

**BRIGHTON & HOVE CITY COUNCIL**

**LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)**

**3.00PM 6 MARCH 2014**

**COMMITTEE ROOM1, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Powell (Chair), Deane (Deputy Chair), Simson (Opposition Spokesperson), Lepper (Opposition Spokesperson), Duncan, Gilbey, Hyde, Jones, Marsh, Rufus, Sykes and C Theobald

**Apologies:** Councillors Pidgeon and Robins

**PART ONE**

**21. PROCEDURAL BUSINESS**

**21a Declaration of Substitutes**

21.1 Councillor Sykes declared that he was substituting for Councillor Kennedy.

**21b Declarations of Interest**

21.2 There were none.

**21c Exclusion of the Press and Public**

21.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the 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 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

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

**22. MINUTES OF THE PREVIOUS MEETING**

- 22.1 RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 21 November 2013 be agreed and signed as a correct record.

## **23. CHAIR'S COMMUNICATIONS**

### **Government Consultation on Locally-set Fees**

- 23.1 The Chair explained that as part of the Government's Alcohol Strategy the Home Office had launched a public consultation on the move from centrally-set to locally-set fees under the Licensing Act 2003. Under the Police Reform and Social Responsibility Act 2011 the Home Secretary could prescribe by regulations that fee levels should be set by individual licensing authorities on a cost recovery basis.
- 23.2 The Home Office's Consultation sought views, primarily from licensing authorities and fee paying licensees, on the maximum amounts that can be charged, whether and under what circumstances different amounts should be charged to different types of premises, and the mechanisms that would reassure fee-payers that the fees were being set transparently and at cost. It also asked whether there should be a single national payment date for annual fees. The closing date for responses was 10 April 2014 and the consultation documentation can be found at [www.gov.uk/government/consultations/locally-set-licensing-fees](http://www.gov.uk/government/consultations/locally-set-licensing-fees)

- 23.3 **RESOLVED** – That the content of the Chair's Communications be noted and received.

## **24. PUBLIC INVOLVEMENT**

### **24a Petitions**

- 24.1 There were none.

### **24b Written Questions**

- 24.2 There were none.

### **24c Deputations**

- 24.3 There were none.

## **25. MEMBER INVOLVEMENT**

### **25a Petitions**

- 25.1 There were none.

### **25b Written Questions**

- 25.2 There were none.

### **25c Letters**

25.3 There were none.

#### **25d Notices of Motion**

25.4 The Committee considered a Notice of Motion put at Full Council on 12 December 2013 in relation to fixed odds betting terminals. An extract setting out of the minute of the meeting of Full Council had also been circulated to Members in advance of the meeting.

25.5 The Chair, Councillor Powell responded in the following terms:

“It is likely that many interested parties, regulators and service providers, like the Gambling Commission, Gamcare and gambling licensing authorities would support lobbying.

Do vulnerable adults receive sufficient gambling regulation protection? Gambling is widely accepted in the UK as a legitimate entertainment activity by government. There has been considerable disagreement between those who believe gambling to be a fundamentally damaging activity, which should be severely restricted, if not banned, and those who argue that individuals should be free to gamble, with only those minimal restrictions needed to prevent crime and protect the vulnerable. Fixed Odds Betting Terminals have been described as “the crack cocaine of gambling”. In 2012, the Commons Culture, Media and Sport Committee reported that the Gambling Act 2005 had resulted in inconsistencies. The Committee said more power should be devolved to local authorities, which had the local knowledge to assess their impact, with central regulation existing to ensure high standards of protection for the vulnerable, particularly children. The London Health Inequalities Network reported to Public Health England that the availability of problem gambling treatment services data is very limited.

The NOM requires actions of the Chief Executive and Policy and Resources Committee, rather than this committee.”

25.6 **RESOLVED** – That the content of the Notice of Motion be noted and received.

#### **26. LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS UPDATE**

26.1 The Committee considered a report of the Head of Regulatory Services which provided an update on the proposed policy position of Brighton & Hove City Council as licensing authority concerning the Late Night Levy (LNL) and Early Morning Restriction Orders (EMROs).

