

Licensing & Regulatory Committee

Agenda

Date

Wednesday 14 November 2018

Time

9:30 am

The following 3 Members ONLY
are needed to attend

Mrs S C Gurney - Chairman
Mrs C Bannock
Mr V Tapp

Place

Trafford Room
Thorpe Lodge
1 Yarmouth Road
Thorpe St Andrew
Norwich

Contact

Dawn Matthews tel (01603) 430404

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Thorpe St Andrew
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If any member wishes to clarify details relating
to any matter on the agenda they are requested
to contact the relevant Head of Service.



@BDCCDemServices

The Openness of Local Government Bodies Regulations 2014

Under the above Regulations, any person may take photographs, film and audio-record the proceedings and report on all public meetings. If you do not wish to be filmed / recorded, please notify an officer prior to the start of the meeting. The Council has a protocol, a copy of which will be displayed outside of each meeting room and is available on request.

**The Chairman will ask if anyone wishes to
film / record this meeting**

A G E N D A

Page No

- | | | |
|---|--|---------|
| 1 | To receive declarations of interest under Procedural Rule no 8 | |
| 2 | Apologies for absence | |
| 3 | <u>Minutes of meeting held on 9 October 2018</u> | 3 – 6 |
| 4 | Matters arising therefrom (if any) | |
| 5 | Exclusion of the Press and public | |
| | <p>The Chairman will move that the Press and public be excluded from the meeting for the remaining business because otherwise, information which is exempt information by virtue of Paragraphs 1, 3 and 7 of Part I of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, would be disclosed to them.</p> | |
| 6 | (9:30am) Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver Licensing | |
| | <u>To consider an application for a private hire vehicle driver's licence</u> | 9 – 20 |
| | <u>A copy of the procedure to be followed is attached</u> | 7 – 8 |
| 7 | (11:00am) Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver Licensing | |
| | <u>To consider matters involving a private hire vehicle driver</u> | 25 – 40 |
| | <u>A copy of the procedure to be followed is attached</u> | 21 – 24 |
| 8 | (12:30pm) Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver Licensing | |
| | <u>To consider matters involving a private hire vehicle driver previously considered by the Committee</u> | 45 – 64 |
| | <u>A copy of the procedure to be followed is attached</u> | 41 – 44 |

P C Kirby
Chief Executive

Minutes of a meeting of the **Licensing & Regulatory Committee** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich on **Tuesday 9 October 2018** at **9:30am** when there were present:

Mrs S C Gurney – Chairman

Mrs C H Bannock
Mr K G Leggett MBE

Mr S Dunn
Mr I N Moncur

Mr R J Knowles
Mrs B H Rix

Also in attendance were the Food, Safety and Licensing Team Manager, the Technical Officer (Licensing Enforcement) and the Committee Officer (DM).

20 APOLOGIES FOR ABSENCE

Apologies for absence were received from Mrs J K Copplestone, Mr N C Shaw, Mr V B Tapp and Mr D B Willmott.

21 MINUTES

The Minutes of the meeting held on 8 August 2018 were confirmed as a correct record and signed by the Chairman.

22 GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES (POLICY STATEMENT)

Members considered the report of the Food, Safety and Licensing Team Manager detailing the outcome of the consultation process in respect of the review of Broadland District Council's Gambling Act Statement of Principles (Policy Statement) and inviting the Committee to recommend the Policy to Council for adoption. The Food, Safety and Licensing Team Manager took Members through the report and explained that 675 letters had been sent out advising groups, organisations, businesses and individuals about the consultation and the Statement had been available in libraries and on the Council's website. Responses had been received from 2 consultees within the consultation period: Gamcare and Gosschalks (on behalf of the Association of British Bookmakers) and 2 further representations received outside the consultation period from Public Health and from Nplaw which Members agreed to have regard to. The representations received from Gamcare, Gosschalks and Public Health were set out in the appendix to the report. The representation from Nplaw was as follows:

- Page 28 of the report (p19 of the Policy) retain the words "by reason only of the fact that"

