

**BOROUGH OF POOLE**  
**LICENSING COMMITTEE**

**18 JUNE 2008**

The Meeting commenced at 7.00 pm and finished at 9.10 pm.

Present:

Councillor Mrs Butt (Chairman)  
Councillors Brown, Burden, Collier, Mrs Evans, Gillard, Mason, Maiden, Plummer  
and Wilkins.

Also in attendance

Frank Wenzel – Principal Licensing Officer, Environmental and Consumer Protection  
Services (ECPS)  
Linda Cox, Consumer Protection Officer, Environmental and Consumer Protection  
Services (ECPS)  
PC Adam Gill and Sergeant Lynette Gibbs, Dorset Police  
Reg Madden-Waite, Gambling Commission, Compliance Manager for Dorset,  
Bournemouth and South Somerset.  
Kate Gibbings – Democratic Support Officer, Legal and Democratic Services

Members of the public present: 0

L7.08 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Adams, Curtis and  
Rampton.

L8.08 TERMS OF REFERENCE

**AGREED that, the Terms of Reference of the Licensing Committee be as  
follows:**

- **To undertake the functions of a Licensing Authority under current  
legislation, including the Licensing Act 2003 and the Gambling Act  
2005, as well as the roles and functions delegated within the  
Councils Constitution.**

L9.08 DECLARATIONS OF INTEREST

None

L10.08 MINUTES

**RESOLVED that the Minutes of the Meeting held on 3 April 2008, having previously been circulated, be confirmed as a true record and signed by the Chairman.**

L11.08 GAMBLING COMMISSION

Reg Madden-Waite, Gambling Commission, Compliance Manager for Dorset provided a rough guide to the Gambling Commission's Compliance effort. The Committee was advised that the Commission was set up under Part 2 of the Gambling Act 2005 and had its Headquarters at Victoria Square House, Birmingham. Commission's work was divided into units dealing with the following:

- Licensing – Dealt with Operator, Personal, Management and Function Licenses and issued Licence Documents.
- Enforcement – Dealt with Operator and Personal Licensees who had failed to meet Licence Requirements.
- Policy – Formulated Codes of Practice and Guidance for Operators, Individuals and Local Authorities. Interpreted the Act and issued Briefings for the Department for Culture Media and Sport (DCMS). Lead consultation exercises on proposed Guidance and Regulations.
- Communications – Issued guidance and information to operators, individuals, Local Authorities and the wider public. Maintained the Commission's Website.

In addition to the Units, the Commission had a regional network of Compliance Managers who dealt face to face with operators and individuals that offered gambling facilities. Compliance Managers were responsible for ensuring compliance of the three Licensing Objectives, set out in Section 1 of the Gambling Act 2005. They were also required to liaise with the Licensing Authorities that issued Gambling Licenses.

The Commission was not a "superior" Licensing Authority. It did not usually advise Licensing Authorities on specific premises but under section 25 of the Act, the Commission issued guidance to Licensing Authorities (2<sup>nd</sup> Edition) to ensure the spread of best practice and consistency of approach in decision-making amongst Licensing Authorities, whilst not preventing authorities from properly exercising the discretion they have to take account of appropriate and relevant local issues and factors. The guidance was under review and the 3<sup>rd</sup> Edition subject of a consultation exercise.

The Initial Compliance Programme

The Committee was advised that many of the larger Gaming Organisations and Trade Associations had been consulted at length on the Act and had developed Compliance Systems and Staff and Member Training as the Act took shape so was directed primarily at small independent operators who had either not participated to the same degree or had not participated at all. The initial Compliance Effort

commenced in the last quarter of 2007. The larger Operators had been dealt with at a National Level through Corporate Compliance Visits and random sampling tests.

The drive for better regulation through transparency and proportionality had been through a light touch approach, where regulatory action was only taken against evidence based risk assessment. From the outset the Commission's Compliance Managers offered advice to the trade on how to be compliant, identified shortcomings and offered solutions. Notice of inspection had been given and hand written inspection accounts given with a summary of the advice given and recommendations regarding further inspections. They had re-inspected each independent operator where advice had been a necessity. In cases where there had been failure to comply the Commission had made a number of regulatory decisions such as suspension, review or revocation of Licenses or criminal prosecution. It was noted that in Reg Madden-Waite's had only found this necessary on two occasions, both of which had involved Personal Function License Holders.