26.2 The Head of Regulatory Services explained that Officers were concerned about the number of free Minor Variation Applications that would have to be dealt with if EMROs/LNL were implemented in the city. The Home Office Impact Assessment (IA) stated “There may be other costs in administering the levy, such as sending out a levy invoice, but these processes will be done in tandem with the existing licence fee regime and will not constitute a new cost”. The late night levy could be collected alongside the annual licence fee which it was considered would contain negligible new costs”. The licensing authority would only be able to keep up to 30% of income collected (after administration costs had been taken out) but this would have to be used as specified.

Officers were very concerned that introduction of EMROs or LNL would necessitate a large amount of work not already carried out, possibly requiring more staff.

- 26.3 In consequence Officers were suggesting that this matter be kept under review but that these powers not be adopted at the present time; whilst noting that the Committee had not ruled out application of the levy in the future. The London Borough of Islington had recently taken the to commence consultation (November 2013) with a view to considering implementation of a Late Night Levy but were seeking commitment from the Police for 70% contribution hypothecated for the night time economy policing in Islington, and not the wider London area. It was proposed that Officers followed progress of this matter by the London Borough of Islington.
- 26.4 Councillor Simson stated that she supported the approach being proposed and sought confirmation that measures were in place to secure continuation of the Taxi Marshall and Safe Space schemes. It might be appropriate for a levy to be considered to fund such provision in the future. The Head of Regulatory Services stated that these arrangements had been funded originally by the Council and latterly (over the past two/three years) by the Police, currently there was a short hiatus. Councillor Simson stated that this was a matter for concern.
- 26.5 Councillor Marsh was in agreement with the views expressed by Councillor Simson stating that the Taxi Marshall scheme had made a positive contribution and its loss was matter for regret. Councillor Marsh hoped that all continuation of this service could be supported and hoped that the Police could be encouraged to reconsider continuation of funding. The Head of Regulatory Services stated that discussions were taking place in respect of this matter. Funding provision of this service, an idea put forward by the taxi trade, be funded least in part from licence fees had been explored. Subsequent advice that such practice was not lawful had been received and in consequence such practice has ceased.
- 26.6 Councillor Rufus sought clarification regarding comments that further consideration of a Late Night Levy should be a "last resort". The Head of Regulatory Services stated use of a Levy was complex and could as indicated give rise to additional administrative costs which it would be difficult to quantify in advance. Such additional work needed to be proportionate to the level of problems within the late night economy that it had been implemented to address. Councillor Rufus sought clarification that further report(s) would be brought to the Committee if the current position were to change and it was considered appropriate to bring in EMROs or LNL in future. The Head of Regulatory Services confirmed that that this would be the case, that there was a specific consultation process had to be observed and that ultimately approval would be required by full Council.
- 26.7 Councillor Duncan stated that he had the same queries as those raised by Councillor Rufus which had now been answered. He considered that the report set out clearly why it would be inappropriate to proceed with EMROs or LNL at the present time and he was in agreement with that rationale. He hoped however, that further consideration would be given to this in future if the current position changed.

