



Notice of meeting of

Gambling & Licensing Acts Committee

To: Councillors Merrett (Chair), Ayre, Funnell, Sue Galloway, Horton, Hyman, Looker, Moore, Orrell, Pierce, Reid, Runciman, Taylor, B Watson and Wiseman (Vice-Chair)

Date: Friday, 7 August 2009

Time: 2.00 pm

Venue: The Guildhall

AGENDA

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes

(Pages 3 - 6)

To approve and sign the minutes of the meeting held on 5 June 2009

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is **Thursday 6 August 2009 at 5pm.**

4. Minor Variation Report (Pages 7 - 12)

This report advises Members on the amendments to the Licensing Act 2003 in respect of minor variations to premises licences and club premises certificates and the supervision of alcohol sales in church and village halls. The report also seeks revision to delegations under the Act to be consistent with legislative changes.

5. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – laura.bootland@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting Laura Bootland

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

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If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
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Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

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If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

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Holding the Executive to Account

The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	GAMBLING & LICENSING ACTS COMMITTEE
DATE	5 JUNE 2009
PRESENT	COUNCILLORS SUE GALLOWAY (CHAIR), AYRE, HORTON, HYMAN, LOOKER, MERRETT, ORRELL, PIERCE, REID, TAYLOR, B WATSON AND WISEMAN (VICE-CHAIR)
APOLOGIES	COUNCILLORS FUNNELL, MOORE AND RUNCIMAN

1. **DECLARATIONS OF INTEREST**

At this point in the meeting Members are asked to declare any personal or prejudicial interests they may have in the business on the agenda. None were declared.

2. **MINUTES**

RESOLVED: That the minutes of the last meeting of the Committee held on 5 December 2008 be approved and signed by the Chair as a correct record.

3. **PUBLIC PARTICIPATION**

It was reported that there was no registered speakers for this meeting.

4. **SELLING ALCOHOL RESPONSIBLY - A HOME OFFICE CONSULTATION DOCUMENT.**

Members considered a report which asked them to examine the contents of the recently published government consultation document – Selling Alcohol Responsibly. The report asked Members views on the suggested codes and conditions.

Officers advised that the document is intended to raise standards across the industry. The document is concerned in particular with the responsible retailing of alcohol, in light of this Officers advised that an area that has not been impacted on in York, is the widespread availability of drinks promotions and asked Members for their feedback.

The following suggestions were made by Members:

Pages 41 and 42 (53 and 54 of the Agenda) of the document include reference to staff training, seating and door staff. Certain members felt these areas were important areas for control and queried whether it could

be recommended that central government add conditions to the discretionary local conditions list as follows:

- Staff training – concern was expressed that usually only the licence holder of a Premises receives training. Members felt staff training should extend to all employees.
- Seating – vertical drinking establishments are numerous in York and it would be useful to have a condition which can be applied to help in the control of such premises if required.
- Door Staff – In particular a condition which assists door staff to deal with the problem of fake Identification used by underage individuals.

Members also suggested the following:

- Use the document as an opportunity to highlight to Government the need for hospitals to produce statistics on alcohol related admissions. Certain members queried whether the Ambulance Service could be more involved with the collation of statistics.
- Advise the Government that there is concern regarding the increase in people buying alcohol in large quantities and at low prices from the supermarkets to consume at home and the effects this is having on communities in York and the responsible authorities.
- Members felt that a local consultation should be undertaken in order for members of the public and smaller licensed premises to have the chance to comment on the document. Wider publicity would be required in order to do this and Members queried whether Officers could use the Council Website to advertise the consultation. Officers advised this could be done.

Certain Members expressed dissatisfaction at the Governments decision not to impose a minimum unit price as they felt that this would be useful in tackling the problem of people purchasing large quantities of alcohol from supermarkets.

Overall, Members were encouraged by the document and were glad to see that the discretionary conditions being introduced, reflect conditions that Members often have cause to apply via Licensing Hearings.