#### Findings within Dorset, Bournemouth and South Somerset Area

The Gaming Board had previously regulated the Casinos and Bingo clubs and as such, they were used to regular detailed inspections and were largely compliant and well run. Betting offices and tracks had previously not been regulated, other than for the purpose of collecting Betting Duty, which was a function of HM Revenue & Customs (HMC&R). Again these had been largely compliant, signage had sometimes been inadequate and there had been hostility when they had been made aware of the social responsibility obligations to make donations to support anti-gaming activity because the same was not expected of pub landlords.

The main issues highlighted were:

- Staffing difficulties  
Casinos had staff theft and in consequent had reviews of the Personal License Holders. Staff of Adult Gaming Centres (AGC) and Family Entertainment Centres (FEC) had insufficient knowledge.
- Permits  
Confusion relating to Permits and some grounds to suspect breaches of Permits were taking Place.
- Trade  
The Gambling trade felt there was a decline in trade and unfairness of the costs imposed to smaller operators under the Act. Consequently some operators had sought to increase the number or type of gaming machine they could have.
- Inadequate splitting of premises  
The extent, nationally attempted by Adult Gaming Centres (AGC) to split premises in order to increase the allocation of high B3 category machines had led to disparities between the standards imposed amongst Licensing Authorities. This had caused some consternation within the sector and had helped fuel the latest Consultation Process regarding the splitting of premises.

The Principal Licensing Officer advised the Committee that the Borough of Poole had allowed splitting premises when a solid partition had been used from floor to ceiling with a separate entrance and lobby.

The Committee was also advised that with a decline in business there was generally higher fraudulent activity.

**RESOLVED that, the Reg Madden-Waite be thanked for the presentation on the Gambling Commission.**

L12.08     POOLE SAFE

Police Officers PC Adam Gill and Sergeant Lynette Gibbs, Dorset Police and Linda Cox, Consumer Protection Officer, Environmental and Consumer Protection Services advised the Committee of the role of Poole Safe and the teams involved.

'Poole Safe' was a multi-agency team that was initially formed in the later part of 2004 to tackle alcohol related violent crime in and around licensed premises in the Borough of Poole. The Team combined the Licensing Department of Dorset Police (Poole) and the Licensing Enforcement Officers from the Borough of Poole. 'Poole Safe' had offered licensed premises support in raising standards through training, visits, guidance documents and enforcement and included mediation.

The Poole Safe Team had weekly meetings on Monday mornings to review any incidents that had involved the Licensed Trade. Where further action was required Lead Officers from the Borough of Poole and Dorset Police were appointed to deal with the incident. This included regular mediation meetings with the Designated Premises Supervisors and Premises License Holders to resolve issues and implement-timed action plans to avoid the need for an instant review of the Licence. 'Poole Safe' considered the Review process to be the last resort, when mediation failed.

The meeting had been held weekly to enable actions to be dealt with immediately. Other work covered by the Team included:

- Reports
- Exclusion Orders
- Test Purchase Operations
- Areas of Improvement
- Routine Joint Visits
- Drug Swabbing

Safe and Sound Awards

In 2005-2007 'Poole Safe' implemented the 'Safe and Sound Awards'. Application forms had been issued in December and as part of the Application form the Licensee had to provide details of Operating Policy, Procedures and Staff Training. On receipt of the Application forms in-depth assessments of licensed premises by the Police and a Licensing Enforcement Officer from the Borough of Poole were undertaken. Accredited Premises announced in the March and an

Awards Dinner for the top 20 premises in the April. Feedback visit and guidance on Best Practise were given throughout May.

An assessment of the 'Safe and Sound Awards' were highlighted as follows:

Strengths: In depth assessments, best practice, positive partnership working, promoted Poole and rewarded Licensees.

