

LICENSING AND REGULATION COMMITTEE

6 October 2009

Attendance:

Councillors:

Mather (Chairman) (P)

Baxter

Berry (P)

Hammerton (P)

Howell (P)

Izard (P)

Jackson (P)

Johnston

Love

Mason (P)

Pearce (P)

Read (P)

Thynne

Weston (P)

Wright (P)

Deputy Members:

Councillor Tait (Standing Deputy for Councillor Thynne)

Officers in Attendance

Mr H Bone (Head of Legal Services)

Mr J Myall (Licensing and Registration Manager)

Miss C Stefanczuk (Assistant Licensing and Registration Officer)

Mrs C Tetstall (Property and Licensing Solicitor)

1. **APPOINTMENT OF VICE-CHAIRMAN**

RESOLVED:

That Councillor Wright be appointed as Vice-Chairman of the Committee for the 2009/10 Municipal Year.

2. **TIME OF MEETINGS**

RESOLVED:

That future meetings of the Committee commence at 6.30pm for the 2009/10 Municipal Year.

3. **MINUTES**

RESOLVED:

That the minutes of the previous meeting of the Committee, held on 27 January 2009, be approved and adopted.

4. **PUBLIC PARTICIPATION**

There were no questions asked or statements made.

5. **MINUTES OF LICENSING SUB-COMMITTEE HELD 9 FEBRUARY 2009 (LESS EXEMPT APPENDIX)**

(Report [LR298](#) refers)

RESOLVED:

That the minutes of the Licensing Sub-Committee (less exempt appendix) held 9 February 2009 be received and noted (attached as Appendix A to the minutes).

6. **MINUTES OF LICENSING SUB-COMMITTEE HELD 24 MARCH 2009**

(Report [LR299](#) refers)

RESOLVED:

That the minutes of the Licensing Sub-Committee held 24 March 2009 be received and noted (attached as Appendix B to the minutes).

7. **MINUTES OF LICENSING SUB-COMMITTEE HELD 6 APRIL 2009 (LESS EXEMPT APPENDIX)**

(Report [LR300](#) refers)

RESOLVED:

That the minutes of the Licensing Sub-Committee (less exempt appendix) held 6 April 2009 be received and noted (attached as Appendix C to the minutes).

8. **MINUTES OF LICENSING SUB-COMMITTEE HELD 26 AUGUST 2009**

(Report [LR297](#) refers)

RESOLVED:

That the minutes of the Licensing Sub-Committee held 26 August 2009 be received and noted (attached as Appendix D to the minutes).

9.

MINUTES OF LICENSING SUB-COMMITTEE HELD 14 SEPTEMBER 2009

(Report [LR308](#) refers)

Members noted the surname of the Sergeant in attendance at the meeting should be corrected to Sergeant Curson (not Curzon).

RESOLVED:

That, subject to the above correction, the minutes of the Licensing Sub-Committee held 14 September 2009 be received and noted (attached as Appendix E to the minutes).

10. **REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES – POLICIES AND PROCEDURES**

(Report [LR301](#) refers)

The Licensing and Registration Manager explained that the Policy would not be affected by the proposed new Independent Safeguarding Authority, as these measures would only relate to *employers* of drivers of children or vulnerable adults. Although the Council licensed taxi drivers, it did not employ them.

One Member suggested that the wording of the third paragraph of Section 9 of the Policy (Medical Fitness) could be clarified to recognise that the Council had adopted the Group 2 medical standards applied by the DVLA. The Head of Legal Services agreed to redraft this paragraph accordingly.

The Licensing and Registration Manager responded to questions regarding how the practical knowledge test would operate. Members were advised that if a driver did not appear to demonstrate adequate practical knowledge of the Winchester town area, they were given the opportunity to spend some time gaining this knowledge, before taking the test again. It was confirmed that notes regarding the tests were retained by the Licensing and Registration Manager.

One Member raised some concerns regarding Paragraph 19 of the Policy on Criminal Convictions, as he believed members of the public would expect the Council to adopt a more stringent approach to drivers who had been found guilty of indecent exposure, or other more serious sexual offences.

The Licensing and Registration Manager acknowledged this point and drew the Committee's attention to Paragraph 3 of the Policy which stated that "persons with convictions of a sexual or child related nature or other very serious crime will not normally be issued with a licence." Following discussion, the Committee agreed that Paragraph 19 could be deleted, as the issues raised within it were covered by the more stringent wording of Paragraph 3. In addition, the wording of Paragraph 3 should be strengthened to insist that a person should be expected to remain free of conviction "for 5 years" (delete "3 to 5 years").

