

## LICENSING COMMITTEE

Wednesday, 1 February 2017

Minutes of the meeting of the Licensing Committee held at Committee Room - 2nd Floor West Wing, Guildhall on Wednesday, 1 February 2017 at 1.45 pm

### Present

#### Members:

Peter Dunphy (Chairman)	Christopher Hayward
Marianne Fredericks (Deputy Chairman)	Michael Hudson
Alex Bain-Stewart	Deputy Jamie Ingham Clark
Deputy John Barker	Graham Packham
Sophie Anne Fernandes	Judith Pleasance

### In Attendance

Gemma Stokley	-	Town Clerk's Department
Carl Locsin	-	Media Officer
Jenny Pitcairn	-	Chamberlain's Department
Paul Chadha	-	Comptroller and City Solicitor's Department
Jon Averbs	-	Port Health & Public Protection Director
David Smith	-	Director of Markets and Consumer Protection
Peter Davenport	-	Licensing Manager
Superintendent Simon Douglas	-	City of London Police
Superintendent Helen Isaac	-	City of London Police

#### 1. APOLOGIES

Apologies for absence were received from Keith Bottomley, Emma Edhem, Chris Punter and James Tumbridge.

#### 2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

There were no declarations.

#### 3. PUBLIC MINUTES

The public minutes of the meeting held on 26 October 2016 were considered and approved as a correct record.

#### MATTERS ARISING

##### **Licensing Act 2003: Review of Statement of Licensing Policy (page 2) –**

The Town Clerk reported that the January 2017 meeting of the Court of Common Council had now formally approved the revised Statement of Licensing Policy put forward by the Committee.

**Interim Report on Police Spend of Late Night Levy –** The Deputy Chairman questioned why the Police didn't utilise the CCTV vehicles already owned by the City when looking to tackle violent crime. The City of London Police

reported that a new Chairman of the City's Violent Crime Steering Group had recently been appointed and that this matter had already been raised with him. The Police were keen to take a holistic view on this in terms of counter terrorism efforts as well as tackling violent crime and other objectives. It was recognised that this would be a complex project and that the size of vehicle and other aspects would need to be scoped out but the Committee were assured that Levy funds had already been earmarked to progress this and that the concept was well supported.

**Tackling Violent Crime (page 5)** - In response to a question, the Chairman reported that a further item regarding violent crime in the City would now feature on the agenda for the next Licensing Committee meeting to enable more detailed discussion around the issues previously raised by the City of London Police.

#### 4. **MINUTES OF LICENSING HEARING (SUB)**

##### 4a **ENOTECA**

The Committee received the public minutes and decision notice of the hearing regarding 'Enoteca (St Pauls) Limited', 60 Fleet Street, EC4Y 1JU, held on 12 January 2017.

**RECEIVED.**

##### 4b **SIMMONS BAR**

The Committee received the public minutes and decision notice of the meeting regarding 'Widegate Street Bar Limited', 20-21 Widegate Street, E1 7HP, held on 12 January 2017.

A Member, who had also served as Chairman for this particular Licensing Hearing, noted that there were a number of complaints listed against this premises and that these were detailed in today's Committee papers (at agenda Item 12). He suggested that this information should have been made available to the Panel before the Hearing and asked that all future Hearing Panels receive similar information where it exists going forward.

The Deputy Chairman commented that she was surprised to learn that Environmental Health Officers had chosen to make no representations in this case. She added that she was also surprised to see that the Applicant's Solicitor had submitted additional paperwork that appeared to comment on the personal circumstances and state of mind of one of the individuals making representations. She stated that she found this extremely inappropriate and of no relevance to the Panel's considerations.

The Member who had chaired this hearing clarified that he had made all parties aware of the relevant issues throughout the meeting. He also confirmed that Officers from the City's Environmental Health Team were present at the hearing

and, at no point, made any comment. The Port Health & Public Protection Director confirmed that Environmental Health Officers and all other responsible authorities were notified of forthcoming hearings and always made representations where these were considered necessary.

With regard to complaints received against premises, the Licensing Manager cautioned that these were not always justified. Members recognised this but stated that it would, nevertheless, be advantageous to be made aware of all complaints lodged against any premises that was the subject of a Licensing Hearing alongside details of how these were dealt with and what conclusions had been drawn from them (e.g. whether these were deemed to be unsubstantiated or vexatious). In response to a question from the Chairman, the Comptroller and City Solicitor confirmed that it would not be prejudicial for the Hearing Panel to receive this information going forward.

