

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Friday, 19th December, 2008 at West Committee Room,
Municipal Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor P Whiteley (Chairman)
Councillor D Bebbington (Vice Chairman)

Councillors Mrs R Bailey, G Baxendale, T Beard, H Davenport, B Dykes,
L Gilbert, Mrs E Gilliland, J Goddard, M Hardy, M Parsons, A Ranfield and
Mrs C Tomlinson

1 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman for the remainder of the Municipal year.

2 APPOINTMENT OF VICE CHAIRMAN

RESOLVED – That Councillor D Bebbington be appointed Vice Chairman for the remainder of the Municipal year.

3 APOLOGIES FOR ABSENCE

There were no apologies for absence.

4 DECLARATIONS OF INTEREST

There were no declarations of interest.

5 PUBLIC SPEAKING TIME/OPEN SESSION

There were no questions from members of the public.

6 TERMS OF REFERENCE FOR THE LICENSING COMMITTEE

The Solicitor outlined and circulated the Terms of Reference of the Licensing Committee. These included:

- The administration of licences which were determinable by the Council
- Hearing and determining appeals against any decisions of Officers in relation to the grant, renewal, transfer, variation refusal, revocation, suspension or imposition of condition in accordance with the Council's licensing procedure
- The discharge of the Council's functions under section 13(2) of the Criminal Justice and Police Act 2001

It was noted that a further report on terms of reference may be required to be considered by the Committee once matters relating to the delegation of other functions, such as permits and licences issued by the Environmental Health Service, had been determined.

Licensing Committee Members who had not undertaken an appropriate training course would be required to do so prior to 1 April 2009. The training would be organised early in the New Year and would be open to all Licensing Committee Members who wished to attend.

RESOLVED – That the Terms of Reference be received and noted.

7 CREATION OF LICENSING SUB-COMMITTEES

The Committee considered a report relating to the creation of Sub-Committees of the Licensing Committee and the establishment of a protocol for arranging meetings of the Sub-Committees.

At its meeting on 9 December 2008, Council had resolved to create a Licensing Committee, which would then establish Sub-Committees of three members to deal with matters under the Licensing Act 2003 and the Gambling Act 2003, and Sub-Committees of five Members to deal with 'general' licensing matters such as the licensing of hackney carriage and private hire vehicles and drivers. In addition, in relation to the 'general' sub-committee of five, Council had resolved to waive the requirement of political proportionality and had resolved to require that, subject to availability, at least one of the five members should be the Chairman or Vice-Chairman of the full Committee.

In relation to a Premises Licence application and the 'general' sub-committee of five, it was suggested that, wherever possible, one of the members of the Sub-Committee should be a Member representing an area covered by the relevant preceding district council, who would have knowledge of the area to which application related. It would be for each Member to determine, in accordance with the Code of Conduct, whether they had a personal and prejudicial interest in an item and were therefore unable to take part in the meeting.

It was also suggested that, in order to ensure flexibility, efficiency and a fair distribution of work between Members of the Committee, membership of the sub-committees should be selected on a rotational ad hoc basis, subject to the availability of Members.

RESOLVED

- (a) That Sub-Committees consisting of three Members of the Licensing Committee be established to deal with matters under the Licensing Act 2003 and the Gambling Act 2003, and that the quorum of such Sub-Committees be three.
- (b) That Sub-Committees consisting of five Members of the Licensing Committee, of which at least one shall, subject to availability, be the

Chairman or Vice Chairman of the full Committee, be established to deal with 'general' licensing matters, and that the quorum of such Sub-Committees be three.

- (c) That the following protocol be adopted for arranging meetings of the Sub-Committees:
- Wherever possible members of the sub-committee should be representative of each of the preceding district councils
 - Membership of the Sub-Committees should be selected on a rotational ad hoc basis, subject to the availability of Members
 - Sub-Committee meetings should take place in the area covered by the relevant preceding district council, subject to the availability of suitable venues
- (d) That the Democratic Services Officer be requested to draw up a list of suitable venues in the Cheshire East area, in which Sub-Committee meetings could be held.

8 DELEGATION OF LICENSING FUNCTIONS

The Committee considered a report relating to the delegation of certain licensing functions from the Licensing Committee to Licensing Sub-Committees and officers.

