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Meeting	Gambling, Licensing & Regulatory Committee
Date	17 September 2018
Present	Councillors Lisle (Chair), Pavlovic, Reid, Richardson, D Taylor, K Taylor and Wells
Apologies	Councillors Funnell, Boyce, Cullwick, Douglas, Hayes, Hunter, Mason and Mercer

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

### **9. DECLARATIONS OF INTEREST**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

### **10. MINUTES**

Resolved: That the minutes of the meetings held on 18 June 2018 and 16 July 2018 be approved and signed by the Chair as a correct record.

### **11. PUBLIC PARTICIPATION**

It was reported that the Applicant for the renewal of a Sex Establishment had registered to speak in relation to item 4.

### **12. RENEWAL OF SEX ESTABLISHMENT LICENCE FOR BLACK ORCHID (1ST FLOOR TOKYO), 3-5 TOFT GREEN, YORK, YO1 6JT**

Members considered a report seeking determination of an application to renew a Sex Establishment Licence for a Sexual Entertainment Venue (SEV) which had been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Black Orchid, 3-5 Toft Green, York, YO1 6JT York.

The Licensing Manager advised that the application was for the renewal of a Sex Establishment Licence in line with Schedule 3

of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, which allows local authorities to regulate lap dancing clubs and similar venues. She outlined the report and annexes, noting the opening hours of the venue, including the opening hours on York race days. She reported that consultation had been carried out correctly and that one objection had been received from North Yorkshire Police (included at Annex 5 of the report).

The Licensing Manager clarified that North Yorkshire Police did not oppose the renewal of the Sex Establishment Licence, however, they were opposed to the extension of hours on York race days, especially allowing sexual entertainment to begin at 18:00 hours. In their objection, North Yorkshire Police had asked the Committee to adhere to the City of York Council policy and prevent sexual entertainment taking place prior to 21:00 hours. The Licensing Manager then outlined discretionary grounds for the refusal of an application for a sex establishment licence. The three options available to the Committee were then detailed Licensing Manager.

In response to questions raised, the Licensing Manager confirmed that there had been no recent complaints regarding the venue and the last complaint, received 18 months ago was made by a gentleman who had spent more money than intended at the venue.

Following the Licensing Manager's update, the Applicant explained there were two Sexual Establishment Venues in the city and that the City of York City of York Council's Policy for the Licensing of Sex Establishments Licensing Policy was problematic in that it didn't include the extended operation hours on York race days.

Following the Applicant's statement he was asked and confirmed that North Yorkshire Police had not been in contact with him regarding the venue's operating hours on York race days. It was clarified that the application was a Renewal of a Sex Establishment Licence and not for an extension of operating hours.

By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee had the following options available to them in making their decision:

- Option 1 Grant a renewal of the licence as requested.
- Option 2 Renew the licence with modified/additional conditions imposed by the licensing committee.
- Option 3 Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Resolved: That, in accordance with Option 1, Members grant a renewal of the licence as requested.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

## **CHAIR'S REMARKS**

The Chair informed Members that an audit of taxi licensing would go to the Audit and Governance Committee meeting on Wednesday 19 September 2018.

## **PART B - MATTERS REFERRED TO COUNCIL**

### **13. COUNCIL'S CONSTITUTION - LICENSING APPEALS**

The report was brought to the Committee following their request at the meeting held on 21 May 2018. The Head of Public Protection outlined the report, explaining that York was the only authority in the region with 'two routes of appeal' for licence holders who were dissatisfied with an officer decision. The report sought a recommendation to Full Council to change the Constitution and allow only one route of appeal.

In response to Member questions, the Head of Public Protection explained the background and previous process for Licence applicants and licence holders to appeal a decision made by Officers to refuse/suspend/revoke to a Sub-Committee of the Gambling, Licensing and Regulatory Committee.

During discussion it was explained that the aim of the change from two routes of appeal to one was to standardise the licensing process across the region.

In response to Member questions, it was confirmed that:

- All authorities within the West Yorkshire Combined Authority (WYCA) had one route of appeal for an applicant or licence holder who is aggrieved by a decision made by an officer on behalf of the Council, to appeal that decision to Magistrates Court.
- There was a national database in which the Local Authority could record revocations and refusals for taxi licences for which all authorities within the WYCA had signed up to.
- The West Yorkshire Group had looked at information sharing, operating within data protection regulations.
- Every taxi licence applicant had a had a DBS check and had to self declare of they had received a revocation or refusal in a different area.
- A two track appeal process runs a risk of an appeal heard by Members being overturned (through Judicial Review) and by reducing to a one track appeal process removes this risk.
- The primary consideration to allow only one route of appeal was for the consideration of taxi passengers in York.
- The appeal process was against the officer decision, not that of the Sub-Committee.

Following debate it was:

Resolved: That, in accordance with Option 1, the Committee recommend to Full Council that the Council's Constitution is changed and a new 'single appeal' procedure for dealing with licensing appeals is approved. In line with the requirements of relevant legislation licence applicants and licence will be able to appeal a decision made by Officers to refuse/suspend/revoke to the Magistrates Court, thereby no longer providing an internal appeals process.

Reason: In order to support the Council's plan of a being more responsive and flexible council that puts residents first and meets its statutory obligations.

Cllr S Lisle, Chair

[The meeting started at 4.00 pm and finished at 4.37 pm].