

## **BIRMINGHAM CITY COUNCIL**

<b>LICENSING AND PUBLIC PROTECTION COMMITTEE 17 JANUARY 2018</b>
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**MINUTES OF A MEETING OF THE LICENSING  
AND PUBLIC PROTECTION COMMITTEE HELD  
ON WEDNESDAY 17 JANUARY 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, Liz Clements,  
Lynda Clinton, Ian Cruise, Basharat Dad, Carol Griffiths,  
Chaman Lal, Mike Leddy and Rob Sealey

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**NOTICE OF RECORDING/WEBCAST**

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

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**APOLOGIES**

- 959 Apologies were received on behalf of Councillor Ian Cruise for lateness and from Councillors Nawaz Ali, Des Flood, Nagina Kauser and Changese Khan for non-attendance.

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**MINUTES**

- 960 The Minutes of the meeting held on 13 December 2017, having been previously circulated were confirmed as a correct record and signed by the Chairman.
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**LICENSING AND PUBLIC PROTECTION – BUDGET MONITORING 2017/18  
(MONTH 8)**

The following report of the Service Director Regulation and Enforcement and Interim Chief Financial Officer was submitted:-

(See Document No. 1)

Parmjeet Jassal, Head of City Finance, provided a detailed presentation of the report and responded appropriately to comments and questions from Members of the Committee.

She reported that the legal expenses at present in relation to the 1974 Inquest were approximately £1m, and understood, that a verbal commitment had been made by the Government to pay for the charges. She added that the Chief Executive of Birmingham City Council had written to the Government seeking that approval in writing, and were presently awaiting a formal response with the expectation that it would be forthcoming in the near future.

With regard to the capital project, it was understood that the estimate was double the cost originally anticipated. As it was funded through prudential borrowing approximately £25,000 per annum for this committee and resources for those were identified and already available. Therefore, the addition of an extra £25,000 was being sought within the portfolio, and would, have to be found either by services within Licensing or from another budget yet to be explored.

She reported that with any new developments within the Mortuary and Coroners Service relating to any large purchase there would have to be a business case presented by officers. This would include an explanation on how the purchase would be funded and she subsequently detailed the financial options on how this could be sourced. She added that all of the financial options would be considered within the business case at officer level before it was presented to the Chair and Cabinet Member.

At this juncture, Chris Neville, Head of Licensing confirmed that funding from the Proceeds of Crime Act was not time limited and that once it was in the reserve account it remained there. He highlighted that the main intention of the funding was that it should be reinvested into similar criminal investigations particularly around money laundering.

Mark Croxford, Head of Environmental Health referred to the £600,000 pressure on income and confirmed that they would be able to close the gap with the £360,000 underspend within Environmental Health, and they were looking to make more savings with employment vacancies not being filled.

Chris Neville referred to the project that was being funded by the National Trading Standards Service whereupon the city had been asked to put forward a bid. As a result of this, the city was co-ordinating on behalf of all the National Trading Standards Services an investigation into a nationwide counterfeiting illegal set up of which the city was being paid to do this. He added that they would be reporting back to the National Trading Standards

who would then manage the investigation that had arisen from this. He highlighted that it had an impact on the city as it had links to this crime network and ultimately, when the investigation had been completed, and the people responsible were prosecuted, this would benefit the city as they would no longer be operating there.

In response to further comments from members, Mark Croxford confirmed that he would investigate to see whether a more formal footing with regard to payment could be obtained from the Government relating to the legal expenses of the 1974 Inquest. He further confirmed that he would contact the coroner's office with regard to the progress of the digital imagery.

In response to an enquiry relating to the request for a progress update on the new cemetery, Parmjeet agreed to contact the relevant officer for the required information and that it would be subsequently circulated to the Committee.

The Chair thanked Parmjeet Jassal for attending the meeting and reporting.

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

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**RESOLVED:-**

To note the latest Revenue budget position at the end of November 2017 (Month 8) and Forecast Outturn as detailed in Appendix 1 of the report.

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

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

To note the position on Capital projects, as detailed in Appendix 4.

To approve the appropriations to and from reserves relating to Proceeds of Crime Act.

To note the position on reserves and balances, as detailed in Appendix 5.

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**INTRODUCTION OF THE SINGLE JUSTICE PROCEDURE**

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

(See Document No. 2)

Mark Croxford, Head of Environmental Health, presented the report and highlighted that the Government had signed a new Statutory Instrument which expands the availability of this procedure to a group of additional prosecutors that now included local authorities.

