



CITY OF WESTMINSTER

# MINUTES

## Licensing Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** Committee held on **Wednesday 11th March, 2015**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

**Members Present:** Councillors Tim Mitchell (Chairman), Nickie Aiken, Susie Burbridge, Melvyn Caplan, Nick Evans, Peter Freeman, Angela Harvey, Louise Hyams, Patricia McAllister, Shamim Talukder and Aziz Toki

**Apologies for Absence:** Councillor Heather Acton, Councillor Rita Begum, Councillor Jean-Paul Floru and Councillor Jan Prendergast

#### 1 DECLARATIONS OF INTEREST

1.1 There were no declarations of interest.

#### 2 MINUTES

2.1 The minutes of the Licensing Committee meeting held on 19 November 2014 were agreed as a correct record and were signed by the Chairman.

#### 3 REVIEW OF LICENSING SUB-COMMITTEE REPORTS, FREQUENCY OF MEETINGS AND HEARING PROCESSES

3.1 Clare Hayes, Acting Assistant Service Manager, introduced the report. With the introduction of the new Public Protection and Licensing operating model from 1 April as part of the Council's drive for significant transformation to achieve its goals for reducing its expenditure, there is a focus on removing inefficiencies within its processes. She stated that this influenced the approach to licensing applications from beginning to end, not just those applications which ultimately were considered at Licensing Sub-Committee meetings. It was proposed that revisions to Sub-Committee reports, the way applications are listed, frequency of hearings and a cap on finishing times for the meetings were trialled during the first quarter of the 2015/16 financial year. The feedback gained from Members, residents, applicants and

representatives would be put before the Licensing Committee at the July 2015 meeting.

- 3.2 Councillor Caplan commented that he would not support a reduction in the frequency of meetings at this stage. In practical terms it was better to keep the meetings in Members' diaries and cancel a meeting should there be a lack of items in a given week rather than look to cancel a meeting a month initially only to find that an additional meeting might be needed at a later stage with Members contacted at short notice. The scheduling of applications on a weekly basis worked well currently and there were no complaints about this from Members of the Committee. He had no problems with an informal aim to finish meetings at 4.30pm but this should be at the discretion of the Sub-Committee. He was content with trialling proposals to change the way applications are listed for Sub-Committee hearings and to revise Sub-Committee reports.
- 3.3 Ms Hayes explained in response to Councillor Caplan's point and also a question from Councillor McAllister that it was possible for applications to be listed in a smarter fashion. Senior Licensing Officers would be responsible for preparing reports at an earlier stage and would make a judgement based on policy whether an application was likely to require a Licensing Sub-Committee hearing. Applications would be listed earlier than the statutory deadline. Discussions were likely to take place with those who had submitted representations at an earlier stage. There would be an increased potential for applications to be resolved prior to meetings and therefore a greater potential for meetings not to be required. Meetings would not be cancelled only to be reinstated at a later stage.
- 3.4 It was felt by Members that whilst 4.30pm could be seen as an informal guideline in terms of being a latest time for Sub-Committee meetings to be concluded, of particular importance was how the meetings were managed. Members were able to inform the parties at the meetings that they had read the papers and would expect oral representations to be to the point. Councillor Aiken referred to the fact that she stipulated that meetings that she chaired needed to be completed by 3pm in order that she was able to collect her children from school. It was possible to manage hearings, including cases such as the Madame Jo Jo's interim steps hearing, in such a way that parties would agree to be relatively succinct and keep to a time limit providing they were given an equal period of time to make their points.
- 3.5 Peter Large, Head of Legal and Democratic Services, confirmed that the Licensing Act Hearings Regulations encouraged the setting of time limits provided that equal time was given to applicants and objectors. The courts also permitted time constraints for the parties involved. The Council's Rules of Procedure reflected that Chairmen were able to explain how the proceedings would be conducted and any time limits that would apply to the parties to the application. Barry Panto, Senior Assistant Solicitor, added that in his experience of Sub-Committee meetings most of the applicants and their legal representatives wanted to progress their applications and be relatively succinct. It was those exceptions which needed to be managed carefully. Richard Brown addressing the Sub-Committee on residents' behalf often

lessened the length of a hearing in comparison to when residents did not have a representative present. It was rare for meetings to continue past 3pm and there were less instances of late meetings than there had been in the past. There were of course some cases that were more complex which required more time. He made the point that if one meeting in a month was cancelled the average number of four applications per week would be increased and would potentially lead to a significant workload at the following meeting. He expressed the view that the themes of the review should be applauded but the key was smart management of the applications rather than a pre-programmed reduction in the Sub-Committee meetings.

