

# Licensing Committee

Wednesday 5 April 2017 4pm

Council Chamber  
Runnymede Civic Centre, Addlestone

## Members of the Committee

Councillors Mrs J Gracey (Chairman), D W Parr (Vice-Chairman), J Broadhead, Mrs D V Clarke, R J Edis, Mrs E Gill, Mrs M T Harnden, N M King, Mrs Y P Lay and P S Sohi.

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

## A G E N D A

### Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C Pinnock, Democratic Services, Law and Governance Business Centre, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: [clare.pinnock@runnymede.gov.uk](mailto:clare.pinnock@runnymede.gov.uk)).**
- 3) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on [www.runnymede.gov.uk](http://www.runnymede.gov.uk).
- 4) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.
- 5) **Filming, Audio-Recording, Photography, Tweeting and Blogging of Meetings**

Members of the public are permitted to film, audio record, take photographs or make use of social media (tweet/blog) at Council and Committee meetings provided that this does not

disturb the business of the meeting. If you wish to film a particular meeting, please liaise with the Council Officer listed on the front of the Agenda prior to the start of the meeting so that the Chairman is aware and those attending the meeting can be made aware of any filming taking place.

Filming should be limited to the formal meeting area and not extend to those in the public seating area.

The Chairman will make the final decision on all matters of dispute in regard to the use of social media, audio-recording, photography and filming in the Committee meeting.

## **LIST OF MATTERS FOR CONSIDERATION**

### **PART I**

#### **Matters in respect of which reports have been made available for public inspection**

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### **PART II**

#### **Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

- a) Exempt Information  
(No reports to be considered under this heading).
- b) Confidential Information  
(No reports to be considered under this heading)

1. **FIRE PRECAUTIONS**

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

2. **MINUTES**

To confirm and sign, as a correct record, the Minutes of the meeting of the Committee held on 15 November 2016, which were included in the December 2016 Minute Book, previously circulated.

3. **APOLOGIES FOR ABSENCE**

4. **DECLARATIONS OF INTEREST**

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Democratic Services Officer at the start of the meeting. A supply of the form will also be available from the Democratic Services Officer at meetings.

Members are advised to contact the Council's Legal section prior to the meeting if they wish to seek advice on a potential interest.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is a disclosable pecuniary interest or if the interest could reasonably be regarded as so significant as to prejudice the Member's judgement of the public interest.

5. **TIMING OF LICENSING AND REGULATORY COMMITTEE MEETINGS (LAW AND GOVERNANCE)**

**Synopsis of report:**

**To seek approval to change the time of the scheduled meetings of the Licensing and Regulatory Committees back to starting at 7.30pm**

**Recommendation(s):**

**Subject to the approval of the Group Leaders, the scheduled meetings of the Licensing and Regulatory Committees be held at 7.30pm from the Municipal Year 2017/18**

1. **Context of report**

- 1.1 In November 2012, this Committee reviewed its decision to change the scheduled meetings of the Licensing and Regulatory Committees from being held at 7.30pm to 4pm. This change of time was originally approved by full Council in March 2012, to be reviewed in November 2012. The position was reviewed and full Council approved that meetings continue to be held at 4pm, to be reviewed in 2015/16. At the meeting in June 2015 Members concurred with Officers that no major resource or equalities issues had been identified and a modest saving had been achieved by not paying the committee attendance allowance to officers as the meetings were held in core hours.

- 1.2 At that time Members were content to continue meeting at 4pm and did not consider there was a need to review the decision at a later date unless circumstances necessitated a change.
- 1.3 Members are asked to note that the scope of the review excludes ad hoc meetings of the Licensing Sub-Committee and the Regulatory Committee. These hearings are usually held in the daytime to consider individual cases such as the review of a premises licence under the Licensing Act 2003 or the revocation of a driver's licence under the Local Government (Miscellaneous Provisions) Act 1976. It is considered that members of the public, licensees, hackney carriage and/or private hire drivers and their representatives find daytime hearings more convenient.

## 2. **Report**

- 2.1 Since the last review the make-up of the Committee has changed and the Chairman has indicated that daytime meetings are no longer considered feasible in terms of being able to get enough Members who are able to attend the training and get time off work to attend daytime meetings.
- 2.2 It is important to have a good cross-section of Members on these Committees and for them to be able to be trained to deal with reviews of Licensed premises or the possible suspension or revocation of a Hackney Carriage and/or Private Hire Driver's licence. If not all the Members are trained or can attend meetings, the work falls to a small pool of the Committee which is not really equitable.
- 2.3 In 2012, the Council had fewer Members in full time employment and it is likely that if the meetings continue to be held at 4pm that the newer Members will be not volunteer for these meetings.

## 3. **Policy framework implications**

- 3.1 Committee meetings are arranged to be held at appropriate times and dates to ensure effective transaction of business.

