# LICENSING COMMITTEE

## Monday, 11 July 2016

Minutes of the meeting of the Licensing Committee held at Committee Room - 2nd Floor West Wing, Guildhall on Monday, 11 July 2016 at 1.45 pm

**Present**

**Members:**

Peter Dunphy (Chairman)
Marianne Fredericks (Deputy Chairman)
Alex Bain-Stewart
Deputy John Barker
Emma Edhem
Sophie Anne Fernandes
Michael Hudson
Deputy Jamie Ingham Clark
Graham Packham
Chris Punter
James Tumbridge

**In Attendance**

**Officers:**

| | | |
|---|---|---|
| Gemma Stokley | - | Town Clerk's Department |
| Jenny Pitcairn | - | Chamberlain's Department |
| Paul Chadha | - | Comptroller and City Solicitor's Department |
| Peter Davenport | - | Licensing Manager, Markets & Consumer Protection Department |
| Superintendent Paul Clements | - | City of London Police |
| Inspector Simon Douglas | - | City of London Police |

1. **APOLOGIES**
   Apologies for absence were received from Christopher Hayward and Judith Pleasance.

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 27 April 2016 were considered and approved as a correct record.

4. **MINUTES OF LICENSING HEARING (SUB)**
   The Committee received the minutes of the Licensing Hearing meeting for 'Disappearing Dining Club Limited' held on 2 June 2016.

   The Chairman reported that this was an application for a new premises licence which had been refused - something which was relatively rare for the City Corporation. The Chairman went on to report that the deadline for appealing

this decision had now passed and that, to date, the Comptroller and City Solicitor had not been notified of any intention to appeal.

The Comptroller clarified that it was, however, possible that the applicant might have notified the Magistrates' Court of their proposal to appeal and that there might be some delay in the Magistrates' Court notifying the Comptroller of this.

**RECEIVED.**

5. **REVENUE OUTTURN 2015/16**
The Committee received a joint report of the Chamberlain and the Director of Markets and Consumer Protection comparing the revenue outturn for the services overseen by the Licensing Committee in 2015/16 with the final budget for the year.

**RECEIVED.**

6. **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 April 2016.

7. **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 April 2016 to 19 June 2016.

In response to a question regarding the new licence application from Smiths of Smithfield, the Licensing Manager reported that this was a new application for a new licence in a new area as far as he was aware.

With regard to Enforcement Action carried out under the Licensing Act 2003, the Deputy Chairman requested that Members have sight of the warning letters issued in future. The Licensing Manager reported that he was happy to circulate copies of all warning letters issued to members of the Licensing Committee ahead of future Committee meetings.

A Member questioned the new licence issued for the proposed development site at 27-32 Poultry and why this application had been made so early in the process. The Licensing Manager responded by stating that it was becoming increasingly common for applications to be submitted many months before trading was due to commence. He clarified that, as no objections had been received, this licence was now valid. The Chairman clarified that this was the old Midland Bank site and would now be converted to hotel use. He highlighted that certain conditions had been applied to the licence granted and that these were set out in full within the report.

The City of London Police confirmed that they had met at length with the future operators of the premises who had agreed that no promoted events would be

held on the premises. They had also offered to work with the City of London Police at the earliest opportunity. The City of London Police were therefore not concerned by the granting of this licence.

**RECEIVED.**

8. **LICENSING ACT 2003: REVIEW OF STATEMENT OF LICENSING POLICY**

The Committee considered a report of the Director of Markets and Consumer Protection regarding a review of the Statement of Licensing Policy and a timescale for consultation and publication.

The Licensing Manager reported that although the document was not statutorily due for review until 2018, many legislative changes and changes in the Corporation's own policies and procedures had led to a complete re-write of the existing document. He added that the idea was that the revised document would be a useful working document for the public, members and potential applicants alike. Members were informed that new sections on licensing hours, the late night levy, cumulative impact and Temporary Event Notices had been added to the revised document.

The Licensing Manager went on to report that it was proposed that consultation on the revised document commence next week for a period of 8 weeks before bringing the amended version to the October Licensing Committee for approval and then to the Court of Common Council in December 2016 for final sign off.

With regard to the section of the document entitled 'Enforcement and other Legislation', sub-heading 'Planning', the Licensing Manager responded to a question by stating that officers felt that it was necessary to underline that Licensing and Planning are two separate regimes within the revised document. He added that if Licensing officers were aware that if an applicant did not yet have planning permission they would write to them to inform them that they would not be able to carry out any licensable activity without this. He clarified that Licensing and Planning applications could be made in any order.

A Member commended officers on the revision of the document. He went on to question if a glossary and a list of acronyms could also be attached to the new document which would hopefully lead to a better understanding of the regime as a whole. The Licensing Manager agreed that this would be a useful addition.

A Member questioned if Members could be provided with a Word document detailing all of the changes made to the previous version as well as copies of all of the other policies referred to within the new document. Another Member also requested that the Committee be provided with a list of the major legislative changes that had driven this early revision to the document.

The Deputy Chairman suggested that the City Corporation's policies on Tables and Chairs and Sexual Entertainment Venues should also be appended to the revised document for completeness and ease of reference.

