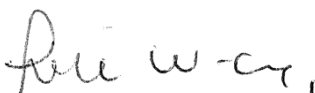


Date of issue: Wednesday 27th May 2020

MEETING	LICENSING COMMITTEE (Councillors Davis (Chair), H Cheema (Vice-Chair), Anderson, Chaudhry, Dhaliwal, M Holledge, Mann, D Parmar, S Parmar, Sharif and Strutton)
DATE AND TIME:	THURSDAY, 4TH JUNE, 2020 AT 8.00 PM
VENUE:	VIRTUAL MEETING
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	SHABANA KAUSER 01753 787503

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



JOSIE WRAGG
Chief Executive

MEMBERS ARE REQUESTED TO NOTE THAT THE ANNUAL MEMBER DEVELOPMENT TRAINING SESSION ON 'LICENSING – THE IMPORTANCE OF DECISION MAKING' WILL BE HELD AT 6.30PM.

THIS SESSION IS MANDATORY FOR ALL MEMBERS OF THE COMMITTEE.

(This session is not open to the Press and Public)

AGENDA

PART I

**AGENDA
ITEM**

REPORT TITLE

PAGE

WARD

Apologies for absence.

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

CONSTITUTIONAL MATTERS

- | | | | |
|----|--|--------|-----|
| 1. | Declarations of Interest | - | - |
| | <i>All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 4 paragraph 4.6 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.</i> | | |
| 2. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 | - |
| 3. | Minutes of the Last Meeting held on 17th October 2019 | 3 - 6 | - |
| 4. | Establishment of a Licensing Sub-Committee and Appointment of Designated Chairs | 7 - 10 | All |
| 5. | Date of Next Meeting - 15th October 2020 | - | - |

Press and Public

This meeting will be held remotely in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. Part I of this meeting will be live streamed as required by the regulations. The press and public can access the meeting from the following link (by selecting the meeting you wish to view):

<http://www.slough.gov.uk/moderngov/mgCalendarMonthView.aspx?GL=1&bcr=1>

Please note that the meeting may be recorded. By participating in the meeting by audio and/or video you are giving consent to being recorded and acknowledge that the recording will be in the public domain.

The press and public will not be able to view any matters considered during Part II of the agenda.



PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Licensing Committee – Meeting held on Thursday, 17th October, 2019.

Present:- Councillors Davis (Chair), H Cheema (Vice-Chair), Anderson, Chaudhry, Dhaliwal, M Holledge, Mann, D Parmar, S Parmar, Sharif and Strutton

PART 1

6. Declarations of Interest

None were declared.

7. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

8. Minutes of the Last Meeting held on 5th June 2019

Resolved – That the minutes of the meeting held on 5th June 2019 be approved as a correct record.

9. Licensing Sub Committee - Appointment of Designated Chair

The Senior Democratic Services Officer reminded Members that Council meeting held on 26th September 2019 considered a report on revised proportionality and allocation of committee places following notice that Councillor Sharif was no longer a member of the Labour Group. These changes included Councillor Bains appointment to the Executive, which meant that he was no longer a member on the Licensing Committee. It was noted that Councillor Sharif was appointed to the Licensing Committee as an Independent Councillor.

At the meeting of Licensing Committee held in June 2019, Councillor Bains had been appointed as one of the designated Chairs for the Licensing Sub-Committee. It was also agreed that the Sub-Committee would be established where possible on a proportional basis (2 Labour and 1 Conservative Councillor). However, given the changes to the political make up of the Committee, it was proposed that the Sub-Committee comprise of 2 Labour Councillors and 1 Conservative or Independent Member. It was highlighted that whilst every effort would be made to ensure political proportionality, there may be occasions when the Conservative or Independent Member were not available to serve on the Sub-Committee; and in such an event the Committee give consideration to the Sub-Committee comprising of three Labour Members in order to meet statutory deadlines. Nominations were also sought for the appointment of one of the designated chairs to the Sub-Committee.

