

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING COMMITTEE

Minutes of the Meeting held on 10 December 2020 at 10.00 am

Present:-

Cllr J J Butt – Chair

Cllr J Bagwell – Vice-Chair

Present: Cllr S C Anderson, Cllr D Brown, Cllr R Burton, Cllr N Decent,
Cllr B Dion, Cllr D Farr, Cllr A Filer, Cllr D A Flagg, Cllr A Hadley,
Cllr D Kelsey and Cllr L Williams

10. Apologies

Apologies were received from the following councillors:

- Cllr B Dove, absent on local government business
- Cllr G Farquhar
- Cllr T Johnson, absent on local government business

11. Substitute Members

Cllr A Filer was substituting for Cllr B Dove for this meeting.

The Chair welcomed Cllrs D Brown, A Hadley and L Williams, as newly appointed members of the Licensing Committee. She placed on record thanks to outgoing member, Cllr B Dunlop, for her contribution to the work of the Committee and its Sub Committees.

12. Declarations of Interests

There were no declarations of interest on agenda items considered at this meeting.

13. Confirmation of Minutes

RESOLVED that the minutes of the Licensing Committee meeting held on 17 September 2020 and the Licensing Sub Committee meetings held on 1, 16 and 29 September, and 13 October 2020, be confirmed as an accurate record.

14. Public Issues

There were no public questions, statements or petitions submitted on agenda items being considered at this meeting.

15. New BCP Council Sex Establishment Policy

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book.

This was the first Sex Establishment Policy for BCP Council since the establishment on the 1st April 2019 of a single local government area for the now dissolved boroughs of Bournemouth, Christchurch and Poole. Both Bournemouth and Poole had previously published individual policies for sex establishments, that is, sex shops, sexual entertainment venues, and sex cinemas. The Licensing Authority was required to prepare, adopt and publish a new policy for the new local government area 24 months from the date of reorganisation. In order to do this the Council first needed to adopt schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) for the new single local government area of Bournemouth, Christchurch and Poole.

The Committee was asked to consider the draft policy at Appendix 2 of the report, and amend as required, before approving it for a period of public consultation. The Licensing Manager referred in particular to Chapters 10 and 11 of the policy. These sections dealt with the character of locations suitable or otherwise for licensed sex establishments and the number of sex establishments deemed appropriate in a locality. It was noted that the Licensing Authority had discretion to specify on these matters.

In addition to the policy, a single set of fees which covered the costs to the Council was proposed at the updated Appendix 3, published as a supplement to the report.

The Chair explained the process for considering the draft policy and asked the Committee to focus on the main issues for discussion and decision in Chapters 10 and 11. Any typographical errors and technical amendments would be addressed by officers prior to the policy being released for public consultation.

The Licensing Manager, Senior Licensing Officer and Senior Solicitor provided the following information in response to questions from Committee Members:

- The definition of a sex shop for the purposes of sex establishment licensing referred to any 'premises, vehicle, vessel or store' used for the business. Online only operators were not included in this definition.
- The business was defined as a sex shop if it consisted of a significant degree of qualifying adult material or a significant degree of profit from that material. While there was case law to assist in determining what constituted a 'significant degree', this did not preclude each case being assessed individually.
- There were no limits on the number of sex establishments which one individual or company could own. This was not necessarily a

problem and it was noted that locally the same operator of two licensed sex shops operated responsibly with no complaints.

- Until the new policy was adopted and published the Council would continue to apply the two existing policies to any applications or renewals, but at the same time there would be a need to take some account of the developing policy.

The Committee gave detailed consideration to the question of whether to limit the number of sex establishments in pre-defined localities, as set out in Paragraphs 10.5 to 10.10 of the draft policy. It was noted that numbers and localities given in this section were historic. Members felt that these were no longer appropriate for the conurbation as a whole and if retained they may restrict customer choice. The Committee discussed the role of market forces in self-limiting the number of establishments which were viable. As this was a long term policy Members felt that it should include the flexibility to respond to the changing nature of local areas along with business/customer requirements. The Committee also talked about the impact that limiting numbers could have in increasing complacency among existing operators, stifling competition and creating potential monopolies, while unwittingly encouraging those operators unable to obtain a licence to bend the rules.