RESOLVED: That Members note the contents of the report and the published mandatory and discretionary codes as outlined in the government published document – Selling Alcohol Responsibly.¹

REASON: To advise Officers in the response to the new codes of practice.

Action Required

1. Officers to organise a local consultation with members of the public and licensed premises, to be advertised via CYC website.

DH

Councillor Galloway, Chair

[The meeting started at 2.00 pm and finished at 2.45 pm].

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Gambling and Licensing Acts Committee

7 August 2009

Report of the Director of Neighbourhood Services

Amendments to Licensing Act 2003

Summary

1. This report advises members amendments to the Licensing Act 2003 in respect of minor variations of premises licences and club premises certificates and for the supervision of alcohol sales in church and village halls. The report also seeks revision to the delegations under the Act to be consistent with the legislative changes.

Background

2. The Licensing Act 2003 has been in force since the November 2005. During this period its operation and effectiveness has been under constant review. As a result of this scrutiny the government has now produced two amendments to the primary legislation under the Legislative and Regulatory Reform Act 2006. The first, a simplified process for minor variations to premises licences and club premises certificates. The second, the removal of the requirement for a designated premises supervisor and personal licence holder at community premises.

The Legislative Reform (Minor Variations to premise Licences and Club Premises Certificates) Order 2009

3. This Order became operative on 29 July 2009. The purpose of the order is to save time, money and regulatory resources by allowing variations that could not impair the licensing objectives to be made through a simplified process. All other more significant variations would be dealt with under the existing provisions.
4. Accompanying Statutory Guidance gives examples of minor variations that can be dealt with under these simplified provisions:
 - Small variations to the structure and layout that will have no adverse effect on the licensing objectives. The guidance suggests that changes which will increase capacity, affect access or egress or impede the operation of noise reduction measures are not appropriate for this process.
 - Removal of a licensable activity
 - Addition of a licensable activity (excluding the supply of alcohol) The provision of live music is encouraged.

- Variations to reduce licensing hours or to alter (without increasing) the hours between 07.00 and 23.00
 - Addition of volunteered conditions to the licence or certificate.
 - Amending or removing conditions in selective situations ie some embedded conditions, changes of circumstances, clarification of wording for ease of understanding compliance and enforcement.
5. In all cases, including the above, when an application for a minor variation is received the licensing authority must consider whether the variation could adversely impact on the licensing objectives. If it considers it does, the application must be refused.
 6. Under the simplified process the applicant is not required to advertise the local press but must display the notice on the premises. In this case the notice is white not blue. The notice must be displayed for a period of 10 working days starting on the day after the application was given to the licensing authority.
 7. In considering the application the licensing authority must consult the relevant responsible authorities if there is any doubt on the impact of the proposal. There is no requirement to consult all on each application. The authority must also consider any representations received from interested parties. Interested parties have 10 working days to make representation.
 8. The licensing authority must wait until the 10 days have elapsed and determine the application within the next 5 working days ie 15 days from the receipt of the application, with the effect that :
 - the minor variation is granted; or
 - the application is refused
 9. There is no right to a hearing and, where an application is refused, the application fee of £89 has to be returned to the applicant. An application which is not determined in the 15 working days will be treated as being refused. A refused application maybe resubmitted as a full variation which will allow for a hearing and appeals process.
 10. The Government recommends that decisions on minor variations should be delegated to officers. In order for this to happen the delegations set out in appendix 1 of the councils Statement of Licensing Policy needs to be amended to be consistent with this legislation. The Councils constitution delegates authority to this committee to make those changes.

Options and Analysis

11. This is not adoptive legislation and it can be expected that licence holders will use this process to make minor amendments to their licences. Where an application is made the licensing authority must respond to it.

