

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 14

Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.30PM 24 JUNE 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cobb (Chairman), Lepper (Deputy Chairman), West, Hawkes, Kitcat, Marsh, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins, Fryer, Smart and Young

Apologies: Councillors Harmer-Strange, Hyde and Wrighton

Officers: Tim Nichols, (Head of Licensing and Environmental Health); Jean Cranford (Licensing Manager); Judy Redford (Access Manager, Disabilities & Diversity); Christina Liassides (Head of Network Management, Sustainable Transport), Rebecca Sidell (Lawyer) and Penny Jennings (Democratic Services Officer)

PART ONE

1. PROCEDURAL BUSINESS

1a Declarations of Substitutes

- 1.1 Councillor Fryer was in attendance in substitution for Councillor Wrighton.
- 1.2 Councillor Smart was in attendance in substitution for Councillor Harmer-Strange.
- 1.3 Councillor Young was in attendance in substitution for Councillor Hyde.

1b Declarations of Interests

- 1.4 There were none.

1c Exclusion of the Press and Public

- 1.5 In accordance with Section 100A of the Local Government Act 1972 (" The Act"), the Licensing Committee (Non Licensing Act 2003 Functions) considered whether the press and public should be excluded from the meeting during an item of business to be transacted or the nature of proceedings, that if members of the press or public were

present during that item, there would be disclosure to them of confidential information (as defined in Section 100(1) of the Act).

1.6 **RESOLVED** – That the press and public be not excluded.

2. MINUTES OF THE PREVIOUS MEETING

2.1 **RESOLVED** – That the Chairman be authorized to sign the minutes of the previous meeting held on 4 March 2010 as a correct record.

3. CHAIRMAN'S COMMUNICATIONS

Taxi Marshal's Scheme

3.1 The Chairman reminded the Committee that at their previous meeting (4 March 2010) they had approved in principle a hackney carriage fee supplement to fund the taxi marshal's scheme. Since that time a wholesale review of taxi licence fees and budgets has been initiated and the outcome would be reported back to Committee in November.

3.2 In the interim it had been considered prudent to meet the cost of funding the marshals from existing budgets rather than to levy a specific fee. The council remained committed to the provision of taxi marshals and would continue to explore future funding options.

Hackney Carriage & Private Hire Vehicles : Suspensions and Revocations

3.3 The Chairman explained that since the last meeting of the Committee had taken place, officers in the Hackney Carriage Office had :

- Suspended 1 driver , in addition 4 drivers had been given formal warnings which would remain on their files for 3 years.

3.4 **RESOLVED** – That the position be noted.

4. CALLOVER

4.1 It was agreed that all items would be reserved for discussion.

5. PUBLIC QUESTIONS

5.1 The Committee considered a report of the Director of Strategy and Governance setting out a question received from Ms G Des Moulins of the Brighton & Hove Federation of Disabled People in the following terms:

“The Brighton and Hove Federation of Disabled People warmly welcomes the recommendations of the Equalities Review and would like to take this opportunity to thank the Chair of Licensing for her support and particularly like to mention Judy Redford for her extremely thorough and far reaching review.

On reading the report it would appear it hasn't addressed the percentage of WAV's currently available because it was viewed the commencement of the Equalities Act in October would be the mechanism to address this issue. We have now heard that the commencement has been delayed, in view of this we would ask the Committee what

they intend to do now to address the inadequate number of WAV's in Brighton and Hove."

5.2 The Chairman thanked Ms DesMoulins for her question and responded as follows:

"It was only recently that the government explained that the scheduled start date for the Equalities Act was likely to be postponed to allow businesses, people, organisations and interested parties to have time to carefully prepare for this significant legislation. Unfortunately, this announcement was made as the equalities review later on this agenda was nearing completion. In the report in front of members today, there are a number of recommendations that should increase the percentage of wheelchair accessible vehicles over time including increasing the age limit for wheelchair accessible vehicles that can be licensed and requiring all new and transferred proprietors' licences for hackney carriages to be accessible.

Having said that, I will ask that the officers continue to work with the Federation of Disabled People and the trade through the taxi forum for policy options to increase the number of wheelchair accessible vehicles and reduce the discrepancy in waiting times for passengers requiring such vehicles.

We do not currently know when the provisions of the Equality Act will come into force and we would welcome any information from the Government Equalities Office on scheduling for implementation."

