

**MINUTES OF THE LICENSING COMMITTEE
TUESDAY, 21 FEBRUARY 2006**

Councillors Haley (Chair), Basu, Beacham, Bloch, Dobbie, Floyd, Newton, Patel (Deputy Chair) and Rice

Apologies Councillor E Prescott, Herbert Brown and Knight

Also Present: Councillor **Error! No document variable supplied.**

MINUTE NO.	SUBJECT/DECISION	ACTION BY
LSCO14.	<p>APOLOGIES FOR ABSENCE:</p> <p><i>(Agenda Item 1):</i></p> <p>Apologies were received from Councillors E Prescott, H Brown and F Knight. There was an apology for lateness from Councillor Haley. Councillor Patel, Vice Chair, took the Chair for the duration of the meeting. Councillor Haley arrived at 19:45.</p>	
LSCO15.	<p>URGENT BUSINESS:</p> <p><i>(Agenda Item 2):</i></p> <p>The Committee heard that Stephen Gilbert had resigned as a councillor of Haringey Council and thus was no longer a member of the Licensing Committee. His resignation was due to personal family reasons. The Committee expressed its thanks and best wishes to Mr Gilbert and agreed to write to Mr Gilbert to convey this.</p>	
LSCO16.	<p>DECLARATIONS OF INTEREST:</p> <p><i>(Agenda Item 3):</i></p> <p>None received</p>	
LSCO17.	<p>DEPUTATIONS/PETITIONS:</p> <p><i>(Agenda Item 4):</i></p> <p>None received</p>	

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LSCO18.	MINUTES: <i>(Agenda Item 5):</i> RESOLVED: That the minutes of the meetings held on 6 December 2005 be agreed and signed by the Chair.	
LSCO19.	EXTENDING THE DURATION OF THE LICENSING BODIES IN ELECTION YEAR: <i>(Agenda Item 6):</i> The Chair invited the Legal Adviser, Terence Mitchison to present his Report to the Committee. Mr Mitchison explained to the Committee that the purpose of the Report was to recommend to full Council that it should continue the operation of the existing Licensing Committee until the Annual Meeting in order to ensure that the Council's statutory duties to hear licensing applications are discharged and to continue in operation the Licensing sub-committees for the same purpose. Mr Mitchison outlined the background to the need to agree to the recommended measures highlighting that there was a particular problem in connection with licensing decisions under the Licensing Act 2003 in relation to the period of purdah. In practice, it was highlighted that applications being made in late March or early April that result in objections, there could be a legal obligation to hold hearings between the Local Government Elections (4 May 2006) and the Annual Council (22 May 2006), to be referred to as the "interim period". Mr Mitchison pointed out that no provision is made in the Licensing Act 2003 to enable hearings to be deferred until after this period. Furthermore, it was raised to Members' attention that a Licensing Committee must have a membership of at least 10 but not more than 15 councillors during the interim period. With this in mind, Mr Mitchison recommended that the Committee should resolve to extend the appointments of its Licensing sub-committees (or at least those that had three Members) from the Local Government Elections until the Annual Meeting subject to the Members in question being re-elected on 4 may 2006. It would also be subject to the Licensing Committee only having power to act for the purposes of determining any applications that the Council was legally bound to have determined during the interim period. Mr Mitchison suggested a final recommendation as a safeguard against the possibility that none of the Licensing sub-committees still have three Members after the Elections, and that the Licensing Committee itself has less than 10 Members, it is recommended that a special delegation be granted to the Chief Executive. This would be a delegated power to appoint any additional councillors needed to make up the membership of the Licensing Committee to 10. This delegation could only be exercised in the interim period. It must be granted by full Council.	

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Accordingly, the Licensing Committee is asked to recommend such a delegation to the meeting of full Council on 20 March 2006. The General Purposes Committee will be invited to make a similar recommendation when it meets on 2 March 2006.

The Committee discussed the recommendations of Mr Mitchison as length. Councillor Rice asked if the recommendation would have an impact on the life of the incoming Council in terms of changes to the articles of its Constitution. Mr Mitchison responded that the Local Government Act limited the Council from continuing provisions of a committee into another municipal year unless there was an express request of the current Council.