Weaknesses: Labour and time intensive, only limited to On-Licensed Premises, accrediting a venue was not safe for Authorities, detrimental effect of Gold, Silver and Bronze Awards, some premises felt they could never achieve higher and some winners needed something new.

In preparation for 2008, 'Safe and Sound' had been further developed and 'Developing Excellence in the Licensed Trade Awards' (DELTA) was implemented.

### DELTA

DELTA involved an assessment process on all On-Licensed Premises regardless of participation. DELTA Participating Premises (DPP) was given window stickers to show DPP status. DPP status remained unless a review or major incident had occurred. Those that had not met DELTA standard had been given instant feedback to help improve. The Awards were held once a year in April and all the Licensed Premises had been invited, not just that had gained DPP status. Trade stands were at the Awards Event, promoting best practise.

### Future of DELTA

In addition to the On-Licensed Premises, 2009 was expected to see the introduction of DELTA to Off-Licensed Premises. It was also hoped that this would continue to develop and in time include clubs and take-away's.

A Member advised the Committee that Poole Safe had won 4 awards and was pleased to see how it had developed.

The principal Licensing Officer advised the Committee that the British Institute of Inn-keeping (BII) was likely to push DELTA. Once Licensed Premises realised that the Police and the Council were offering advise and not just looking to prosecute more and more had got involved with the scheme.

Off Licensed Premises had been assessed by Safer Neighbourhood Teams (SNT) and information led from the SNT and Poole Safe activities had helped with effective Test Purchases and pin-pointing the premises that needed support and training.

Committee Members and the Police agreed that the majority of anti-social behaviour outside off Licenses had not been as a result of the alcohol being purchased through the Off Licence. The majority had access to alcohol at home. DELTA would help those Off Licenses promoting good practice and give credit where due.

Literature was given as handouts to the Committee, which included:

- DELTA Information for Licensed Premises
- A DELTA On-Licence Assessment Pack
- Examples of best practice Staff Induction Pack

**RESOLVED that, the Representatives from 'Poole Safe' be thanked for its Report and congratulated for its success of the 'Safe and Sound Awards' and the 'Developing Excellence in the Licensed Trade Awards'.**

#### L13.08 ROLE OF THE LICENSING COMMITTEE

The Principal Licensing Officer provided new Members a brief remit of the roles of the Chair and Vice Chair. Handouts of the roles and responsibilities of the Licensing Committee were provided to all Members. It was stressed that Members appointed to the Licensing Committee must attend training in the functions and procedures of the Committee before taking part in any hearing by that Committee. It was the role of the chair to ensure that all Members were adequately trained prior to sitting on any Committee or Sub-Committee. It was noted that further advice and guidance on parts of the Act that were not often used could be provided at future Committee Meetings along with a Family Tree.

**AGREED that,**

- i. further advise and guidance on the Licensing and Gambling Act be presented at future meetings.**
- ii. Licensing Family Tree be presented to the next Licensing Committee Meeting.**

#### L14.08 LICENSING ACT

The Principal Licensing Officer presented the Committee handout leaflets offering guidance on Licensing Act Hearings and Appeals. The handouts contained information given by the Local Authorities Coordinators of Regulatory Services (LACORS) and included:

- How many Members should constitute a sub committee?
- Can Members make representations at licensing committees?
- Should personal information of interested parties be disclosed to other parties to the hearing?
- Do all copies of all representations need to be sent to the people making representations?

It was noted that site viewings of a premises prior to a hearing were generally unnecessary and could put Members and the Licensing Authority at risk of accusation of bias.

The Appeals guidance was intended to assist the Licensing Committee with operational matters as regards the Magistrates' courts in their appellate function under the Licensing Act 2003. It provided clarification of the procedural items that need to be addressed prior to a hearing, such as the expected format of the hearing.

**AGREED that, Members read and keep the handouts presented and should further advice and guidance be required, to contact the Principal Licensing Officer and or Democratic Services.**

#### L15.08 ELECTED MEMBERS GUIDANCE

The Democratic Support Officer presented Members copies of the Elected Member Guidance on the Licensing Act 2003 leaflet produced by the Local Authorities Coordinators of Regulatory Services (LACORS).

