



HILLINGDON

LONDON

Licensing Committee

Date: TUESDAY, 8 JANUARY
2019

Time: 10.00 AM

Venue: COMMITTEE ROOM 6 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE

**Meeting
Details:** Members of the Public and
Media are welcome to attend
this meeting and observe the
public business discussed.

To all Members of the Committee:

Roy Chamdal (Chairman)
Teji Barnes (Vice-Chairman)
Lynne Allen
Simon Arnold
Janet Gardner
Patricia Jackson
Allan Kauffman
Eddie Lavery
Brian Stead
John Oswell

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Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To agree the minutes of the meeting held on 12 July 2018 1 - 4
- 4 To confirm the items of business marked Part 1 will be held in public and any in Part 2 will be held in private

Part 1 - Members, Press and Public

- 5 Presentation on local alcohol addiction support services from ARCH
- 6 Test Purchases for under age selling of alcohol & Operation Nebula update from Police to Members
- 7 Licensed Retail Training & Qualifications 5 - 8
- 8 Airside alcohol licensing at international airports 9 - 10
- 9 Legislative and Industry Update 11 - 12
- 10 Committee Forward Planner 13 - 14

Part 2 - Private and Not for Publication

11 Ratification of past Sub-Committee Minutes

15 - 78

The report listed above in Part 2 is not made public because it contains exempt information under Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 (as amended) and that the public interest in withholding the information outweighs the public interest in disclosing it.

12 Any items the Chairman agrees as urgent and relevant

Minutes

Licensing Committee
Thursday, 12 July 2018
Meeting held at Committee Room 5 - Civic Centre,
High Street, Uxbridge



Members Present:

Roy Chamdal (Chairman)
Teji Barnes (Vice-Chairman)
Simon Arnold
Janet Gardner
Patricia Jackson
Allan Kauffman
Eddie Lavery
Brian Stead
John Oswell

Before the start of the meeting, the Committee paid its gratitude to Mr Ian Meens from the Licensing Team, who would shortly be retiring from the Council.

3. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Lynne Allen.

4. DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING

No interests were declared by Members present.

5. TO AGREE THE MINUTES OF THE LICENSING COMMITTEE MEETING ON 9 JANUARY 2018

The minutes of the Licensing Committee held on 9 January 2018 were agreed as a correct record.

6. TO AGREE THE MINUTES OF THE LICENSING COMMITTEE MEETING ON 10 MAY 2018 (AGM)

The minutes of the Licensing Committee held on 10 May 2018 were agreed as a correct record.

7. TO AGREE THE BUSINESS MARKED IN PART 1 WILL BE CONSIDERED IN PUBLIC AND THAT IN PART 2, PRIVATE

Reports to be considered in public and private were agreed as set out on the agenda for the meeting.

8. PRESENTATION FROM THE HOME OFFICE ON THE UK BORDER AGENCY AND IMMIGRATION ACT POWERS IN RELATION TO LICENSED PREMISES

The Committee received a presentation from Immigration Officers Jonathan Burton and Paul Smith based at the West London Immigration Compliance and Enforcement (ICE) Team for the Home Office. The Officers outlined the work they undertake in relation to immigration matters with particular reference to those working illegally in licensed premises and off-licences. This included:

- The size and scope of the local team based in West London, covering Hillingdon Borough;
- The powers ICE Officers have in terms of arrest and power of entry;
- Their intelligent led approach and priority setting regime for undertaking enforcement action against individuals and businesses;
- The important community based role the Officers also undertake, assisting illegal immigrants to leave the UK voluntarily along with working with local faith groups and charities to help people return to their native home. It was noted that across West London there were approximately 30-40 voluntary returns each month.
- That ICE teams were now a responsible authority on behalf of the Home Office, that could submit representations or initiate a review for those premises that sold alcohol or late night refreshments.
- The local work with Hillingdon Police and Hillingdon Licensing Team, providing useful intelligence on certain premises where illegal workers may be located.
- The potential fines of up to £20,000 that could be applied per illegal worker upon businesses.