Councillor Dobbie raised his concern that only the Mayor could designate powers to a committee during the interim period and requested that the recommendations be looked over by Counsel and agreed in writing before they were ratified by this Committee. Cllr Dobbie also asked if any other London local authorities had arrangements in place to cover the interim period. Finally, Cllr Dobbie highlighted that any Members appointed under the special delegations proposed, would have to be fully trained under the provisions of the Licensing Act 2003. Mr Mitchison explained that delegated powers to the Mayor were not enough for the situation relating to the interim period and that delegation to the Chief Executive would be legally more sound than delegating to any other Member or officer. Mr Mitchison indicated that he had looked at what other local authorities were doing but not been convinced that the various provisions were legally as tight as the recommendation before this Committee. With reference to Member training, Mr Mitchison stated that it would be necessary to choose well experienced and trained Members and that it was hoped that there would at least be three experienced members available after the Local Government Election.

Councillor Beacham asked Mr Mitchison if there had been any advice issued from the Association of Local Government (ALG) or any other agency. The response was that the problem had been created by the legislation and that there had been no guidance from the government (through the Department of Culture, Media and Sport (DCMS) or any other government departments. The feeling was that government anticipate the probability would be that applications will not come through during the "interim period". Mr Mitchison accepted that the delegation of powers to the Chief Executive was unusual, but re-emphasised that the course of action was completely legally sound. In response to a request of clarification from Councillor Rice, Mr Mitchison stated that appointments by the Chief Executive would be unconstitutional at the sub-committee level. However, powers of delegation at the parent body level would be permissible – that body having powers to appoint sub-committees as necessary.

The Chair, in summing up the discussions, called for more work to

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	<p>be completed in ensuring that the recommendations were robust. This would mean seeking guidance from the ALG; finding out what other London Borough were doing to cover the interim period; and obtaining the go-ahead from Counsel on the legal robustness of the recommendations. The Chair proposed to bring the item back to a licensing committee to reconsider after this additional work had been completed.</p> <p>RESOLVED</p> <p>Defer the decision on whether to accept the recommendations to a special meeting of the Licensing Committee before submitting the decision for ratification by the General Purposes Committee.</p>	
LSCO20.	<p>HEARING PROCEDURE AND STANDARDISING HOURS POLICY:</p> <p><i>(Agenda Item 7):</i></p> <p>HEARING PROCEDURE</p> <p>The Chair invited the Legal Adviser, Terence Mitchison to present his Report to the Committee. Mr Mitchison explained that there were a number of options available in terms of measures that could be taken to speed up Licensing Sub-Committees so as to ensure that agenda business is completed in good time. Mr Mitchison outlined the practical terms the law requires that each party to a hearing must be subjected to and highlighted that the Legal Service advice does not that the Hearings Regulations permit the imposing of an arbitrary time limit on hearings when the complexity of certain cases may require that a longer time be allowed to explore all relevant issues in order to avoid contravening certain parties' legal rights.</p> <p>There was a discussion about the alternatives to an absolute time limit which Mr Mitchison had highlighted in his Report. Some concerns were raised because Members largely agreed that restricting rights to "sound-off" would be problematic. Councillor Haley drew the Committee's attention to Part E.8 of the Haringey Council Constitution at section 32.7 and asked sub-committee chairs to ensure hearings do not run beyond 10pm by ensuring that at 9:30pm a decision is made to curtail the agenda.</p> <p>RESOLVED</p> <p>That members agreed to the Hearings Procedure Summary be amended as follows:</p> <p><i>No meeting shall continue after 10pm, except that discussion of the specific item or case in hand at 10pm may continue thereafter at the discretion of the Chair of the meeting. Consideration of any business remaining shall be deferred to the next ordinary meeting, except where the matter(s) falls to be deal with under the urgency provisions.</i></p>	

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STANDARDISING HOURS POLICY

The Chair invited the Legal Adviser, Terence Mitchison to continue presenting his two-tier Report to the Committee, covering the issue of the standardisation of closing hours. He emphasised that both the government and Haringey Council recognised that each application had to be considered on its own merits. He also highlighted that the government, in its guidance to all local authorities, expressly disapproved of "zoning", i.e. setting fixed closing hours within a designated area. Furthermore, the guidance is opposed to any attempt to engineer "staggered closing times" which means allocating different closing times to different premises in an area. Mr Mitchison drew Members' attention to the Guidance paragraphs 3.30 and 6.7 to 6.10, and to the Statement of Licensing Policy at paragraphs 18.4 and 18.5.

