

MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD IN COMMITTEE ROOM 2/3, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON WEDNESDAY, 17 FEBRUARY 2010 AT 2.00PM

Present:-

Councillor C J James - Chairperson in the Chair

<u>Councillors</u>	<u>Councillors</u>
M W Butcher	D N W Jones
D Buttle	D A Unwin
E M Dodd	K Watkins
D K Edwards	M C Wilkins
C E Hughes	R Williams
R D Jenkins	

Officers:

Y Witchell	-	Licensing and Registration Officer
P Gavigan	-	Principal Solicitor
A Rees	-	Senior Cabinet and Committee Officer

50 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor P J White who had a work commitment.

51 DECLARATIONS OF INTEREST

The following declarations of interest were made:-

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| Councillor C E Hughes | - | Agenda Item 4 (b) - Discretionary Fees and Charges - 2010/11 - Personal and prejudicial interest in that the Chairman of the Taxi Association is a tenant of his. Councillor Hughes withdrew from the meeting during consideration of this item. |
| Councillor R D Jenkins | - | Agenda Item 4 (b) - Discretionary Fees and Charges - 2010/11 - Personal and prejudicial interest in that his daughter and partner own and drive taxis. Councillor Jenkins withdrew from the meeting during consideration of this item. |
| Councillor R Williams | - | Agenda Item 4 (b) - Discretionary Fees and Charges - 2010/11 - Personal and prejudicial interest in that he is the Chairperson of the Ogwr Constituency Labour Party Club. Councillor Williams withdrew from the meeting during consideration of this item. |

52 MINUTES OF THE PREVIOUS MEETING

RESOLVED: That the minutes of the meeting of the Licensing Committee held on 26 November 2009, be approved as a true and accurate record

53 LICENSING ACT 2003:
POLICING AND CRIME ACT 2009 - ENHANCEMENT OF MEMBER INVOLVEMENT
IN LICENSING PROCESS

The Licensing and Registration Officer presented the report of the Assistant Chief Executive - Legal and Regulatory Services, which advised of changes to the Licensing Act 2003, which allowed for any Councillor of the Licensing Authority i.e. all Members of the Council including the Licensing Committee members, to make representations about applications for licences and certificates and to submit applications to review the licences of premises where problems are occurring. The change in the law enables all Members to more fully engage in the licensing process.

The legislative change preserves existing rights that a Committee Member may continue to represent residents on a particular application and it preserves a Member's own right to submit a representation or review application if they themselves are affected by a premises in the vicinity of their house or business.

The Licensing and Registration Officer reported that Section 33 of the Policing and Crime Act 2009 Amended Section 13(3) of the Licensing Act 2003 to extend the definition of an interested party to include "a member of the relevant Licensing Authority". The Licensing Authority is, by definition, the Council as a whole, and this entitlement will therefore apply to all Council Members, including all members of the Licensing Committee. Councillors are no longer limited to making representations about premises in their own wards and are therefore able to use the formal licensing process to raise concerns about any premises in the County Borough Council area. The main considerations for Licensing Committee Members, when exercising the new powers will be compliance with the Member Code of Conduct and regard to the Statutory Guidance to licensing authorities issued under Section 182 of the Licensing Act 2003. In addition to the Code of Conduct and Statutory Guidance, the representation or application must satisfy the following tests, it must satisfy the following tests; it must present evidence in support which relates to one or more of the licensing objectives, and it must clearly relate to the premises and the vicinity of the premises. There is one exception to these caveats as the Licensing Act 2003 allows the Council to adopt a special policy with regard to dealing with applications in areas where there is a large concentration of licensed premises, this was known as a Cumulative Impact area and where the Council has adopted such a policy, as is the case with Bridgend Town Centre, representations or review applications may relate to the wider negative impact of the premises on the promotion of the licensing objectives.