Members of the Committee welcomed the presentation which provided a useful insight into the working of ICE Teams and of particular benefit to them when considering related matters at Sub-Committee level. Members also raised the following key points:

- The importance of cross-council team working, e.g. with Trading Standards also, to provide useful intelligence to ICE.
- Timescales for illegal immigrants to leave by voluntary means and the arrangement of their travel documentation;
- How fines levied are collected and pursued by Debt Collection Teams;
- The importance of the building of trust within local communities to work to secure leaving arrangements for illegal immigrants;
- The sources of intelligence, which included Crimestoppers, disgruntled employees and also competitor businesses;
- That paying for someone to leave the UK voluntarily was far cheaper than utilising full law enforcement methods;
- How ICE handle the victims of Human Trafficking assisting those who were forced away from their native country.

9. OVERVIEW OF LICENSING COMMITTEE RESPONSIBILITIES - TERMS OF REFERENCE, DELEGATIONS, POLICIES TIMETABLE AND STATUTORY RETURNS

Members considered an information report which detailed the Committee's Terms of Reference, the scheme of delegations in respect of licensing decisions and the various Licensing policies in force and their dates for revision. Members were also provided with details of all licenced premises within the Borough.

In noting the information, the Committee discussed briefly whether the delegations in relation the number of Fixed Odd Betting Terminals needed to be reviewed, but decided not to make any recommendation on this, at this time.

RESOLVED:- That the Committee note the information.

10. DISPENSING WITH A SUB-COMMITTEE HEARING FOR APPLICATIONS MADE UNDER THE LICENSING ACT 2003

The Committee considered a supplementary procedure for the Hearing Protocols for the Licensing Act 2003 and the Gambling Act 2005 that enabled for the possible dispensation of a scheduled hearing, where all parties had subsequently agreed it need not take place and that the decision could be made "on the papers" or via digital means. It was noted that this could provide for a more efficient process in certain case, but that the Licensing Sub-Committee members would still retain the discretion to refuse any application to dispense with a hearing.

RESOLVED:- That the Licensing Committee agree the procedure for dispensing with a formal Licensing Sub-Committee hearing.

11. GAMBLING ACT 2005 - UPDATE ON FIXED ODD BETTING TERMINALS

Members received an update on the Government's decision to reduce the maximum stake of Fixed Odd's Betting Terminals to £2 following a consultation. It was noted that this change could take a while to be implemented, but that it should have a positive impact in tackling Gambling addiction.

The Vice-Chairman raised the prospect of whether gambling addiction should be included within School PSHE lessons so, along with other social issues, a preventative approach could be taken at younger age. Additionally, assurances over the quality of the training that Betting Shops give their staff on addictive gamblers was sought.

The Chairman noted the number of suicides associated with Gambling which was of particular concern to the Committee.

RESOLVED:- That the Committee note the information in the report.

12. COMMITTEE FORWARD PLANNER

The Committee looked ahead at planned business and agreed to add potential new items to future meetings on:

- Local addiction support services (Gambling & Alcohol);
- Update on national initiatives to tackle Gambling addiction, including GAMSTOP and GAMCARE;
- Training regimes provided by key betting operators for their staff in respect of addictive gamblers.

RESOLVED: That the Committee note the updated Forward Planner.

13. PAST SUB-COMMITTEE DECISIONS & RATIFICATION OF MINUTES

The Committee noted the decisions and agreed the minutes of previous Licensing Sub-Committee hearings as correct records.

RESOLVED:- That the Committee note the decisions of the Licensing Sub-Committees since the last Licensing Committee meeting and approve the minutes as a correct record:

- a) Licensing Sub-Committee 23 January 2018 at 11am
- b) Licensing Sub-Committee 23 January 2018 at 2pm
- c) Licensing Sub-Committee 6 February 2018
- d) Licensing Sub-Committee 20 February 2018
- e) Licensing Sub-Committee 23 April 2018 at 1pm
- f) Licensing Sub-Committee 23 April 2018 at 3pm
- g) Licensing Sub-Committee 6 June 2018
- h) Licensing Sub-Committee 20 June 2018

This item was considered privately in Part II as it contained restricted minutes for approval, which included information revealing the identify of individuals and information relating to action taken or to be taken in connection with the prevention, investigation or prosecution of crime. That the public interest in withholding the information outweighed the public interest in disclosing it (exempt information under paragraphs 2 & 7 of Part 1 of Schedule 12A to the Local Government [Access to Information] Act 1985 as amended).