#### **RECEIVED.**

#### **4c MADISON**

The Committee received the public minutes and decision notice (tabled) of the meeting regarding 'Madison', One New Change, London EC4M 9AF, held on 24 January 2017.

The Chairman, who had also chaired this particular hearing, confirmed that there had been a lot of negotiation between parties prior to the hearing and that a number of agreements had been reached as a result. He informed the Committee that it was very clear that the premises owners/management took the matter very seriously and it was made very clear to all who attended the hearing that the City of London Police and Licensing Team would be monitoring the premises very closely to look for evidence of significant improvements going forward. It was noted that the premises had not encountered any issues over the busy Christmas period.

A Member, who had also sat on this hearing panel, drew Members' attention to the fact that the Panel had decided to add Model Condition MC03 (re: keeping an incident log at the premises) to the premises licence. He suggested that this might be good practice for all licensed premises, particularly for those premises operating as 'chains' where there was a degree of separation from central management. The Deputy Chairman highlighted that the Code of Best Practice highlighted a number of measures that premises might like to have in place voluntarily (including the keeping of an incident log). The Chairman reminded the Committee that they were only able to impose conditions considered to be both necessary and appropriate on a licence.

A Member expressed concern at the large catalogue of serious incidents that had taken place at the venue and questioned why it had taken the City of London Police so long to flag these. He questioned whether the Police had

been over tolerant in this case. The Deputy Chairman highlighted that the Police needed sufficient time to gather evidence before a review could be requested. They could also only call for a licence review once a year. The City of London Police went on to confirm that they had initially met with the premises management in October 2015 to discuss their concerns. During the 2015/16 festive period some improvements were made and no incidents were reported at the venue. Throughout the course of 2016, the situation deteriorated significantly leading to the Police decision, in July 2016, to begin to gather evidence for a review. It was noted that matters at the venue continued to worsen from July 2016, culminating in perhaps the most serious of the incidents logged on Halloween 2016.

The Deputy Chairman went on to highlight that the crux of the problem with this premises seemed to be around capacity and the outside, terrace area. She flagged that this was also a matter for the Planning and Transportation Committee and asked that, where relevant, they note these points. She stated that she was pleased to see that the venue capacity had now been reduced but expressed concern that premises management had suggested that they were unaware of the issues at this venue prior to the review.

The Chairman informed Members that the landlord of 1 New Change would now also be working with the premises regarding security staff and entry up to the terrace area, it was made abundantly clear to all involved that the premises would be the subject of further review should there be a repeat of any issues.

## **RECEIVED.**

### **5. APPOINTMENT OF CHAIRMEN OF SUB-COMMITTEES**

The Committee considered a resolution of the Policy and Resources Committee concerning the appointment of Chairmen of Sub Committees.

The Town Clerk confirmed that, for the purpose of this Committee, this convention would apply only to the Reference Sub Committee as it was not relevant to the appointment of Hearing Panels and Hearing Panel Chairmen.

The Chairman highlighted that he believed that this was intended to allow the Committee more flexibility in terms of the chairing of its Sub Committees going forward if required.

A Member commented that some Committees had already made it clear that they were strongly opposed to endorsing this convention as it was viewed by some as an unnecessary political move.

Another Member commented that each Committee and Committee Clerk seemed to be interpreting and presenting the resolution differently and suggested that this should therefore be referred back to the Policy and Resources Committee for further context and clarity before this Committee took

a firm view either way. Other Members were supportive of this approach and questioned the origins of this resolution and why those Committees that were now being asked to endorse the convention had not been privy to the original report presented to the Policy and Resources Committee on this matter.

**RESOLVED** – That, the resolution be referred back to the Policy and Resources Committee and that further clarity on this be sought before the Licensing Committee were asked to take any further decision on the matter.

6. **TERMS OF REFERENCE AND FREQUENCY OF MEETINGS**

The Committee considered a report of the Town Clerk regarding their Terms of Reference and frequency of meetings.

