be charged were shown in brackets after the recommended fees for Ashford. The fees were comparable to both Maidstone and Liverpool (the only other two Authorities who had published their fees at this time). Maximum fee levels had been set by the DCMS on the 21st February 2007, so the time available for consultation had been limited, however a letter had been sent out to the operators listed at Appendix B, and only one response had been received from a company who had no premises in the Borough. The Licensing Manager accepted that at this stage there was an element of estimation, but the proposals had received little objection from the trade and Officers supported this option as the fee levels were estimated to cover costs and were below the maximum limits set by the DCMS. The fees would have to be set on an annual basis so could be easily reviewed and a template had been produced which would assist the process in the future and produce an actual cost.

There was some discussion about financial risk and assessing the “best” and “worst” case scenarios. Members were concerned about the Council not being able to cover its costs. The Licensing Manager explained that there were approximately 10 bookmakers, three arcades and

a bingo hall in the Borough, but it was difficult to estimate the income because it depended on the number of fast-track (simple conversion) applications and non-fast-track ones (those seeking variations to their existing operating hours etc). He anticipated that the majority of premises would opt for a simple fast-track application but that the fees had been set on the basis of covering costs for whatever types of application were made. Additionally the fees could be reviewed anyway in a year's time and adjusted if they were too low or too high, so there was little or no risk regarding the setting of the fees. A separate code had been added to the budget for the Gambling Act so income and expenditure could be closely monitored. The area where there would always be risk was the possibility of appeals, but the fees could not be set on the basis that there may be a lot of appeals. The Environmental Health Manager (Commercial) explained that she was confident about the proposals and if there was a concern about risk, there should also be comfort in that the fact that the fees would be reviewed on an annual basis.

A Member asked if Councillors could be kept informed with Licensing and Gambling applications, in the same way that they were with Planning Applications, by way of regular e-mail lists. The Licensing Manager said that he would endeavour to produce something to send out to Committee Members as a trial and asked Members to give feedback on its usefulness.

Recommended:

That the fees for premises licence fees for premises used for gambling as given in Appendix A to the report be adopted.

607 GAMBLING ACT 2005 – DETERMINATION OF APPLICATIONS - DELEGATIONS

The Licensing Manager explained that the purpose of this report was to note the recommendations of the Selection & Constitutional Review Committee to Council, with regard to changes to the Terms of Reference of the Licensing and Health & Safety Committee and to note that the Licensing Sub-Committee was likely to consider premises applications under the Gambling Act in the coming year. Training would be arranged for the new Council in June 2007 and it was hoped that this would cover the Gambling Act, Licensing Act and other relevant matters.

The report advised that the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 had been made on the 27th January 2007 and had an effective date of the 30th April 2007. The Regulations provided for a range of procedural issues to govern preparations for hearings, the rights of parties at hearings and various administrative matters. The Regulations also made provision for the timing of determinations following a hearing. Now that these Regulations had been introduced, the Council had to add the determination of applications received to the Terms of Reference of the Licensing and Health & Safety Committee.

The Licensing Manager reported two minor amendments to Appendices 1 and 2 to the report. Matter (n) had been added to Appendix 1, namely that with regard to consideration of objections to a Temporary Use Notice and the decision whether to give a Counter-Notice, a hearing would be held if notices of objection had been given and not withdrawn (unless all parties agreed that a hearing was unnecessary). Appendix 2 had been revised to explain that an application for a Temporary Use Notice could be delegated to the Head of Environmental Services where no Notices of Objection had been given or where Notices of Objection had been withdrawn.

A Member asked about the selection of Members for the Sub-Committee meetings as it had been stated the Members would be selected at random but it appeared that some had made themselves more available for meetings than others. Should a rota be introduced? The Senior Member Services and Scrutiny Support Officer explained that when a hearing was set, all 13

Members of the Committee were contacted assessing availability in order to find three Members plus a Substitute to sit on that individual hearing. In reality it was often difficult to obtain enough Members so if four did reply positively, they were often the four who were selected and this may have led to an uneven distribution of hearings amongst the Members of the Committee. Group Leaders had been asked at the outset of the Licensing Act to ensure that they selected Members for the Licensing and Health & Safety Committee who were available for daytime meetings, and this point would be re-iterated to Groups after the 2007 elections.

Resolved:

That (i) the recommendations of the Selection & Constitutional Review Committee be noted.

(ii) Group Leaders be reminded of the importance of selecting Members for the Licensing and Health & Safety Committee who were available for daytime meetings.

608 ASHFORD BOROUGH COUNCIL TAXI POLICY – VERBAL UPDATE

The Licensing Manager explained that the licensing of taxis was a responsibility of individual Local Authorities and the Council had an abundance of individual policies relating to taxis which he wished to collaborate into one definitive Taxi Policy. It had taken six months to draw these all together and he considered that this demonstrated the need for a more co-ordinated and easy to understand document.

The process of pulling together all of the policies was nearly complete and the next stage in the process was to undertake a three month consultation exercise with the trade, interested groups and the public. Once the results of that consultation were back, a final Taxi Policy for the Council would be drafted and come to this Committee for consideration.

Members asked if there was a need for this work as if the Council just wanted to consolidate its existing policies, surely there was no need for consultation. The Licensing Manager explained that there would be changes as a result of consolidating the policies because a lot of the existing policies were now obsolete and there had also been a number of updates nationally that had an effect on the situation. This meant that there were enough alterations to justify consultation. Additionally there was a demand for such a policy from the taxi trade and there had been for some time, so there would be benefits to getting their input.

A Member asked if the new taxi policy would examine environmental issues. Canterbury City Council for example was actively encouraging the use of environmentally friendly vehicles by reducing fees. The Licensing Manager confirmed this was one of the objectives he wanted to put in to the consultation and he thanked the Member for drawing Canterbury's practice to his attention.

Resolved:

That the verbal update be noted.

609 LAST MEETING OF THE MUNICIPAL YEAR

The Chairman advised that this was last meeting of the Committee prior to the local elections and offered his thanks to all those who had played a part in the Committee over the last four years, in particular, those who were not standing for re-election including his Vice-Chairman Councillor Weller.