14. ANY ITEMS AGREED BY THE CHAIRMAN AS URGENT

No additional items were considered by the Committee.

The meeting closed at 10:51am

LICENSED RETAIL TRAINING & QUALIFICATIONS

Committee	Licensing Committee
Officer Contact	Stephanie Waterford
Papers with report	Appendix 1 - Breakdown of training and qualifications
Ward(s) affected	All

HEADLINE

The Committee have previously requested information concerning the different levels of training courses and qualifications available for the Licensed Retail and Hospitality sector.

RECOMMENDATION

That the Committee note the information

INFORMATION

There are varying standards of training in the licensed retail and hospitality sectors. The minimum legal requirement to be specified as a Designated Premises Supervisor on a Premises Licence, is the Level 2 Award for Personal Licence Holders.

Currently, there is no training requirement to be a Premises Licence Holder.

Over and above the minimum requirement for Personal Licence Holders, there are a number of other qualifications available. Appendix 1 details the Qualifications available through the British Institute of Innkeeping.

Implications on related Council policies

None at this stage

Legal implications

None at this stage

Financial Implications

None at this stage

Background Papers / Further Reading Material

None

Level 1 Award Alcohol Awareness - Learning outcomes

1. Have an awareness of the licensed retail industry
2. Understand the nature of alcohol
3. Be aware of the strengths and alcohol by volume and units
4. Understand the effects of drinking alcohol
5. Have awareness of problem alcohol consumption
6. Have an awareness of the dangers of alcohol, sexual health and drink spiking
7. Understand the dangers of drink driving
8. Understand basic licensing law
9. Have an awareness of the offences under the Licensing Act 2003
10. Understand the relationship between drugs and offensive weapons and licensed premises
11. Understand how the licensed retail industry encourages responsible drinking

Level 2 Award for Personal Licence Holders - Learning outcomes

1. Outline the role of the Licensing Authority including Hearings and Policy
2. Understand the Licensing Objectives and the importance of partnerships in promoting these objectives
3. Understand the nature and strength of alcohol and its effect on the body
4. Understand the law in relation to premises licences
5. Understand the role and responsibilities of a DPS
6. Understand the law in relation to Temporary Event Notices
7. Understand the rights and legal duties of the responsible persons in relation to the operation of licensed premises
8. Understand the law in relation to the protection of children on licensed premises
9. Understand the powers of Police and other authorities in relation to licensed premises
10. Understand prohibitions and exemptions in relation to licensable activities

Level 2 Award for Designated Premises Supervisors - Learning outcomes

1. Understand the role and responsibilities of the person appointed as designated premises supervisor
2. Understand the activities that are carried out on licensed premises
3. Understand the requirements of legislation and best practice involved with three of the licensing objectives: Prevention of crime and disorder; Prevention of public nuisance; Public safety
4. Understand the requirements of legislation and best practice involved with the fourth licensing objective: Protection of children from harm
5. Understand the requirements of other relevant legislation and best practice

6. Understand how to conduct a risk assessment and how it is used to underpin the operating schedule
7. Understand how the operating schedule provides the designated premises supervisor with day-to-day management controls and provides due diligence

Level 2 Award for Licensing Practitioners (Alcohol) - Learning outcomes

1. Be able to state the licensing objectives that underpin the Licensing Act 2003 and demonstrate an understanding of their function and importance
2. Understand the role, functions, duties and responsibilities of licensing authorities within the framework of the licensing objectives under the Licensing Act 2003
3. Be able to state the definition of alcohol under the Licensing Act 2003 and understand the nature and scope of licensable activities, the relevant law on unauthorised licensable activities and the penalties for breach.
4. Understand the procedures involved in the application for a premises licence and variations to such licences and the process surrounding the determination of such applications
5. Understand the roles and responsibilities of the designated premises supervisor
6. Understand the purpose and content of the operating schedule relating to a premises licence
7. Understand the procedures involved in the application for and determination of the transfer of a premises licence and in the application for provisional statements and interim authority notices
8. Understand the procedures involved in the application for a club premises certificate and the process surrounding the determination of such an application
9. Understand the basic procedures and statutory requirements governing licensing hearings and the basic principles of natural justice and human rights legislation
10. Understand the procedures surrounding the review of premises licences and club premises certificates
11. Understand what is meant by a temporary event and the relevant processes and conditions associated with temporary events
12. Understand the procedures involved in the application for and grant or renewal of a personal licence and the circumstances that may result in forfeiture or suspension of a personal licence
13. Understand the powers of the police and environmental health officers with regard to the closure of licensed premises and the powers of local authorities after such orders have been made
14. Understand the rights of entry to licensed premises and powers of enforcement
15. Be able to state which premises and activities are exempt or prohibited from holding a premises licence or from selling alcohol

