



CITY OF WESTMINSTER

# DRAFT MINUTES

## Licensing Committee

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Committee** held on **Tuesday 25 February 2020**, Room 18.2, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

**Members Present:** Councillors Heather Acton (Chair), Barbara Arzymanow, Margot Bright, Maggie Carman, Peter Freeman, Murad Gassanly, Jim Glen, Louise Hyams, Aicha Less, Tim Mitchell, and Jacqui Wilkinson.

**Officers present:** Andrew Ralph (Head of Licensing and Regulatory Service), Kerry Simpkin, (Head of Licensing Policy, City Policy and Strategy), Heidi Titcombe (Principal Solicitor) and Kisi Smith-Charlemagne (Senior Committee and Governance Officer).

**Apologies for Absence:** Councillors: Susie Burbridge, Rita Begum, Karen Scarborough and Aziz Toki.

Officers: Sara Sutton (Executive Director of Environment, City Management and Communities), Annette Acik (Interim Director of Public Protection and Licensing),

#### 1 MEMBERSHIP

It was noted that Councillor Acton had replaced Councillor Ian Adams as Chairman of the Licensing Committee and welcomed Councillor Barbara Arzymanow to the Licensing Committee.

#### 2 DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

#### 3 MINUTES

3.1 It was noted that due to the urgency of this meeting, the minutes for the 10 January have not been through the sign off process yet and will be approved at the next Licensing Committee Meeting on 22nd April 2020.

3.2 **RESOLVED:** That the minutes of the Licensing Committee for the 10 January be approved at the next Licensing Committee Meeting on 22nd April 2020.

#### **4 SEX ESTABLISHMENT (SEX SHOPS) RETROSPECTIVE FEES FOR 2010/11 TO 2012/13 FOLLOWING SUPREME COURT JUDGEMENT ON HEMMING AND OTHERS V WESTMINSTER CITY COUNCIL**

- 4.1 The Licensing Committee received a report from officer's which provided a summary and background information surrounding the legal challenges of the council's sex establishment fees and to retrospectively approve the sex establishment fees, inclusive of the enforcement costs for the years 2010/11 to 2012/13. The Chairman provided the members of the committee with a summary of the council's position to date and advised members to consider the recommendations and explained why a decision needed to be made to approve the council's sex establishment fees.
- 4.2 Kerry Simpkin addressed the members providing an update on the legislation, history and background of sex establishment in Westminster, this included the fees for years 2010/11 to 2012/13. Heidi Titcombe set out the timeline of the Hemmings case, up to the current decision by the Supreme Court which confirmed that the Council can charge monitoring and enforcement costs as part of the fees for granting a sex establishment licence. The Licensing Committee was advised that the next step in this case will be for the council to seek the repayment of the fees it was ordered to repay to Hemmings and the other parties as a result of the High Court judgment in addition to the overpayment paid in June 2013. Officer's advised the Licensing Committee to consider and to adopt the retrospective fees as set out in report for 2010/11 to 2012/13.
- 4.3 The Chairman of the Committee queried the overpayment of £229,966 and sought reassurances from officers that mechanisms had been put into place to ensure that this type of error could not be repeated. Officers indicated that new processes had been put in place to hopefully prevent this type of error happening in the future. The committee members were keen to ensure that this sum is recovered. Ms Titcombe advised the committee members that she did not know, as the payments were not made by Legal Services, but by the Client department so she was unable to give assurances.
- 4.4 Ms Titcombe advised the Licensing Committee that the Administrative Court is being asked to quantify the fees owing to the Council and this report and other statements in support will be submitted to support the council's position. The other parties will need to decide whether they are prepared to accept the Council's claim or whether they want to challenge any aspects of the sums claimed. Ms Titcombe advised that the council would be seeking to recover all its legal costs. Ms Titcombe advised that all licensing regimes are supposed to be self-financing so that the administrative costs of processing and granting licenses should be recovered, together with the costs of monitoring and enforcing the entire licensing regime against unlicensed and licensed operators.
- 4.5 Mr Simpkin advised the Licensing Committee that as both parties remain in dispute over the quantification regarding the precise amount that must be repaid to the council, the Supreme Court has ordered that these disputes are

determined by a judge in the Administrative Court. Members discussed briefly producing a business case for the future plans of the Soho area. After carefully considering the report including the fees set out in section 10 of the report the members of the Licensing Committee approved the sex establishment fee levels for the licensing years 2010/11 to 2012/13 as set out in recommendation in paragraph 2.2 of the report.

4.6 **RESOLVED:** That the proposed fees as set out in table paragraph 10.10 of the report be approved as set out in paragraph 2.2 of the report.

**5 ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT**

5.1 There was no other business raised by the Committee.

**6 FUTURE LICENSING COMMITTEE MEETING DATES**

6.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 22 April 2020 and Wednesday 8 July 2020. All meetings are scheduled to start at 10.00am.

The meeting ended at 14.30pm.

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

**DATE** \_\_\_\_\_