The Town Clerk drew Members' attention to paragraph (b) of the Committee's existing Terms of Reference. She reported that both the Markets and the Port Health and Environmental Services Committee had requested that the wording regarding the appointment of the Director of Markets and Consumer Protection (which currently read that each of the relevant Committees would work 'in consultation' with one another on this task), should be amended to read that they would, instead, be 'acting jointly' on the matter. It was hoped that this amendment would make it clear that none of the three Committees involved in the appointment process took priority over the other.

The Committee were supportive of this amendment.

**RESOLVED** – That,

- a) the Terms of Reference of the Licensing Committee be amended for submission to the Court, as follows:

To be responsible for:-

- (a) the appointment of the Director of Markets and Consumer Protection (~~in consultation~~ acting jointly with the Port Health and Environmental Services and Licensing Committees); and
- b) Members agree that the Committee continue to meet four times per annum.

7. **APPEALS AGAINST LICENSING (HEARING) SUB COMMITTEE DECISIONS**

The Comptroller and City Solicitor reported that there had been no appeals since the Committee's last meeting in October 2016.

The Comptroller and City Solicitor reported that, to date, no appeals against Licensing Hearing Sub Committee decisions had been made. He reported that the decisions reached at the last three Licensing Hearings were, however, still within the 21 day appeal period.

8. **REVENUE BUDGETS 2017/18**

The Committee considered a joint report of the Chamberlain and the Director of Markets and Consumer Protection detailing the revenue budgets they oversee and seeking approval to the latest revenue budget for 2016/17 and provisional revenue budget for 2017/18 for subsequent submission to the Finance Committee.

The Chamberlain reported that the increase of £19,000 referred to in the report was for existing Environmental Health costs in relation to massage and special treatment licences. She clarified that, although this had not previously been included in the budget, there was effectively no material change and that the inclusion of this sum now balanced income and expenditure on this item.

**RESOLVED** – That, Members:

- Approve the latest 2016/17 revenue budget for submission to the Finance Committee;
- Approve the provisional 2017/18 revenue budget for submission to Finance Committee; and
- Authorise the Chamberlain, in consultation with the Chairman and Deputy Chairman, to revise these budgets for changes in respect of the Late Night Levy and of recharges.

9. **SEX ESTABLISHMENTS - ANNUAL REVIEW OF FEES 2017/18**

The Committee considered a report of the Director of Markets and Consumer Protection regarding an annual review of fees for Sex Establishments.

The Chairman reminded the Committee that they were legally required to set and review fees for Sexual Establishments.

A Member suggested that the proposed 10% increase in fees on previous years was not a small increase but a fairly large marginal increase. He asked for some justification of this.

In response to a question regarding the decision of the Supreme Court which was later upheld by the European Court as referred to in the report, the Licensing Manager reported that this ruling effectively allowed Licensing Officers to now charge for the enforcement of unlicensed premises.

The Licensing Manager went on to state that it had now been some time since the Committee had had a policy on Sex Establishments and suggested that this should be revisited in the next 12 months. In response to questions, the Licensing Manager informed Members that Sex Entertainment Venues were primarily what was colloquially referred to as 'lap dancing' venues whereas Sex Establishments also included Sex Shops and Sex Cinemas.

The Licensing Manager confirmed that there were currently no Sex Establishments in the City.

**RESOLVED** – That, Members agree the proposed fees for 2017/18 as set out in Appendix 1.

10. **GAMBLING - REVIEW OF ANNUAL FEES FOR 2017/18**

The Committee considered a report of the Director of Markets and Consumer Protection regarding the proposed fees associated with the Gambling Act for 2017/18.

**RESOLVED** – That, members approve the proposed fees for 2017/18 as set out in Appendix 1.

11. **LATE NIGHT LEVY - 12 MONTH REPORT (1 OCT 2015 - 30 SEP 2016)**

The Committee considered a report of the Director of Markets and Consumer Protection looking at the second year of operation and details of the number of premises that are paying the Levy, the income collected and how that money has been spent to date.

The Licensing Manager reminded the Committee that they had considered a similar report last year. He drew Member's attention to the Levy income (£296,000) and expenditure (£237,000) forecasts to the end of March 2017 as detailed in the report. This equated to an under spend of approximately £60,000. Part of this (around £20,000-30,000) was attributable to the fact that the planned Alcohol Recovery Unit planned for the 2016 festive period had not been established by the London Ambulance Service although it was hoped that this could be revisited for 2017.

The Licensing Manager went on to highlight that details of the City of London Police's Levy expenditure was detailed in the appendix to the report.

