

LICENSING COMMITTEE

15 September 2015 at 10.50 am

MEMBERS: Councillor Mary Burstow (Chair), Councillor Marlene Heron (Vice-Chair) and Councillors David Bartolucci, Samantha Bourne, Richard Broadbent, Margaret Court, Jean Crossby, Nali Patel, Nighat Piracha, Tony Shields, Paul Wingfield and Graham Whitham

ABSENT: Councillors Moira Butt, Steve Cook and Richard Marston

1. APOLOGIES FOR ABSENCE AND DECLARATION OF SUBSTITUTES

Apologies were received from Councillor Richard Marston.

2. MINUTES

The Minutes of the meeting held on 10 March 2015 were approved as a correct record, and signed by the Chair.

3. DECLARATION OF INTERESTS

There were no declarations of interest.

4. GAMBLING POLICY REVIEW

The Committee considered a report on the updated draft statement of gambling principles. The Gambling Act 2005 requires the statement of gambling principles be reviewed every three years, and must be implemented by 31 January 2016.

There were two main changes to the statement of gambling principles, following guidance published by the Gambling Commission, which was the addition of local area profiles and a risk assessment criteria. The maps included with the statement were compiled in conjunction with Public Health and highlight areas of drug, smoking and alcohol services in the area, employment and income deprivation within the borough.

The Committee were informed that in Sutton it was not possible to link crime to gambling premises as there were no crime statistics available to support this in the borough. There had been very few issues with gambling premises within the borough in recent years. Furthermore, two betting shops had closed bringing the total number in the borough to 33. Although the Committee noted that online gambling had increased in recent years and was likely to have affected the number of betting shops.

The Licensing Manager stated that there were a number of concerns relating to gambling, however the revised statement would enable the authority to impose more stringent conditions on applications where appropriate and proportionate. It

was noted that it may be difficult to refuse an application as the Act stated that authorities 'should aim to permit gambling', and all refusals by other councils had been overturned at appeal.

The local area maps would assist new applicants to identify the services or institutions which were in the vicinity of the applicant premises so they can set out how they would mitigate against the associated risks.

Councillors raised concerns that only having one member of staff in a shop at any one time was dangerous. The Licensing Manager informed the Committee that it would be unlawful to mandate staffing figures within the policy as each application should be judged on its own merits, however if a situation occurred at a premises the authority could review the licence and suggest higher staffing levels as a condition if appropriate.

The Committee suggested it should be made a requirement to display 'gamble responsibly' signs prominently in all gambling premises and there should be a limit to the amount any one person can lose on a betting machine. The Licensing Manager informed the Committee that premises were required to display signs and provide literature of help available to those with an addiction. Limiting the amount any one person can lose on betting machines was within the remit of the Gambling Commission, and not the local authority, and was being reviewed by the Commission. It was noted that it was important to protect vulnerable people, however it was difficult under the current legal constraints.

Resolved: To recommend to Council that the amended statement of principles, as set out at Appendix A of the report, be adopted.

5. GOVERNANCE REVIEW - LICENSING SCHEME OF DELEGATION

The Committee considered a report on changes to the scheme of delegation within the Constitution which would allow increased robustness in terms of decision making.

It was noted that the changes were minimal and were to allow decision making to be more efficient, in particular the decision to defend appeals being delegated to the Strategic Director and three Licensing Committee members. In addition, a delegation had been added to the Gambling Act 2005 which allows the Executive Head of Safer and Stronger Communities to administer and carry out all functions not otherwise delegated.

The Licensing Manager informed the Committee that the delegations within the Constitution were outdated and the proposed delegation rectifies the situation.

The Committee requested that the delegations which were noted as 'all cases' for member and officer decisions be clarified as to the situations when officers would make the decision and when a sub-committee would.

Resolved: To recommend that the Strategy and Resources Committee consider the attached revised Section 3, Responsibility for Licensing Functions for addition to the Constitution.