- 3.6 Councillor Harvey referred to the fact that Chairmen of the Planning Applications Committee read out a statement at each meeting which reflected that they had read the papers. It was agreed that it would be useful to provide a chairman's note for meetings. The Chairman referred to the proposal in the report to review the reports and use technology available at the hearings as a driver to reduce paper documents. These would include maps and photographs on the screens at the meetings and the provision of plans in a larger format. The Chairman and Councillor Evans recommended that for larger versions of CRIS and CAD reports which often were several hundred pages, one paper copy be made available at the Callover meeting in addition to being e-mailed to the Sub-Committee. Councillor Aiken stated there was a benefit to summarising the content of letters in the report if there were a number which were very similar in nature. It was noted that officers had the software to be able to summarise this information.
- 3.7 The Committee agreed to trial the new reports format which would be assessed at the next Licensing Committee in July. Members were also content for officers to introduce a change to the way applications are listed for Sub-Committee hearings. Members were not of the view that the current frequency of hearings, held on a weekly basis each Thursday, should be reduced. In the event that the new scheduling of applications system introduced by the Licensing Service lead to there being a lack of applications in a given week then there was the potential for that meeting to be cancelled. The suggested cap of 4.30pm for Sub-Committee hearings and a set 30 minute lunch period would be used as an informal guideline. Members were content for officers to develop guidance and a rules document for the Sub-Committee process and that a final draft be brought before the Licensing Committee in July 2015.
- 3.8 **RESOLVED:** (i) That the trialling of revisions to the proposed Licensing Sub-Committee reports be approved;
- (ii) That the trialling of a change to the way applications are listed for Sub-Committee hearings be approved;
- (iii) That the results from the approved trials along with feedback and recommendations whether to adopt these new approaches as part of the Licensing Sub-Committee process be put before the Licensing Committee in July 2015; and,

(iv) That the proposal for officers to develop guidance and a rules document for the Licensing Sub-Committee process be approved and the final draft of that document be brought before the Licensing Committee in July 2015 for approval.

#### **4 GENERAL LICENSING FEES (EXCLUDING SEX ESTABLISHMENTS, MARRIAGE AND SPECIAL TREATMENTS) REVIEW 2015/2016**

- 4.1 The Committee received a report which set out the methodology, costs, budgets and proposed fees for general licensing regimes in 2015/16. These included gambling premises and scrap metal dealers but did not include sex establishments, marriage and special treatment licensing regimes which it was proposed would be deferred to a later date in 2015. Ms Hayes stated that it would be necessary to review the fees every year. The proposed fees would enable the Council to recover its reasonable costs in processing, determining and ensuring compliance of the licence. The increase in gambling premises and scrap metal dealer fees reflected the increased workload being undertaken this year.
- 4.2 The Committee asked Ms Hayes a number of questions in respect of the report. The Chairman referred to the fact that the Gambling Commission was proposing some changes this year in respect of applications and some more fundamental ones in 2016. He asked about the impact of these on the Council, particularly the likely requirement for risk assessments in 2016. Ms Hayes replied that the Gambling Regulations set a cap on the amount that licensing authorities can charge for applications under the Gambling Act. Therefore though there was the potential for the Council to spend more on meeting the changes put forward by the Gambling Commission, there was a limit to what the Council could charge in order to try and recover its reasonable costs. The Council was spending more money already than it could charge for aspects of the gambling regime, such as betting shops, due to the cap. The Chairman made the point that a record should be kept of where spending had exceeded the cap as part of Council lobbying on this issue.
- 4.3 Councillor Aiken asked whether work was being undertaken to encourage online renewals. Ms Hayes replied that purely in terms of the gambling regime, it was not part of the EU Services Directive and it was therefore not possible to apply online for applications at this time. It was intended to provide gambling applications online when possible. Online renewals had worked successfully for special treatments. The Council did not receive many applications for animal licensing and at the moment it was necessary to weigh up the cost benefit of introducing this service online. The ultimate goal was to have all the licensing regime applications online. In response to Councillor Burbridge's question as to why the riding establishments' fees had risen significantly, Ms Hayes informed Members that this related to staff visits which were required to be carried out accompanied by vets. The vets' time was charged to the Council. There had also been an increased number of these

applications.

