

MEETING	LICENSING ACT 2003 COMMITTEE
DATE	2 DECEMBER 2005
PRESENT:	COUNCILLORS NIMMO (In the Chair), BARLETT, S GALLOWAY, HORTON, HYMAN, KING, MOORE, REID, RUNCIMAN, B WATSON, I WAUDBY AND WILDE
APOLOGIES	COUNCILLORS D'AGORNE, HALL and HOPTON,

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## **PART A – MATTERS DEALT WITH UNDER DELEGATED POWERS**

### **6. DECLARATIONS OF INTEREST**

The Chair invited Members to declare at this point any personal or prejudicial interests which they had in any of the business on the agenda. No interests were declared.

### **7. MINUTES**

RESOLVED: That the minutes of the meeting held on 3 June 2005 be approved and signed as a correct record.

### **8. PUBLIC PARTICIPATION**

It was reported that there were no registrations to speak under the Council's Public Participation Scheme.

### **9. IMPLEMENTATION OF LICENSING ACT 2003 REFORM – CITY OF YORK**

Members received a report, which brought them up to date as to the current situation in relation to the implementation of the Licensing Act 2003 reforms, which came into effect on 24 November 2005.

Officers referred to the licensing statistics detailed in Annex 1 of the report and updated that by 24 November 38% of premises licences and 95.7% of personal licences had been issued. It was explained that the Licensing Department still had to process a large number of applications and issue the relevant licences, although all premises granted a licence had received a letter which detailed the approval and conditions imposed and to which they could refer. The licence was not time limited and was in force until there was a fundamental change or there was a change of supervisor.

RESOLVED: (i) That the contents of the report be noted.  
(ii) That the Officers be thanked for their hard work in processing the licensing applications and for the support they have given to members during the hearings.

REASON: To update Members on as to the current situation in relation to the implementation of the Licensing Act 2003 reforms.

## 10. LICENSING ACT 2003 APPEALS

Members received a report which advised them of the procedure before the Magistrates' Court in licensing appeals under the Licensing Act 2003 whereby parties to an appeal were able to reach an agreement on the outcome and requests the Licensing Committee to agree proposals to deal with one particular aspect of the process.

Officers updated that it was considered that there would only be a limited number of cases where such settlements would be required but it was felt that if no mediation took place then this could leave the Council open for an award of costs.

Consideration was given to the following options when considering whether or on what basis the Council should reach an agreement on the outcome of an appeal

- (i) to seek to reach an agreement on the outcome of appeal at the review hearing, or
- (ii) to reach an agreement in appeal cases, to be approved by the Chair of the relevant Sub-Committee, only where all those who could have been parties to the appeal agree terms of settlement **and** where those terms do not involve any significant modification to the decision made and/or the conditions imposed by the Sub-Committee, or
- (iii) to continue to defend all appeals at the full hearing and decline to accept any terms of settlement negotiated between the parties to the appeal.

Members questioned how representors could be involved in the procedure, how costs were awarded and whether the Committee could be kept informed of the number and type of appeal cases and their outcomes. Members also requested consistent guidance from Officers regarding member's involvement in Licensing Hearings and their involvement in subsequent planning applications for the premises.

RESOLVED: (i) That agreement may be reached to settle appeal cases only where all those who could have been parties to the appeal agree terms of settlement **and**

also where the Chair of the relevant Sub Committee considers that the proposed alteration does not involve any significant modification to the decision made and/or the conditions imposed by the Sub-Committee

- (ii) That in all other cases decline to accept terms of settlement that may be negotiated between the parties to the appeal and defend the decision of the Licensing Sub-Committee at the hearing of the appeal.
- (iii) That Officers prepare guidance for Members regarding member's involvement in Licensing Hearings and subsequent Planning Committee meetings when consideration is given to applications related to the premises.
- (iv) That Officers prepare advice regarding Council Officers who speak at Licensing Hearings.

REASON: To assist Officers in the settlement of licensing appeals and to progress work in this area.

#### **11. MEMORANDUM OF UNDERSTANDING AND JOINT ENFORCEMENT PROTOCOL – LICENSING ACT 2003**

Members received a report, which advised them of the preparation of a Memorandum of Understanding, and Joint Enforcement Protocol, which had been recommended in guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.

Officers explained that statutory guidance recommended licensing authorities establish protocols with the local police on enforcement issues. This Protocol had been drawn up between other Local Authorities in North Yorkshire and it was anticipated that all the responsible authorities would sign up to it.

Members questioned the prime responsibilities for enforcing various offences under the Act and the need for the register of formal cautions to be maintained and available nationally.

RESOLVED: That approval be given to the use and content of the Memorandum of Understanding and Joint Enforcement Protocol as set out at Annex 1 of the report.

REASON: To establish protocols with the local police on enforcement issues.

## 12. TEMPORARY EVENT NOTICES

The Chair confirmed that there was an additional item for consideration relating temporary event notice hearings, which he had agreed to take, owing to the need to report details of new legislation and the possibility of these hearings being required at short notice.

Officers circulated further details of the Temporary Events Notices (TENS) including notification, permitted limits and the procedure. They explained that only the Police could object to a Temporary Events Notice and that the Police had 48 hours in which to object and notify the Licensing Authority of their objections. If the Police objected, a hearing must then be held within 7 working days. This would leave very little time in which to arrange the Panels and to publish documentation for the hearing. Officers confirmed that their policy was to encourage early notification of these events to alleviate the need to arrange these late hearings

RESOLVED: That the details circulated in relation to the Temporary Event Notices (TEN's) be noted.

REASON: To update Members on this notification procedure and to progress work in this area.

G NIMMO  
(IN THE CHAIR)

The meeting started at 2.00 pm and finished at 3.20 pm.