

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE 14 MARCH 2018
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**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY 14 MARCH 2018 AT 1000
HOURS IN COMMITTEE ROOMS 3 AND 4
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp, Alex Buchanan, Lynda Clinton,
Basharat Dad, Des Flood, Carol Griffiths, Nagina Kauser,
Chaman Lal, Mike Leddy and Rob Sealey

NOTICE OF RECORDING/WEBCAST

- 984 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.birminghamnewsroom.com) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

APOLOGIES

- 985 Apologies were received from Councillors Nawaz Ali, Liz Clements, Ian Cruise and Change Khan for non-attendance.

The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.

MINUTES

- 986 The Minutes of the meeting held on 14 February 2018, having been previously circulated were confirmed as a correct record and signed by the Chairman.

**CONTROL OF SEX ESTABLISHMENTS – SEXUAL ENTERTAINMENT
VENUE, THE ROCKET CLUB, 258 BROAD STREET, BIRMINGHAM B1
2HF**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following people were in attendance for the hearing.

Sarah Clover	-	Barrister
Carl Moore	-	Licensing Consultant
Warwick Ramseir	-	DPS Manager

The following information was provided to the Committee via e-mail prior to the meeting and hard copies were subsequently tabled at the meeting:-

(See document No. 2)

At this juncture, the Chair welcomed everyone to the meeting and made the necessary introductions. She outlined the running order of the business and the times each party would have to make their representation and summary.

The Chair after seeking confirmation that the applicant did not wish to make any preliminary points invited the Licensing Officer to present the report.

Shaid Yasser, Licensing Section, made introductory comments relating to the report.

Sarah Clover made the following comments in support of an application renewal for The Rocket Club Gentlemen's Entertainment Limited:-

She made reference to the very recently submitted documents and highlighted that they provided all the relevant information required as a result of the objection that had been received, adding that the additional information was to provide full transparency of the business.

She highlighted that The Rocket Club was a very long established sexual entertainment venue in Birmingham and had been making renewal applications since 2011. She stated that the necessary compliance visits had taken place over the years and there had never been any reported issues of concern and that Licensing Officers had been satisfied with the situation.

She confirmed that over the years nothing had changed regarding the structure and the persons involved in the club, and explained that it was not an unusual situation for the licence to be held in one company name, and for the company to trade and for the finances to go through another name.

She highlighted that the key reason for this in the sexual entertainment venue industry was due to discretion, and subsequently explained the reasoning behind this and provided an example within the documentation whereby other venues adopted this standard approach.

She made reference to the fact that the name on the application was different and did not appreciate that there was going to be an issue until now when the objector had made the objection. She confirmed that since 2011, the renewal application had always been submitted in this name form and it had never ever been perceived to be a problem.

Councillor Leddy expressed disapproval in seeing a club in the name of a licence holder being operated by another business which was not answerable and had not come before this committee.

He therefore suggested that Berkleys Leisure Limited trading as The Rocket Club would instil greater confidence, if, the individuals concerned were answerable to this Committee.

Sarah Clover responded by stating that in order to overt an objection such as this in the future, instruction could be taken on the face of the application.

After taking instruction from the applicant, she stated that for the purposes of the application, it could be written down in future that the Committee could see the one company trading as the name of the other and for today's purposes that the application be retrospectively corrected.

At this juncture, Sarah Clover provided a very brief submission.

At 1030 hours the Committee adjourned and the Chair requested that all present, with the exception of the Members, the Committee Lawyer and Committee Manager withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1040 hours and the decision of the Committee to grant the renewal application was announced with Warwick Ramseir being advised of the full decision and reasons as set out below in due course:-

987

RESOLVED:-

That the application by The Rocket Club Gentleman's Entertainment Limited for the renewal of the Sexual Entertainment Venue licence under the Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 in respect The Rocket Club, 258 Broad Street, Birmingham, B1 2HF **BE GRANTED**.

Those matters detailed in the application and the Council approved standard conditions will form part of the licence issued pursuant to Paragraph 13, Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982.

Members carefully considered the representations on behalf of the applicant in response to the written objection as set out within Appendix 5 of the Committee Report (as those making the objection had not attended the Committee meeting) but were not satisfied that any statutory grounds ground to refuse the renewal of the application, as set out in Paragraph 12, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) applied on this occasion.