The Chairman reported that he would be tasked with finalising the foreword for the revised document although he stated that he would welcome the wider Committee's input in this area. He stated that his intention was to use the foreword to set out what the City's Licensing regime were hoping to achieve as well as what they were looking to avoid and prevent. He wanted to set out a positive message as to why the City had a Licensing Policy.

The Deputy Chairman supported this positive slant and went on to suggest that the foreword should also be used to 'talk up' the City's night time economy and its importance to the area. It should also clearly set out what was expected of licenced premises within the City and celebrate the City's relationships with its partners such as the City of London Police, the London Fire Brigade and licence holders.

The Deputy Chairman stated that she would also like to see outside drinking, noise and dispersal mentioned within the revised document with licence holders also encouraged to clean up outside their premises. She was keen that this should be mentioned in the foreword and then be a common thread throughout.

The Chairman welcomed the Committee's initial thoughts on the revised document and suggested that any further comments Members might have during the consultation period be put directly to the Licensing Manager.

**RESOLVED –** That Members:

- Agree the draft Licensing Policy for consultation; and
- Agree the timetable and methodology to determine the final text and adoption of the Statement of Licensing Policy.

9. **LATE NIGHT LEVY - INTERIM REPORT**

The Committee considered a report of the Director of Markets and Consumer Protection detailing the income collected from the Late Night Levy to date, and forecast to be collected over the next nine months, covering a total period of thirty months. The report also considers areas for future expenditure.

The Chairman reminded Members that they had requested this level of detail on the Late Night Levy income and expenditure at the last meeting of the Licensing Committee. The Licensing Manager reported that it was forecast that a total of £292,000 would have been collected and apportioned to the City Corporation by March 2017. Of this, £177,000 (£84,000 in 2015/16 and £93,000 in 2016/17) had been spent or was programmed to be spent by the end of March 2017, leaving a total of £115,000 unspent. The Licensing Manager went on to remind Members that funds collected from the Late Night Levy could only be spent in specific areas and had to be shown to benefit those premises open after midnight.

The Committee were informed that final spend decisions would be taken by the Chairman and Deputy Chairman of the Licensing Committee alongside the Director of Markets and Consumer Protection. However, there were some suggestions for future expenditure within the report for discussion.

A Member expressed concern that questions he had posed on the Late Night Levy at previous meetings of the Licensing Committee had not been answered. He referred to the formula for Levy reduction featured within the legislation and guidance for the Levy. He added that he had expected to see this referred to within a written report alongside Officer's views on what the City Corporation could and could not do around this. Other Members questioned whether the formula was directory or mandatory. Another Member questioned whether those premises that were open beyond midnight for only five nights per week could be charged proportionately (e.g. 5/7 of the full Levy fee). The Licensing Manager reiterated that there was no flexibility around the amount charged under the Levy as this was nationally prescribed and based on the premises' rateable value. He added that, at present, the Levy had to apply across the whole of the Local Authority area although this was currently being looked into by the Home Office as was the number of premises who might be exempt from paying the Levy. The Licensing Manager went on to report that, as far as he was aware, any reduction in the Levy was only due to premises leaving or joining the scheme during the Levy year. The Licensing Manager stated that he was happy to clarify these points and provide Members with a fuller response on this matter. The Chairman added that, regardless of any discounts that may or may not be possible, the City's current underspend on Levy funds still stood. He clarified that any possible discounts would not be applied retrospectively.

The Deputy Chairman added that the only discount available on the Levy was a 30% reduction for those who met the criteria of the Safety Thirst Scheme. She added that this seemed to be a good approach and encouraged licence holders to talk to and co-operate with the Licensing Team.

With regard to possible future expenditure, Members stated that they were not convinced that there was a continuing need for taxi marshalling with the availability of services such as 'Uber' and the forthcoming introduction of the Late Night Tube. The suggestion of the City contributing Levy funds to part funding an Alcohol Recovery Centre was widely supported by the Committee. Members were of the view that Option 3 detailed in the report - funding 13 nights at £65,000 (Thursday and Friday every week in the month leading up to Christmas and New Year, except in the final week before Christmas where this would be available every weekday).

Members went on to discuss the possibility of funding some of the projects planned by 'Club Soda' following a presentation to the Licensing Committee at its last meeting. Some Members sought reassurance as to whether Levy funds could legitimately be spent on this project. Some Members felt that this was worth exploring. Other Members stated that they were not convinced that using Levy funds to promote Club Soda would be appropriate. Instead, it was suggested that Officers might consider how to promote and engage with the project in other ways and where funding for this might be drawn from.

A Member reported that, at recent City residents' meetings, many had voiced concerns about street cleansing in the aftermath of late night drinking. He

therefore questioned if additional funding could be given to cleansing to extend the scope of the existing scheme.
The Deputy Chairman supported this suggestion. She reported that, at present Levy funding was only used for street cleansing from Thursday-Sunday each week. There would be merit in looking to extend this and requesting proposals from the Cleansing Team as to what more could be done and at what cost. Members delegated authority to the Chairman and Deputy Chairman of the Licensing Committee alongside the Director of Markets and Consumer Protection to ascertain the details of any possible future expenditure in this area before committing to this.