The leaflet advised Members what to do and gave examples in respect of the following questions:

- Do you have a Personal Interest?
- Do you have a Prejudicial Interest?
- Could you be perceived as being biased?

**AGREED that, Members read and keep the handouts presented and should further advice and guidance be required, to contact the Principal Licensing Officer and or Democratic Services.**

#### L16.08 INFORMATION UPDATE

The Principal Licensing Officer presented the Committee with licensing updates, which included:

- The use of Facial Recognition Cameras

In the prevention of under age sales this was probably the most extreme example of 'due diligence' being undertaken by the supermarket chain "Budgens", who have been experimenting with facial recognition camera in one of its London branches. If the System recognised someone who had previously been unable to prove they were 18 years old, it signalled the cashier to refuse to serve them. Customers who had previously identified themselves as being over 18 years old would be positively identified to speed the process.

Other supermarkets and convenience stores had expressed an interest in linking to the Scheme to create a giant database of customers, once technical and data protection issues had been resolved.

- High Court Overturns

The Licensing Act 2003 gives powers to Local Councils to issue licenses for pubs and clubs, with Magistrates' Courts hearing Appeals against their decisions. There is no further right of Appeal, however where the Magistrates have got the Law wrong there may be an Appeal to the Higher Courts.

A Council granted a premises license and five months later a Magistrates Court cut the hours of the Licensed Premises after an appeal by a Conservation Society, who had stated that the new hours would lead to disorder and excessive noise.

The judge held that the decision was not evidence based, and must be over-turned. Licensing Authorities Sub-Committees in future would not be able to consider speculative evidence as to the impact of licensing applications, but should only concentrate on empirical evidence before them.

- Gambling Commission Fees

The Gambling Act 2005 gave the Secretary of State for Culture, Media and Sport the power to make regulations, setting fees to be paid to the Gambling Commission in respect of the exercise of it certain functions under the 2005 Act. The consultation document sets out the proposals for the fee levels to apply from 1 August 2008 and invited comments on them by the 2 June 2008.

- Fine for locked fire exit hiked up to £5,000

One case sent a strong message to all entertainment licensees' who did not comply with the terms of their licence, and encouraged other authorities to consider similar action. The case involved a prosecution under the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985 for an offense of allowing a final fire exit to be barred shut, impeding a means of escape in the event of a fire or other emergency.

Whilst a 'During Performance Inspection' was carried out at a nightclub the Fire Exit was found to be barred shut, thus impeding means of escape whilst a disco was taking place.

Summonses were issued by the Council against the Licensee and Operations Manager. Both parties pleaded guilty to the Offence in March 2007 and the Magistrates' Court fined each party £100 for what was referred to as a 'technical' breach' of the Entertainments Licence.

Subsequently the Council applied for a Judicial Review to appeal the Sentencing Decisions, on the grounds that they were unduly lenient given the serious nature of the Offence and the fact that the maximum fine in such cases was £5,000. In February 2008 Judgement on this case was delivered and the original sentencing fines of £100 were quashed and replaced by a fine of £2,500 for each party.

- Noise at Work- New Responsibilities for Licensed Premises

From 6 April 2008 licensees will need to comply with the 'Control of Noise At Work Regulation 2005', which aim to protect workers from the effects of excessive noise. Other industry sectors had to comply with the Regulations since April 2006, but all workplaces where live or recorded music is played in restaurants, bars, nightclubs etc. were granted a 2 year transitional period, which is now over.

From April 2008 all employers within the licensed trade need to assess the risks to employees from noise at work; take action to reduce the noise that produces those risks; make sure the legal limits on noise exposure are not exceeded, and when necessary provide hearing protection if the noise can not be reduced by other means.

**RESOLVED that, the licensing updates be noted and further licensing updates be presented to the Committee.**

L17.08 URGENT BUSINESS

The Chairman advised the Committee that there was no urgent business to be considered.

**CHAIRMAN**