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Members were informed by the applicant's legal advisor, that the applicant current trading model, company structure (including key officers) and the premises layout had been in place since the Authority first granted the Sexual Entertainment Venue licence, and that this had not resulted any concerns being raised by either West Midlands Police or the Council's Licensing Enforcement Team at each subsequent annual renewal thereafter.

Furthermore, Members were informed by the applicant's legal advisor that the practice of retaining such a company structure (with a dormant company allied to the main operating company) was custom and practice or a "National Standard" for many venues of this type and that the rationale for adopting this was to ensure that there was an element of discretion for their patrons when expenditure at the venue was documented within their financial records.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Sexual Entertainment Venue Policy, the information contained in the application, the written representations received and the submissions made at the hearing by the applicant and their legal adviser and the written representations received.

The applicant is entitled to appeal the decision of the Licensing Authority before the expiration of the period of 21 days beginning with the relevant date appeal to the Magistrates' Court acting for the relevant area in accordance with the provisions of Paragraph 27 Schedule 3, of The Local Government (Miscellaneous Provisions) Act 1982.

LICENSING AND PUBLIC PROTECTION COMMITTEE – BUDGET MONITORING 2017/18 (MONTH 10)

The following report of the Acting Service Director of Regulation and Enforcement and Corporate Director Finance and Governance was submitted:-

(See Document No. 3)

David Jones, Finance Manager provided a detailed presentation of the report and responded appropriately to comments and questions from Members of the Committee.

David Jones made reference to the all year pressure on the Coroners Service and the high volume of demand. He confirmed that it was reviewed regularly and based on the latest figures in January 2018 they had managed to reduce pressures by keeping their costs under control during the year.

He referred to the Registrars Service and confirmed that they were looking to break even although a great deal of their income was seasonal. He further confirmed that they had identified a very small pressure which they would be reviewing up to the year end.

He referred to 1974 Inquest and the new cemetery and agreed to provide the Committee with an update in the near future.

At this juncture Councillor Clinton declared a non-pecuniary interest in relation to the 1974 Birmingham Pub Bombing agenda item.

Chris Neville, Acting Director of Regulation and Enforcement referred to the 1974 Inquest and reported that there had been a verbal assurance from Ministry of Justice that the costs would be covered by the Government. He further reported that the Chair had written to the Ministry of Justice seeking assurance that this would be the case.

He added that if the costs were not met by the Government, then they would have to be met corporately which would not be the responsibility of this Committee. He stressed that they were doing as much as they could to progress the issue and would endeavour to contact the Ministry of Justice again in this respect.

He referred to the new cemetery in Sutton Coldfield which was due to become operational in the spring and subsequently agreed to provide a progress update to the Committee.

Chris confirmed that they would be writing to the relevant Government department regarding registration fees and whether there was any movement where fees could be set locally.

Chris made reference to Appendix 5 of the report and provided a brief explanation of the 2 separate Proceeds of Crime accounts.

The Chair put the recommendations to the meeting all were unanimously agreed:-

988

RESOLVED:-

The Licensing and Public Protection Committee:-

Noted the latest Revenue budget position at the end of January 2018 (Month 10) and Forecast Outturn, as detailed in Appendix 1 of the report.

Noted the financial position with regard to the Savings Programme for 2017/18 as detailed in Appendix 2 of the report.

Noted the expenditure on grant funded programmes in Appendix 3 of the report.

Noted the position on capital projects, as detailed in Appendix 4 of the report.

Approved the net appropriations to reserves relating to Proceeds of Crime Act of £0.276m and noted the closing position on reserves, as detailed in Appendix 5 of the report.

LICENSING AND PUBLIC PROTECTION – REVENUE BUDGET 2018/19

The following report of the Acting Service Director of Regulation and Enforcement and Corporate Director Finance and Governance was submitted:-

(See document No. 4)

David Jones, Finance Manager provided a detailed presentation of the report and responded appropriately to comments and questions from Members of the Committee.

Chris Neville, Acting Director of Regulation and Enforcement referred to the hospitality training programme for drivers that had taken place approximately 3 years ago which had been funded by the Government. He referred to the ring-fenced reserve and saw no reason why some of the funding could be used for drivers' educational purposes in raising standards.

He confirmed that this would have to be given greater consideration with the submission of a report and taken into account whether there were any other aspects of the Commonwealth Games which could impinge on the Licensing Service.

