

Licensing Committee (Licensing Act 2003 Functions)

Date: **13 October 2022**

Time: **3.00pm**

Venue **Council Chamber, Hove Town Hall**

Members: John (Chair), Davis (Deputy Chair), Henry (Opposition Spokesperson), Simson (Group Spokesperson), Ebel, Fowler, Heley, Knight, Lewry, Moonan, O'Quinn, Phillips, Pissaridou, Rainey and Theobald

Contact: **Thomas Bald**
Democratic Services Officer
01273 291354
Thomas.Bald@brighton-hove.gov.uk

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AGENDA

11 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest:

- (a) Disclosable pecuniary interests
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: *Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

12 MINUTES OF THE PREVIOUS MEETING

7 - 12

Minutes of the meeting held on the 23rd June 2022.

13 CHAIR'S COMMUNICATIONS

14 CALL OVER

- (a) Item 17 will be read out at the meeting and Members invited to reserve this item for consideration.

- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

15 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on the (insert date);
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the (insert date).

16 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

17 REVIEW OF LICENSING PANEL ARRANGEMENTS

13 - 16

Contact Officer: Rebecca Sidell

Tel: 01273 291511

18 ITEMS REFERRED FOR COUNCIL

To consider items to be submitted to the 20 October Council meeting for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact , (01273 291354, email Thomas.Bald@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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Therefore, by entering the meeting room and using the seats in the chamber you are deemed to be consenting to being filmed and to the possible use of those images and sound recordings for the purpose of web casting and/or Member training. If members of the public do not wish to have their image captured, they should sit in the public gallery area.

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- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

Date of Publication - Wednesday, 5 October 2022

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.00PM 23 JUNE 2022

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present:

Councillors John (Chair), Davis, Henry, Simson, Ebel, Hills, Fowler, Lewry, Moonan, Phillips, & Pissaridou.

PART ONE

1 PROCEDURAL BUSINESS

Apologies were received from Councillors O'Quinn, Theobald, Knight, and Rainey.

(a) Declarations of Substitutes

1.1 Councillor Hills was present in substitution for Councillor Heley.

(b) Declarations of Interest

1.2 There were no declarations of interests in matters listed on the agenda.

(c) Exclusion of Press and Public

1.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

1.4 **RESOLVED:** That the press and public be excluded from the meeting during consideration of the items contained in part two of the agenda.

2 MINUTES OF THE PREVIOUS MEETING

RESOLVED – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 17 February 2022 be agreed and signed as a correct record.

3 CHAIR'S COMMUNICATIONS

As I previously have stated it was clear from the panel I contributed to earlier this week, there is a huge amount of knowledge and experience in this room.

However, its not just those in this room but a whole mass of people that make sure our city and its licenced business run smoothly, including our colleagues policing our night time economy. I understand that the last visit with operation marble was a couple of years ago and I thought I would take this opportunity to gauge interest from members to see if another tour of the night time economy alongside officers from operation marble would be of interest? Perhaps in the Autumn?

Today we have our annual licensing report, demonstrating the scale and range of work carried out by the licensing team, as well as a review of licencing panel arrangements and the schedule of reviews and appeals. Something that has already become clear to me as chair, is how many colleagues would like to contribute to sitting on panels but they are either unable to make the day or just don't get their response to the request in quickly enough! It has also been stressed to me that having to reschedule panels can be, not only difficult to organise, but could come at the expense of those attending. Since it is only those of us who sit on this committee who are able to sit on a panel, I believe some type of discussion is needed to make sure all who wish to can contribute. If you have specific ideas on how to do this, then please do get in touch. We will also organise a roundtable with lead members to see if we can find a way forward, if you have particular interest in attending that, lead member or not, please also do get in touch.

4 CALLOVER

The following item was reserved for discussion:

Item 7 Annual Report of the Licensing Authority 2021/22

The following items were therefore agreed:

Item 8 Review of Licensing Panel Hearings Arrangements

Item 9 Schedule of Reviews and Appeals

5 PUBLIC INVOLVEMENT

There was none.

6 MEMBER INVOLVEMENT

There was none.

7 ANNUAL REPORT OF THE LICENSING AUTHORITY 2021/22

7.1 Jim Whitelegg introduced the report starting on page 11 of the Agenda.

7.2 Councillor Ebel was informed that:

- Incidents of drink spiking have decreased since early Spring 2022 after reaching its peak in October 2021.