5.3 The Chairman invited Ms DesMoulins to ask a subsidiary question however, she stated that she did not wish to ask a subsidiary question as such but wished to urge the Council to take a pro-active approach in addressing this matter.

5.4 **RESOLVED** - That the response be noted.

6. SEX ESTABLISHMENT LICENSING POLICY PROGRESS REPORT

6.1 The Committee considered a progress report of the Director of Environment the purpose of which was to update Members on the policy review which was being undertaken.

6.2 The Head of Environmental Health and Licensing, Mr Nichols referred to the two previous update reports considered by the Committee on 5 February and 26 November 2009 which had detailed progress of the Policing and Crime Bill relating to sex establishments including lap dancing clubs. There was an existing policy on sex establishments, sex shops and sex cinemas which included standard conditions. That policy had been reviewed and extended to cover the new category of sex entertainment venues (lap dancing).

6.3 Councillor Simson stated that she welcomed the report. Limits were already in place to control these activities and she considered that there was a need to look at sex encounter establishments in a well governed way too. She considered that paragraph 2.2 which referred to the need for a political steer should be deleted. The Committee was non-political and there had been cross party agreement between Members in relation to policies to be adopted, this recommendation was therefore superfluous.

- 6.4 Councillor Hawkes concurred, stating that the council should be proud of the pro-active stance it had taken in seeking to apply rigorous controls and out down clear markers that there was a presumption against setting up establishments in certain locations e.g. close to schools.
- 6.5 Councillors Lepper and Marsh were also in agreement, Councillor Lepper was pleased to note how far this matter had progressed and that the policy had been rationalised as part of the consultation process. She awaited the results of the consultation with interest.
- 6.6 Councillor Marsh agreed that Paragraph 2.2 was unnecessary as all Councillors gave a “steer” on various issues as part of their elected role, this did not need to be expressly stated.
- 6.7 The Head of Environmental Health and Licensing stated that recommendation had been included to facilitate debate and that he was happy to remove it if that was the wish of the Committee.
- 6.8 Councillor Kitcat stated that as this issue affected the city as a whole and had wider ramifications than within the council itself, he considered that Paragraph 2.2 should be retained as it could not be assumed that there was a consistent view. Councillor Cobb, the Chairman disagreed stating that the Committee itself was cross –party and non-political. A vote was taken subsequently and it was agreed by the majority of members that Paragraph 2.2 would be removed. Paragraph 2.3 then became Paragraph 2.2.
- 6.9 Councillor Kitcat went on to say that he broadly welcomed the report although he considered that some of the comments contained within it were contradictory and confusing, (particularly as a fees report was not before the Committee that day). Although he was pleased to note that emerging issues for instance how this would effect LGBT premises, the need for an equalities impact assessment to be carried out and the manner in which premises putting on “burlesque” entertainment would be treated within the framework of existing policies and legislation, he cited Birmingham and Milton Keynes where the fees charged to establishments were considerably lower than in Brighton and Hove. He considered they were too high and should be considered as part of any review. He considered it was appropriate for the level of fees charged to licensed sex shops should be less than for sex entertainment venues. Councillor West concurred in that view.
- 6.10 The Chairman, Councillor Cobb stated that it would be inappropriate to discuss fees at that meeting as a report would be brought to a future meeting.
- 6.11 Councillor Kitcat whilst understanding there were timescales for consultation considered that members needed to be fully involved in that process and was concerned that no “slippage” occurred, he was firmly of the view that Licensing Committee meetings should be held on a more regular basis than was currently the case.
- 6.12 The Head of Environmental Health and Licensing explained that reference to the results of the consultation process would be included in the report back to Committee at its next scheduled meeting in November 2010.