David Jones, Finance Manager made reference to the additional resources that were both for the Mortuary and Coroners Services which had been set out in a previous report detailing where those resources were. He confirmed that the capital was for the Mortuary Service pertaining to health and safety improvements which had resulted in a larger capital programme than was anticipated.

Chris Neville reported on the urgent repair work that had to be done in order for the Mortuary Service to continue operating and agreed to share the financial information with the Committee in this regard.

Chris Neville confirmed that the Committee had been recently looking at this issue of the use of credit cards in taxis and stated that the proposal was to make it a requirement that all black cabs would take credit cards.

He reported that not all black cabs in the trade supported the proposal, and therefore, they would be looking to consult widely amongst the drivers and then return with a report, whereupon the Committee would be able to make a decision, after giving due consideration to the views of the trade.

The Chair put the recommendations to the meeting all were unanimously agreed:-

989

RESOLVED:-

The Committee:-

Noted the 2018/19 Revenue Budget Changes as detailed in Appendix 1 of the report.

Noted the 2018/19 Service and Subjective Budget in Appendix 2 of the report.

Noted the Budget 2018/19 to 2021/22 in Appendix 3 of the report.

Noted the 2018/19 budgeted employee establishment as detailed in Appendix 4 of the report.

Noted the latest 2018/19 Reserves position as detailed in Appendix 5 of the report.

RECOMMENDED CHANGES TO DRIVER'S MEDICAL FREQUENCIES

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 5)

Emma Rohomon, Acting Head of Licensing presented the report and responded appropriately to comments and questions from Members of the Committee.

Emma referred to the drivers with medical conditions and stated that they would expect them to continue to contact the department, as they would contact the Driving and Vehicle Licensing Agency (DVLA) reporting their condition. She highlighted that all drivers' medical records were confidential and held by Occupation Health.

She subsequently referred to 4.5 of the report and highlighted that any existing policies aside from frequency of medicals remained unchanged.

The Chair put the recommendation to the meeting and following a vote it was recorded that 9 were in favour and 2 were against.

990

RESOLVED:-

The Committee considered the matters raised in the report and amend the Policies, Procedures and Delegations in line with the recommendation made by Doctor Cathcart on behalf of the Occupational Health Service.

**HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS/APPLICANTS:
REFERENCES FROM MEMBERS OF PARLIAMENT**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 6)

Emma Rohomon, Acting Head of Licensing presented the report and responded appropriately to comments and questions from Members of the Committee.

In response to previous information requested by Councillor Flood, Chris Neville, Acting Director of Regulation and Enforcement agreed to provide the information to all members of the Committee.

Emma explained the reasoning why within the Code of Conduct for members of the Licensing and Public Protection Committee, the prohibition on references was not included as the proposal applied to all elected members of the City Council and therefore avoided the risk of duplication of the code. She confirmed that there would be an amendment to the Constitution prohibiting all elected members of providing references.

The Chair and Chris Neville confirmed that the Leader had expressed the view that the proposal should extend to MEP's and the elected Mayor of the West Midlands.

Chris stated that if the Committee shared the same view, then the proposal required to be amended, in order to reflect that members of the Committee, would not accept references provided by; Members of Parliament, Members of European Parliament, the elected Mayor of the West Midlands and as suggested in Committee, the Police Crime Commissioner which would then form the basis of consultation.

Emma confirmed that they would be writing to all elected members after the elections with information regarding the Licensing Service, in order to dispel any myths that they may have and to clarify procedures with regard to making representations.

At this juncture, Sanjeev Bhopal, Senior Lawyer explained that due to the proposed change to policy as part of the recommendation, there was a requirement to undertake a consultation and that it would take place after Purdah, in accordance with the guidance that had been issued to all elected members and officers.

The Chair put the recommendations as amended to the meeting all were unanimously agreed:-

991

RESOLVED:-

- 2.1 That the Committee considered the revision to the current policy on applicants for Hackney Carriage and Private Hire Licence applications as set out at Paragraph 4.8 of this Report and:
 - 2.1.1 That if the recommendation at 2.1 was agreed by Committee, that officers undertake a public consultation for a period not exceeding 4 weeks on any appropriate revisions to the Council's Policy for Hackney Carriage and Private Hire applications incorporating the changes at Paragraph 4.8 of this Report as amended. And
 - 2.1.2 That officers revert to Committee with the outcome of the public consultation and provide Committee with their final recommendations on the proposed changes to Committee policy as set out at Paragraph 4.8 of this Report,

2.2 That Outstanding Minute No. 942(iii) be discharged.

VEHICLE ENGINE SIZES AND ELECTRICALLY POWERED VEHICLES

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 7)

Chris Neville, Acting Director of Regulation and Enforcement presented the report.