- Cases collated under operation Halifax are still being collected as a monitoring function.
- Offenders have appeared to be operating in isolation instead of collectively.
- There is no data about any arrests being made for drink spiking or any drugs confiscated.

7.3 Councillor Simson was informed that:

- The lapsed licenses are varied, including a hotels, nightclubs, and cafes, but many of them instantly reapply sometimes the lapse is done inadvertently through Companies House.
- A lot of surrendered licenses seem to come from restaurants.
- The increase in restaurant licenses will be monitored and the Council are aware that this can be used to circumvent policy, and will ensure that restaurants are adhering to their conditions.
- The Highways team has fed back that there aren't any more complaints about outside seating on pavements than pre-covid, and that more businesses are applying for extension of the footways to allow for further outside seating but the majority of these are being refused.

7.4 Councillor Henry was informed that:

- There were 37 applications within the Cumulative Impact Zone in 2020, and 26 in 2019.
- If possible, statistics regarding pavement Licenses would be included in future reports.

7.5 Councillor Pissaridou suggested that drink spiking education should be happening in schools alongside colleges. She was informed that in 3.5.1 there are initiatives to educate about violence to women and girls, and Jim Whitelegg would check to see if this included education about drink spiking.

7.6 Councillor Moonan asked if going forward, reports could summarise information about applications in the Special Stress Area and Cumulative Impact Zone, so that information can be inferred about how well the Matrix is operating and to notify trends or patterns. Jim Whitelegg added that some applications that are submitted in the CIZ can be granted without any representations if it fits within policy.

7.7 Councillor Simson asked what the 11 applications were out of the 26 without representations in the CIZ that were not 4 pre-consulted, 5 time-limited, 3 shadow and 3 granted lapsed, and Sarah Cornell confirmed she would email Cllr Simson outside of the meeting with the response.

7.8 Councillor Hills was informed that:

- The mandatory safeguarding training for taxi drivers was introduced 3 years ago and has to be undertaken once every 3 years.
- The training has to be paid for by the taxi drivers, and is mandatory upon renewal of their license.

7.9 Councillor Pissaridou was informed that applications are advertised via a statutory process – it is referred to the 9 responsible authorities such as environmental health and the police, after which there is a 28 day consultation period, and an a4 blue notice is put up on the premises and put into the local newspaper. There is also a weekly list which is circulated to all Councillors on upcoming applications.

RESOLVED:

1. That the committee noted the contents of this report.
2. That officers should continue to monitor trends of applications and illegal activity to inform future policy.
- Sarah Cornell to respond to Councillor Simson regarding the 11 applications in the CIZ.

8 REVIEW OF LICENSING PANEL HEARINGS ARRANGEMENTS

RESOLVED:

1. That Committee noted the ongoing risk of fluctuation in relation to Covid infection rates as well as the additional benefits of holding virtual meetings in terms of enabling participation in the Licensing process and recommends that Licensing Panels continue to meet virtually until the next licensing committee in October 2022.
2. That the Committee delegated authority to the Executive Director - Governance, People & Resources after consultation with the Chair and group spokespersons to determine arrangements for Licensing Panel hearings until the next Licensing Committee in October 2022.
3. That the Committee recommended that in exercising this authority the above officer takes into account all relevant factors including latest public health and government guidance and the need to ensure fair and transparent procedures in accordance with the Hearings Regulations 2005.

9 SCHEDULE OF REVIEWS & APPEALS

RESOLVED: That the Committee noted the report.

10 ITEMS REFERRED FOR COUNCIL

There were none.

The meeting concluded at 16.05pm

Signed

Chair

Dated this

day of

Brighton & Hove City Council

Licensing Committee (Licensing Act 2003 Functions)

Agenda Item 17

Subject: Review of Licensing Panel hearings arrangements

Date of meeting: 13th October 2022

Report of: Executive Director – Governance, People and Resources

Contact Officer: Name: Rebecca Sidell
Tel: 01273 291511
Email: Rebecca.sidell@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The report sets out the position in relation to the powers of the Licensing Committee to make its own arrangements in relation to the conduct of Licensing Panels convened under the Licensing Act 2003 (Licensing Panels).
- 1.2 The report proposes that members review the current arrangements and delegate authority to the Director of Governance, People & Resources after consultation with lead members to determine the future conduct of Licensing Panels until further review at the next committee in November 2022. The intention is to retain flexibility in the arrangements and to be able to respond to the latest public health and government advice.