Licensing Committee - 17.10.19

Resolved -

- a) That Councillor Dhaliwal be appointed to act as designated Chair of the Sub-Committee for the remainder of the 2019/2020 municipal year.
- b) That a Licensing Sub-Committee (drawn from the Members of the Licensing Committee) be established as required on a proportional basis (2 Labour and 1 Conservative or Independent Member). In the event that the Conservative or Independent Member are not available, the Sub-Committee will comprise of three Labour Members.

10. **Licensing Pre Application Advice, Application Assistance and 'Check and Send Service'**

The Senior Licensing Officer introduced the report, setting out the background and context for the introduction of licensing pre-application advice, application assistance and 'check and send service.'

From discussions with applicants, it was apparent that some were put off by the length of the application forms and the amount of technical information required in submitting an application. Although guidance was available on the website, the prescribed application process was inherently complicated mainly because it was linked to primary legislation and applicants did not always have time to consider the guidance that was available. In addition, officers routinely rejected incomplete or incorrectly served applications; which were then delayed or not resubmitted because applicants perceived the process to be too difficult and onerous. It was noted that investment in the Borough was invariably affected by this because without the necessary licence, businesses could not trade, which had implications in terms of inward investment, local economic growth and potentially depriving local communities of welcome amenities.

Members were informed that the fees for the new service were set at £75 per hour and that this rate had been approved by Cabinet at its meeting held on 17th June 2019. In response to whether other local authorities provided a similar service and charged a fee, the Senior Licensing Officer stated that 15 other local authorities provided pre-application advice and assistance for which a fee was charged. The fee had been formulated as part of the review of the Regulatory Service fees increase and set as the same formula that was approved and used by the Council's Trading Standards and Food and Safety Teams. It was clarified however that it was not mandatory to use this service and useful guidance notes and information was also available on the Council's website.

Responding to the number of applications that had not been completed properly during the previous year, the Committee were informed that four had been incomplete. It was anticipated that the majority of applicants wanting to use the pre-application advice service would relate to applications made under the Licensing Act 2003. The scheme would be monitored, detailing the amount of time spent on each application.

Licensing Committee - 17.10.19

Members welcomed and noted the details of the report.

Resolved – That the introduction of the discretionary Licensing pre-Application Advice, Application Assistance and ‘Check and Send Service’ be noted.

11. Members Attendance Record 2019/20

Resolved – That details of the Members Attendance record 2019/20 be noted.

12. Date of Next Meeting - 13th February 2020

The date of the next scheduled meeting was confirmed as 13th February 2020.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 6.56 pm)

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SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 4th June, 2020

CONTACT OFFICER: Shabana Kauser (Senior Democratic Services Officer)
(For all Enquiries) (01753) 787503

WARD(S): All

**PART I
FOR DECISION****ESTABLISHMENT OF A LICENSING SUB-COMMITTEE AND
APPOINTMENT OF DESIGNATED CHAIRS**1. **Purpose of Report**

This report seeks approval for the establishment of a Licensing Sub-Committee and the appointment of designated Chairs to the Sub-Committee.

2. **Recommendations**

The Committee is requested to resolve:

- (a) That a Licensing Sub-Committee (drawn from the Members of the Licensing Committee) be established as required on a proportional basis (2 Labour 1 Conservative/Independent) with terms of reference as set out in the appendix.
- (b) That in the event of the unavailability of the Conservative or Independent Member, a Sub-Committee will be convened with three Labour Members.
- (c) That Councillors Davis, Dhaliwal and S Parmar be appointed to act as designated Chairs of the Sub-Committee for the 2020/2021 municipal year.

3. **Slough Joint Wellbeing Strategy Priorities**

There are no implications.

4. **Other Implications**(a) **Financial**

There are no financial implications associated with this report at this stage.

(b) **Human Rights Act and other Legal Implications**

The relevant law in respect of this matter is set out in Sections 15-17 (inclusive) of the Local Government and Housing Act 1989 (the Act) and the Local Government (Committees and Political Groups)

Regulations 1990 (as amended). Applying the basic principles of Sections 15-17 of the Act requires not all the seats on the Sub Committee to be allocated to the same political group. However as an alternative to applying the political proportionality rules the Committee is entitled under Section 17 of the Act to adopt different arrangements provided all of the members vote for/abstain from a proposal (ie: no member votes against).