The Committee referred to Paragraph 10.2 of the policy which explained how it was intended that the Licensing Authority would treat each application received: on its merits, while considering the character of the locality and whether the grant of an application would be inappropriate having regard to its proximity to a comprehensive list of criteria. The Committee agreed that this list of criteria provided a robust framework to use when determining applications. Members felt that a consideration around the numbers, type and concentration of premises in a single area should be incorporated in the list as a safeguard. It was noted that there was opportunity to submit representations to the Licensing Authority in respect of applications and renewals, on valid grounds of objection (this did not include moral grounds).

Having discussed the report and the appendices the Committee agreed to make the following changes:

Appendix – Draft Policy

Chapter 10: Location of Licensed Premises

- Paragraph 10.2 – Replace the word ‘characteristics’ with ‘character’, to read: ‘*..the character of the locality..*’
Reason: ‘Character’ is the correct terminology used in the relevant legislation
- Paragraph 10.2 – Amend final bullet point to read: ‘*The number, type and concentration of other sex establishments already licensed within the locality*’

Reason: The Committee agreed that this was an issue to be included in the list of criteria to be considered when assessing each application on its merits, rather than imposing a limit on the number of establishments deemed appropriate in a particular locality.

- Paragraphs 10.5 to 10.10 – to be deleted.
- Reason: The Committee debated this section at length and concluded that the Licensing Authority and the Licensing Committee was capable of determining each application on its merits in accordance with the list of criteria in Paragraph 10.2, without the need to impose a limit of numbers.

Chapter 11: The Character of the Relevant Locality

- Paragraph 11.1 – to be deleted.
Reason: The Committee felt that this paragraph was very similar in content to 10.1
- Paragraph 11.3 – Amend last clause to remove the word ‘cumulative’ to read: ‘and where there is already one or more sex establishment premises in the locality, *the impact of an additional licensed sex establishment premises.*’
Reason: ‘Cumulative impact’ in licensing terms is associated with the Licensing Act 2003, with specific reference to the crime and disorder licensing objective.
- Paragraphs 11.2 and 11.3 – move these paragraphs to Chapter 10 to form new Paragraphs 10.5 and 10.6.
Reason: Content is closely related to the considerations set out in Chapter 10, and follows on naturally from paragraph 10.4
- Chapter 11 – to be deleted. Rename Chapter 10: ‘*Character and Locality of Licensed Premises*’
Reason: to better reflect the content of the merged chapters following the amendments made.

The Committee agreed that the wording in relation to the amendments at 10.2 and 11.3 be reviewed by the Licensing Manager and Senior Solicitor to ensure it reflected the correct technical/legal terminology as required.

Appendix A, Section C – Special Conditions for Sex Shops

- Goods Available in Sex Establishments – Update references to film/video/DVD/Blu-ray, etc to include reference to ‘*digital, physical and virtual media*’.

Reason: To ensure the most up to date technological means are included in the policy.

Appendix 4 – List of Consultees

- Include Neighbourhood Forums in the list, at member request.
- Amend the listing for Bournemouth Magistrates Court to read '*Dorset Magistrates Court (for Bournemouth, Christchurch and Poole)*'
Reason: To provide for clarity for members of the public.

The Chair advised Committee Members to submit any further comments or suggestions on the list of consultees to the Licensing Manager.

Once updated with the Committee's amendments the draft policy would be circulated for public consultation in January 2021. The Committee would consider the feedback received and further amend the policy as required, before recommending the final policy for adoption by Council.

RECOMMENDED that Council approves the adoption of the legislation, that is, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009).

RESOLVED that:

- (a) the Draft BCP Council Sex Establishment Policy as amended by the Committee be agreed for public consultation to begin in January 2021;**
- (b) the proposed BCP Council Sex Establishment Fees be agreed.**

Voting: Unanimous

16. **New BCP Council Scrap Metal Dealer Policy**

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'B' to these Minutes in the Minute Book.

The proposed Scrap Metal Dealer Policy, at Appendix 1 of the report, set out how applications for licences under the Scrap Metal Dealer Act 2013 would be dealt with by BCP Council. The policy provided guidance to new applicants, existing licence holders, consultees and members of the public on how the Act was administered and enforced. It was noted that there was no requirement under the Act for the Council to have a formal policy for dealing with applications. The Council had decided to adopt a formal policy in accordance with best practice.

