

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

4.00PM 14 OCTOBER 2021

**COUNCIL CHAMBER, HOVE TOWN HALL - AT CONCLUSION OF PRECEDING NON
LICENSING ACT MEETING**

MINUTES

Present: Councillors Deane (Chair), Davis (Deputy Chair), Henry (Opposition Spokesperson), Simson (Group Spokesperson), Bagaeen, Ebel, Heley, Hills, Moonan, O'Quinn and Shanks

Apologies: Councillors Appich, Knight, Lewry and C Theobald

PART ONE

13 PROCEDURAL BUSINESS

(a) Declarations of Substitutes

13.1 Councillor Shanks was present in substitution for Councillor Phillips and Councillor Hills was present in substitution for Councillor Rainey. Apologies were received from Councillors Appich, Knight and Theobald.

(b) Declarations of Interest

13.2 There were no declarations of interests in matters listed on the agenda.

(c) Exclusion of Press and Public

13.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

13.4 **RESOLVED:** That the press and public not be excluded from the meeting during consideration of any item on the agenda.

14 MINUTES OF THE PREVIOUS MEETING

RESOLVED – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 24 June 2021 be agreed and signed as a correct record.

15 CHAIR'S COMMUNICATIONS

15.1 The Chair, Councillor Deane gave the following communications:

Business and Planning Act 2020 (pavement licences, off-sales & TENS)

15.2 The Business and Planning Act 2020 had been introduced in July 2020 to help the hospitality industry recover from the coronavirus lockdown by making it easier for premises serving food and drink outside as well as being able to serving serve takeaway alcohol as part of an “al fresco revolution”. This temporary legislation initially due to last until 30 September 2021 had recently been extended to the end of September 2022. In addition to streamlining the pavement licence process and allowing limited off sales the recent extension regulations had temporarily extended the number of TENS (Temporary Event Notices) which may be given in relation to the same premises in the calendar year, without a counter notice being issued, from 15 to 20, and the number of days in the calendar year on which a single premises could be used to carry on licensable activities, from 21 to 26 days. This TENS extension applies to calendar years 2022 and 2023.

Pavement Licences

15.3 A new process had been introduced which had created a streamlined route for businesses such as cafes, restaurants and bars to secure a licence to place furniture on the highway. Pavement licences had been granted by BHCC for the last 20 years under the Highways Act 1980. The new process provided a cheaper, easier and quicker way (14 instead of 28 days) for businesses to obtain a licence. The fee for applying for a licence had been waived by P&R committee all businesses until Sept 2022. Licences could however only be granted on footpaths restricted to pedestrians or on roads and places to which vehicle access was currently restricted or prohibited.

- Authorities must have regard to the needs of disabled people when considering whether to grant a pavement licence.
- Within the city some of the areas have been adjusted to allow for extra space to support the businesses reopen but Highways are making sure that there is still room for pedestrians.
- The new pavement licences can still include conditions and can be revoked following any breaches, or if the highway is no longer suitable for this use.
- Before awarding a temporary pavement licence Highway Enforcement Officers will assess each site and consult with colleagues in Environmental Health and Sussex Police.
- The new temporary licences can be issued in 14 days, rather than the current 28 day period. They would normally cost £100 but, in order to help businesses further, Highways have agreed to continue to suspended fees.

15.4 The reopening of businesses and the reliance on outside spaces had caused some concerns and enforcement issues, whilst most businesses have abided by the guidelines and licence conditions Highways had seen an increase in licence breaches. Mainly this had been around areas spreading either because the owners were adding extra seats or where customers were moving them to create more space. Because some areas had been enlarged there was not as much room on the pavement to accommodate any spread and this had led to obstructions and complaints. A number of complaints had also been received regarding the experimental traffic order and subsequent area changes in the North Laines. Data was being gathered including

traffic counts and stakeholder comments before presenting a report to a future ETS committee. The Highway Enforcement team had employed additional staff over the summer to help tackle these issues and was also planning to reviewing its highway licensing policy towards the end of the year. A number of the experimental traffic orders were due to be reviewed soon, the reports on these orders would be going to the November ETS committee. Depending on the report recommendations that might mean that some areas would lose any extended outside seating.

Off – Licence Extensions

15.5 The Act also provided licensed premises with an opportunity to provide ‘off sales’ and delivery services and :

- Provided automatic extensions of premises licences that only permit sales of alcohol for consumption on the premises (“on-sales”) to allow sales of alcohol for consumption off the premises (“off-sales”).
- Limits off-sales extensions to 11pm at the latest.
- Any new permissions for off-sales do not apply to times when the premises licence does not allow sales of alcohol for consumption in outdoor areas of the premises
- The right to provide off sales doesn’t apply to premises licences granted after July 2020 or to premises who within last 3 years LA have refused to grant off-sales at a new licence or variation application or licence has been varied or modified so as to exclude off-sales.

15.6 **RESOLVED** – That the content of the Chair’s Communications be received and noted.