- 6.13 Councillor Simson referred to the number of sex entertainment venues currently operating in the city, querying whether there was already extant permission for another. The Head of Environment Health and Licensing explained that although a further permission had been given, which would make a total of 4, that permission had not been activated. In answer to further questions he explained that restricting the appropriate number to 3 would still provide sufficient flexibility for an exception to be made if deemed appropriate.
- 6.14 Councillor Simson expressed concern regarding an adult shop situated in Ship Street where explicit material; had been prominently displayed both in the shop window and on an A Board outside. The Head of Environmental Health and Licensing stated that further detailed work was taking place in relation to administration/enforcement to ensure that any restrictions applied were workable; this work would be encouraged within the overall review.
- 6.15 Councillor West stated that he was seeking to understand how this industry worked, as this was germane to formulation of the Council's policies and how they were applied. He had been informed that girls working in lap dancing and similar establishments canvassed customers for trade both within these premises and outside and that this was the nature of the trade.
- 6.16 Councillor Hawkes stated that she profoundly disagreed with such comments, given that a number of young women employed in the industry were young and vulnerable, a number of the policies sought to protect them.
- 6.17 Councillor West stated that he did not hold a view regarding employment practices but considered that such matters should form part of the review.
- 6.18 Councillor Simson said that young ladies had been observed handing out cards advertising such clubs on occasion; it was difficult to control activities once staff had left a premises. Agreed policies were intended to ensure that appropriate levels of control were in place. Councillor Smart stated that the policy document was clear on these issues.
- 6.19 Councillor C Theobald noted that the consultation period would run for 12 weeks, a sufficient period for a range of comments to be received.
- 6.20 The Chairman stated that individuals had differing views and that these could be taken into account as part of the review consultation.
- 6.21 A vote was taken and it was agreed on a vote of 11 with 4 abstentions that Paragraph 2.2 of the circulated report be removed, thus Paragraph 2.3 would then become Paragraph 2.2. A further vote was taken in respect of the remaining recommendations and Members voted unanimously that these be agreed.
- 6.22 **RESOLVED** – (1) That the Committee asks officers to bring the results of the consultation and the Sex Establishment Licensing Policy to the Licensing Committee in November 2010; and

(2) That full Council is recommended to pass a resolution specifying that amendments made by Section 27 of the Policing and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to Brighton & Hove on a specified day at least one month after the day on which the resolution is made. The specified day will be 19 November 2010.

7. EQUALITIES REVIEW OF TAXI LICENSING SERVICE

- 7.1 The Committee considered a report of the Director of Environment which sought to review the effectiveness of Hackney and Private Hire services in meeting the needs of residents, particularly those with disabilities and to seek the Committees' recommendations for actions to address adverse impact and or to promote equality.
- 7.2 The Legal Adviser to the Committee explained that a letter had been received from lawyers acting on behalf of the trade referring to the consultation period stating that it had been insufficient and that further consultation was required. The Council's own legal advice was in agreement and therefore the Committee were asked to note the report before them, a further report would be submitted to their November meeting following the consultation process.
- 7.3 The Chairman welcomed the report and thanked the equalities officers for their work which she considered would strengthen services and help to eliminate discrimination and promote positive attitudes towards disabled people. The report underlined the Council's commitment to equalities and the need to promote equality. The priority placed by the Brighton & Hove Federation of Disabled People on transport and why it was crucial for disabled people to have confidence in local operators was recognised.
- 7.4 The Access Manager (Disabilities and Diversity) introduced the report and stated that notwithstanding that the start date for the Equalities Act had been postponed officers would continue to work with the Federation of Disabled People and the trade (through the taxi forum) to increase the number of wheelchair accessible vehicles and to reduce the discrepancy in waiting times for passengers requiring such vehicles.
- 7.5 Councillor Kitcat enquired whether if, consideration of the report was deferred that day the same report would be submitted to the net scheduled meeting of the Committee or whether it would be re-written and updated. The Head of Environmental Health and Licensing confirmed that the re-submitted report would be amended/updated to incorporate input received from the extended consultation. He considered that the gap between meetings was too great and that they should be held more frequently. Councillor Kitcat stated that it was vital Members were afforded the opportunity to provide feedback.
- 7.6 Councillor West considered it was important that Members were also afforded the opportunity to facilitate the process by attending Taxi Forum meetings, the other main parties on the Council had representation on this body, he had previously requested that a "green" representative be invited to attend these meetings. He was now reiterating this request. The Head of Environmental Health and Licensing explained that this body (representing the taxi trade in Brighton and Hove) was totally separate from the Council and had its own constitution, the Chairman and Deputy Chairman received invitations to attend these meetings direct from the Forum.

- 7.7 Councillor Simson stressed that it was important to get this “right” without building in any undue delay. She considered it would be appropriate to convene a special meeting of the Committee in order to determine this matter in advance of the next scheduled meeting of the Committee.
- 7.8 Following further discussion the Chairman sought the Committees’ agreement that a further special meeting of the Committee be held following completion of the further consultation process.
- 7.9 A vote was taken and Members voted unanimously that a further special meeting of the Committee be held.
- 7.10 **RESOLVED** - That the content of the report be noted and that the Committee reconvene for a special meeting to consider and approve recommendations as soon as practicable following completion of the current extended consultation process but no later than 10 September 2010.

