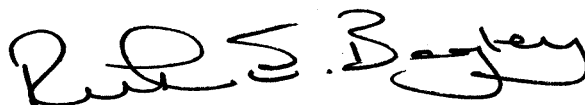


Date of issue: 31<sup>st</sup> May, 2016

<b>MEETING</b>	<b>LICENSING COMMITTEE</b>
	To the Members of Slough Borough Council
	(Membership of the Licensing Committee will be considered at the adjourned Annual Council meeting which will be convened on 6 <sup>th</sup> June, 2016)
<b>DATE AND TIME:</b>	WEDNESDAY, 8TH JUNE, 2016 AT 6.30 PM
<b>VENUE:</b>	VENUS SUITE 2, ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, BERKSHIRE, SL1 3UF
<b>DEMOCRATIC SERVICES OFFICER:</b> (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.



**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 23rd June 2016           | 3 - 8  |
| 4. | Appointment of Licensing Sub-Committee and Designated Chairs | 9 - 12 |
| 5. | Date of Next Meeting- 20th July, 2016                        |        |

***Members are asked to note that on the rising of the Committee there will be a mandatory training session for Licensing Committee Members which will conclude at approximately 8.00 pm***

**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 Wednesday, 23rd March, 2016.**

**Present:-** Councillors Davis (Chair), Dhillon, Malik, Munawar, Sohal and Usmani

**Apologies for Absence:-** Councillors Abe, Cheema, Coad, Shah and Wright

**PART 1**

**25. Declarations of Interest**

None.

**26. Guidance on Predetermination/ Predisposition - To Note**

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

**27. Minutes of the Last Meeting held on 17th November, 2015**

**Resolved -** That the minutes of the last meeting, held on 17<sup>th</sup> November 2015, be approved as a correct record.

**28. Street Collections and House to House Collections**

Melanie Sagar, Licensing Officer, informed the Committee of the outcome of the public consultation on the draft policies for Street Collections and House to House Collections, and requested that the Committee recommend to Full Council that the draft policies be adopted as Council strategies.

Members were advised that the Council did not currently have specific policies in relation to Street Collections and House to House Collections, and so currently dealt with such applications using Slough Borough Council (SBC) House to House Model Guidance for Public Charitable Collections, House to House Regulations, SBC Street Collections Guidance and the SBC Model Street Collection Regulations.

In light of this and to address some concerns over the legitimacy of previous collections made, the Licensing Team had conducted a review of the processes and procedures for 'Street Collections' and 'House to House Collections' with new draft policies and application forms being prepared.

On 17<sup>th</sup> November 2015 a report was put before the Licensing Committee on the new draft policies, and the Committee resolved to approve the policies and that Officers commence a full consultation exercise.

A full public consultation on the draft policies was conducted between 4<sup>th</sup> December 2015 and 14<sup>th</sup> January 2016, with all national and local charitable organisations, the Charities Commission and all previous applicants for charitable collections in Slough, as well as through the SBC website.

## Licensing Committee - 23.03.16

The item was opened for discussion, and Members asked a number of questions, including:

Would a licence be available to anyone?

*As part of the new formal policy and process, collectors would be required to hold a permit. Permits would be free of charge, with charitable organisations issued permits within 28 days.*

How would Slough residents raise concerns over unlicensed collectors?

*The Licensing team would rely on the public notifying them of any concerns. To help facilitate this, a list of authorised permit holders would be published on the Slough website.*

**Resolved-** That Council be recommended to adopt the draft Street Collections and House to House Collections policies.

### 29. Immigration Bill- New Licensing Powers

Mick Sims, Licensing Manager, informed the Committee of the proposed new licensing powers following the amendments to the Immigration Bill 2015.

Members were informed that the Immigration Bill placed additional responsibilities on licensing authorities to take action where licence holders were found not to be entitled to work in the United Kingdom.

The taxi and private hire provisions in the Immigration Bill were considered by the House of Commons' Bill Committee on 10th November 2015. The Bill was currently before the House of Lords for review.

Chapter 2 of the Bill required immigration checks and continuing compliance with immigration laws as part of the existing licensing regimes for taxis and private hire vehicles. It did so by adapting existing provisions for private hire vehicles in London in the Private Hire Vehicles (London) Act 1998 and taxis and private hire vehicles in the rest of England and Wales in the Local Government (Miscellaneous Provisions) Act 1976. Licences could only be granted to UK residents or those with leave to remain in the UK.

The new bill would empower Licensing Authorities to only grant a licence for the length of a person's permission to live and work in the UK. Immigration offenses and penalties would be grounds for a licensing authority to revoke a licence, including Hackney Carriage and Private Hire licences, Premises licences and Personal licences. The Officer confirmed that the bill would likely be approved in late Spring 2016, upon which time a further report would be brought to the Committee in June.

**Resolved-** That the amendments to the Immigration Bill 2015 relating to new licensing powers and additional responsibilities be noted.

**30. Deregulation Act 2015- Guidance on the Licensing of Late Night Refreshment**

Mick Sims, Licensing Manager, introduced a report informing Members of Thames Valley Police's response to the amendments to the Deregulation Act 2015, giving Licensing Authorities the power to exempt premises from the requirements to have a licence to provide Late Night Refreshment.

The Officer confirmed that Thames Valley Police's response to the proposed new provisions was that they were not in favour of exemptions but that matters could be reviewed on a case by case basis. It had been recommended that any exemptions that could potentially be taken advantage of by less honest traders were to be avoided.