## 4. **Resource implications**

- 4.1 Since June 2015, there have been three scheduled Licensing and four Regulatory Committee meetings as well as three ad-hoc daytime meetings of the Licensing Sub-Committee and one of the Regulatory Committee. With an average of three Officers attending, a modest saving of £327.00 has been made on the meeting attendance allowance of approximately £27.25 per meeting (before tax) that would have been payable to those members of staff if the four scheduled meetings had been held in the evening.
- 4.2 Members are asked to note that not all Officers would have claimed and others might have taken the time in lieu instead, if applicable. As the meetings are held one after the other one allowance would be payable for each pair of meetings i.e. November 2015, June 2016 and November 2016. There is also a resource implication of Officers accruing time in lieu instead of taking the allowance amounting to an extra day's leave based on the information given in section 4.1 above.
- 4.3 In terms of the travel allowance that Members of the Committee can claim this would be paid whenever the meeting is held so this cost does not need to be taken into account.
- 4.4 Additional savings would have been made on the provision made to man the reception area out of hours. The hourly rate is approximately £9.50 (before tax) for

the staff who perform this duty. As the Licensing and Regulatory meetings tend to be shorter than other committees the amount payable would have been minimal.

4.5 There are lone working considerations and issues of personal safety to be taken into account which equally apply to other evening meetings at the Civic Centre.

4.6 As Members have been advised previously, when we looked at the fee setting process for Licensing that the Senior Licensing Officer undertakes it is not currently possible to give a full breakdown of what an individual meeting costs.

## 5. **Legal and Equality implications**

5.1 There is no legal obligation to hold committee meetings at a particular time. The time at which committee meetings are held must be related to the convenience and availability of elected Members. However, and as confirmed through consultation with the Council's solicitor responsible for Equalities, there is a need to consider accessibility and whether anyone is prevented from attending a meeting owing to their having a protected characteristic and/or particular caring responsibilities which make the timing of a meeting more or less difficult or practicable.

5.2 Allocated staff from the Law and Governance business centre are required to provide support to the Council's Committees and Sub-Committees as part of their duties and responsibilities. If the meetings are held in the evening, Runnymede's Personnel Policies and Procedures set out arrangements for time off in lieu and/or Committee attendance allowance as compensation for attending evening Committee meetings. These arrangements depend on the time that meetings finish and are applied to all eligible staff attending evening meetings irrespective of the protected characteristics that apply to them.

5.3 In terms of equalities it is considered that there is no evidence of the proposed changes having an adverse impact on any one with a Protected Characteristics.

## 6. **Conclusions**

6.1 If Members wish to change the time of the scheduled meetings from June 2017 consideration would need to be given as to whether to review the decision after a specified period of time.

6.2 If the proposal to change the time of meetings is approved it will need to be the subject of consultation with the Group Leaders.

**(To resolve)**

### **Background papers**

Internal Correspondence (consultation responses referred to in the report and with the Chairman of this Committee) held on Law and Governance, Environmental Health and Resources Outlook email folders/inboxes (Exempt)

## 6. **AMENDMENTS TO THE LICENSING ACT 2003 (ENVIRONMENTAL SERVICES)**

### **Synopsis of report:**

**This report is to inform the Committee of Amendments to the Licensing Act 2003 following the introduction of the Immigration Act 2016 and the Policing and Crime Act 2017.**

**Recommendation(s):**

**None. This report is for information.**

**1. Context of report**

1.1 This report sets out the amendments to the Licensing Act 2003 (the 'Act') brought about by the Immigration Act 2016 (IA2016) and the Policing and Crime Act 2017 (PCA 2017).

1.2 The Immigration Act 2016 received Royal Assent on 12 May 2016 and makes amendments to the Licensing Act 2003 in relation to:

- entitlement to work
- the Secretary of State becomes a new responsible authority
- prohibition on applying for or holding a premises licence
- restrictions on the use of Interim Authority Notices
- restrictions on Transfer of Premises Licence
- personal Licence Restrictions
- existing Personal Licence Alterations

1.3 A commencement order for the above comes into force on 6 April 2017 (Immigration Act 2016 (Commencement No. 3 and Transitional Provision) Regulations 2017/380).

1.4 The Policing and Crime Act 2017 received Royal Assent on 31 January 2017 and makes amendments to the Licensing Act 2003 as follows:

- amend the meaning of alcohol
- amend the provisions for Summary Reviews
- provide a new power for the Licensing Authority to suspend or revoke a personal licence when notified of a conviction for a relevant offence
- expand the list of relevant offences for personal licences holders, and remove the need for the Secretary of State to lay statutory guidance before Parliament.
- simplify the process for issuing S182 guidance.
- place cumulative impact policies on a statutory footing.

1.5 A commencement order for the above comes into force on 6 April 2017. (Policing and Crime Act 2017 (Commencement No. 1 and Transitional Provisions) Regulations 2017/399).

**2. Report**

**Immigration Act 2016 and the Licensing Act 2003.**

2.1 The Immigration Act 2016 makes changes to the Licensing Act 2003. These are as summarised in 2.3 to 2.20.

**Entitlement to Work.**

2.2 A new section has been inserted into the Licensing Act 2003 which will detail a person's entitlement to work. Individuals will not be able to apply for a premises licence unless they are entitled to work in the United Kingdom (UK). An individual is entitled to work in the UK if they have leave to enter or remain in the UK and are not subject to a condition preventing them from doing work relating to a licensable activity.