In addition to the policy, a single set of fees which covered the costs to the Council was proposed at the updated Appendix 2, published as a supplement to the report.

In response to questions from the Committee the Licensing Manager explained that the application form was quite lengthy due to the statutory nature of the information which was required to be included. It was confirmed that the definition of scrap metal did not include gold or silver or any alloy containing 2% or more by weight attributable to gold or silver.

RECOMMENDED that the Council approves the final version of the new BCP Council Scrap Metal Dealer Policy, as agreed, without amendment by the Committee.

RESOLVED that the proposed BCP Council Scrap Metal Dealers Fees be agreed.

Voting: Unanimous

17. Forward Plan

The Chair introduced the Committee's Forward Plan, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'C' to these Minutes in the Minute Book.

The Chair advised that an additional Licensing Committee was being arranged on 4 February 2021 at 10.00am to consider the taxi and private hire policies following the public consultation, with representatives of the Trade to be invited at her discretion. A report on the harmonisation of licensing fees would also be considered at this meeting.

The Committee noted that the timescales for producing a BCP Council Gambling Policy had been discussed with The Gambling Commission, and it had been agreed that a draft policy be in train for April 2021.

The Chair explained that the Forward Plan would be regularly updated. She invited Committee Members to contact her or the Democratic Services Officer with any suggested items for inclusion on the Forward Plan.

18. Chair's Updates

The Chair provided the Committee with an update on the following matters:

- Calendar of meetings for remainder of 2020/21 Municipal Year and for the 2021/22 and 2022/23 Municipal Years

At the Council meeting on 8 December 2020 it was agreed to delegate the setting of dates to the Chair of the Licensing Committee to enable Sub Committees to be arranged on the preferred set day of Wednesday to overcome any difficulties for members in attending on other days of the week. The Chair explained that on occasion the Sub Committee would meet on a Thursday, only when clashes with Cabinet were unavoidable due to live streaming requirements. No objections to the proposed change had been received following an email consultation. The Chair had now agreed

the revised calendar and this would be circulated to the Committee after the meeting.

- Proposed trial of identified second reserve for Licensing Sub Committees for the remainder of the 2020/21 Municipal Year

The Chair referred to the current membership rota, and the need for sufficient cover at all times to ensure that sub committees were quorate and able to conduct statutory business. The Committee agreed to the suggested trial of a second reserve for sub committees up until May 2021.

The Chair reported that she had asked the Head of Democratic Services to prepare an options paper to enable members to review the current administrative arrangements for sub committees, including the membership rota and use of the second reserve. This would be considered at the next ordinary full Committee meeting on 4 March 2021.

- Licensing Training

The Chair responded to a query about training and confirmed that it was her intention to arrange for a comprehensive training session to be held in the new year. This would be open not only to Committee members, but to all councillors to assist them in their ward roles and in substituting on the Committee if ever required (with the exception of Licensing Act 2003 business). In the meantime, she advised Committee members to contact Democratic Services if they had any specific training needs.

- Lobbying

The Chair commented on recent correspondence sent direct to Committee members, including emails from the Taxi Trade in relation to policy matters and the receipt of an objection to a premises licence. She reminded members, particularly for the benefit of those newly appointed, that it was not appropriate to respond to such approaches with any comments, as this may later fetter the discretion of members to take part in determining those items at meetings. It would be helpful to agree a pathway for responding to such communications.

The Senior Solicitor advised that it was acceptable to acknowledge the receipt of correspondence, but then forward this to the licensing team to be considered as a representation. This was in line with the recommended response given by planning committee members when being lobbied. If unsure, members could always contact Democratic Services and ask for a response to be sent on their behalf.

The Senior Licensing Officer advised that the email objecting to the premises licence was likely to be a one-off occurrence, as a result of the applicant's solicitor publishing the incorrect Council email address in the statutory notice. She confirmed that all Council templates contained the correct contact details.

The Chair intended to send a suggested form of words to assist members in replying to any lobbying/enquiries.

The meeting ended at 12.03pm

CHAIRMAN