

Licensing Board, 16 October 2012

**LICENSING BOARD
16 October 2012**

PRESENT: Councillor Andrew Morgan - Chairman, Councillor David Kelsey - Vice-Chairman; Councillors John Adams, Linda Bailey, Stephen Chappell, Anniina Davie, Susan Phillips, Anne Rey, Theo Stratton and John Trickett.

The meeting commenced at 09:50 am.

SECTION I - BUSINESS RECOMMENDED TO THE COUNCIL

193. RESULT OF PUBLIC CONSULTATION TO THE REVIEW OF STATEMENT OF GAMBLING POLICY

The Board considered a report by the Senior Licensing Officer at 'D', which sought the Licensing Board's consideration of the consultation responses received during the period of public consultation and approval of the final version of the Statement of Gambling Policy for formal adoption by the Full Council.

The Senior Licensing Officer confirmed that the Full Council would approve the Statement of Gambling Policy on 30 October 2012, for a four week publication period. The Policy would then come into affect on 5 December 2012.

The Board considered the consultation responses and the following was resolved:-

- The Board noted the comments made by Councillor Cheryl Johnson.
- The Board thanked the Gambling Commission for their comprehensive response and included the suggested amendments to paragraph number 8.12.
- The Board thanked Julia Palmer of JCP Law for her comprehensive response and amended paragraph number 2.2 to include the additional sentence proposed by the Chairman 'The Licensing Authority, is not of course calling for any curtailment of this advertising, but merely noting its recent proliferation with concern'. Furthermore, the Board included the first suggested amendment to paragraph number 8.2.3, with regard to clarity on entering adult only gambling premises. However, the Board did not include the suggested amendments with regard to staff supervision as they felt the Statement of Gambling Policy covered this subject sufficiently.
- The Board noted the comments made by the Service Director for Children's Social Care and requested that the Senior Licensing Officer liaised with Children's Social Care to clarify the position on the

Licensing Board, 16 October 2012

department for designation of advice on the protection of children from harm licensing objective.

DECISION MADE:

That subject to the amendments made by the Board, the Statement of Gambling Policy be recommended to the Full Council for formal adoption on 30 October 2012.

Licensing Board, 16 October 2012

SECTION II - BUSINESS DECIDED UNDER DELEGATED POWERS

194. APOLOGIES

An apology for absence was received from Councillor Chris Wakefield.

195. DECLARATIONS OF INTEREST

There were no declarations of interests made by members under the Code of Conduct.

196. DEPUTATIONS

The Chairman informed the Board that a deputation request had been received from the taxi trade in relation to the three items for the consideration of drivers' licences on the agenda. It was noted that deputations were not permitted on matters for which the Board was acting in a quasi-judicial role and consequently the request was refused.

197. CODE OF CONDUCT - BRIEFING

Members received a briefing from the Monitoring Officer on the new Code of Conduct and appropriate declarations of interests at Licensing Board meetings.

Three areas were highlighted for consideration by members in determining whether any action should be taken in advance of a Board meeting:-

- Disclosable pecuniary interests, for example where the grant of an application may have impacted upon the value of a property owned in the Borough.
- Bias, for example where the grant of an application may have significantly benefited, financially or otherwise, a close friend, family member or associate.
- Declarations for the purpose of openness, for example if a member was the regular user of a convenience store which applied for a licence for the off sale of alcohol, and knew the applicant in this capacity.

Members were asked to identify any issues at the earliest opportunity and seek advice from Democratic Services or the Monitoring Officer.

Licensing Board, 16 October 2012

DECISION MADE:

That the briefing be noted.

198. EXCLUSION OF THE PRESS AND PUBLIC

DECISION MADE:

That under Section 100(A)(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 Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

199. CONSIDERATION OF A DRIVER'S LICENCE

The Board considered a report by the Licensing Officer which explained the circumstances in which the driver named in Report 'B' had been convicted at Bournemouth Magistrates Court for illegal plying for hire and using a vehicle for a use for which no insurance was in place.

The Board was asked to consider whether the driver was a 'fit and proper person' to hold a Private Hire Driver's licence in light of the evidence provided.

Members of the Board asked various questions to the driver throughout the hearing. Subsequently, the driver was given the opportunity to sum up before the Board retired to make its decision.