The Licensing Manager highlighted that it was now recommended that future annual reports now also provide Members with some detailed, statistical, information on the effects of Levy spending to enable the Committee to make decisions regarding any future spend based on this.

The City of London Police stated that additional Levy funds had been extremely useful to them in terms of being able to provide additional resources at key times.

The Deputy Chairman reported that she had received much feedback to suggest that levy funding that had been utilised for additional street cleansing had offered a lot of comfort to businesses and residents in key, night time economy, areas within the City. She went on to refer to an initiative in Clapham known as the 'Clapham Hub' which operated from a Methodist Church every Friday and Saturday evening and was staffed by volunteers and the London Ambulance Service to offer a 'safe' place and basic medical treatment to those who were injured, drunk or had found themselves separated from their group of friends. She questioned whether there might be scope for a similar venture in

the Bishopsgate/Liverpool Street area at key times. The City of London Police undertook to look into this and report back.

**RESOLVED** – That, Members:

1. Agree that expenditure of the Levy continue in the areas set out in paragraph 15 with continued exploration into areas where the night time economy, within the scope of paragraph 13, may benefit from use of Levy income;
2. Agree that the final allocation of the Levy, apportioned for use by the City Corporation, is to be decided by the Chairman and Deputy Chairman of the Licensing Committee in consultation with the Director of Markets and Consumer Protection; and
3. Require that Officers prepare an annual account of the operation and effect of the Levy which is to be reported to the Licensing Committee.

**12. DELEGATED DECISIONS OF THE DIRECTOR OF MARKETS AND CONSUMER PROTECTION PERTAINING TO PREMISES LICENCES**

The Committee received a report of the Director of Markets and Consumer Protection detailing the premises licences, and variations to premises licences, granted under the Licensing Act 2003 by the Licensing Service from 1 October 2016 to 31 December 2016.

A Member requested that instead of stating that there was ‘no action possible’ with regard to a complaint, future reports should record where complaints were deemed to be unjustified or unsubstantiated. The Port Health & Public Protection Director stated that he would instruct the Environmental Health Pollution Team to add this detail to all future reports.

With regard to the list of conditions applied to Licences granted by way of Delegated Authority, the Deputy Chairman expressed concern at the fact that the Police Licensing Team were able to insist on a condition whereby no promoted events could be held at a premises save for where prior written agreement had been obtained from them without any Member consultation or formal hearing. She went on to state that she felt that it would also now be timely for the Committee to review its Model Condition regarding promoted events including its definition of promoted events. The Chairman agreed that this should be brought to the Committee for future, formal consideration.

The City of London Police stated that they tended to look at the likely offerings of any premises and negotiate any appropriate conditions based on this. The Committee were reminded that promoted events were significant for the Police in that they tended to result in the most violent incidents they had to deal with and that adequate control of these was crucial to the control of disorder in the City as a whole.

The Deputy Chairman went on to propose that the Committee should seek to undertake a review of all of its current Model Conditions as a whole rather than

looking at the condition regarding promoted events in isolation. She stated that it was good practice to review this document cyclically. The Chairman called for a formal vote on this to ascertain how many Members would be supportive of the Committee reviewing the Model Licensing Conditions in their entirety. The results of the vote were as follows:

**FOR:** 1 vote

**AGAINST:** 9 votes

**RECEIVED.**

**13. QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions.

**14. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no additional, urgent items of business for consideration.

**15. EXCLUSION OF THE PUBLIC**

**RESOLVED** - That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act.

**Item No(s).**

16-17

**Paragraph No(s).**

3

**16. NON-PUBLIC MINUTES**

The non-public minutes of the meeting held on 26 October 2016 were considered and approved as a correct record.

**17. DELEGATED DECISIONS OF THE DIRECTOR OF MARKETS AND CONSUMER PROTECTION PERTAINING TO PREMISES LICENCES - NON PUBLIC APPENDIX**

The Committee received a non-public appendix to Item 12 on the agenda providing Members with details of those premises obtaining sufficient points on the Risk Scheme to reach red or amber for the period 20 June 2016 to 30 September 2016.

**18. NON PUBLIC QUESTIONS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions raised in the non-public session.

**19. ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREE SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

There were no additional, urgent items of business for consideration in the non-public session.

**The meeting ended at 3.00 pm**

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Chairman

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