



Licensing Committee Minutes

Tuesday 26 October 2021

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Sue Macmillan, David Morton, Zarar Qayyum, Frances Stainton and Matt Uberoi

2. ROLL-CALL AND DECLARATIONS OF INTEREST

Present: Councillors Natalia Perez (Chair), Fiona Smith (Vice-Chair), Wesley Harcourt, Asif Siddique, Dominic Stanton and Matt Thorley

Councillor Matt Thorley declared an interest in relation to a premises mentioned in the exempt agenda.

Councillor Dominic Stanton declared an interest in relation to a premises mentioned in the exempt agenda.

Officers: Adrian Overton, Licensing Policy & Enforcement Manager, Lisa White, Licensing Administration & Enforcement Manager, Cristina Perez-Trillo, Licensing Enforcement Officer, Jane Astbury, Interim Chief Solicitor Planning and Property, Gerta Kodhelaj, Senior Solicitor and Charles Francis, Committee Coordinator.

Responsible Authorities: Tom Stewart and Ben Chadwick, Metropolitan Police

3. OPEN MINUTES OF THE MEETING HELD ON 15 FEBRUARY 2021

The OPEN minutes of the meeting held on 15 February 2021 were agreed as an accurate record.

4. ANNUAL LICENSING COMMITTEE REPORT APRIL 2020 TO MARCH 2021

Adrian Overton, Licensing Policy & Enforcement Manager, introduced the members of the Licensing Team to the Committee. He also highlighted that Tom Stewart and Ben Chadwick from the Metropolitan Police were in attendance.

He explained the presentation would cover a range of topics, including the Council's (Licensing) response to the pandemic, although this update would not be as detailed as the one provided in February 2021.

Covid-19 – Licensing Service Update

Adrian Overton, Licensing Policy & Enforcement Manager, explained that at the start of the pandemic all Licensing Sub-Committees were suspended. Meetings were then moved online several months later with great success (with improved resident engagement) and it was hoped these could continue in this way. Although the vast majority of Licensing activities were provided online, personal licence applications still required passport photos to be submitted which meant these could not be processed virtually.

During the pandemic, new procedures and processes were created such as the drafting and process for signing licences. Enforcement activities were conducted by drive-by inspections to establish whether premises were operating in contravention of Covid legislation.

Adrian Overton confirmed that enforcement became more complex when the tiered regulations were imposed, and new legislation had to be digested by the Service and communicated to licence holders in a concise way. He confirmed that parties that had ignored repeated warnings were issued with fixed penalty notices and prohibition notices. It was also noted that Hammersmith and Fulham set a precedent as the first Licensing Authority, nationally, to revoke a licence for Covid-19 offences. He explained that Covid legislation had now been removed and the focus of the Service had shifted to assisting businesses as they tried to adapt to new economic climate, which included risk assessing new business ventures.

Key Statistics highlighted in the report

Lisa White, Licensing Administration & Enforcement Manager, drew the Committee's attention to some of the key statistics in relation to the Licensing Act 2003 – alcohol, late night refreshment and entertainment premises as follows:

- Currently 951 licensed premises and 3687 personal licences across the borough.
- 2020/21 – dealt with 756 applications, compared to 1589 in 2019/20 – a 53% reduction (mainly due to temporary event notices)
- 43% increase in premises licence applications for 2020/21 despite being in and out of numerous lock downs
- Slight decrease in the number of gambling premises – 32 in 2019/20 to 30 in 2020/21
- 121 active permits and small lottery
- The number of scrap metal sites and sex establishments have remained unchanged

Financial Management

In terms of the Financial Management for the period 2020/21, Lisa White explained that the total income was £307,900 which represented a decrease on the previous year which was mainly caused by a decrease in the application fees generated from temporary event notices.

Total licensing debt in March 2021 was £18,215, which although not good, was only a modest increase on the previous year, given the constraints the entertainment and hospitality sectors were operating under during 202/21. It was noted that 228 suspension notices were issued which was approximately the same number as the previous period.

Inspection and Enforcement

Adrian Overton provided an overview of the inspection and enforcement activities for the period 2020/21. He explained that the Enforcement Team investigated a wide range of complaints stemming from sources such as residents, councillors, local businesses and government departments. It was noted that the Team actively worked in partnership with the Police following instances of crime and disorder in the immediate vicinity of licensed premises.

