

Merton Council

Licensing Committee

Membership:

Councillor Oonagh Moulton (Chairman)
Councillor Richard Chellew
Councillor Chris Edge
Councillor Philip Jones
Councillor Ian Munn
Councillor David Simpson CBE
Councillor Gregory Udeh
Councillor Martin Whelton
Councillor Krysia Williams
Councillor Ron Wilson

A meeting of the Licensing Committee will be held on:

Date: 9 March 2010

Time: 7.15 pm

Venue: Committee Rooms, first floor

Merton Civic Centre, London Road, Morden

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Licensing Committee

9 March 2010

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Declarations of interest (see note1) Councillors and co-opted members must declare if they have a personal or prejudicial interest in any of the items on this agenda at the start of the meeting, or as soon as the interest becomes apparent to them.	
2	-
Apologies for Absence	
3	3
Minutes of the meeting held on 10 November 2009	
4	5
Changes in the Police and Crime Act 2009	

Note1: Declarations of interest

Councillors and co-opted members who have a personal or prejudicial interest in relation to any item on this agenda are asked to complete a declaration form and hand it to the Democratic Services Officer. Forms, together with a summary of guidance on making declarations of interest, will be available around the meeting table. If further clarification is needed members are advised to refer to "The Code of Conduct – Guide for members May 2007" issued by Standards for England, which will be available at the meeting if needed.

LICENSING COMMITTEE

10 NOVEMBER 2009

(7.15pm – 8.00pm)

PRESENT: Councillors Oonagh Moulton (in the Chair), Richard Chellew, Chris Edge, Philip Jones, Ian Munn, David Simpson CBE, Gregory Udeh and Ron Wilson.

ALSO PRESENT: Mike Barrett (Environmental Health Manager), Alan Powell (Principal Licensing Officer), Fabiola Hickson (Senior Litigation Lawyer) and Lynne Hartley (Democratic Services Officer).

Apologies for absence were received from Councillor Martin Whelton.

1 DECLARATIONS OF INTEREST (Agenda Item 1)

No declarations were made.

2 MINUTES (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 24 June 2008 are agreed as a correct record, subject to the addition of Councillor Gregory Udeh's name to the list of those giving apologies.

In agreeing the minutes the Committee noted that 12 hearings had been held between 8 December 2008 and 4 November 2009. This figure was in line with the number of hearings held in the 12 months prior to the previous meeting and it was agreed that, as there had been no difficulties in establishing sub committees, there was no need to revisit the composition of the Committee at that time.

3 GAMBLING POLICY REVIEW (Agenda Item 4)

Alan Powell introduced the report and circulated a paper showing proposed amendments to the policy statement which had been omitted from the draft published with the agenda. He asked that the second bullet point of section 3.2 be further amended by the deletion of "(Gambling Commissions Guidance)".

Members noted that the reference to the Local Transport Plan in section 2.5 was no longer relevant but that any current transport plans should be taken into account in accordance with the provisions of section 2.4. Cross reference to section 2.4 in section 2.4 was deemed unnecessary and confusing.

Members of the Committee accepted all of the other proposed amendments and agreed that it was sufficient to provide a link to the Regulators Compliance Code in Appendix C to the statement. Councillor Gregory Udeh asked to be provided with a copy of the Code.

After discussion Members also agreed the following amendments to the statement:-

- section 1.6 - insert "(other than casinos)" after "a variety of permissions" to reflect the decision not to allow applications for premises licenses for casinos
- section 1.9 - the word "principals" to be amended to read "principles" in the last line of the first paragraph

LICENSING COMMITTEE
10 NOVEMBER 2009

- section 2.2 – an explanation of “provisional statement” to be included in the glossary of terms
- section 2.4 - the word “policies” in to be amended to read “policies”
- section 4.2 - the word “criteria” in to be amended to read “criterion”.

In response to a question about ward councillors representing constituents at gambling and licensing hearings Fabiola Hickson agreed to circulate guidance for members and Councillor Chris Edge asked that this be appended to the council report.

In agreeing to recommend renewal of the decision not to allow applications for casinos the Committee noted that no objections had been raised in response to the consultation and no challenge had been made to the original policy statement.

RESOLVED: That the Committee (1) recommend the statement of Gambling Policy circulated as appendix 2 to the report and as amended at the meeting for approval by Council on 25 November 2009; and

(2) specifically renew the decision not to issue casino licences within Merton or allow operators to make applications for premises licences for casinos.

4 DISCUSSION ON ENFORCEMENT ISSUES

RESOLVED: To close the meeting, and hold an informal discussion on enforcement issues.

