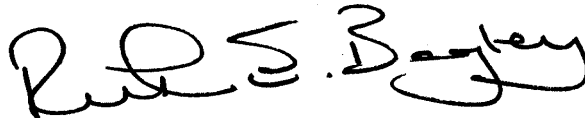


Date of issue: 18th June, 2014

MEETING	LICENSING COMMITTEE (Councillors Davis (Chair), Ajaib, Bains, Cheema, Coad, Malik, Mellor, Munawar, Rasib, Shah and Sohal)
DATE AND TIME:	THURSDAY, 26TH JUNE, 2014 AT 6.30 PM
VENUE:	SAPPHIRE SUITE 5, THE CENTRE, FARNHAM ROAD, SLOUGH, SL1 4UT
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	TERESA CLARK 01753 875018

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



RUTH BAGLEY
Chief Executive

AGENDA

PART I

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

Apologies for absence.

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

CONSTITUTIONAL MATTERS

1. Declarations of Interest

All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.

The Chair will ask Members to confirm that they do not have a declarable interest.

All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.

- | | | | |
|----|--|-------|-----|
| 2. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 | - |
| 3. | Minutes of the Last Meeting held on 16th January, 2014 | 3 - 4 | - |
| 4. | Appointment of Licensing Sub-Committee and Designated Chairs | 5 - 8 | All |

LICENSING ISSUES

- | | | | |
|----|---------------------------------------|--------|--|
| 5. | Members Attendance Record 2014/15 | 9 - 10 | |
| 6. | Date of Next Meeting - 23rd July 2014 | - | |

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.



PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Licensing Committee – Meeting held on Thursday, 16th January, 2014.

Present:- Councillors Davis (Chair), Aujla, Malik, Mittal (Vice-Chair), Munawar, Plimmer, Rasib, Shah, Sohal and Wright

Apologies for Absence:- Councillor Dhillon

PART 1

16. Declarations of Interest

None.

17. Guidance on Pre-determination/Predisposition - To note

Members confirmed that they had read and understood the guidance on Predetermination and Predisposition.

18. Minutes of the Last Meeting held on 30th September, 2013

Resolved – That the minutes of the meeting held on 30th September 2013 be approved as a correct record.

19. Licensing Act 2003: Review of Statement of Licensing Policy

The Officer outlined the report and highlighted that Appendix D contained a page error. The references to Sex Establishments and amendments to schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 could be found on page 35, not page 19.

The Committee was reminded that the Licensing Act 2003 required the Council, as the licensing authority, to prepare and publish a statement of its licensing policy every 5 years. Although the Guidance represents best practice, it was not binding on the Council and provided that the Guidance had been properly understood and considered, licensing authorities could depart from it if they had reason to do so.

Members were asked to note that the 2003 Act imposed a duty on the Council, as the licensing authority, to carry out its functions under the Act with a view to promoting the four licensing objectives. Each of these objectives were of paramount and equal importance.

The Officer advised that the regulations surrounding decisions relating to licensing matters were not the responsibility of an authority's executive and that decisions relating to the statement of licensing policy could not be delegated in such a way. The decision on whether to adopt the statement of licensing policy must therefore be taken by full Council. It was highlighted that full revisions were now to be made at 5 yearly intervals and be kept under review during that period. If a revision was conducted during the 5 years period, it would not require a further review until 5 years after the date of the publication of the revised Policy.

Licensing Committee - 16.01.14

The Committee noted that the current policy approved in 2010, took effect in January 2011 to cover the period up to 2016. A number of changes made through the implementation of wide ranging reforms to the Licensing Act 2003 had resulted in the need to bring forward a review of the Statement of Licensing Policy to ensure it was up to date. Members noted that the revised draft Policy was subject to public consultation, which started on the 31st August 2013 and ended on 30th September 2013. It was highlighted that there had been little response to the consultation, as it was generally considered that the discretion of the Council in reviewing the Policy was limited due to the close rules around how licensing authorities carried out the licensing functions.

The Officer referred the Committee to the one response set out at Appendix C and it was felt that the response did not impact upon the revised policy document, as Licensing Authorities were obliged to consult as widely as possible, including with 'cultural organisations' and religious establishments.

Following a brief discussion, the Committee agreed that the draft policy be recommended for adoption as the Council's Licensing Policy.

Resolved – That Council be recommend to resolve that the draft revised Statement of Licensing Policy 2014-2019 be adopted as the Council's Licensing Policy.

20. Members' Attendance Record

Resolved – That the report be noted.

Chair

(Note: The Meeting opened at 6.30 am and closed at 6.48 am)

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 26th June, 2014

CONTACT OFFICER: Teresa Clark (Senior Democratic Services Officer)
(For all Enquiries) (01753) 875018

WARD(S): All

PART I
FOR DECISION

ESTABLISHMENT OF A LICENSING SUB-COMMITTEE AND
APPOINTMENT OF DESIGNATED CHAIRS

1. **Purpose of Report**

This report seeks approval for the establishment of a Licensing Sub-Committee and the appointment of designated Chairs to the Sub-Committee.

2. **Recommendations**

The Committee is requested to Resolve:

- (a) That a Licensing Sub-Committee (drawn from the Members of the Licensing Committee) be established as required on a proportional basis (2 Labour 1 Conservative) with terms of reference as set out in the appendix.
- (b) That three Labour Members be appointed to act as designated Chairs of the Sub-Committee for the 2014/2015 municipal year.
- (c) That the Sub-Committee decide whether it wishes to confirm the membership/convening arrangements for the Sub Committee agreed by the Committee last year, as set out in paragraph 5.5 of the report.

