

**MINUTES OF THE MEETING OF THE LICENSING COMMITTEE
HELD ON WEDNESDAY, 16 MAY 2007**

COUNCILLORS

PRESENT John Boast, Chris Bond, Bambos Charalambous, Andreas Constantinides, Annette Dreblow, Christiana During, Peter Fallart, Norman Ford, Ahmet Hasan, Anne-Marie Pearce, Toby Simon and Terence Smith

ABSENT Yasemin Brett, Elaine Hayward and Henry Lamprecht

CO-OPTED

OFFICERS: Sue McDaid (Head of Trading Standards & Licensing), Mark Galvayne (Licensing Officer), Peter Lycet (Legal Services), Jane Creer (Democratic Services)

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WELCOME AND INTRODUCTIONS

The Chairman welcomed everyone to the meeting.

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APOLOGIES FOR ABSENCE

Councillors Brett, E. Hayward and Lamprecht sent their apologies for absence.

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DECLARATION OF INTERESTS

There were no declarations of interest.

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MINUTES OF MEETING HELD ON 23 OCTOBER 2006

The committee agreed that minutes of the meeting held on 23 October 2006 were a correct record of the meeting.

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GAMBLING ACT 2005 : DELEGATED POWERS

RECEIVED the report of the Director of Environment, Street Scene and Parks (Report No. 6), introduced by Mark Galvayne, Licensing Officer.

NOTED

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1. Under the new Gambling Act 2005, applications may begin to be received by the Council from 21 May 2007.
2. The Act had a number of sections, allowing various decisions to be taken under the Act, and the committee were asked to consider delegating powers to authorised officers, as set out in the report, to take appropriate decisions so that these do not need to be made unnecessarily by the Licensing Committee.
3. The Gambling Act 2005 (Procedures of Licensing Committees and Sub-Committees) Regulations 2007 provided that the procedure to be followed at hearings be notified to all parties to an application, and the committee were asked to approve the procedure set out in the report.
4. A replacement version of Appendix B was tabled, with typographical errors corrected.
5. The committee were invited to put forward any comments or questions.
6. In response to a query from Councillor Boast, it was confirmed that 10 copies were requested of all documents to be submitted at a hearing, to cover distribution to the three Members, legal representative, committee clerk, Council officers and other authorities.
7. With reference to persons permitted to address the hearing, Councillor Bond asked that the role of elected Members be made more clear. Mark Galvayne agreed to amend the procedure accordingly, in consultation with Councillor Bond.
8. Clarification by the Legal representative regarding necessary declarations by Members that they had not discussed the matter with any member of the sub committee hearing the application or review.

AGREED

- (1) Approval to the proposals set out in Section 3 of the report to delegate certain powers to authorised officers (as listed in Appendix A) of the Environmental Protection and Regulation Division.
- (2) Approval to the procedure to be followed at Licensing Sub-Committee hearings, as set out in Appendix B of the report, amended as below. For clarification the procedure is set out below.

PROCEDURE TO BE FOLLOWED AT HEARINGS OF THE LICENSING SUB-COMMITTEE

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1. PURPOSE

- 1.1 The purpose of the hearing is for the Licensing Sub-Committee to gather evidence and understand the relevant issues in order that the Sub-Committee may determine the application.

2. PROCEDURE

- 2.1 The hearing will generally be in public but the Chairman may exclude the public from all or part of the proceedings where this is in the public interest.
- 2.2 The Sub-Committee shall be quorum with three Members of the Licensing Committee.
- 2.3 The Chairman will deal with introductions and explain the hearing procedure.
- 2.4 An equal maximum time will be allocated to all parties.
- 2.5 All parties must provide: their full name; private or business address and the name of the body they represent, if applicable.
- 2.6 The Sub-Committee will determine whether persons present will be permitted to address the hearing.
- 2.7 Where necessary, the Chairman may require spokespersons to be nominated to represent groups or other large numbers of objectors.
- 2.8 Members of the Council may appear before the Sub-Committee as an Interested Party. Before participating in the hearing the Member must make a declaration confirming that they have not discussed the matter with any member of the Sub-Committee hearing the application. Members of the Council may ask any question of any party or witness.
- 2.9 The Sub-Committee's Legal Adviser and the Committee Secretary will assist parties regarding the order in which they may present their evidence and, if permitted, ask questions.
- 2.10 The Sub-Committee may seek clarification of any procedural, technical, legal or factual matter at any time during the proceedings from any party.
- 2.11 Any party wishing to withdraw a representation may do so orally at the hearing.

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- 2.12 If any party does not attend, the Sub-Committee may either proceed in their absence or adjourn in accordance with The Gambling Act 2005 (proceedings of Licensing Committees and Sub-Committees) Regulations 2007.

3. EVIDENCE

- 3.1 Court rules of evidence will not strictly apply. They will however be followed to a great extent because Sub-Committee decisions must be based upon an objective assessment of evidence. Hearsay evidence is permitted but will be given less weight than direct evidence. Evidence given in person, where cross- examination is possible, is likely to be given more weight than representations which are only in writing.
- 3.2 The Sub-Committee will receive a copy of the application, location of the premises and details of any representations in advance of the hearing.
- 3.3 The Sub-Committee may take into account documentary evidence submitted either:
- (a) 5 working days before the hearing; or
 - (b) in exceptional circumstances at the discretion of the Chairman, less than 5 working days before the hearing; or
 - (c) with the consent of all parties, at the hearing.
- 3.4 At least 10 copies should be provided of any document that is to be submitted at the hearing by any party.
- 3.5 The Sub-Committee shall disregard any evidence or information that is irrelevant to the application or the Licensing Objectives.
- 3.6 The Chairman may require any person who is acting in a disruptive manner to leave the hearing.

4. ORDER OF PROCEEDINGS

- 4.1 Opening statement by the Head of Licensing or representative.
- 4.2 Questions from the Sub-Committee and/or all parties if agreed by the Chairman.
- 4.3 Representations by Responsible Authorities and their witnesses.
- 4.4 Questions from the Sub-Committee and/or all other parties if agreed by the Chairman.

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- 4.5 Representations from Interested Parties and their witnesses.
- 4.6 Questions from the Sub-Committee and/or all parties if agreed by the Chairman.
- 4.7 Representations from the Applicant and their witnesses.
- 4.8 Questions from the Sub-Committee and/or all parties if agreed by the Chairman.
- 4.9 With leave of the Chairman, any further questions arising as a result of new information.
- 4.10 Closing statements of Head of Licensing, Responsible Authorities and Interested Parties.
- 4.11 Closing statement of Applicant.

5. DETERMINATION OF THE APPLICATION

- 5.1 This will be made either at the end of the hearing or within the time specified in The Gambling Act 2005 (proceedings of Licensing Committees and Sub-Committees) Regulations 2007.
- 5.2 The Chairman may adjourn the hearing to enable the Sub-Committee to reach its decision, which can be reached by majority decision.
- 5.3 Only the Licensing Authority's Legal Adviser and the Committee Secretary may be present during the Sub-Committee's deliberations at this stage. This can only be for the purposes of providing privileged advice on law or to record decisions and reasons.
- 5.4 The Sub-Committee may refuse or grant the application in whole or in part and may attach any conditions they consider necessary to support the achievement of the Licensing Objectives.
- 5.5 A record of the proceedings will be taken and maintained for six years.