Committee: LICENSING COMMITTEE

Date: 9 March 2010

Agenda item: 4

Wards: All

Subject: Changes in the Police and Crime Act 2009

Lead officer: Ian Murrell, Consumer and Business Protection Manager

Lead member: David Simpson, Cabinet Member for Environment and Leisure Services

Forward Plan reference number: n/a

Contact officer: Alan Powell, Principal Licensing Officer

Recommendations:

- A. That the committee note proposed changes in the Police & Crime Act 2009 relating to Sex Establishments and the proposal to include other types of activities such as strip-tease, lap & pole dancing and hostess bars which are described in the new legislation as Sexual Entertainment Establishments.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. Section 27 of the Police & Crime Act 2009 expands Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, that dealt with Sex Establishments i.e. sex shops, to include additional types of activities such as strip-tease, lap & pole dancing and hostess bars.
- 1.2. These new categories are to be know as Sexual Entertainment Establishments.

2 DETAILS

- 2.1. On 16 September 1982, the Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by resolution at a meeting of the Policy and Resources Committee (Management Sub-committee).
- 2.2. The Minutes of the Proceedings of the Council and Committees (Vol 19 1982-1983) show that on 27th January 1983 that the Management sub-committee of the Policy and Resources Committee resolved to recommend that:
- A nil figure be adopted as the appropriate number of sex establishments
 - The fees for sex establishment licences and renewal of licences where to be £10,000
 - To delegate the powers and duties of the council in the exercise of its functions with regards to Schedule 3 in the 1982 Act to the Housing

Committee with concurrent delegation to the Housing and Management Health sub-committee.

- 2.3. Currently there are no premises of this nature within the borough and the fees have risen over the years increased in line with inflation to a current figure of £24,858.00p
- 2.4. Section 27 of the Police & Crime Act 2009 has not yet come into force but is anticipated that it will do so in April 2010.
- 2.5. From its commencement date it is open to the Council to re-adopt the amended Schedule 3 if they wish to do so and it is suggested that this be the case.
- 2.6. Council has not delegated to the Licensing Committee the responsibility or function in relation to the re-adoption of the amended Schedule 3.
- 2.7. Under the Constitution as this matter is a non-executive function, is not reserved to council nor is within the terms of reference of any committee and is not delegated to officers it falls within the functions of the General Purposes Committee.
- 2.8. If the Council does not re-adopt Schedule 3 it must then within one year of the Act coming into force, consult with local people (defined as persons who live or work in the area of the local authority).
- 2.9. If the Council does adopt an amended Schedule 3, then there would be a need for a policy (although this is not required by statute) and in order to formulate a policy there would be a need for a consultation.
- 2.10. In either case, public consultation will need to take place.
- 2.11. Officers have prepared a draft policy on Sex Establishments that will go out for public consultation on 22 March 2010 for 12 weeks. The draft policy proposes that a nil figure per Ward be adopted as an appropriate number of Sexual Entertainment Establishments.
- 2.12. If there were premises within the borough offering this type of entertainment, they would require 2 licences – one under the Licensing Act 2003 for public entertainment and one under Schedule 3 as a Sexual Entertainment Establishment.
- 2.13. Conditions on the 2 licences would be different as the Licensing Act can only have conditions that relate to the 4 licensing objectives. Licences under Schedule 3 do not need to relate to these objectives and the reasons for refusal can be broader with such licences.

3 ALTERNATIVE OPTIONS

- 3.1. None for the purposes of this briefing paper.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. A full 12 weeks consultation of the draft policy is proposed commencing on 22 March 2010.

5 TIMETABLE

Consultation starts on 22 March 2010

Consultation ends on 13 June 2010

General Purpose Committee sits on 24 June 2010 to re-adopt the amended Schedule 3 and adopt the final policy after consultation has taken place.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The Proposed Policy will need to be met within the budget allocation for 2010/11 and subsequent years. Whatever course of action taken by the Authority will require a public consultation to be undertaken with its associated costs. It is anticipated that there will be no Service income streams generated by the consideration of applications for such licences.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. There are no legal or statutory implications other than those addressed in the main body of the report. The 12 week consultation period proposed follows guidance from central government in the Government's Code of Practice on Consultation.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None for the purposes of this briefing paper.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. The Service has a statutory duty to contribute to the reduction of crime and disorder in Merton under section 17 of the Crime and Disorder Act 1988. In determining applications it will be the policy of the Service to consider the adequacy of measures proposed to deal with related crime and where appropriate it will attach conditions to permissions and licences to deter and prevent crime and disorder both inside and within the vicinity of the premises.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. All risk and health and safety implications have been considered in arriving at the final package of Service Plan measures. Risk ratings are determined for specific activities, including the delivery of outcomes, measures and targets in the Plan, and are included within the Councils corporate risk management strategy. Identified risks and actions to minimise them are assessed on an annual basis.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

None.

12 BACKGROUND PAPERS

12.1. The following documents have been relied upon in compiling this report and the policy but do not form part of this report

- Local Government (Miscellaneous Provisions) Act 1982
- Section 27 of the Police & Crime Act 2009