He explained that the collaborative approach to enforcement was exemplified in the fortnightly Licensing Action Group meetings which all responsible authorities were invited to. Adrian reiterated that during 202/21, the Team had mainly focused on Covid compliance and had made 392 visits.

Cristina Perez-Trillo, Licensing Enforcement Officer, confirmed that since Covid restrictions had been removed, the Team had received an increased number of residential complaints, mainly related to customer noise. The Team were conscious that the necessity of home working meant they needed to be mindful of this and advise operators accordingly. Cristina also highlighted that part of her enforcement role also focused on developing good channels of communication between operators, residents and the Authority so that if issues arose, these could be addressed quickly and effectively.

The Cumulative Impact Policies in Fulham and Shepherd's Bush

Adrian Overton confirmed that the Licensing Service was due to carry out a review of both policies in 2020 to assess the evidence for the renewals of both policies. However, this did not occur due to Covid-19 restrictions.

It was noted that a consultation on the removal of the policies and possible evidence gathering for new policies had now taken place. This showed there was strong support for the existing policies with the caveat that evidence gathering was delayed until 2022. The original intention was for both CIP policies to be removed from the Council's Annual Statement of Licensing Policy at Full Council on 20 October 2021, however, it was agreed to delay this decision until Full Council in January 2022.

Adrian Overton set out the options of either beginning a short evidence gathering session over the winter months or delaying this until the spring of 2022. He highlighted that the evidence for both policies had already lapsed and that in the interim, the Authority had been reliant on Section 182 guidance to inform its decision making without specific CIP policies in place. Adrian confirmed that no appeals had been received during this period.

Gambling Policy

Adrian Overton provided an update. It was noted that a new policy had not yet been approved by Full Council. Members confirmed the Authority would maintain its no casinos resolution and there was widespread agreement that Adult Gaming Centres (AGCs) should be limited to 11pm. Adrian confirmed that the Service was also looking to further reduce AGC operating hours to 10pm and a decision would be taken at the January 2022 Full Council meeting.

Licensing Policy

Adrian confirmed that the Council's Statement of Licensing Policy was due to expire in July 2022 and the Service was looking to shift its focus to what activities were permitted rather than merely list all those which were prohibited. Innovations included offering free pre-application advice to small businesses which hoped to provide entertainment and working with the London night czar to promote and support a 24-hour borough in London. Details and timelines were also provided for consultation pertaining to the renewal of the policy.

Questions?

Adrian Overton asked the Committee its views on the following questions: 1. whether officers should delay the evidence gathering for new CIP areas, and 2. If AGCs should close at 11pm (or look for additional evidence to shut these at 10pm)?

Councillor Dominic Stanton asked officers to clarify what the current status was with regards to the policy. Adrian Overton confirmed that CIPs could be taken into account per se, but the committee could not take onto account the policies because the evidence for both CIPs had expired.

Councillor Dominic Stanton noted what officers had said about the different approaches to consulting either in the winter and the spring about CIPs and asked what the implications were? In response, Adrian Overton explained that both CIPs had expired in April 2021. In his personal view, it would be better if both CIPs were removed from the Statement of Licensing Policy to ensure applicants (for licences) were not misled, until such time that there was a robust evidence base for their reintroduction.

Given the impact of Covid, Councillor Dominic Stanton asked what lobby the Authority had undertaken to the government, to extend the evidence gathering window beyond the 3 years. In response, Adrian Overton confirmed that H&F had not conducting any lobbying, but he was aware that some had been done by Westminster Council. It was noted that several Councils had let their CIPs expire deliberately and had removed their CIP policies from their overall Licensing Policy.

Jane Astbury, Interim Chief Solicitor Planning and Property, confirmed Counsels' opinion was that it was better to wait until further information had been collected which could be put before Full Council, rather than remove the policies at this stage.

The Chair asked the Police representatives for their views on the past year. In response, PC Tom Stewart confirmed the Police had been consulted about the removal of the policies. In his view, the Shepherds Bush CIP should be in place sooner rather than later due to the high levels of crime and disorder (attributable to the off-sales of alcohol) which took place in this area. In comparison, levels had fallen in Fulham and this decision was less clear. PC Tom Stewart mentioned that several premises had approached the Police about extensions to their licensable hours in Fulham which was a reaction to the CIP not being in force. The Police confirmed that each application would be assessed on its merits and there would not be a presumption to refuse an application just because the CIP was not in place.