- Page 22 of the report (p13 of the Policy) add the following paragraph after para 7.58: *“7.59 As the Court has held in a 2008 case, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.”*

Members reviewed the responses to the consultation and gave due weight and consideration to them. The following amendments were then agreed:

- 1 Gamcare – the response was welcome, sensible and practicable but most of the issues were already provided for within the existing Policy or the legislation / guidance. There were only two gambling premises licences in the district and no evidence to suggest this would change. Agreed to make no change to the Policy.
- 2 Gosschalks – the response was welcome, sensible and practicable. Matters relating to mandatory and default conditions were already included within legislation and it was agreed to make no change to the Policy. The matter relating to the evidential basis for the imposition of additional conditions was valid and it was agreed to remove the reference to “a perceived need” on page 24 of the report (page 15 of the Policy). It was also agreed to clarify the number of gaming machines that may be made available on a betting premises (page 28 of the report, page 19 of the Policy).
- 3 Public Health – the support of Public Health was to be welcomed and it was agreed to include their short position statement on Gambling as an appendix to the Policy document.
- 4 Nplaw – it was agreed to retain the words “by reason only of the fact that” on page 28 of the report (p19 of the Policy). It was also agreed to include the following paragraph after para 7.58 on page 22 of the report (p13 of the Policy):

“7.59 As the Court has held in a 2008 case, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles

in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.”

RESOLVED

to agree the amendments to the Policy arising from the appraisal of the responses as set out in paragraphs 1-4 above.

RECOMMENDEND TO COUNCIL

to adopt the updated Gambling Act Statement of Principles (Policy Statement) including the table of delegations and, as a consequence, request the Head of Democratic Services and Monitoring Officer to make the relevant amendments to the Constitution. A copy of the updated Policy Statement is attached at Appendix 1 to the signed copy of these Minutes.

23 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

to exclude the Press and public from the meeting for the remaining business because otherwise, information which was exempt information by virtue of Paragraphs 1, 3 and 7 of Part I of Schedule 12A of the Local Government Act 1972, would be disclosed to them.

24 EXEMPT MINUTES

The exempt Minutes of the meeting held on 8 August 2018 were confirmed as a correct record and signed by the Chairman.

The meeting closed at 10:15 am

Quasi-judicial procedure rules

Applications for a Private Hire Vehicle/Operator/Driver's Licence

The Committee comprises 3 district councillors, at least two of which must be present at each hearing.

When dealing with applications, the rules of natural justice must be seen to be applied, in that the applicant must be afforded an opportunity to present their case. Thus, when determining an application, the Committee will be required to act in a judicial manner and to conduct the proceedings in accordance with the following rules.

1 Opening remarks by the Chairman of the Committee

- 1.1 The Chairman will introduce those present at the hearing and will ensure those present understand the procedure to be followed.
- 1.2 The Chairman will give a brief outline of the nature of the matter to be considered.

2 The Council's case

- 2.1 The Council's representative will present its case.
- 2.2 The Council's representative may then be questioned by the following in the order shown:
 - (1) the applicant or his representative;
 - (2) the Council's legal representative;
 - (3) the representatives of statutory consultees (eg police, general practitioner) and
 - (4) the members of the Committee.

3 The applicant's case

- 3.1 The applicant or representative will present his case.
- 3.2 The applicant or representative may then be questioned by the following in the order shown:
 - (1) the Council's representative and / or legal representative;
 - (2) the representatives of any consultees (eg police, general practitioner), and
 - (3) the members of the Committee.

4 Representatives / consultees

- 4.1 The representatives of any consultees present shall then each present their case.
- 4.2 The representatives of any statutory consultees present may then each be questioned by the following in the order shown:
- (1) the applicant or his representative;
 - (2) the Council's representative and / or legal representative;
 - (3) the representative of any other statutory consultee, and
 - (4) the members of the Committee.

5 Closing statements

- 5.1 Closing statements will then be made in the following order:
- (1) The Council's representative and / or legal representative;
 - (2) The representative of each of the statutory consultees, and
 - (3) The applicant or his representative.
- 5.2 All persons present, with the exception of the members of the Committee, the advisor and the clerk, will then leave the meeting.