3. **Community Strategy Priorities**

There are no implications.

4. **Other Implications**

(a) **Financial**

There are no financial implications associated with this report at this stage.

(b) **Human Rights Act and other Legal Implications**

The relevant law in respect of this matter is set out in Sections 15-17 (inclusive) of the Local Government and Housing Act 1989 (the Act) and the Local Government (Committees and Political Groups) Regulations 1990 (as amended). Applying the basic principles of Sections 15-17 of the Act requires not all the seats on the Sub Committee to be allocated to the same political group. However as an

alternative to applying the political proportionality rules the Committee is entitled under Section 17 of the Act to adopt different arrangements provided all of the members vote for/abstain from a proposal (ie: no member votes against).

(c) Workforce

None.

5. **Supporting Information**

- 5.1 The Licensing Committee at its meeting on 31st May, 2006 established a Licensing Sub-Committee and agreed its terms of reference as set out in the appendix.
- 5.2 The Committee agreed to the appointment of designated Chairs of the Sub-Committee and that these Members would chair the meetings of the Sub-Committee on a rota basis.
- 5.3 It was agreed that the Sub-Committee would consist of three Members to be drawn on a rota basis from the Members of the Licensing Committee on a politically proportionate basis.
- 5.4 As the Labour Group has an overall majority on the Council, the Sub-Committee should comprise two Labour Members and one Member of the Conservative Group. Although Councillor Mellor has been allocated a seat on the Licensing Committee, he is not a member of a Group on the Council and is therefore not entitled to a place on the Sub Committee. Members may be aware that meetings of the Sub-Committee are held during the day time and must be convened within the statutory deadlines prescribed. There were 6 meetings of the Sub Committee in the 2013/14 municipal year.
- 5.5 In the year 2013/14, in order to ensure that statutory deadlines were met and to assist in convening meetings of the Sub Committee, the Committee was requested to confirm whether it wished to continue with the arrangements agreed in previous years whereby the Conservative Group position on the Sub-Committee rotated between the Conservative and the (then) Liberal Democrat Member on the Committee. In the event that neither the Conservative nor Liberal Democrat Member of the Committee were able to serve on a particular meeting, the Sub-Committee would convene with 3 Labour Members. The proposal to rotate is a departure from the strict proportionality requirements and requires the Committee to agree with no member voting against the proposal. During the 2012/13 Municipal Year, 5 of the 6 Sub-Committees were convened on a 2:1 proportional basis and one was convened on a 3:0 basis.
- 5.6 The membership of the Licensing Committee for the 2014/15 Municipal Year comprises 8 Labour, 2 Conservative and 1 UKIP Member. The Committee is requested to consider whether it wishes to endorse previous arrangements which would mean that the Conservative position on the Sub-Committee would rotate with Councillor Mellor, the UKIP Member.

6. **Background Papers**

Agenda and minutes of Licensing Committee – 31st May, 2006

LICENSING SUB-COMMITTEE

Constitution

3 Members of the Licensing Committee (Quorum 3 Members)

Terms of Reference

- 1 To consider and determine applications for licences for private hire vehicles, operators and drivers and for hackney carriage drivers where:
 - (i) The individuals involved have been convicted of traffic or other offences.
 - (ii) Where CRB checks on an individual give cause for concern with regard to their suitability as a fit and proper person to hold such a licence.
 - (iii) In any other special circumstance where the officers consider it appropriate to refer the matter to the Sub-Committee.
- 2 To hear and determine any appeal against a decision of the Director of Customer and Community Services taken under delegated powers to refuse an application for approval of premises or to revoke any approval previously granted under the Marriage Act 1994.
- 3 To determine such other licensing appeals or other licensing matters referred by officers including but not restricted to:
 - Sex establishments
 - Street trading.

Licensing Act 2003

- 4 To consider applications for a personal licence where a representation has been made.
- 5 To consider applications for a personal licence in cases where the applicant has unspent criminal convictions.
- 6 To consider applications for premises licences/club premises certificates where a representation has been made.
- 7 To consider applications for provisional statement where a representation has been made.
- 8 To consider applications for variations to premises licences or club premises certificates where a representation has been made.
- 9 To consider applications for the transfer of a premise licence where a representation by the Police has been made.

- 10 To consider reviews to premises licence/club premises certificates where these have been requested by the relevant authority in accordance with the relevant regulations.
- 11 To determine a Police representation in respect of a temporary event notice.
- 12 To consider applications for Interim Authorities where a representation by the Police has been made.

Gambling Act 2005

- 13 Application for a Non Fast Transitional Conversion for a Premises Licence where representations have been made.
- 14 Application for new Premises Licence where representations have been made.
- 15 Application for a Provisional Statement where representations have been made.
- 16 Application to vary a Premises Licence where representations have been made.
- 17 Application for Transfer of a Premises Licence where representations have been made
- 18 Cancellation of Club Gaming / Club Machine permits
- 19 Applications for other permits where representation have been made
- 20 Decision to give a counter notice to a temporary or Occasional Use Notice
- 21 Application a for a Review of a Premises Licence

LICENSING COMMITTEE

MEMBERS' ATTENDANCE RECORD
2014/2015

COUNCILLOR	26/06	23/07	01/10	18/11	15/01	25/02	25/03
Ajaib							
Bains							
Cheema							
Coad							
Davis							
Malik							
Mellor							
Munawar							
Rasib							
Shah							
Sohal							

P = Present for whole meeting
Ap = Apologies given

P* = Present for part of meeting
Ab = Absent, no apologies given

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