During the course of the presentation there was a five minute adjournment.

In response to comments and questions the following points were made:-

Chris Neville confirmed that there were 197 charging points for which the City Council had received funding specifically to accommodate taxis and private hire vehicles.

Chris provided an explanation as to why the Working Group had focused on engine size.

A brief discussion ensued regarding the lack of spare wheels in newer cars and the safety aspect. It was highlighted that these cars were manufactured with a repair kit which allowed the driver to safely get the puncture repaired or the tyre replaced within a certain timescale.

The Chair put the recommendations to the meeting all were unanimously agreed:-

992

RESOLVED:-

That Committee agreed in principle to the recommendations of the Working Group identified in paragraphs 6.1 to 6.4 of this report to remove the policy requirement for private hire vehicles to have a minimum engine size of 1600cc or 1500cc for the second-generation Toyota Prius.

That officers be instructed to consult with taxi and private hire trade representatives and the wider general public on the proposals in paragraphs 6.1 to 6.4 for a period of 6 weeks, as outlined in paragraph 7.2 of this report.

That a further report be brought to the Committee at the first opportunity to make final recommendations based on the results of the consultation.

That Outstanding Minute No. 968 of 17 January 2018 be discharged.

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING JANUARY 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 8)

Emma Rohomon, Acting Head of Licensing made introductory comments relating to the report and highlighted some of the cases therein.

The Chair thanked Emma for reporting.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

993

RESOLVED:-

That the report be noted

PROSECUTIONS AND CAUTIONS – JANUARY 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 9)

Chris Neville, Acting Director of Regulation and Enforcement made introductory comments relating to the report and subsequently referred to various prosecutions and cautions.

Mark Croxford, Head of Environmental Health agreed to provide the relevant information requested regarding food establishments with zero ratings.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

994

RESOLVED:-

That the report be noted.

FIXED PENALTY NOTICES ISSUED JANUARY 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No.10)

Mark Croxford, Head of Environmental Health made introductory comments relating to the report and highlighted the cases therein.

The Chair put the recommendation to the meeting and it was unanimously agreed:-

995

RESOLVED:-

That the report be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 11)

Chris Neville, Acting Director of Regulation and Enforcement, updated the dates for which reports would be forthcoming in relation to various Outstanding Minutes.

It was -

996

RESOLVED:-

That Outstanding Minute Nos. 942 (iii) and 968 be discharged with the remaining Outstanding Minutes be continued.

OTHER URGENT BUSINESS

Uber Taxi Company

997

A discussion ensued following questions relating to the above-mentioned taxi company's licence renewal.

At this juncture a short adjournment took place where legal advice was provided to the Committee by the Committee Lawyer in attendance at the meeting.

Following legal advice, Chris Neville Acting Director of Regulation and Enforcement stated that the City was seeking clarity from Uber on its business model as it decides whether to renew the taxi application's licence after granting a temporary extension.

The Chair confirmed that the licence had been temporarily extended whilst they awaited the legal outcome and subsequently apologised for not alerting the Committee in this respect.

Chris Neville reported on the action officers had taken under the delegated powers, and stated, that if for any reason officers determined that the licence should not be renewed, then the decision would be passed to members with the assurance that all the relevant facts would be made available in order that the correct decision was made.

Chris reported that if the decision was passed to the Sub-Committee then the Sub-Committee could refer the matter to full Committee if considered appropriate.

Establishing Protocols for Various Major Facilities

998 Following a discussion relating to the above, the Chair made reference to the report which was to be provided to Committee from members that sat on the relevant committees which covered; Aston Villa and Birmingham City Football Clubs and Edgbaston Cricket Club.

Chris made reference to the gold, silver and bronze structure relating to significant public emergencies, stating that the oversight of the resilience and emergency planning was organised through the Leader's office.

AUTHORITY TO CHAIR AND OFFICERS

999 **RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

The meeting ended at 1330 hours.

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CHAIRMAN