6 The Committee's decision

- 6.1 The Committee will discuss and then vote on the application.
- 6.2 In the event of an equality of votes, the Chairman has a second or casting vote.
- 6.3 During the decision making process, the Committee may seek the advice and guidance of its clerk and advisor.
- 6.4 All persons referred to in paragraph 5.2 above will be asked to re-join the meeting. The Chairman will announce the Committee's decision with a summary of the reasons why if the application is refused or special conditions are added.
- 6.5 The applicant will be provided with a full written copy of the Committee's decision within 5 working days of the hearing.
- 6.6 If the application is refused, the decision must state clearly the reasons why.
- 6.7 Where an application is granted, the Committee should, where applicable, advise the applicant if any special conditions are imposed.
- 6.8 Where an application is refused or the grant of a licence is subject to the imposition of any special term, condition or restriction, the applicant should be advised that he has a right of appeal to the Magistrates' Court within 21 days of receiving the written decision.

Pages 9 to 20 are not available to the
public because the information is
confidential.

They will be provided separately to
Members of the Committee.

Quasi-judicial procedure rules - Suspension and revocation of Private Hire Vehicle Driver's licences

The Committee comprises 3 district councilors, at least 2 of which must be present at each hearing.

The Council may suspend, revoke or refuse to renew a driver's licence on the following grounds:

- (1) The driver has, since the grant of the licence, been convicted of an offence involving dishonesty, indecency or violence.
 - (2) The driver has, since the grant of the licence, been convicted of an offence under or has failed to comply with the provisions of the Town Police Clauses (1847) or Local Government Miscellaneous Provisions (1976) Acts.
 - (3) Any other reasonable cause.
-

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- 1.1 The Chairman will introduce those present at the hearing and will ensure that all present understand the procedure to be followed.
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2 The Council's Case

- 2.1 The Council's representative will present its case.
- 2.2 The Council's representative may then be questioned by the following in the order shown:
 - (1) the Private Hire Vehicle Driver or his representative;
 - (2) the Council's legal representative;
 - (3) the representatives of consultees (eg Police, general practitioner)
 - (4) the members of the Committee.

3 The Private Hire Vehicle Driver's Case

- 3.1 The Private Hire Vehicle Driver or his representative present their case.
- 3.2 The Private Hire Vehicle Driver or his representative may then be questioned by the following in the order shown:
 - (1) the Council's representative and / or legal representative;

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- 4.2 The representatives of any statutory consultees present may then each be questioned by the following in the order shown:
 - (1) the Private Hire Vehicle Driver or his representative;
 - (2) the Council's representative and / or legal representative;
 - (3) the representative of any other consultee and
 - (4) the members of the Committee.

5 Closing Statements

- 5.1 Closing statements will then be made in the following order:
 - (1) the Council's representative and / or legal representative;
 - (2) the representative of each consultee and
 - (3) the Private Hire Vehicle Driver or his representative.
- 5.2 All persons present, with the exception of members of the Committee, the advisor and the clerk, will then leave the meeting.

6 The Committee's Decision

- 6.1 The Committee will discuss the matters under consideration and determine by voting, the action to be taken.
- 6.2 In the event of an equality of votes, the Chairman has a second or casting vote.
- 6.3 During the decision making process, the Committee may seek the advice and guidance of its clerk and advisor.
- 6.4 All persons referred to in paragraph 5.2 above, will be asked to re-join the meeting. The Chairman will announce the Committee's decision with a summary of the reasons why if the application is refused or special conditions are added.
- 6.5 The Private Hire Vehicle Driver will be provided with a full written copy of the Committee's decision within 5 working days of the hearing.

- 6.6 In the event of a decision that is of disbenefit to the Private Hire Vehicle Driver, the Committee must clearly state the reasons how the Committee reached its decision.
- 6.7 The Private Hire Vehicle Driver should be advised that he has a right of appeal to the Magistrates' Court within 21 days of receiving the written decision.

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