



City of Westminster

Minutes

Meeting:

Licensing Committee

Time and date of meeting:

10:00 hours on Wednesday 12 March 2014 at City Hall, 64 Victoria Street, London, SW1E 6QP

Attendees:

Councillors:
Audrey Lewis (Chairman)
Heather Acton
Alan Bradley
Susie Burbridge
Melvyn Caplan
Nicholas Evans
Jean-Paul Floru
Andrew Havery
Tim Mitchell
Jan Prendergast
Aziz Toki

Apologies:

Councillors Ahmed Abdel-Hamid, Michael Brahams, Gwyneth Hampson and Patricia McAllister.

Contact:

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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 20 November 2013 were agreed as a correct record and were signed by the Chairman.

3. **AMENDMENT TO RULES OF PROCEDURE**

- 3.1 Sharon Bamborough, Assistant Service Manager, introduced the item. Following a decision by the Licensing Committee at the November 2013 meeting to introduce new practices in respect of late papers received at Licensing Sub-Committee meetings, the Rules of Procedure (which sets out the legislative and the Council's requirements for meetings under the Licensing Act 2003 and Gambling Act 2005) had been updated to reflect these changes in practice. Ms Bamborough stated that if applicants or other parties submitted papers less than three days prior to a Licensing Sub-Committee hearing they would be required to produce a covering note explaining why the information had been submitted late and why it should be taken into account. It would be at the Sub-Committee's discretion whether late evidence would be considered. Another option for Members was to adjourn the application to a later hearing.
- 3.2 The Chairman stated that there had appeared to be less evidence being submitted late since the licensing representatives had been informed of the Council's approach. It had been well received by the industry and at the Entertainment Forum. Members agreed that it had assisted the process. Councillor Havery referred to the need for an update in paragraph 13.3 of the Rules of Procedure as Westminster Magistrates' Court was located in Marylebone Road and not Horseferry Road. It was agreed that this amendment should be made along with the additions to paragraph 8.6 which set out the procedures in respect of late papers.
- 3.3 **RESOLVED:** That the amended Rules of Procedure for applications submitted under the Licensing Act 2003 and the Gambling Act 2005 be approved with immediate effect, subject to an amendment to paragraph 13.3.

4. **AREA PREMISES LICENCES – DISCUSSION PAPER**

- 4.1 The Committee received a discussion paper on area premises licences. Jackie Gibson, City Management Commissioner stated that the use of the area licences had been largely successful. There were some concerns mainly around the decision making processes, consultation engagement with the community and external agencies and also which forms of licence the Council should be using to facilitate events. The report detailed the findings of an internal review which had been carried out. This examined the current arrangements and made recommendations with regard to the potential changes required.

- 4.2 Ms Gibson informed the Committee that since the internal review had been undertaken the recommendations had already been implemented and had assisted working processes for Special Events and Licensing officers.
- 4.3 The Chairman stated that she had requested a review of the processes as there were some complaints that had been received relating to area licences, particularly in Soho. Amenity Society representatives were of the view that for major events such as London Pride, the area licences processes were limiting their contribution to decision making. The outcomes of the internal review had been fed back to the Amenity Society representatives such as Matthew Bennett and David Bieda. Only certain aspects of London Pride were licensable. The biggest complaint in respect of London Pride was noise emanating outside premises. Outside of Soho, the Notting Hill Carnival did raise concerns but it was not covered by an area licence as the parade element of the event was not licensable under the Licensing Act. The main items currently under review were the static sound systems.
- 4.4 Tim Owen, Commissioner Events, Filming and Contingency Planning explained the elements involved in relation to the organisation of London Pride. He had initially agreed to have his name on the area licences due to the excellent workings between the Police and Council services. There had been increasing resources strains on the Police and they had altered the way they looked at events. Organisers of major events had been required to have stewards replacing Police officers. There were Police officers overseeing London Pride after 8pm. There were also stewards at this event until the early hours of the morning. There had been improved funding for the Police recently due to the receipt of a Mayoral grant. Mr Owen stated that it was helpful that he was now being advised when a Temporary Event Notice application was submitted linked to an event for which the Special Events Group had given permission to use an area licence. Mr Owen described some of the other aspects of the organisation of London Pride. A road management system was organised with the Police. There were discussions with cleansing teams including the Street Management Night Team and Veolia. Litter pickers were deployed on foot. Overall there had been a lot of improvements in terms of communication. There were high expectations as this was the second year for the new board overseeing the event which included the No.10 Communications Director as chairman. His own aim was to reduce risk to the City Council. Mr Owen stated that the Council still retained responsibility for managing the street, including crowds and visitors and also ensuring residents and businesses were able to get access to their properties. Giving permission for the use of the streets and keeping a temporary traffic order in place were part of the co-ordination of the event which provided certainty. When things went wrong elsewhere in the world, it resulted from a lack of co-ordination. Communication did, however, need to improve further including with local communities.
- 4.5 The Committee considered that the events that took place under Area Premises Licences held by the Council's Special Events Group were well run. There were some areas for improvement in terms of consultation with residents, businesses, Members and other interested parties as set out in the

internal review and there were proposals to address this including the City Council developing a clear and structured protocol, built into the Licensing, Operational and Safety Planning Group process. There were already a number of meetings to ensure communication between senior officers including the Pre-Approval Validation process fortnightly meetings for event applications and Major Impact Events Overview Westminster meetings every six weeks.