8. RESPONSE TO THE REPORT OF THE OVERVIEW & SCRUTINY COMMITTEE SCRUTINY PANEL ON STREET ACCESS ISSUES

- 8.1.1 The Committee considered a report of the Director of Environment setting out the response to the report of the Overview and Scrutiny Committee Scrutiny Panel on “Street Access Issues.” The scope of the Panel was also set out.
- 8.2 The Head of Network Management, Sustainable Transport, Ms Liassides explained that the scrutiny review had been set up following concern regarding concern accessibility of the city’s public highways. The Panel had sought to examine the competing needs of different highway users. The full report was appended and summarised the evidence obtained, findings and recommendations considered by officers with lead roles in highway placements. As not all of the recommendations contained in the report fell within the Committees’ responsibilities Ms Liassides guided the Committee through those recommendations.
- 8.3 The Chairman of the Scrutiny Panel, Councillor Watkins was invited to address the Committee but stated that he did not wish to add anything to his circulated submission.
- 8.4 Councillor Pidgeon referred to the proliferation of A Boards at certain locations across the city and enquired regarding the measures in place and level of enforcement required in order to ensure compliance. Ms Liassides explained that if sufficiently clear and rigorous policies were in place measures to curtail any nuisance could be undertaken by officers from several departments. The majority of businesses complied so officer time was generally spent addressing the worst offenders. Councillor Pidgeon enquired regarding punitive measures taken and regarding the number of licences issues. It was explained that steady progress had been made over recent months and that 20 new licence applications were currently being processed.
- 8.5 Councillor West enquired regarding profits to the Council arising from the issuing of licences. It was explained that the Council received an income from but did not make a profit from these activities, it was permitted to cover its costs. The level of fees charged was reviewed annually to ensure that these were reasonable.

- 8.6 Councillor Simson sought confirmation that policies were applied on a city wide basis as she was aware that problems had occurred on estates in more outlying areas of the city. It was explained that certain areas of the city were zoned, therefore specific policies and requirements applied within them. However, that did not prevent nuisances occurring elsewhere in the city from being investigated and appropriate action being taken. Notwithstanding that officers had a large workload and a large area to cover a systematic approach was adopted.
- 8.7 Councillor Hawkes who had also sat on the Panel stated that the Panel had genuinely sought to take account of the diversity of the city and to encompass the differing views expressed. In regulating and licensing the use of public highways the council sought to strike a balance between the needs of competing interests, although this was based on the premise that there should be free, unfettered access for all public highway users in Brighton and Hove. The Panel had considered that a robust, consistent enforcement regime on street access issues was vital.
- 8.8 Councillor C Theobald welcomed the practical approach suggested by the review referring to estate agents utility boxes being placed on council owned land at some locations requesting that enforcement action be taken if permissible. Councillor Lepper also welcomed this approach and referring to A Boards in the shopping parades at Fiveways within her own ward where nuisances sometimes occurred. She suspected that most of these boards were too flimsy to require a licence it would be appreciated if officers could investigate this matter further.
- 8.9 Councillors Kitcat and West also welcomed the report and commended the in depth work carried out by the Panel expressing their hope that the level of resources provided would be sufficient to enable effective enforcement to take place.
- 8.10 A vote was taken and Members voted unanimously to approve the recommendations set out below.
- 8.11 **RESOLVED** – (1) That the Licensing Committee notes, the evidence, findings and recommendations of the Overview & Scrutiny Committee and its scrutiny panel in relation to Street Access Issues;
- (2) That the Licensing Committee agrees the actions in the responses to Recommendations 1, 2, 5 and 6 (Appendix 1); and
- (3) That the Licensing Committee notes the responses to Recommendations 4 and 13 (Appendix 1). Recommendation 13 is subject to the council's corporate enforcement policy.

9. ITEMS TO GO FORWARD TO COUNCIL

- 9.1 **RESOLVED** - That Item 6, "Sex Establishment Licensing Policy Progress Report" be forwarded to Council for approval of Paragraph 2.2 as amended.

The meeting concluded at 5.40pm

Signed

Chairman

Dated this

day of