Level 2 Award in Assessment of Licensed Premises (Social Responsibility)

1. Understand the licensing objectives and their function under the Licensing Act 2003
2. Understand key relevant information from the Licensing Act 2003
3. Understand key relevant law and information in relation to the protection of children from harm
4. Understand key relevant law and information in relation to the prevention of crime and disorder
5. Understand key relevant law in relation to public safety
6. Understand relevant law in relation to prevention of public nuisance
7. Understand key associated areas relevant to the role of an assessor
8. Understand key principles in relation to staff training and qualification requirements
9. Understand the role of accredited schemes
10. Understand the impact on the licensed premises
11. Understand how to manage conflict created by the assessment process
12. Understand basic communication relevant to the assessment process
13. Understand the role of evidence in the assessment process
14. Understand how to create a thorough and accurate report
15. Understand the principles of threat analysis and how it can be applied to the assessment process

Level 2 Award in Underage Sales Prevention - Learning outcomes

1. Know current legislation relating to the sale and purchase of age restricted products
2. Know how to prevent unlawful sales of age-restricted products
3. Know current legislation relating to the sale and purchase of age restricted products
4. Know how to prevent unlawful sales of age-restricted products

AIRSIDE ALCOHOL LICENSING AT INTERNATIONAL AIRPORTS

Committee name	Licensing Committee
Officer reporting	Nicole Cameron, Legal Services
Papers with report	None
Ward	All

HEADLINES

This report updates the Licensing Committee in relation to airside alcohol licensing at international airports in England and Wales.

RECOMMENDATION

That the Committee note the report.

SUPPORTING INFORMATION

The Government is considering ending an exemption under alcohol licensing laws given to key airports, including Heathrow. Currently bars and restaurants do not need to hold a licence to sell alcohol as they would in the rest of the country. The exemption was initially granted as the constraints of normal licensable hours were seen as a hindrance to UK airports.

In May 2016, the House of Lords appointed a Select Committee to carry out scrutiny of the Licensing Act 2003 (the Act"). The Select Committee found evidence that there had been an increase in alcohol fuelled incidents at airports, which caused disruptions. The Select Committee's report published in April 2017 recommended that the exemption be revoked from the Act that applies to 24 international airports in England & Wales, which includes Heathrow Airport.

The Government is now consulting on that recommendation and the consultation shall end on the 01 February 2019. The aim of the consultation is to allow the Government to assess:

- the true scale of the problem of drunk and disruptive passengers at international airports in England and Wales;
- the extent to which airports and airlines use effectively the existing statutory powers and other measures to address the problem; and
- the impact of these interventions as well as the proposed application of the Act.

The consultation is broken into 5 main sections:

- Section 1: scale of the problem of drunk and disruptive airline passengers.
- Section 2: effectiveness and limitations of the current statutory and voluntary instruments in managing the problem of drunk and disruptive airline passengers.
- Section 3: the impact the Act could have on addressing the problem of drunk and disruptive passengers if applied airside at international airports in England and Wales.
- Section 4: economic implications of applying the Act airside at international airports in England and Wales.
- Section 5: administration of the Act airside: feasibility and practicalities

It is argued that justification for the deregulation of drinking at airports no longer applies as 24/7 licences are now permissible. There are, however, concerns that if the exemption were revoked it would be difficult to enforce the law because of high security at airports.

If Members were minded to respond to the consultation then this would need to be considered and decided upon by the relevant Cabinet Member, Councillor Douglas Mills.

BACKGROUND PAPERS

Call for Evidence: Airside Alcohol Licensing at International Airports in England & Wales (Home Office) 01 November 2018

LEGISLATIVE & INDUSTRY UPDATE

Committee name	Licensing Committee
Officer reporting	Glen Egan, Legal Services
Papers with report	None
Ward	All

HEADLINES

This report advises Licensing Committee of a recent licensing appeal considered by the High Court.