4.4 The Committee approved the proposed fees set out in the report and that the fee reviews for sex establishments, marriage and special treatment licensing regimes would be deferred until later in the year. It was agreed as requested by Councillor Caplan that the fees being considered would be assessed on an annual basis and that would also be the case for the licensing regime fees deferred until later in 2015.

4.5 **RESOLVED:** (i) That the proposed fees attached to the report as Appendix 1 be approved commencing 1<sup>st</sup> April 2015;

(ii) That the fee reviews for Sex Establishments, Marriage and Special Treatment licensing regimes be deferred to a later date in 2015 and the current fees remain in effect until that review; and

(iii) That the licensing regime fees be assessed on an annual basis.

## **5 DEREGULATION - IMPLEMENTATION OF THE ENTERTAINMENT LICENSING LEGISLATIVE REFORM ORDER 2014**

5.1 The Committee received a report which provided details of entertainment deregulation which is scheduled to be implemented on 6 April 2015 and would have an impact on the Council's licensing functions. The deregulation included that between 08:00 and 23:00 on any day live music in licensed premises (open for the sale of alcohol for consumption on the premises) or in a workplace with an audience of not more than 500 people was no longer licensable as was the case for recorded music in licensed premises (with on-sales) with an audience of not more than 500 people. Mr Wroe, Licensing Policy & Strategy Manager, advised that there was further deregulation of the licensing regime referred to in the report which did not as yet have a scheduled date for implementation.

5.2 Councillor Harvey asked whether the proposal that local authorities could reject Community and Ancillary Seller Notices ('CANs') in their own cumulative impact policy areas was being taken into account in the Council's policy. The CAN would allow small-scale, "low" risk alcohol sales over 36 months, without the need for a premises licence or Temporary Event Notice ('TEN') providing there is no objection from the Police, environmental health or the local authority. Mr Wroe replied that this was a proposal which was due to be implemented at a later date than 6 April. In the event that it came into force before the updated Statement of Licensing Policy was published, there was the potential for it to be reflected in that document.

5.3 The Chairman stated that he had previously responded to the alcohol and entertainment licensing proposals at a consultation stage. He was concerned at the CAN for "community groups" that may regularly hold small "one-off" events at which they wish to sell alcohol. Members agreed that the Police or

Environmental Health would need to be vigilant regarding potential private parties or events that might take place after the Notting Hill Carnival had officially ended. The Chairman commented that the Local Government Association was keen to amend TENs legislation to prevent premises drawing up a hypothetical line down the middle of their establishments and applying for a separate licence.

- 5.4 Councillor Burbridge asked what residents or councillors should be advised in the event they had concerns about premises giving notice of proposed events in their areas under the CANs process. Ms Hayes advised that they should contact Environmental Health officers who were able to make representations on temporary event notices.
- 5.5 **RESOLVED:** That the contents of the report be noted.

## **6 LICENSING APPEALS**

- 6.1 The Committee received a report providing information in respect of the appeals that had been submitted in response to decisions taken by the Licensing Sub-Committee. Mr Large, Head of Legal and Democratic Services, advised Members that there were two upcoming appeals. One was ME Hotel at 335 Strand scheduled for June 2015 and the other was 8-10 Hill Street scheduled for October 2015. Since the report for the current meeting had been produced, an appeal had been withdrawn by the licence holder for Friends Supermarket in Lupus Street and the Council was seeking costs. An appeal against the revocation of street trading licences for Pitches 611, 612 and 613 in Church Street Market had also now been withdrawn.
- 6.2 Mr Large stated that the sex establishment licensing fees case had been heard in the Supreme Court on 13 January 2015. After the hearing the Court had written to all parties inviting further submissions on matters which, they considered, may not have been dealt with fully at the hearing because of shortness of time. Due to submissions from the Council, the interveners and the respondents, judgment is not expected for another two to three months.
- 6.3 **RESOLVED:** That the contents of the report be noted.

## **7 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT**

- 7.1 There were no additional items for consideration.

**8 FUTURE LICENSING COMMITTEE DATES**

- 8.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 15 July 2015, Wednesday 18 November 2015 and Wednesday 9 March 2016. All meetings are scheduled for 10.00am.

The Meeting ended at 11.05 am

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