The Deputy Chairman went on to suggest that funding for Club/Promoted Events training in an attempt to introduce a benchmark or suitable qualification might be considered.

A Member commented that, if the City Corporation were having difficulties spending their share of the Levy funds, consideration could be given to increasing the 70% of funds currently apportioned to the City of London Police as this was only the minimum recommended amount.

The Deputy Chairman went on to state that the Committee would welcome clarity from the City of London Police as to how their portion of the Levy funds were being spent and the governance process around this - how much influence did Licensing Police Officers have over where the money was spent for example? The Chairman requested a written report setting out this information to the next meeting of the Licensing Committee. The City of London Police agreed to produce this report. In light of such a report, the Committee might look to increase the portion of the Levy funds attributed to the City of London Police going forward.

The Licensing Manager reported that, if the percentage of Levy funds currently attributed to the City of London Police were to be increased, this would require a change to the current Policy and would also need to be the subject of public consultation.

In response to final questions, the Licensing Manager reported that no Levy funds were currently being spent on taxi marshalling and that no funds were being contributed to the running of the Safety Thirst Award Scheme at present.

The Chamberlain confirmed that the current surplus in levy funds had been accumulated over a two and a half year period. Assuming that the Committee agreed to continue to fund all that they were currently funding, the on-going surplus would amount to approximately £33,000.

**RESOLVED:** That Members:

1. State their preferences as to how they would like the Levy money to be spent as follows: Additional funding for street cleansing (subject to the Chairman and Deputy Chairman alongside the Director of Markets and Consumer Protection ascertaining the amount of additional funding

required for this) and funding for the 'Club Soda' project if this were deemed suitable for Levy funding;

2. State that they would like to support 'Option Three' for funding the Alcohol Recovery Centre (ARC) for 13 nights at £65,000 (Thursday and Friday every week in the month leading up to Christmas and New Year, except in the final week before Christmas where this would be available every weekday).
3. Agree to delegate authority to the Chairman and Deputy Chairman of the Licensing Committee and the Director of Markets and Consumer Protection in consultation with the Town Clerk to finalise decisions around any future Levy spending.

10. **SAFETY THIRST - VERBAL UPDATE**

The Licensing Manager reported that 57 applications had been received to date. It was not expected that more than 60 would be received in total.

The Committee were informed that 34 assessments had been completed to date. Of these, 32 had met the Safety Thirst Scheme criteria. One applicant had withdrawn from the process and there were still 22 outstanding assessments to be completed.

The Licensing Manager concluded by reporting that the number of applications received, that had met the Safety Thirst scheme criteria was up on those received in the previous two years.

Members were informed that the date of this year's Safety Thirst Awards ceremony would be Tuesday 18 October 2016 from 3.00pm.

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

**Peanut Sellers on Bridges**

The Deputy Chairman questioned action that could be taken against peanut sellers on the Thames bridges. She added that effectively deterring these sellers would require a co-ordinated effort from Environmental Health, the Police, the London Fire Brigade (given that the sellers were in possession of gas cylinders) and Licensing Officers. She added that numerous residents and businesses continued to raise this as a major issue and were getting increasingly frustrated at what they perceived to be a lack of action taken.

The Deputy Chairman added that, as Westminster cracked down on this issue, the sellers seemed to have an increasing presence in the City.

In response to questions around what action could be taken against the sellers, the Comptroller and City Solicitor reported that, as this was a Level 3 offence, it could carry a fine of up to £1,000, the carts could be destroyed and, if individuals persisted to offend, the authorities could seek an injunction.

The Deputy Chairman requested that a written report on illegal trading be produced for the next Licensing Committee meeting and that this feature regularly on the agenda in order to allow Members to monitor the situation.

The Licensing Manager clarified that street trading was the responsibility of the Port Health & Environmental Services Committee. Members commented that this Committee had previously seen updates on ice cream sellers and felt strongly that street trading matters should be reported to all relevant committees to ensure sufficient oversight of the matter.

The Chairman and Deputy Chairman undertook to discuss this matter further with the Director of Markets and Consumer Protection to ascertain what future reporting lines on 'street trading' might be.

The Licensing Manager reported that Licensing Officers had responsibility for enforcing Street Trading and that they had been working alongside the City of London Police to address this matter. The City of London Police confirmed this and reported that, at present, there was increased focus on unlicensed gamblers on the bridges. The City of London Police went on to report that seven arrests had taken place on the bridges only yesterday and therefore reassured the Committee that this matter was in hand.

12. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**
There were no additional, urgent items of business for consideration.

13. **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. | Paragraph No(s). |
|---|---|
| 14 | 1, 3 & 5 |
| 15 | 1 |

14. **NON-PUBLIC MINUTES**
The non-public minutes of the meeting held on 27 April 2016 were considered and approved as a correct record.

15. **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 7 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 1 November 2015 to 30 April 2016.

16. **NON PUBLIC QUESTIONS RELATING TO THE WORK OF THE COMMITTEE**
There were no questions raised in the non-public session.

17. **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 3.12 pm**

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Chairman

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