In response to comments from the Members of the Committee, the following points were made.

Mark highlighted that this process was similar to the Fixed Penalty Notice (FPN) process where people were prosecuted but that there was a change in the way that it was dealt with. People did not have to attend court if they pleaded guilty however the bench would still make a decision on the penalty. He added that it would not affect Sub-Committees and that people found guilty under this process would still have a criminal record just as if they had attended court.

He reported that the control on the cases accepted by the courts was for the courts and that the city was just accessing their process. He stated that the prosecutions would only be low level ones, adding that there was no process for appeal if a person had pled guilty.

He stated that the impact on the introduction of this way of working saved time for the Courts and the person committing the offence and, overall, these changes would help colleagues in Legal Services in that it reduced their need to attend court where guilty pleas were entered.

The Chair concluded by thanking Mark for presenting the report

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

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**RESOLVED:-**

That the report be noted.

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**HOUSE OF LORDS SELECT COMMITTEE ON THE LICENSING ACT 2003**  
**GOVERNMENT RESPONSE**

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

(See Document No. 3)

Emma Rohomon, Licensing Operations Manager, made introductory comments relating to the report and responded appropriately to comments and questions from Members of the Committee.

Emma referred to Licensing and Planning and confirmed that they were completely separate and although the two regimes looked at the same businesses, they were considered by both in different ways. She added that it was something that they were looking to clarify in more detail when they reviewed the statement of licensing policy just to make sure what the links were and also the separation which would in turn be helpful for officers, elected members and also applicants.

Emma reported that they would be reinstating the officer responsible authorities working groups whereupon in the past, they had held regular meetings between all the responsible authorities in order to share best practice. She confirmed that they were looking to do this again in order to make the necessary connections and work more closely together.

She stated that they had identified some mutual training needs between the two areas, and therefore, officers could benefit from general input from planning officers and vice versa just to ensure that everyone was up to speed with what they should be doing.

Sanjeev Bhopal, Senior Solicitor referred to an earlier comment and stated that based on the review of the Constitution and BCC's Code of Practice for elected members, he expected that any legal adviser advising a member of a Licensing Sub-Committee would provide the appropriate advice on any potential conflict of interest or any perceived conflict before a decision actually took place. He reiterated that it would be part of a wider review and that officers in Licensing would receive assistance as well.

The Chair concluded by thanking Emma for presenting the report

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

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**RESOLVED:-**

That the report be noted.

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**THE EFFECT OF REDUCING THE FREQUENCY OF FOOD HYGIENE INSPECTIONS AND THE FUTURE ROLE OF FOOD REGULATION**

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

(See Document No. 4)

Nick Lowe, Operations Manager Food, provided a detailed report and presentation and subsequently responded to appropriate comments and questions from Members of the Committee.

The Chair and Members of the Committee thanked Nick for providing a very comprehensive report and for the work that had been carried out in support of the report.

Nick stated that with regard to the issue on whether regular inspections were a burden to businesses, he stated that when inspections were carried out, businesses were generally compliant and were prompted to maintain standards. He added that a properly resourced well maintained inspection programme was not a burden but a positive support for businesses

He reported that if businesses had not been inspected for a number of years and they were not meeting the required standards, then it was more of a burden for the business and the local authority in having to close it down.

He stated that a good business should welcome regular and routine interventions in order that they could discuss with local officers and seek their help if required, adding that an inspection takes approximately 90 minutes.

With regard to certified regulatory auditors, he confirmed that there was some real concern, as in the past the city had visited businesses where they had had their own monthly audit undertaken which had not met the same required standards as the city audit. He added that the private auditors often based their ratings more on presentation than actual hygiene.

With regard to concern that there could be the introduction of a two tier system, Nick fully agreed that this could be the case with the more affluent businesses opting out, and the less affluent businesses remaining under local authority control.

Nick reported that regarding the enforcement side, the local authority was led to believe that the role of the certified regulatory auditor was to carry out the inspection albeit they did not have any enforcement powers, and therefore, if they did find serious failures then it would revert back to local authority control.

He highlighted that the real concern was that if the auditor was employed by a major business and undertook an audit of the business, would they report back to the local authority if problems were found. He added that there was not the surety of how robust the scheme was and also the issue of a conflict of interest.

He further highlighted the concern that with the private assurance schemes how much credibility could the local authority give to them as they were not independent assessments.

At this juncture, Councillor Cruise was welcomed to the meeting.