Moving forwards, PC Tom Stewart confirmed the close working relationship between the Police and the Council would continue and any issues which needed to be raised would be flagged at the bi-monthly LAG meetings. Sargent Ben Chadwick echoed Adrian Overton's comments and agreed there had been a national move away from Cumulative Impact Assessment policy, and since the start of the Covid period, he confirmed that LB Westminster had removed 2 of their 3 CIAs.

The Chair confirmed the Committee was content to be guided by the expertise of officers in relation to when it was best to gather the evidence for future CIPs. With regards to the closure time of AGC's, the Chair asked if there was scope to compromise on the closure time of AGCs and whether these could be closed at 10:30pm rather than 11pm or 10pm. In response, Adrian Overton explained that the Service had already done a 10-week consultation on the 11pm closure option. PC Stewart explained it was his view, that it was a positive step to ratify the reduction in hours (to 11pm) for AGCs as soon as possible rather than delay this decision. The Chair thanked the Police for this useful steer and suggested closing time.

Adrian Overton reiterated that the Service valued the views of Councillors and was always open to have discussions about current policy and its future development.

Resolved –

That the Committee notes the report and provides comments as appropriate

5. VERBAL DISCUSSION ON DEADLINES FOR LATE EVIDENCE SUBMISSIONS FOR LICENSING SUB COMMITTEE

Adrian Overton explained that recently, applicants had started to submit large volumes of evidence within hours of the start time of the Licensing Sub-Committees. To limit this from happening, the Service was seeking guidance from members for the introduction of either a 24- or 48-hours deadline for the late submission of evidence.

The Chair agreed this change would benefit future hearings and sought the Committees views on the proposal. Councillor Fiona Smith agreed a hard deadline was a good idea as many of the Committee members worked. She felt that if this was incorporated into the Council's licensing procedures, then discretion should not be used after the deadline had passed. The submission of late evidence tended to put a spotlight on certain key aspects within a hearing, whereas the application needed to be considered as a whole.

Lisa White, Licensing Administration & Enforcement Manager, confirmed that any deadline for the late submission of evidence could only be guidance, as legally, the applicant was entitled to submit late evidence. It was important to highlight that the later a party left their evidence, the greater the risk was of having the hearing adjourned.

Jane Astbury, Interim Chief Solicitor Planning and Property confirmed it had to be a fair and full process and there was an entitlement to submit late evidence. However, if members were minded to introduce late evidence guidance, there would be a hope that applicants would abide by this.

The Chair sought officers' views on what an appropriate deadline for the late submission of evidence might be. Adrian Overton and Jane Astbury's initial views were that 24 before a hearing appeared to be a reasonable timeframe.

Councillor Dominic Stanton commented that it was human nature for anyone to push a deadline as hard as they could. In view of this, he suggested 48 hours ahead of the meeting (so the committee would receive the evidence 24 hours before the hearing). Councillors Wesley Harcourt, Asif Siddique and Matt Thorley all agreed that 48 hours ahead of the meeting was preferable (but that there would be some occasions when discretion would need to be used for very late evidence).

Resolved –

That the deadline for late evidence of 48 hours before a hearing be written into the Council's Licensing procedure note (by Legal Services) as guidance.

6. POOL OF CONDITIONS - VERBAL UPDATE

Lisa White explained that following discussions with the Police, PC Tom Stewart had suggested slight revisions to four conditions in the Authorities Pool of Conditions in relation to deliveries.

The changes were to the use of refusals books and proof of age policy. Lisa White asked the Committee if it was happy to delegate these changes to officers to add weight to these conditions.

Resolved –

The Committee agreed that officers make minor amendments to the four conditions as highlighted above.

7. DISCUSSION OF EXEMPT ELEMENTS

The sub-committee agreed, under Section 100A (4) of the Local Government Act 1972, that the public and press be excluded from the meeting during the consideration of the following items of business, on the grounds that they contain the likely disclosure of exempt information, as defined in paragraph 3 of Schedule 12A of the said Act, as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

Meeting started: 6.30 pm
Meeting ended: 8.05 pm

Chairman

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