RESOLVED:

That the additional policies and procedures for applications for Hackney Carriage and Private Hire Driver Licences be approved, as set out in Appendix 1 of the Report and amended as outlined above.

11. **GAMBLING ACT STATEMENT OF PRINCIPLES – CONSULTATION DRAFT**
(Report [LR304](#) refers)

The Head of Legal Services advised that the above draft Statement of Principles was recommended for approval for publication, as it had not been substantially amended since the Statement was previously agreed by the Committee, for the period with effect from 1 February 2007. He clarified that any representations received as a result of the consultation would be considered by the Committee at its meeting to be held on 2 December 2009, prior to recommendation of the Statement for approval by Council on 6 January 2010.

One Member raised a concern that takeaways could potentially circumvent the restriction on having gaming machines by applying for a premises licence to sell alcohol. The Licensing and Registration Manager advised that, although theoretically possible, takeaways were unlikely to be prepared to go to the time and expense of applying for a premises licence to enable this. In addition, under current legislation, takeaways were still permitted to have “skills machines” on their premises (such as quiz machines).

RESOLVED:

1. That the draft Statement of Principles be approved for publication as a consultation draft, as attached at Appendix 2 to the Report.

2. That the consultation process for the draft Statement of Principles be agreed, as set out in Section 5 of the Report.

12. **SCHEME OF DELEGATIONS – MINOR VARIATIONS – LICENSING ACT 2003**
(Report [LR303](#) refers)

A number of Members expressed concern that some licensing changes classified as “minor variations” by the Act might have a significant impact on local residents. For example, if a venue had a premises licence until midnight, an application to allow live music until 1am could (under the new Regulations) be dealt with as a minor variation, by officers under delegated powers.

Whilst acknowledging those concerns, both the Head of Legal Services and Licensing and Registration Manager emphasised that officers would err on the side of caution. If there was any doubt about whether an application could be considered contentious, it would be refused and the applicant would then have to proceed via the full variation application process (whereby the usual

advertising requirements and hearing provisions would apply). Applications would be referred to relevant authorities (such as the Police and Environment Division) to enable them to raise any concerns. It was also confirmed that any application not determined within 15 working days was deemed to be refused and the applicant would then have to submit a full variation application.

The Licensing and Registration Manager advised that he only expected to receive a very small number of minor variations and confirmed that he would notify Committee Members when any such applications were received.

One Member queried the meaning of the stipulation that the procedure could not be used to extend the period for which the licence or certificate had effect. For example, could the times between which the licence operated be altered within the previously set times? The Head of Legal Services indicated that "period" related to the duration of a licence, rather than the times of the day during which it operated, but he agreed to investigate this point further and advise Committee Members accordingly.

RESOLVED:

1. That the scheme of delegation to officers be amended, as set out in Appendix 2 to the Report, to delegate authority to the Head of Legal Services to determine minor variation applications in accordance with the Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009.
2. That the scheme of delegation be amended, as set out in Appendix 2 to the Report, to delegate authority to the Head of Legal Services to determine applications to disapply the requirement for a designated premises supervisor at community premises selling alcohol in accordance with the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c) Order 2009.
3. That the appropriate amendments to the Constitution be made in due course, as part of the annual review of the Constitution.

13. EXEMPT BUSINESS

RESOLVED:

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. That the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
##	Exempt minutes of the Licensing Sub-Committee held 9 February 2009) Information relating to any individual. (Para 1 Schedule 12A refers)
##	Exempt minutes of the Licensing Sub-Committee held 6 April 2009) Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Para 3 Schedule 12A refers)

14. **EXEMPT MINUTES OF LICENSING SUB-COMMITTEE HELD 9 FEBRUARY 2009**

(Report LR298 refers)

RESOLVED:

That the exempt minutes of the Licensing Sub-Committee held 9 February 2009 be received and noted (attached as Appendix A to the minutes).

15. **EXEMPT MINUTES OF LICENSING SUB-COMMITTEE HELD 6 APRIL 2009**

(Report LR300 refers)

RESOLVED:

That the exempt minutes of the Licensing Sub-Committee held 6 April 2009 be received and noted (attached as Appendix C to the minutes).

The meeting commenced at 6.30pm and concluded at 8.00pm

Chairman