- 4.6 Members of the Committee requested that they were always advised of events in their wards and also those which came under LGA jurisdiction in Trafalgar Square. Consultation was requested on the smaller events as well as the larger events. Many of the events were known about a number of months in advance by the organisers but not communicated to those representing residents and businesses. It was agreed that the implementation of the area licences recommendations would be assessed by the Licensing Committee in a year's time.
- 4.7 **RESOLVED:** That the recommendations set out in the internal review be assessed by the Licensing Committee at the March 2015 meeting.

5. LICENSING APPEALS

- 5.1 The Committee received a report which provided the current position in respect of appeals that had been submitted in response to the decisions of the Licensing Sub-Committee. There were eight appeals that were due to be heard at Westminster Magistrates' Court in 2014. These were Covent Garden Food and Wine in Wellington Street at the end of March and the beginning of April, Alfred's in Davies Street and Manbar in Charing Cross Road in early April, Boulevard in Walker's Court and Pleasure Lounge in Rupert Street during July, Ham Yard Hotel in the Great Windmill Street area during August and Ognisko Polskie in Princes Gate and Avalon in Shaftesbury Avenue during September.
- 5.2 Mr Large, Head of Legal and Democratic Services, advised that the Council had successfully defended the appeal in respect of Aura in St James's Street in both Westminster Magistrates' Court and the High Court. The Claimant's representatives in respect of Vendome in Piccadilly had now advised of their instruction to withdraw their application for judicial review and had agreed to pay the Council's costs in full. Mr Large also stated that an application for permission to bring a claim for judicial review relating to the refusal to treat a transfer application made by the administrators of Le Pigalle Limited as valid had been successful at the Administrative Court.
- 5.3 The latest position on the Hemming case relating to sex establishment licensing fees was discussed. Mr Large stated that an order had now been received from the Supreme Court granting permission to appeal. It appeared that the Council would have some support in the Supreme Court from regulatory bodies. The parties who had made representations at the permission to appeal stage now had to formally apply to intervene. The time limit for that had not yet expired. It was still possible for parties to apply to

intervene even if they had not made a submission at the permission to appeal stage. The Supreme Court had indicated that the parties involved should look to agree a date for the hearing between October and December 2014. There were three possible outcomes to the case. It could be won or lost in the Supreme Court or referred to the European Court of Justice. Mr Large added that the Committee had considered the re-setting of sex establishment licensing fees at the June 2013 meeting. Hemming's representatives had not proceeded with a stated intention to legally challenge this decision. However, they had put in an objection to the external auditor saying that the decision was unlawful and that there were a number of unlawful items in the Council's accounts relating to sex establishment fees. The external auditor had dismissed that objection. They could still potentially challenge the external auditor's decision in the High Court.

5.4 The Chairman commented that one of the concerns was the perception of the effect on Central Government on the way they approached their consultation on fees under the Licensing Act 2003. One of the most significant issues for the Council was full fee recovery. The consultation did not address this issue. It was noted that the response to the consultation needed to be submitted by 10 April. Mr Large made the point that it would be interesting to see how the consultation interplayed with the Hemming case in that the full cost provisions introduced in the Police Reform and Social Responsibility Act 2011 were incompatible with the interpretation of the Provision of Services Regulations that the Court of Appeal had given. The Home Office had stated in the consultation they would provide guidance on an interpretation of the provision of services regulations at a later date.

5.5 **RESOLVED:** That the contents of the report be noted.

6. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

6.1 There were no additional matters for consideration. The Chairman and Members of the Committee wished to put on record their thanks to Councillors Bradley and Brahams for their major contribution to the Licensing Committee and Licensing Sub-Committee, particularly as chairmen of the Licensing Sub-Committee.

7. FUTURE LICENSING COMMITTEE MEETING DATES

7.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 9 July 2014, Wednesday 19 November 2014 and Wednesday 11 March 2015. All meetings are scheduled for 10.00am.

8. EXEMPT REPORT UNDER REGULATION 14 OF THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

8.1 **RESOLVED:** That under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 the public be excluded from the meeting for the following item of business on the grounds that the report contains legal advice to the

Authority which outweighs the public interest in the matter taking place in public.

9. LICENSING ACT 2003 - IMPLICATIONS OF AN APPLICATION TO TRANSFER THE LICENCE DURING A REVIEW PROCESS

9.1 The Committee received a report providing details of two recent summary review hearings where transfer applications were made during the transfer applications were made during the review process with a view to preventing the licences from being revoked.

9.2 **RESOLVED:** That the contents of the report be noted.

10. CLOSE OF MEETING

10.1 The meeting ended at 11.51pm.

Chairman

Date