

Minutes of a meeting of the **COMMITTEE OF THE LICENSING AUTHORITY** held in the Council Chamber, Council Offices, Priory Road, Spalding, on Tuesday, 13 November 2012 at 6.35 pm.

**PRESENT**

M G Chandler (Chairman)  
F Biggadike (Vice-Chairman)

A Casson  
P E Coupland  
G K Dark

A Harrison  
M Howard  
C J Lawton

D J Wilkinson

Licensing and Business Support Manager, Licensing Officer and Member Services Support Officer.

Apologies for absence were received from Councillor E J Sneath.

**3. MINUTES**

The minutes of the meetings held on 9 November 2011 and 16 May 2012 were signed by the Chairman as a correct record.

**4. LICENSING AUTHORITY AS RESPONSIBLE AUTHORITY**

Consideration was given to the report of the Assistant Director of Commissioning to determine how the Licensing Authority would discharge its functions as a Responsible Authority under the Licensing Act 2003.

The Police and Social Responsibility Act 2011 came into effect on 25 April 2012, Section 103 of the Act amended the Licensing Act 2003 to make the Licensing Authority a Responsible Authority. South Holland District Council was the Licensing Authority for the District and the Committee of the Licensing Authority had responsibility for discharging licensing functions on behalf of the Licensing Authority. Section 10 of the Licensing Act 2003 permitted the Committee to discharge certain functions to an officer of the Licensing Authority.

It was determined that the role of Responsible Authority needed to be separated from the role of the Licensing Officer, in order to protect the impartiality of the Licensing Authority, to reduce the possible conflict of interest and to ensure a fair hearing. Currently processing applications and servicing the Committee of the Licensing Authority fell with the Licensing Officer, and there was no scope for the separation of roles within the Licensing Team.

Agreement was sought for the Responsible Authority function to be delegated to the following officer posts; Licensing and Business Support Manager, Food Health and Safety Manager and the Environmental Protection Manager which were all shared posts between South Holland and Breckland District Councils. Each post would examine each application or problem premises on a case by case basis in

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conjunction with other Responsible Authorities, if appropriate. They would take into account the requirement to promote the Licensing Objectives and have regard to the Council's Statement of Licensing Policy and Guidance issued under Section 182 of the Licensing Act 2003. It was felt that the formalisation of those arrangements would mean a robust procedure of delegation to exercise the Authority's duties under the Licensing Act 2003.

Members requested clarification on the role the Authority would have. Was the Authority able to submit an application for review on a premises, or oppose for the grant of a new premises should it be felt that the Licensing objectives would not be promoted. The Licensing and Business Support Manager advised that this was indeed the case and that the above mentioned posts would have the delegated authority to put forward objections to a new premises, or call a review on an existing premises licence.

Members also queried that if a councillor were to raise concerns and subsequently a review was called, for example, would the concerns have to have been proven before a review was called. The Chairman explained that the three chosen Members who were to be part of the Panel of the Committee of the Licensing Authority, would make any decisions surrounding the representations that had been made.

**DECISION:**

That the Licensing and Business Support Manager, Food Health and Safety Manager and the Environmental Protection Manager be delegated authority to discharge functions as a Responsible Authority under the Licensing Act 2003.

**5. LIVE MUSIC ACT 2012**

Consideration was given to the report of the Assistant Director of Commissioning to note amendments to the Licensing Act 2003 via the Live Music Act 2012 in respect of live music entertainment and the provision of entertainment facilities.

The Live Music Act received Royal Assent on 8 March 2012 and came into effect on 1 October 2012.

The Live Music Act 2012 amended the Licensing Act 2003 in several areas, as follows:

- Conditions relating to live music would not apply if the following were met – there was a premises licence or club premises certificate in place authorising on sales of alcohol; the premises were open for the supply of alcohol for consumption on the premises; live music taking place between 8am and 11pm and, if the live music was amplified, the audience was of no more than 200 people. Conditions would apply outside of these hours and criteria.
- If the above criteria were met live music would cease to be classed as regulated entertainment.

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- Live unamplified music provided anywhere was not classed as regulated entertainment between 8am and 11pm regardless of the number of people in the audience.
- The Act wholly removed the requirement to licence entertainment facilities.
- To protect local residents the Act had additional provisions. At a review of the premises licence or club premises certificate the Licensing Authority could determine that conditions relating to live music would apply during the hours of 8am and 11pm.
- In addition if there was not an authorisation for live music the Licensing Authority could attach conditions to the premises licence / club premises certificate which could also apply between 8am and 11pm.
- The Licensing Authority could also decide that live music was a licensable activity at the premises and that live music could not be provided without authorisation on a premises licence / club premises certificate or Temporary Event Notice.