The Licensing and Registration Officer also reported that when submitting a representation or application, Members of the Licensing Committee must have regard to the Member Code of Conduct when exercising their new right as interested parties and when dealing with applications submitted. Committee Members must consider whether they have a personal and/or prejudicial interest in the application itself or any subsequent hearing. Firstly, all Licensing Committee Members should have regard to the Code of Conduct in terms of declaring any personal interests, for example, membership of a club, business interests etc both in their role as a Member of the Committee and when making representations/submitted an application.

Secondly if a Member of the Committee wished to make a representation about an application, or submits an application for the review of a premises licence, they will be considered to have a prejudicial interest in the licensing authority's decision and to any appeal to the Magistrates' Court on a decision. A Committee Member with a prejudicial interest must not exercise executive functions in relation to the particular application and must not seek to influence a decision on the case in any other way.

Members of the Licensing Committee who have made representations or have submitted a review application, will be entitled to attend a Licensing Sub-Committee

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meeting, make their representations, answer questions from the applicant or give evidence, as long as they withdraw from the meeting immediately afterwards and therefore will play no part in the decision making process.

She also reported that when considering representations or an application received from another County Borough Councillor, Members of a Licensing Committee must determine the relevance of the representations in terms of the licensing objectives and not on the basis of any political judgement. Any Member of a Sub-Committee who considers that their own interests are such that they are unable to consider the case impartially should disqualify themselves from the meeting and advice should be sought from the Monitoring Officer or Legal Officer before the meeting. In all cases, Members must not fetter the discretion of the Authority by pre-judging or pre-determining an application.

The Licensing and Registration Officer reported that information on applications received will be published on the Council's website as part of the Authority's statutory responsibility to maintain a register of licences and applications, which will be open to inspection by Committee Members. Where consultation is permitted under the Act, licensing applications will also be advertised on site and in a local newspaper and Members must submit representations within the statutory timescale. However, subject to the Member Code of Conduct and the Statutory Guidance, the Act did not prevent Members from receiving updates on licensing issues and problem premises where the information is required to inform their role as elected Members.

In the interests of transparency, representations and applications will normally be made public and be made available to the applicant for consideration unless there are exceptional circumstances for not doing so. There is provision within the statutory guidance for dealing with circumstances where a Member of the Committee, acting as an interested party, has concerns about disclosing personal information to an applicant. There is no change to the existing right for Council Officers or other designated agencies to make an application to review a licence or certificate in their own right.

RESOLVED:

That:-

- (1) The change to the Licensing Act 2009 and to the updated Statutory Guidance issued under Section 182 of the Act be noted;
- (2) The Committee note that a letter is being sent to all Members setting out more detailed information on the licensing process;
- (3) A further information report is to be presented to Council.

54 LICENSING FUNCTIONS: DISCRETIONARY FEES AND CHARGES - 2010-2011

The Licensing and Registration Officer presented a report of the Assistant Chief Executive Legal and Regulatory Services which sought approval to determine licensing fees and charges for 2010/2011.

The Licensing and Registration Officer explained that the Licensing Committee had the power to determine fees charged in respect of those licensing functions within its purview and to hear and determine objections relating to proposed fee revisions. A table of the current and proposed fees and charges is shown at Appendix 1 of the report.

The Licensing and Registration Officer explained that the increases proposed for 2010/2011 were in line with the budget strategy approved by Council on 10 February

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2010 and an increase of 1.5% for licensing fees had been applied in line with inflation and had been rounded up to the nearest whole £1. No changes to the scope of existing fees were proposed except to make new provision to deal with applications to vary a Sports Ground Certificate where the variation involved a physical inspection of a ground or more significant work than an administrative amendment to a certificate. The proposed fee for an application is £414.00 (minimum) based on cost recovery.

RESOLVED: That the Licensing Committee approves the proposed fee increases, shown in Appendix 1 of the report to be effective from 1 April 2010, with the exception of fees to taxi vehicle licences and operator licences which are subject to Public Notice and will become operative either 28 days following the expiration of the Public Notice, or, if objections are received, on a date to be determined by the Licensing Committee following formal consideration of the objections.

The meeting closed at 2.20pm.