16 CALLOVER

16.1 All items on the agenda were called for discussion.

17 PUBLIC INVOLVEMENT

17.1 There were no public involvement items.

18 MEMBER INVOLVEMENT

18.1 There were no Member Involvement items.

19 GAMBLING POLICY 2022-24 (AS REVISED)

19.1 The Committee considered a report of the Executive Director of Housing, Neighbourhoods and Communities requesting that the Committee consider and approve the Gambling Policy 2022-24 (as revised).

19.2 It was noted that it was a requirement the Gambling Act 2005 required Licensing Authorities to prepare a Statement (also known as a Policy) every three years setting out the principles which were applied when exercising their functions. Licensing Authorities were required to publish the statement following the procedure set out in the Act, including whom they should consult. Brighton and Hove’s gambling policies and practices had been highlighted by the Gambling Commission as examples of

good practice, in particular the work and links developed with Public Health to tackle gambling related harm.

- 19.3 At its meeting on 24 June 2021, the Committee had received a report and had authorised officers to initiate consultation regarding a review of the council's revised Gambling Policy arose had already been subject to a comprehensive review in 2016 and a further review in 2019 when further changes had been made which had included increasing awareness of mental health issues. The issues which arose as a result of addiction to gambling and the impact it had on individuals and their families could not be underestimated. This council' policy was robust and she was happy to support it.
- 19.5 The Chair, Councillor Deane, referred to the incidence of on-line gambling and it was confirmed in answer to questions that available data indicated that this had increased during the pandemic and was in agreement with Councillor Simson that against that backdrop it was even more important that the council's policy was rigorous.
- 19.6 The Members present voted unanimously in support of the report recommendations.
- 19.7 **RESOLVED** – (1) That Members of the Licensing Committee (Licensing Act 2003 Functions) agree to refer the final version of the Statement of Gambling Policy 2022-24 to Full Council for adoption (Appendix 1); and

RESOLVED TO RECOMMEND TO COUNCIL – (2) That Council accepts the final version of the Statement of Licensing Policy as presented to it be agreed for adoption.

20 LICENSING PANEL HEARING ARRANGEMENTS

- 20.1 The Committee considered a report of the Executive Lead, Strategy, Governance and Law setting out the position in relation to the conduct of Licensing Panels convened under the Licensing Act 2003 (Licensing Panels).
- 20.2 The report proposed that members delegated authority to senior officers after consultation with lead members to determine the future of conduct of Licensing Panels after the end of July 2021 until review at the next committee in February 2022. The intention was to build flexibility into the arrangements and be able to respond the latest public health and government advice.
- 20.3 Councillor Simson stated that whilst she had been happy to agree to the current arrangements remaining in place pro-tem. Her preference however was to return to actual face to face meetings as soon as it was practicable to do so and for the situation to be kept under review in the light of decisions taken by the councils itself and by national government. Her preference would be for the existing arrangements to be reviewed prior to the next scheduled meeting of the Committee in February. The current arrangements could also be problematic for some as not everyone seeking Councillor Bagaeen concurred in that view.
- 20.4 Councillor Moonan stated that whilst she considered it was appropriate for existing arrangements to remain in place until February it was her preference that face meetings resumed as soon as it was practicably possible to do so. Councillors Davis and Henry were in agreement considering that in view of the present situation in

relation to Covid the situation should remain as was for now. Councillor Davis stated that the current situation was not without benefits as it did provide greater flexibility for those attending and in some instances a virtual rather than actual hearing could create a calmer atmosphere in which issues could be considered.

20.5 **RESOLVED** – (1) That the Committee delegate authority to the Executive Lead for Strategy Governance and Law after consultation with the Chair and Group Spokespersons to determine arrangements for Licensing Panel Hearings until the next Licensing Committee in February 2022; and

(2) The Committee recommends that in exercising this authority the above officer takes into account all relevant factors including latest public health and government procedures with the Hearings Regulations 2005.

21 SCHEDULE OF APPEALS

21.1 The Committee considered a schedule of appeals prepared on behalf of the Executive Lead, Strategy, Governance and Law.

21.2 In response to questions, the Legal Adviser to the Committee, Rebecca Sidell explained that there remained a backlog in cases to the Magistrate's Court. Councillor Simson referred to the prospective hearing for Saltdean News stating that she understood that the premises had now changed hands and that a hearing might not now go ahead.

21.3 Councillor O'Quinn referred to the case which remained pending in respect of Pascal's Bistro, the breaches had been quite serious and it was concerning that the premises could continue to trade pending the outcome of the appeal hearing.

21.4 **RESOLVED** – That the contents of the schedule be noted.

22 SCHEDULE OF REVIEWS

22.1 The Committee considered the amended and updated schedule prepared on behalf of the Executive Director of Housing, Neighbourhoods and Communities.

22.2 In response to questions, the Head of Regulatory Services, Jim Whitelegg, confirmed that several reviews had been requested by the Police during the period covered by the report he was also aware of one further review request which was imminent.

22.3 **RESOLVED** – That the contents of the amended schedule be noted.

23 ITEMS REFERRED FOR COUNCIL

23.1 **RESOLVED** – That Item 19, "Gambling Policy 2022 – 24 (as Revised) be forwarded to Full Council for approval and adoption in line with the report recommendations.

The meeting concluded at 5.00pm

Signed

Chair

Dated this

day of