With these parameters provided to Members, Mr Mitchison highlighted to Members that there was an option to consult with the DCMS on this and any other perceived restrictions or problems during the official two periods of consultation that were running throughout 2006.

RESOLVED

That Members express their view on the standardisation of closing hours for licensed premises in the DCMS consultation exercise.

LSCO21. MEMBER TRAINING FOR THE LICENSING ACT 2003:

(Agenda Item 8):

The Chair invited the Licensing Officer, Daliah Barrett, to present the Report to the Committee which raised the current position of Member training, and the need to train or re-train existing and new Members for the next municipal year.

There were four recommendations as follows:

- (i) To task officers to complete an audit of Member training in respect of the Licensing Act 2003 in order to ascertain which members require re-training.
- (ii) To appoint James Button and Co as the preferred supplier of training instructions (either in-house or off-site) for existing and new members.
- (iii) To task members and officers to embark on a comprehensive training programme in line with the introduction of the Gambling Act 2005.
- (iv) Recommendations (i) to (iii) above to be completed in conjunction with the Training and Information Manager,

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	<p>Member Services.</p> <p>There was concern over the procurement procedure that would have to be followed before a decision was made to choose one training provider over another. It was agreed that this would be checked and the full Council procedures would be followed for any procurement of training resources.</p> <p>RESOLVED</p> <p>That recommendations (i), (iii), and (iv) above be agreed. Recommendation (ii) to be brought back to the Committee's attention once procurement procedures had been properly established.</p>	
<p>LSCO22.</p>	<p>VERBAL FEEDBACK FROM THE ALG LICENSING CONFERENCE ON 6 FEBRUARY 2006. <i>(Agenda Item 9):</i></p> <p>The Chair invited the Licensing Officer, Daliah Barrett, to feed back to the Committee on the views and discussions that were raised during the ALG's recent conference <i>Licensing London – What Now?</i></p> <p>Ms Barrett reported that there were presentations outlining the views of the ALG, the British Beer and Pub Association, the London Borough of Havering (chosen the government's review of the new laws), the Association of Chief Police Officers, LACORS, and the Home Office. There was general agreement from all agencies that the implementation of the Licensing Act 2003 had gone smoothly and without much criticism. However, it would remain to be seen the effects over a longer period, especially during summer months.</p>	
<p>LSCO23.</p>	<p>ITEMS OF URGENT BUSINESS: <i>(Agenda Item 10):</i></p> <p>(i) Councillor Haley gave an update to the Committee on three applications that sub-committees had heard and decided upon – whose decisions had subsequently been appealed against.</p> <ul style="list-style-type: none"> • Botany Bay – the appeal had been withdrawn • The Hill – the appeal decision was in the favour of the applicant • Golden Stool – the appeal decision was pending <p>The Committee agreed to receive judgements from the Magistrates after all appeals had been decided upon.</p>	

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	<p>(ii) Councillor Haley informed the Committee that the premises, 443 Green Lanes (Mengal) had been temporarily closed down by the Enforcement Service.</p> <p>(iii) The Licensing Officer, Daliah Barrett, reminded the Committee that it would be necessary to hold a full Licensing Committee for the consideration of the anticipated large outdoor events to be held in Finsbury Park. Although no applications had been received, it was felt that it was likely that a notice of meeting would be given nonetheless in order to ensure the full Committee was ready to fulfil its statutory obligations.</p> <p>The meeting ended at 20:50</p>	
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Councillor BRIAN HALEY
Chair, Licensing Committee 2005/6