2. Recommendations

- 2.1 That Committee notes the ongoing risk of fluctuation in relation to Covid infection rates as well as the additional benefits of holding virtual meetings in terms of enabling participation in the Licensing process and recommends that Licensing Panels continue to meet virtually until March 2023. This does not preclude holding a panel hearing in person where the individual circumstances of an application may warrant it.
- 2.2 That Committee delegates authority to the Executive Director - Governance, People & Resources after consultation with the Chair and group spokespersons to determine arrangements for Licensing Panel hearings until the next Licensing Committee in March 2023.
- 2.3 That the Committee recommends that in exercising this authority the above officer takes into account all relevant factors including latest public health

and government guidance, the situation with other council meetings and the need to ensure fair and transparent procedures in accordance with the Hearings Regulations 2005

3. Context and background information

- 3.1 Following the outbreak of the Covid-19 pandemic the Government enabled local authorities to hold 'virtual' meetings under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020 ('the Regulations'). These Regulations expired on the 7th May 2021 and a recent Court decision confirmed that the Council must run those of its meetings which are governed by the Local Government Act 1972 with members and the public in attendance at a physical meeting.
- 3.2 However, Licensing Panels are established under different legislation (the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.) This means that Licensing Committees are empowered to regulate their own procedures and those of its sub-committees (the Licensing Panels).
- 3.3 At the full Licensing Committees (Licensing Act 2003 Functions) on 24th June 2021, 14th October 2021, and 17 February 2022 members delegated authority to the Executive lead for Strategy Governance and Law after consultation with the Chair and group spokespersons to determine arrangements for Licensing Panels until further review by this committee. The decision was taken to continue to hold the panel hearings virtually via Teams pending review by this committee.
- 3.4 There is still uncertainty about future infection rates in the City. Council Committee meetings in person (where required by law) continue to take mitigation measures such as wearing masks and requiring testing. These arrangements were last reviewed in July 2022. It may seem sensible, where the legal flexibility exists as in this case, to continue with the virtual meetings. The minutes of this Committee held in February 2022 illustrate that many members remain largely supportive of virtual meetings as it was felt that there were also other advantages of remote attendance for both members and the wider public. It was considered that it encouraged wider participation in the licensing process generally, being less formal than an in-person meeting, more accessible and more convenient saving time on travel. The remote panels will continue to be webcast.
- 3.5 The committee is thus invited to review the arrangements and indicate if virtual meetings should continue or if attendance of members at Hove Town Hall is preferred with remote attendance still an option for other parties. The situation can be kept under review as appropriate in light of the latest public health advice, the conduct of other Council meetings, and the national picture. A decision to continue with virtual meetings does not preclude holding a hearing in person where the individual circumstances of an application warrant it.

4. Analysis and consideration of alternative options

4.1 Delegation to officers avoids the need to convene further urgent committee meetings and enables a flexible response to changing national or local conditions.

4.2 The delegation is only temporary and will be reviewed at the next full licensing committee in March 2023.

5. Community engagement and consultation

5.1 These are regulatory hearings and the proceedings must give all parties the ability to participate as appropriate and enable the press and public to see and hear them

6. Conclusion

6.1 The Licensing Committee is empowered to determine procedures for its sub-committees (licensing panels) and is able to delegate this function, after appropriate consultation, to senior officers for a temporary period in the interests of effective and flexible decision making

7. Financial implications

7.1 There are no additional financial implications arising from this report

Name of finance officer consulted: Date consulted (dd/mm/yy):

8. Legal implications

8.1 The Licensing Committee can determine its own procedures for its sub-committees (hearing panels) pursuant to s 9 Licensing Act 2003. There is no reason under the Licensing Act (see Section 10) why such determination cannot be delegated to officers in an appropriate manner as outlined in the report. Arguably each licensing panel could determine its own procedure at the outset but this is not practical given the need for advance notifications under the Hearings Regulations.

9. Name of lawyer consulted: Elizabeth Culbert Date consulted Equalities implications

9.1 The Council has a public sector equality duty under s149 of the Equality Act 2010. In the exercise of its functions the Council must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those that do not. Decisions as to procedures will always take this into account.

10. Sustainability implications

10.1 No direct sustainability implications

11. Other Implications

Public health implications:

- 11.1 Any decision to move to more face to face meetings will be informed by the latest public health guidance. Good practice would indicate that Members should not attend meetings where they have respiratory infections and that good ventilation continues to be advised.