RECOMMENDATION

That the Committee note the report.

SUPPORTING INFORMATION

London Borough of Lambeth v Ashu

Ms Ashu operated a 24-hour convenience store within Lambeth. The Premises Licence authorised the sale of alcohol for consumption off the premises on Monday to Saturday from 08:00 - 23:00 and on Sunday from 10:00 - 22:30.

In January 2016 the Metropolitan Police applied for a review of the Premises Licence because there had been a number of sales of alcohol outside of these permitted hours.

The Licensing Sub Committee of the London Borough of Lambeth held a Review Hearing, and on 12 April 2016, revoked the Premises Licence. In its reasons the Sub-Committee stated that they had no confidence in Ms Ashu's willingness to abide by the licence conditions. In particular, they were greatly concerned that sale of alcohol had taken place at 1.30AM on 10 April 2016 - being 2 days before the Sub Committee's meeting and considered that the Licence Holder could not provide any assurance that she would abide by her Licence Conditions in the future.

Ms Ashu appealed this decision and in February 2017 Camberwell Green Magistrates Court upheld her appeal and imposed an additional condition on her licence (that have been proposed by Ms Ashu) to require the premises to close at 23:00 on Monday - Saturday and at 22:30 on a Sunday. In addition, the Magistrates Court ordered the London Borough of Lambeth to pay Ms Ashu's legal costs.

The London Borough of Lambeth subsequently appealed the decision of Camberwell Green Magistrates Court to the High Court.

The High Court, in late 2017, upheld Lambeth's appeal and held as follows:

An appeal to the Magistrates Court operates as a rehearing, but the magistrates must be satisfied that the Council's decision was wrong before it can uphold an appeal. The burden of proof is on the appellant to show that the Council's decision was wrong.

The Magistrates Court is under a duty to give full and proper reasons for its decision so that all parties can understand the basis of the decision.

If there has been a change of circumstances between the original decision of the Council and the date of the hearing in the Magistrates Court that change does not necessarily entitle the Court to substitute its decision for that of the Council.

On reviewing the decision of Camberwell Green Magistrates Court, it was clear that the reasons given were inadequate. The Magistrates Court had merely stated that they had read the minutes of the Sub Committee and that they understood its concerns, but did not give any further reasons for its decision to uphold the appeal. In particular, the magistrates did not state whether they considered that Lambeth's original decision had been wrong.

Further, the Magistrates should not have substituted their view for that of Lambeth when the appellant proposed to change her opening hours. The Magistrates should have remitted the case back to the Licensing Sub Committee in view of this change of circumstances.

The High Court concluded: "the absence of any adequate explanation of the Magistrates Court's reasons is in stark contrast to the record of the Sub Committee deliberations which makes plain that they had considered lesser alternatives to revocation and the reasons why they had rejected them. This is not a mere technicality. The court's reasons do not show any competent consideration of the matters that gave rise to the Sub Committee's concerns. Those were material concerns in November 2016 just as they had been in April 2017 and the failure to address them vitiates the purported exercise of their discretion".

The High Court therefore quashed the decision of Camberwell Green Magistrates Court and also overturned the order Lambeth were to pay the costs of appeal. The court remitted the appeal to be heard by a different bench at Camberwell Green Magistrates Court, with a direction that in reaching its fresh decision the court must give adequate reasons for its decision. Ms Ashu was also ordered to pay the legal costs incurred by Lambeth in both the Magistrates and High courts.

Conclusion

It is rare for a licensing appeal to reach the High Court. This decision provides further confirmation that the Magistrates Court hearing a licensing appeal is not to substitute its view of for that of the local authority unless it is clearly satisfied that the original decision was wrong and that the court must have sufficient reasons to justify its decision.

BACKGROUND PAPERS

High Court Judgement

Thursday 11 April 2019	Proposed Agenda / Reports	Lead Officer	Timings
10am Committee Room 6	Presentation: TBC -		Report deadline: 29 March Agenda Published: 3 April
	Policies Items TBC		
	Informatives: <ul style="list-style-type: none"> • Gambling operator practices and local update • Legislative and Industry Update 	SW NC	
	Business Review: <ul style="list-style-type: none"> • Meeting Forward Planner • Ratification of past Sub-Committee Minutes 	MB MB	

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