The Chair highlighted that the food rating scheme in the city had been well publicised.

Nick agreed that the scheme had been well publicised and that the Birmingham Mail was a very big supporter of the ratings and regularly undertook a review of all the zero ratings in the city. He stated that the local authority had worked with companies such as 'Just Eat' to ensure that if eateries dropped their ratings, they were removed from those types of web sites therefore providing an incentive for businesses to maintain standards, otherwise they would lose their accreditation.

He suggested that if in future private regulators were able to give food ratings, the local authority could consider whether they were part of the National Food Hygiene Rating Scheme, or introduce their own in the city. If they introduced their own, then the city could refuse to publish ratings that were issued by anyone other than the local authority.

Mark Croxford highlighted that when a business was scored a zero as a result of an inspection, the business was not re-scored until after another unannounced inspection was undertaken and although they may have improved since the original inspection, it was important that they should publicise the fact that they had since improved.

Nick concluded by stating that the Chartered Institute of Environmental Health was looking at the proposal, and as the local authority was part of the West Midlands Food Liaison Group, it would be making representation, as well as on behalf of the Licensing and Public Protection Committee on the serious concerns that this presented.

Following a further discussion, it was suggested and agreed by the Committee that a copy of the letter that was to be forwarded by the Chair to the Food Standards Agency and Secretary of State, be also forwarded to all of the MPs of the city.

The Chair concluded by thanking Nick for presenting the report

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

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**RESOLVED:-**

That based on the findings, the Chair of Licensing and Public Protection Committee write to the Food Standards Agency, and the Secretary of State for Health, outlining the Committee's concerns that a reduced regulatory system could weaken food safety and protection for consumers.

That a copy of the above-mentioned letter be forwarded to all of the MP's representing the city.

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**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS TAKEN DURING OCTOBER 2017**

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

(See Document No. 5)

Chris Neville, Head of Licensing, made introductory comments relating to the report and highlighted some of the cases therein.

The Chair thanked Chris for reporting.

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**RESOLVED:-**

That the report be noted

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**FIXED PENALTY NOTICES ISSUED NOVEMBER 2017**

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

(See Document No. 6)

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

In response to concern relating to litter issues, Mark agreed to investigate as to whether the reports relating to the cleanliness of Wards were still be compiled and if so request the circulation of the information.

Mark made reference to the litter officers that operated in the outer city wards which were mainly in the shopping centres. He highlighted the difficulties in working in residential areas, however, suggested that if Members were aware of areas where people were actively littering then patrols could be directed in those areas.

In response to a further concern relating to litter spillage as a result of operatives emptying bins and not clearing up after themselves appropriately and the general increase of cigarette butts and chewing gum, Mark agreed to contact Darren Share, Fleet and Waste Management directly.

The Chair thanked Mark for reporting.

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**RESOLVED:-**

That the report be noted

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**PROSECUTIONS AND CAUTIONS – NOVEMBER 2017**

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

(See Document No. 7)

Mark Croxford, Head of Environmental Health made introductory comments relating to the report and subsequently referred to various prosecutions and cautions.

967

**RESOLVED:-**

That the report be noted

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**SCHEDULE OF OUTSTANDING MINUTES**

The following schedule of Outstanding Minutes was submitted:-



(See Document No. 8)

Chris Neville, Head of Licensing, updated the dates for which reports would be forthcoming in relation to various Outstanding Minutes.

He confirmed that Minute No. 934 (ii) the report required a public consultation and therefore would expect that the report would not be available until June 2018.

In response to an enquiry from the Chair relating to a previous outstanding minute pertaining to engine sizes which was no longer on the schedule, Chris confirmed that it had been removed from the list when the report was presented in October 2017 on the emissions policy.

He stated that they had since had a meeting with the working party and as a consequence, they were proposing to submit a report to Licensing and Public Protection Committee in March 2018 outlining the proposals for a new draft policy on vehicle engine sizes, and to facilitate the licensing of electrically powered private hire and taxi vehicles within Birmingham, which could be added to the schedule.

It was -

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**RESOLVED:-**

That Outstanding Minutes be continued.

That a report be submitted to the Licensing and Public Protection Committee in March 2018 outlining proposals for a new draft policy on vehicle engine sizes and to facilitate the licensing of electrically powered private hire and taxi vehicles within Birmingham.

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**AUTHORITY TO CHAIR AND OFFICERS**

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**RESOLVED:-**

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

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The meeting ended at 1145 hours.

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CHAIRMAN