(c) Workforce

None.

5. **Supporting Information**

- 5.1 The Licensing Committee first established a Licensing Sub-Committee at its meeting on 31st May, 2006 and agreed the terms of reference (set out in the appendix).
- 5.2 The Committee agreed to the appointment of designated Chairs of the Sub-Committee and that these Members would chair the meetings of the Sub-Committee on a rotational basis.
- 5.3 It was agreed that the Sub-Committee would consist of three Members drawn on a rotational basis from the Members of the Licensing Committee on a politically proportionate basis.
- 5.4 As the Labour Group has an overall majority on the Council, the Sub-Committee should comprise two Labour Members and one Conservative/Independent Member.
- 5.5 Meetings of the Sub-Committee are held during the day time and must be held within the statutory deadlines prescribed. There were 4 meetings of the Sub Committee convened in the 2019/20 municipal year.
- 5.6 The membership of the Licensing Committee for the 2020/21 Municipal Year comprises 9 Labour Members, 1 Independent Member and 1 Conservative Member. A Licensing Sub-Committee (drawn from the Members of the Licensing Committee) shall be established, where possible, on a proportional basis (2 Labour, 1 Conservative/Independent) with terms of reference as set out in the appendix. However, in the event of the unavailability of the Conservative/Independent Member, a Sub-Committee will be convened with three Labour Members to ensure statutory deadlines are met within the prescribed timeframe.

6.0 **Conclusion**

The Committee is requested to establish a Licensing Sub-Committee and appoint Councillors Davis, Dhaliwal and Satpal Parmar as designated Chairs for the 2020/2021 municipal year.

6. **Background Papers**

None.

LICENSING SUB-COMMITTEE

Constitution

3 Members of the Licensing Committee (Quorum 3 Members)

Terms of Reference

- 1 To consider and determine applications for licences for private hire vehicles, operators and drivers and for hackney carriage drivers where:
 - (i) The individuals involved have been convicted of traffic or other criminal offences.
 - (ii) Where CRB checks on an individual give cause for concern with regard to their suitability as a fit and proper person to hold such a licence.
 - (iii) In any other special circumstance where the officers consider it appropriate to refer the matter to the Sub-Committee.
- 2 To hear and determine any appeal against a decision of the Director of Adults and Communities taken under delegated powers to refuse an application for approval of premises or to revoke any approval previously granted under the Marriage Act 1994.
- 3 To determine such other licensing appeals or other licensing matters referred by officers including but not restricted to:
 - Sex establishments
 - Street trading.

Licensing Act 2003

- 4 To consider applications for a personal licence where a representation has been made.
- 5 To consider applications for a personal licence in cases where the applicant has unspent criminal convictions.
- 6 To consider applications for premises licences/club premises certificates where a representation has been made.
- 7 To consider applications for provisional statement where a representation has been made.
- 8 To consider applications for variations to premises licences or club premises certificates where a representation has been made.

- 9 To consider applications for the transfer of a premise licence where a representation by the Police has been made.
- 10 To consider reviews to premises licence/club premises certificates where these have been requested by the relevant authority in accordance with the relevant regulations.
- 11 To determine a Police representation in respect of a temporary event notice.
- 12 To consider applications for Interim Authorities where a representation by the Police has been made.
- 13 To consider to revoke a personal licence or suspend a personal licence (for a period of up to six months), where the licence holder has been convicted of a relevant offence, foreign offence, immigration offence or been required to pay an immigration penalty.

Gambling Act 2005

- 14 Application for a Non Fast Transitional Conversion for a Premises Licence where representations have been made.
- 15 Application for new Premises Licence where representations have been made.
- 16 Application for a Provisional Statement where representations have been made.
- 17 Application to vary a Premises Licence where representations have been made.
- 18 Application for Transfer of a Premises Licence where representations have been made
- 19 Cancellation of Club Gaming / Club Machine permits
- 20 Applications for other permits where representation have been made
- 21 Decision to give a counter notice to a temporary or Occasional Use Notice
- 22 Application a for a Review of a Premises Licence