

LICENSING COMMITTEE  
26 JUNE 2007

(7.15pm – 8.40pm)

**PRESENT:** Councillors John Bowcott (in the Chair), Richard Chellew, Judy Saunders, Barbara Mansfield, Gregory Udeh, Martin Whelton, Krysia Williams and Ron Wilson.

**ALSO PRESENT:** Mike Barrett (Environmental Health Manager), Solomon Agutu (Principal Lawyer), Stephen Beedell (Licensing Officer) and Lynne Hartley (Democratic Services Officer).

Apologies for absence were received from Councillor David Simpson.

1 DECLARATIONS OF INTEREST

No declarations were made.

2 MINUTES

**RESOLVED:** That the minutes of the meeting held on 14 May 2007 be agreed as a correct record.

3 DELEGATION OF AUTHORITY – GAMBLING ACT 2007 HEARING REGULATIONS

**RESOLVED:** That the Committee (1) agrees the hearing procedure in Appendix 1 to be used for Gambling Act 2005 hearings, and (2) agrees the following delegations

**Licensing Sub-Committees**

To exercise all of the powers in The Gambling Act (Proceedings of Licensing Committee and sub-committees) (Premises Licenses and provisional Statements) (England and Wales) Regulations 2007 (Statutory Instrument 2007 No 173) which may be exercised during the course of a hearing held under s162(12) or s201(4) of the Gambling Act 2005.

**Head of Planning and Public Protection**

Regulation 6(2)(b) – determination of whether a representation is vexatious or frivolous or will certainly not influence the determination of the application.

**Head of Civic and Legal Services**

Regulations 4, 5 and 6 - arrangements to hold a hearing, issue of Notice of Hearing and accompanying documents to relevant persons.

Regulation 7(1) - where the need to postpone or arrange additional dates becomes apparent before the sub-committee convenes

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Regulation 7(3) and (4) - issue of relevant notices

Regulation 14 - where the need to extend a time limit becomes apparent before the sub-committee convenes

Regulation 14(2) – issue of relevant notice

Regulation 15 – maintaining a record of proceedings

Regulation 17 – correction of clerical errors.

4 REPORT BACK AND EXPERIENCE SHARING FROM LICENSING HEARINGS

Members made the following observations –

- at one hearing the sub committee had invited the applicant to draft an operating schedule which would satisfy the statutory authorities, rather than to impose conditions – the applicant was unable to meet all concerns and the application was rejected
- one premises had had its entertainments licence revoked following a review, but so far there had been few reviews
- an application to remove a restriction on the hours of admission within a CIZ had been allowed on the basis of the evidence and with the acceptance of those making representations
- there had been a number of applications for changes in use of outside areas in response to the impending smoking ban
- generally there were fewer applications and the reduction in the number of Members on the Committee had not presented any problems; the membership could be increased to respond to any upsurge in applications.

5 ROLE OF ENVIRONMENTAL HEALTH IN PROMOTING THE LICENSING OBJECTIVE: PREVENTION OF PUBLIC NUISANCE

Members expressed concerns about the lack of attendance at hearings by Environmental Health officers, although it was acknowledged that this had improved, and about instances where Environmental Health had not made representations in response to applications within the Cumulative Impact Zones.

Mike Barrett explained that, in common with neighbouring boroughs, Environmental Health officers did not attend hearings where the applicant had already agreed to the conditions. He accepted that there had been occasions in the past when, due to a breakdown in communications, sub committees had not been provided with written confirmation of agreed conditions and the subsequent withdrawal of the representation. He gave an assurance that Environmental Health officers would

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attend the hearing if they had not received written acceptance in advance of the hearing. With regard to a review which had involved public nuisance and a breach of conditions Mike Barrett explained that the department had had no evidence to support the residents' case. A procedure document setting out the different enforcement roles of the Licensing and Environmental Health teams had been drafted to help clarify the process.

With regard to applications within CIZs Mike Barrett advised that in accordance with the guidance from the Secretary of state Environmental Health officers are required to consider each application on its merits and to be proportionate in their response. Officers worked with applicants to try to resolve issues which potentially impacted on the licensing objectives before making a representation and this could often lead to an application being withdrawn. Officers needed to be able to defend their decisions and so had to support them with a robust evidence base.

The Chair suggested it would be appropriate for Environmental Health to make representations in the case of applications within the CIZ where the applicant had not rebutted the presumption that granting the licence would add to the impact. Mike Barrett said that the policy was not absolute, CIZs are referred to in the guidance but not in statute, and it was not appropriate for officers to oppose a properly made application solely on the grounds that the premises are situated within a CIZ. The department had been asked to provide more guidance which will hopefully address the quality of applications.

Asked about the impact of the smoking ban and licensees desire to make provision for smokers in external areas Mike Barrett advised that smoking is not covered by the licensing objectives and again there was no evidence base for officers to draw on. Allowing customers to smoke on the premises gave control to the licensee and presented an opportunity for review if the situation was not managed properly. He suggested licensees would wish to address litter issues on the grounds of appearance.