At its meeting on 9 December 2008, Council had resolved to delegate to the Licensing Committee those licensing functions which were the responsibility of Council. Further delegation to sub-committees and officers was required in order to facilitate the efficient provision of a licensing service for Cheshire East. The proposed scheme of delegation was based on current practices within the three existing licensing authorities of Congleton, Crewe & Nantwich and Macclesfield Borough Councils.

It was suggested that the scheme should be subject to the proviso that officers would have discretion to refer any issue to the Licensing Committee or Sub-Committee if the matter was significant or controversial in nature. It was also suggested that Sub-Committees should have discretion to refer matters to the full Licensing Committee in similar circumstances.

With respect to the referral of issues to the Licensing Committee by Sub-Committees, the Principal Solicitor clarified that such a decision would have to be made prior to a Sub-Committee meeting. Committee Members were of the opinion that the decision should therefore be taken by the Chairman and Vice Chairman of the Licensing Committee.

RESOLVED – That the delegations set out within Appendix 2 of the report be approved, subject to the proviso:

1. that officers have discretion to refer any issue to the Licensing Committee or Sub-Committee if the matter is significant or controversial in nature;
2. that the Chairman and Vice Chairman of the Licensing Committee have discretion to refer to the full Licensing Committee matters which would ordinarily be delegated to a Licensing Sub-Committee but which are significant or controversial in nature.

9 COMMITTEE PROCEDURE

The Committee considered a report relating to the procedures to be adopted at hearings of the Licensing Committee and Sub-Committees.

The procedures in relation to hearings under the Licensing Act 2003 and the Gambling Act 2005 were to a degree regulated by secondary legislation. It was also important to ensure that the procedures adopted by the Committee were in accordance with the rules of natural justice, as the Committee would be acting in a quasi-judicial manner.

The proposed procedures had been drafted in accordance with the relevant legislative requirements and were based on the procedures in operation within the existing district Councils.

RESOLVED – That the procedures to be followed at hearings under the Licensing Act 2003, the Gambling Act 2005 and in relation to ‘general’ licensing functions as set out at Appendices 1, 2 and 3 of the report be approved and adopted, subject to the following changes:

1. Procedure For Hearings – Licensing Act 2003
The third sentence of the paragraph entitled ‘The Licensing Committee’ to be amended to the effect that the Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.
2. Procedure For Hearings – Gambling Act 2005
The third sentence of the paragraph entitled ‘The Licensing Committee’ to be amended to the effect that the Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

10 FEES AND CHARGES

The Committee considered a report relating to the fees and charges currently charged by Congleton, Macclesfield and Crewe Borough Councils in relation to licensing functions and the proposed fees for Cheshire East.

Fees under the Licensing Act 2003 and certain fees under the Gambling Act 2005 were set by legislation. The Gambling Act 2005 set a maximum fee level that the Council could impose in relation to gambling premises licences, and the Council had discretion to set the fee up to this level. The

Council also had discretion in relation to other 'general' licensing matters, including taxi licensing and the licensing of sex establishments.

In determining the level of fee to be set, in circumstances where the Council did have discretion, the Council had to take into account the cost of providing the service, to ensure that the fees were reasonable and related to cost recovery.

Different fees and charges were currently being charged by Congleton, Macclesfield and Crewe Borough Councils. This would result in different charges being applied from 1 April 2009 within the administrative area of Cheshire East, which would be confusing and inequitable. It was therefore proposed to harmonise fees and charges from 1 April 2009, and a revised charging structure for Cheshire East was proposed. Fees had been calculated according to the number of hours needed to process each application and an estimated hourly rate of £50 per hour. All charges would be subject to review during the budget setting process.

RESOLVED

- (a) That the fees to be charged in relation to functions with respect to gambling, street trading and sex establishments, as set out in Appendix 1 of the report, be approved
- (b) That the proposed fees in relation to private hire and hackney carriage licences, as set out in Appendix 1 of the report, be approved in order that they may be subject to statutory consultation.

11 SCHEDULE OF MEETINGS FOR REMAINDER OF THE MUNICIPAL YEAR

The Solicitor reported that the Licensing Committee was scheduled to meet as follows in the New Year:

2pm Wednesday 14 January 2009 in the Capesthorne Room, Town Hall, Macclesfield

10am Friday 13 February 2009 in the Capesthorne Room, Town Hall, Macclesfield

March 2009 – time, date and venue to be confirmed.

RESOLVED – That the forthcoming meeting dates be noted.

The meeting commenced at 10.00 am and concluded at 11.45 am

Councillor P Whiteley
Chairman