- 26.8 Councillor Hyde stated that in her view if significant problems were to arise in consequence of removal of the Taxi Marshall scheme the Police were likely to reconsider means by which it could be funded.
- 26.9 Councillor C Theobald also expressed regret regarding the current Taxi Marshall situation, considering that if levies were to be introduced funding could be used to fund this and similar schemes. The Head of Regulatory Services responded that in practice it could be difficult to apply the levy in this way. Notwithstanding that it was predicated on a “polluter pays” principle in reality the structure required to run it would be complex and there was no discretion regarding where it was implemented in that it would apply across the city’s entire administrative area.
- 26.10 Councillor Simson Councillor Simson was in agreement that whilst it was not considered appropriate to implement EMROs/LNL now that it was important for this decision to be revisited in future if the existing dynamic of the city’s night time economy changed. She noted and understood that any potential changes were subject to Committee/Council approval as implementation could have significant consequences for the local economy in that it amounted to an additional local tax on businesses.
- 26.11 Councillor Deane concurred with the points raised by Councillor Simson stating that she noted that the London Borough of Islington was considering an LNL. She considered that there were more likely to be comparators and similarities between the City and this London Borough than for example with Newcastle, the first authority to introduce one. She considered that it would be beneficial if Officers could check on progress there periodically and report back to Members as appropriate.
- 26.12 **RESOLVED** – (1) That the licensing committee notes the contents of this report;
- (2) That licensing committee agrees to implement the Late Night Levy in Brighton & Hove only as a last resort and when relating to the Crime and Disorder licensing objective; and
- (3) That the licensing committee agrees to implement Early Morning Restriction Orders in Brighton & Hove only as a last resort relating to disorder or nuisance.
- 27. WORK OF THE LICENSING AUTHORITY – LICENSING & GAMBLING 1/11/12-31/1/14**
- 27.1 The Committee considered a report of the Head of Regulatory Services setting out the licensing and gambling functions of Brighton & Hove Council carried out between 1 January 2012 and 31 January 2014.
- 27.2 The report detailed national matters including legislative changes and consultation; local licensing matters including street drinking/Sensible on Strength, student freshers/pub crawls/ promoters and best practice licensing initiatives. Also, local gambling matters including betting shops/fixed odds betting terminals (FOBTs), o-regulation and intelligence sharing between the Licensing Authority, Gambling Commission and the Police and illegal poker in clubs and pubs.

- 27.3 Councillor Duncan commended the report which in his view indicated the depth and breadth of work undertaken by the Licensing Authority and the hard work carried out by Officers.
- 27.4 Councillor Simson referred to the interdepartmental work undertaken to seek to address illegal activity e.g., the sale of counterfeit alcohol and that on which the requisite level of duty had not been paid. She referred to proposed initiatives by Central Government on alcohol pricing stating that she was unsure whether this would apply to all alcohol including wines/spirits, or just those which were high strength.
- 27.5 The Senior Environmental Health Officer explained that initiatives and work to address illegal activity were ongoing and that the minimum pricing strategy would apply sales of all alcohol based on its strength. The Head of Regulatory Services stated that latterly problems associated with illegal activity in relation to alcohol appeared to have receded somewhat and issues had been identified in relation to illegal activity relating to alcohol, however, a vigilant approach was continuing. It should be noted that a Scrutiny exercise was underway in relation to the number of Temporary Event Notices (TENs) being requested, there appeared to have been an increase particularly in those requested for church halls and similar venues. Findings from the Scrutiny exercise would be reported back to the Committee following its completion.
- 27.6 In answer to questions by Councillor Simson the Head of Regulatory Services explained that TEN applications accounted for around 10% of the number of applications received overall.
- 27.7 Councillor C Theobald referred to the Scrap Metal Dealers Act 2013 now in force, and to the incidence of theft of lead roofing materials pipe work and other materials from churches which this had in art been brought in to address.
- 27.8 Councillor Sykes referred to a TEN application Hearing which he had sat on a while ago where the Police expressed concern regarding the style of event for which approval had been sought, indicating that they would be likely to raise more objections in respect of future applications. The Head of Regulatory Services responded that currently the Police appeared to be taking the same stance in relation to TEN applications as they had done previously and it was understood that they assessed applications carefully prior to making their comments.
- 27.9 Councillor Deane commended the report and wished to place on record her congratulations to Jim Whitelegg, Senior Environmental Health Officer who had been elected Chair of the Sussex Licensing Liaison Group for 2014.
- 27.10 **RESOLVED** – (1) That the Committee notes the contents of this report; and  
(2) That officers should continue to monitor trends of applications and illegal activity to inform future policy.

## **28. SCHEDULE OF APPEALS**

- 28.1 The Committee considered a schedule prepared by the Head of Law containing details of appeals lodged during the period since its last meeting.

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

**29. ITEMS TO GO FORWARD TO COUNCIL**

29.1 There were none.

The meeting concluded at 3.45pm

Signed

Chairman

Dated this

day of