Consultation had been undertaken by the Department of Culture, Media and Sport, with a view to producing updated guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 which was expected on 31 October 2012. It was noted that the Live Music Act did not permit any premises to cause noise nuisance, and that all other legislative requirements still applied.

Members raised concerns regarding the Live Music Act 2012 and that although it was stated that it did not permit any noise nuisance this could indeed become the case. Would the Authority take any steps for an out of hours service for the reporting of any noise disturbance from a premises or any other entertainment.

Members were advised by the Licensing and Business Support Manager that there was no facility for an out of hours service and responsibility for investigating any disturbance out of hours would fall to the Police or the Environmental Health Team, through the South Holland District Council out of hours number (01775 761161) where the call would be logged and looked at on the next working day. Any disturbance that was taking place on a regular basis would have to be monitored and logged, in order to show a pattern of disturbance, which would then be investigated appropriately. It was noted that any live music restraint was being removed up until 11.00p.m. and after that a licence would still be required. A review would still be permitted to be called on a premises if there was noise nuisance.

**DECISION:**

That the amendments to the Licensing Act 2003 via the Live Music Act 2012 in respect of live music entertainment and the provision of entertainment facilities be noted.

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**6. REVISED STATEMENT OF PRINCIPLES GAMBLING ACT 2005**

Consideration was given to the report of the Assistant Director of Commissioning on the revised statement of Principles – Gambling Act 2005. The Committee of the Licensing Authority were requested to approve the revised Statement of Principles which then would receive final approval from full Council to be published and come into effect from 31 January 2013.

The Gambling Act 2005 came fully into effect on 1 September 2007 which created a new system of licensing and regulation for commercial gambling. Local Authorities had regulatory responsibility for licensing certain gambling activities. The Act also created an independent non-departmental public body, the Gambling Commission sponsored by the Department for Culture, Media and Sport.

Under Section 349 of the Gambling Act 2005 the Licensing Authority was required to prepare and publish a statement of the principles that proposed to apply in exercising its functions under the Act before each successive period of three years. South Holland District Council's current Statement of Principles was published and came into effect in January 2010.

To assist local authorities the Act required the Gambling Commission to issue statutory guidance to Licensing Authorities on the manner in which they exercised their functions. Licensing Authorities were required to take into account such guidance, and were designed to ensure the spread of best practice and consistency of approach in decision making, whilst not preventing them from properly exercising discretion in taking into account appropriate and relevant local issues.

A review of the current Statement of Principles had been completed and a revised draft prepared. This draft was based on the 4<sup>th</sup> Edition of the Guidance issued to licensing authorities, published by the Gambling Commission, and a template statement issued by the Local Government Association.

The draft Policy underwent a consultation period from 19 July 2012 until 11 October 2012 and was carried out in accordance with guidance issued by the Gambling Commission and the HM Government Code of Practice on consultation. There was a requirement under section 349(3) Gambling Act 2005 for the Licensing Authority to consult the following bodies on the Statement of Principles and subsequent revision to it:

- The Chief Officer of Police for the authority's area;
- One or more persons who appeared to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- One or more persons who appeared to the authority to represent the interests of persons who were likely to be affected by the exercise of the authority's functions under this Act.

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The draft statement of Principles had been widely consulted upon with other Responsible Authorities, all holders issued gambling permissions and other interested parties, no responses to the draft Statement of Principles had been received.

Revisions to the Statement of Principles included an updated introduction, updates to documents referred to, new information on test purchasing, information on gambling as a primary activity, updates on gaming machines, and provision of updates Responsible Authority contact details.

Members requested clarification on certain points, what was the definition of a small lottery and whether there was a full list of all those who had been consulted upon.

The Licensing Officer clarified that a small lottery was defined as a draw that had tickets pre-printed with a draw on a later date. The Licensing and Business Support Manager advised that a full list of all those consulted upon had been appended to the draft Statement of Principles at Appendix A within the report.

**DECISION:**

That the Revised Statement of Principles – Gambling Act 2005 Policy be agreed and recommended for approval by full Council.

(The meeting ended at 7.16 pm)

(End of minutes)