The meeting ended at 11.40 am

Chair:

Date:

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APPENDIX A

SECTION 3

RESPONSIBILITY FOR FUNCTIONS

PART TWO - Responsibility for Licensing Functions under the Licensing Act 2003

Function	Sub-Committee	Officer
Application for personal licence	If a police objection is made due to relevant offence	If no objection is made and application is complete
Application for premises licence or club premises certificate	If a relevant representation is made and remains	If no relevant representation is made or a relevant representation has been withdrawn
Application for provisional statement	If a relevant representation is made	If no relevant representation is made
Application to vary premises licence or club premises certificate	If a relevant representation is made	If no relevant representation is made
Application to vary Designated Premises Supervisor	If a police objection is made	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection is made	All other cases
Application for interim authorities	If a police objection is made	All other cases
Application to review premises licence or club premises certificate	All cases	
Decision on whether a Representation is irrelevant, frivolous, vexatious, etc		All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection and/or environmental health objection to a temporary event notice	All cases where there is a objection notice that has not been withdrawn	
Making a representation on behalf of the Licensing Authority		Licensing Manager

APPENDIX A

Initiating a review on behalf of the Licensing Authority		Licensing Manager
Authority to extend for a specified period a time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005, where it is considered necessary in the public interest.		Strategic Director Environment, Housing & Regeneration / Executive Head of Safer and Stronger Communities
Authority to defend appeals or agree consent orders in relation to determinations made by Licensing Sub Committees		Strategic Director Environment, Housing & Regeneration / Executive Head of Safer and Stronger Communities in conjunction with three members of the Licensing Committee
Application to vary premises licence at community premises to include alternative licence condition	Where there is a relevant Representation	If no relevant Representation is made or withdrawn
Decision whether to consult other responsible authorities on minor variation applications		All cases
Application for a minor variation		All cases
Withdrawal of a club premises certificate (S.90)		All cases
To administer and carry out all other functions of the Licensing Authority capable of delegation under The Licensing Act 2003 which is not otherwise delegated to the Authority, The Licensing Committee or its Sub Committees		All cases

Responsibility for Licensing Functions under the Gambling Act 2005

Matter to be dealt with	Full Council	Sub-Committee	Officers
Three year licensing policy	All cases		

APPENDIX A

Policy not to permit casinos	All cases		
Fee Setting		Licensing Committee	
Application for premises licences		Where representations have been received and not withdrawn and there is an Operating Licence in force	Where no representations received / representations have been withdrawn and there is an Operating Licence in force
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for transfer of a licence		Where representations have been received from Responsible Authorities	Where no representations received from Responsible Authorities
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received / representations have been withdrawn
Review of a premises licence		All cases	
Application for club gaming / club machine permits		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming / club machine permits		All cases	
Applications for other permits			All cases
Cancellation of			All cases

APPENDIX A

licensed premises gaming machine permits			
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	
Determination as to whether a person is an Interested Party			All cases
Determination as to whether representations are relevant			All cases
Determination as to whether a representation is frivolous, vexatious or repetitive			All cases
Propose to attach default or mandatory conditions to a premises licence in accordance with section 169(1)(a)			All cases
Propose the exclusion of a default or mandatory condition from a premises licence under section 169(1)(b)			All cases
To request a review of a premises licence under section 200			All cases
Give a notice of objection to a temporary use notice			All cases

APPENDIX A

under section 221			
Revoke a premises licence for non-payment of the annual fee (s193)			All cases
Serve notification of intended refusal of any of the following:- Family Entertainment Centre Gaming Machine Permit (Sch 10 para 10) Prize gaming Permits (Sch 14 para 11) Licensed Premises Gaming Machine Permits (Sch 13 para 6)			All cases
Notice of intention to grant the application but for a smaller number of machines than specified and/or a different category of machines from that specified in the application			All cases
Serve notification of lapse of a Family Entertainment Centre Gaming Machine Permit (Sch 10 para 14 and 15 (1)(b))			All cases
Serve notice of intention to cancel or vary a Club Gaming permit or Club Gaming Machine permit (Sch 12 para 21)			All cases

APPENDIX A

<p>Create and amend the Authority's application procedures in relation to applications for the following in accordance with any relevant legislation:- Family Entertainment Centre Gaming Machine Permits (sch10 paras 5 and 7) Licensed Premises Gaming Machine Permits (Sch 13 para 2) Prize Gaming Permits (Sch 14 paras 6 and 8)</p>			All cases
<p>The power to appoint authorised persons under section 304 of the Act</p>			Executive Head of Safer and Stronger Communities.
<p>Power to issue formal cautions and/or Instruct the Solicitor to the Council to commence and defend proceedings under the Gambling Act 2005</p>			Executive Head of Safer and Stronger Communities.
<p>To administer and carry out all other functions of the Licensing Authority capable of delegation under The Gambling Act 2005 which is not otherwise delegated to the Authority, The Licensing Committee or its Sub Committees</p>			Executive Head of Safer and Stronger Communities.