It was confirmed that the provisions of the Deregulation Act 2015 came into effect on 1<sup>st</sup> October 2015, and empowered Licensing Authorities to:

- i. Designate a particular description of premises (as set out in the regulations) as not requiring permission to sell hot food and drink after 23.00hrs,
- ii. Designate areas where premises do not need a premises Licence to sell hot food or drink after 23.00hrs, and
- iii. Stipulate that during periods between no earlier than 23.00hrs and no later than 05.00hrs, premises may trade freely for the provision of hot food and drink without the need for a licence.

When choosing to designate particular categories of premises as exempt, the licensing authority could only exempt types of premises as set out in the regulations. The officer confirmed that, of the categories set out in the regulations, most were not applicable to Slough. Of the remaining categories, it was unlikely that exemptions would be made for premises within the town centre or in petrol stations, due to concerns over anti social behaviour. However, this would be up to the Committee.

To address Member concerns over the potential for the new regulations to limit the economic growth within Slough, the officer confirmed that a Task Group had been formed comprising the Licensing Manager as well as the new Town Centre Manager, with the remit to promote the night time economy within Slough (among other things). It was advised that the Task Group would be meeting later in the year, and could provide a report to the Committee before any ruling on exemptions was made.

Members requested details on how the new regulations would affect premises near Three Tuns Lane, and similar areas, currently frequented by high numbers of tradesmen and articulated lorries.

Members were informed that the new regulations would not stop trading, and that any exemptions were designed to free a premises from the requirements to hold a licence. If an exemption subsequently resulted in a rise in anti social

## Licensing Committee - 23.03.16

behaviour, then that exemption could be removed and the premises would then need to apply for a licence.

As clarification, the Officer confirmed that there was no stipulation of when the powers were to be used, and that there was no requirement to use them.

**Resolved-** (i) That the response from Thames Valley Police be noted, and  
(ii) That any exemptions to be made to the provision of Late Night Refreshment be postponed until after a report from the Task Group on Slough's Town Centre be considered at the meeting in June 2016.

### 31. Review of Standard Terms and Conditions for Street Trading Consents

Mick Sims, Licensing Manager, introduced a report advising Members on the review of and consultation on the revised standard terms and conditions for Street trading Consents.

Members were informed that the last review of Street Trading Consents was conducted in 2011. As the existing conditions had been deemed outdated, a new review had been required. A new set of terms had been prepared, and a formal consultation on the final terms had been conducted between 30<sup>th</sup> November 2015 and 4<sup>th</sup> January 2016. No responses had been received.

Following the consultation, Condition 2.1 had been deemed to be too arbitrary, and it was requested that this condition be amended to ensure the safety of the public and to prevent any obstruction of highways or footpaths. If approved, the new wording would be published as part of the guidance to street traders, via the Slough website.

Members asked a number of questions, including:

Who would enforce the 50m cordon between street traders and schools /nurseries, set out in Condition 2.1?

*Licensing Officers would enforce the 50m restriction, via spot checks. In addition, officers would respond to concerns raised by members of the public or from the schools themselves. The Licensing Authority had the power to revoke a licence should the trader not be complying with the terms of his/her licence.*

Who carried out the checks to ensure traders were complying with the terms of their licences?

*Officers would review an applicant's recent criminal record via a DBS check, mandatory when applying for a licence. Once a licence had been granted, licence holders were under a legal obligation to inform the Licensing Authority of any convictions. To not do so would constitute a breach of their licence conditions, and could result in their licence being revoked.*



## **Licensing Committee - 23.03.16**

How would existing licence holders be notified of the proposed changes?

*Licence holders were written to as part of the consultation process, and would also receive notification of the updated terms in writing.*

### **Resolved-**

- (a) That the new revised standard terms and conditions for Street Trading Consents be approved.
- (b) That the amended wording for condition 2.1 as set out in the report be approved.
- (c) That Council be recommended to approve the Revised Standard Terms and Conditions as set out in the report.

### **32. Members Attendance Record**

The Member's Attendance Record was noted.

### **33. Date of Next Meeting- 8th June, 2016**

The date of the next meeting was confirmed as Wednesday 8<sup>th</sup> June, 2016.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 7.17 pm)

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**SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Licensing Committee

**DATE:** 8<sup>th</sup> June, 2016

**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 2016/2017 municipal year.

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 first established a Licensing Sub-Committee at its meeting on 31<sup>st</sup> May, 2006 and agreed the terms of reference (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 rotational basis.
- 5.3 It was agreed that the Sub-Committee would consist of three Members drawn on a rotational 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 Coad has been allocated a seat on the Licensing Committee, she is not a member of a Group on the Council and is therefore not entitled to a place on the Sub Committee. Meetings of the Sub-Committee are held during the day time and must be held within the statutory deadlines prescribed. There were 4 meetings of the Sub Committee convened in the 2015/16 municipal year.
- 5.5 The membership of the Licensing Committee for the 2016/17 Municipal Year comprises 8 Labour, 2 Conservative and 1 UKIP Member. A Licensing Sub-Committee (drawn from the Members of the Licensing Committee) must be established as required on a proportional basis (2 Labour, 1 Conservative) with terms of reference as set out in the appendix.

6.0 **Conclusion**

The Committee is requested to establish a Licensing Sub-Committee and appoint three Members of the Licensing Committee as designated Chairs for the 2016/2017 municipal year.

6. **Background Papers**

None.

**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