12. The timescales involved in determining the minor variation would not, even if members so wished, allow for a hearing to take place. That would also be against the spirit of this deregulatory legislation.
13. The government recommends that the determination of applications be delegated to officers. However if members were uncomfortable with this proposal, consideration could be given to building into the process consultation with the chair were representations are received. If this option is adopted then provision would have to be made for another member of the committee to be nominated in circumstances where the application was in the chairs ward or s/he is unavailable.
14. **Option 1** : Amend the delegations under the Licensing Act 2003 to authorise officers to determine all applications for minor variations.
15. **Option 2** : Amend the delegations under the Licensing Act 2003 to authorise officers to determine applications for minor variations where no representations are received and to consult with the chair (or nominated substitute) of the Gambling and Licensing Acts Committee prior to determining such applications in the cases where representations are received.

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009

16. This Order became operative on 29 July 2009. It removes the requirement for a designated premises supervisor and personal licence holder at community premises where alcohol is supplied.
17. Normally, a premise licence that authorises the supply of alcohol must include the mandatory conditions which prohibit the supply of alcohol at any time when there is no designated premises supervisor (DPS) specified in the licence and require the sale of alcohol to be made or authorised by the holder of a personal licence.
18. This requirement has proved problematic nationally and here in York where many of these premises are operated by volunteers. Individuals in these circumstances are reluctant to take on the responsibility of being a DPS. This has resulted in premises having to apply for a series of temporary event notices (TEN's) to permit sales of alcohol at functions and events which is costly and time consuming.
19. This Order allows for the role of DPS to be effectively taken by a formally constituted management committee.
20. The application form requires the names of persons in key positions in the management committee to be specified and details of how the supply of alcohol will be supervised when the premises are used in different circumstances by different individuals or groups. Key changes to the committee should be notified to the licensing authority and the Police.

21. This arrangement maybe applied for at the time of the initial grant of a licence or subsequently by way of a variation to an existing licence. The police may make representation against this proposal for particular premises and if no agreement is reached between the parties a hearing will be held.
22. In situations where problems arise after the grant or variation of the licence the police can call for a review of the premises licence and, at a hearing, the mandatory conditions can be imposed.
23. For the purpose of this Order community premises means premises that are or form part of :
 - A church hall, chapel hall, or other similar building, or
 - A village hall, parish hall, community hall or other similar building
24. The Guidance indicates that where it is not clear if premises come under the definition of “community premises” then licensing authorities will need to consider how the premises are predominately used. If they are genuinely made available for community benefit most of the time and are accessible by a broad range of persons and sectors in the community the premises would most likely meet the definition.

Options and Analysis

25. None applicable to this part of the report

Consultation

26. None

Corporate Strategy

27. The simplified process for minor licence variations helps reduce unnecessary bureaucracy and improves efficiency within the councils decision making process.

Implications

28. **Financial** – The reduced fee for minor variations as opposed to the full process will see a reduction of income but this will reflect the reduced workload
29. **Human Resources (HR)** - None
30. **Equalities** - None
31. **Legal** - None
32. **Crime and Disorder** - None
33. **Information Technology (IT)** - None
35. **Property** – None

36. **Other** – None

Risk Management

37. There are no increased risks to the council with respect to these changes in legislation.

Recommendations

38. Members are asked to approve Option 1 : Amend the delegations under the Licensing Act 2003 to authorise officers to determine all applications for minor variations made under sections 41A and 86A of the Licensing Act 2003

39. Reason – To maximise the resource efficiencies available to the council by virtue of the deregulatory order for minor premises licence and club premises certificate variations.

40. Members are requested to note the amendments to the Licensing Act 2003 in respect to the supervision of the supply of alcohol at community premises

41. Reason – To keep informed of changes in relevant legislation

Contact Details

Author:

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Neighbourhoods and
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Chief Officer Responsible for the report:

Andy Hudson
Assistant Director of Neighbourhoods and
Community Safety

Report Approved

Date 22/July/2009

Specialist Implications Officer

Legal – Sandra Branigan

Tel No. 01904 551044

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

Licensing Act 2003

Statement of Licensing Policy 2008

Revised Guidance issued under section 182 of the Licensing Act 2003

The Legislative Reform (minor Variations to Premises Licences and Club Premises Certificates) Order 2009

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009

Annexes

None