DECISION MADE:

That on balance, the driver named in Report 'B' was considered a fit and proper person to hold a driver's licence. A formal caution would be issued which would be placed on the driver's official file.

200. CONSIDERATION OF A DRIVER'S LICENCE

The Board considered a report by the Licensing Officer which explained the circumstances in which the driver named in Report 'A' had been convicted at Bournemouth Magistrates Court for illegal plying for hire and using a vehicle for a use for which no insurance was in place.

Licensing Board, 16 October 2012

The Board was asked to consider whether the driver was a 'fit and proper person' to hold a Private Hire Driver's licence in light of the evidence provided.

In the absence of the driver who had been invited to attend the hearing, the Board considered all of the available evidence and information and then retired to make its decision.

DECISION MADE:

That as on balance, the driver named in Report 'A' was not considered a fit and proper person to hold a driver's licence, their private hire driver's licence, be revoked.

201. CONSIDERATION OF A DRIVER'S LICENCE

The Board considered a report by the Licensing Officer which explained the circumstances in which the driver named in Report 'C' had been convicted at Bournemouth Magistrates Court for illegal plying for hire.

The Board was asked to consider whether the driver was a 'fit and proper person' to hold a Private Hire Driver's licence in light of the evidence provided.

In the absence of the driver who had been invited to attend the hearing, the Board considered all of the available evidence and information and then retired to make its decision.

DECISION MADE:

That on balance, the driver named in Report 'C' was considered a fit and proper person to hold a driver's licence. A formal caution would be issued which would be placed on the driver's official file.

--THE MEETING RESUMED IN OPEN SESSION--

202. LICENSING BOARD - REVIEW OF THE CONSTITUTION

The Board considered a report by the Democratic Services Officer circulated at 'E', which sought the Licensing Board's recommendation of a number of amendments to the Council's Constitution to the Monitoring Officer.

The Democratic Services Officer drew the Board's attention to Appendix A and B which comprised the Council's new Constitution, which contained technical amendments drafted by officers. The amendments encompassed

Licensing Board, 16 October 2012

the Board's terms of reference and scheme of delegation to be included in the constitution. Discrepancies were clear between the Board's agreed scheme of delegation and the Council's Constitution and the amendments also sought to rectify these differences.

The Board made the following change to the Council's constitution with regard to the Functions of the Licensing Board at Part 3: 3.5.2, so that it read as follows:-

The Licensing Board shall have the following instructions:

- 1 To make recommendations to the Council in relation to the Council's policies under the Licensing Act 2003, the Gambling Act 2005, the Police Reform and Social Responsibility Act 2011, and the Council's Regulations on the Control of Sex Establishments made under the Local Government (Miscellaneous Provisions) Act 1982.

Furthermore, for clarity, the Board made the following change to the Council's constitution with regard to the Membership of the Licensing Board and Licensing Sub-Committee at Article 6: 6.3c and 6.4c, so that they read as follows:-

c. Membership

The Licensing Board will consist of 11 Councillors:

- i No member of the Licensing Board will also be a member of the Cabinet
- ii The Board will be politically balanced as required by the Local Government and Housing Act 1989. No valid meeting of the Board shall take place unless there is a quorum of 5 members present.

c. Membership

- i Licensing Sub-Committees have a membership of 3 Councillors and 1 reserve Councillor drawn from the Licensing Board.
- ii Licensing Sub-Committees will include the Chair and/or Vice-Chair of the Licensing Board in its membership, with the remaining Councillors selected by Democratic Services on a rota basis taking account of experience, political balance and interests.

DECISION MADE:

That, subject to the amendments made by the Board, the officer changes made to the extract pages of the Council's Constitution, be agreed and submitted to the Monitoring Officer for publication.

Licensing Board, 16 October 2012

203. EXCLUSION OF THE PRESS AND PUBLIC

DECISION MADE:

That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 5 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

204. UPDATE ON APPEALS

The Board received an update from the Senior Solicitor on appeals to be considered by the Magistrates Court.

DECISION MADE:

That the update be noted.

The meeting adjourned between 10:50 and 11:00 am.

The meeting closed at 11:40 am.

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