#### New Responsible Authority.

- 2.3 The Secretary of State will be an additional Responsible Authority where the premises licence authorises the sale of alcohol or late night refreshment. Responsible Authorities under the Licensing Act are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority.

#### Prohibition on applying for or holding a premises licence.

- 2.4 There will be a prohibition on a person applying for a premises licence for alcohol or late night refreshment if they do not have the right to work in the UK.

#### Restrictions on the use of Interim Authority Notices.

- 2.5 When a premises licence for alcohol sales or late night refreshment is in existence, it will lapse if the holder ceases to have the right to work in the UK (in the same way as on death, insolvency etc.).

#### Restrictions on Transfer of Premises Licence.

- 2.6 Any application for the transfer of a premises licence must have the right to work in the UK and if the premises are for alcohol sales or late night refreshment the notice must also be given to the Secretary of State as well as the Police. The Secretary of State can then object to the transfer within 14 days.

#### Personal Licence Restrictions.

- 2.7 In relation to personal licences there is a similar approach to that for taxi drivers. A personal licence can only be granted to an applicant if they are entitled to work in the UK and it lapses if that entitlement ends.

#### Personal Licence Relevant Convictions.

- 2.8 The offences in Schedule 4 of Licensing Act 2003 are amended to add 'immigration offence' and 'immigration penalty'.

#### Personal Licence Applicant Alterations.

- 2.9 If an applicant for a personal licence has been convicted of an immigration offence, a foreign offence that the authority considers to be comparable to an immigration offence or required to pay an immigration penalty the authority must inform the Secretary of State.

#### Existing Personal Licence Alterations.

- 2.10 A person who currently holds a personal licence must give notice of any immigration conviction or penalty to the Licensing Authority.

#### **Policing and Crime Act 2016 and the Licensing Act 2003.**

- 2.11 The Policing and Crime Act 2017 contains proposals which will amend the Licensing Act 2003. These are as summarised in 2.23 to 2.37.

#### Definition of Alcohol.

- 2.12 The definition of Alcohol has been extended to include vaporised or powdered alcohol. This is achieved by the introduction of the words 'in any state' after the word 'alcohol'.



### Summary Review Changes.

- 2.13 There are some significant changes to summary reviews (often referred to as expedited reviews) of premises licences.
- 2.14 Section 53A of the 2003 Act provides for the police to make an application for a summary review of a premises licence, if the relevant premises are associated with serious crime or serious disorder. It provides that the licensing authority must consider the application within 48 hours and impose 'interim steps' (temporary conditions) if necessary. Subsection (3) of section 53B of the 2003 Act sets out the interim steps which the licensing authority is required to consider taking, namely:
- the modification of the conditions of the premises licence (for example, a restriction on the hours during which alcohol can be sold);
  - the exclusion of the sale of alcohol from the scope of the licence;
  - the removal of the designated premises supervisor from the licence; or
  - the suspension of the licence.
- 2.15 If interim steps are imposed following a summary review the premises licence holder can make representations against those, and at present can repeat that process without limit. The Licensing Act 2003 will be amended to allow initial representations. Thereafter they can only seek to make further representations 'if there has been a material change in circumstances since the authority made its determination.'
- 2.16 The decision made at the review hearing does not take effect until the expiry of the time limit for appealing (21 days) (during which the decision may be appealed by the licensee or the police to a magistrates' court), or until an appeal is disposed of. There is currently an ambiguity in the 2003 Act about whether the interim steps remain in place after the review hearing, and whether they can be withdrawn or amended by the licensing authority. The amendments made by this clause will address the ambiguity about what happens to the interim steps between the review hearing and the review decision coming into effect
- 2.17 The Licensing Authority can determine that some or all of the interim steps stay in place pending any appeal. If they do remain in place, there is a right of appeal against those which must be heard by the Magistrates Court within 28 days of the application to appeal being lodged.

### Forfeiture and suspension of personal licences on conviction of relevant offences.

- 2.18 A personal licence holder must produce their personal licence to the court if they have been charged with a relevant offence before the case is heard. The Act carries a provision within it that if a personal licence holder is convicted of a relevant offence the court can order the forfeiture or suspension of that licence. It is up to the court if they exercise this power to impose either a suspension on the personal licence or revoke it. However, evidence suggests that personal licence holders do not always declare they are personal licence holders and the courts are not routinely exercising their powers in this regard.
- 2.19 If the personal licence holder is found guilty of a relevant offence or foreign offence they must notify the Licensing Authority who issued that licence. Once notified of the relevant offence or foreign offence the Licensing Authority previously had no power to suspend or revoke that licence.
- 2.20 This amendment to the Act' will retain the current court powers and provide additional powers to the Licensing Authority to enable it to suspend a licence for a period of up to 6 months or revoke it. The power to suspend or revoke a personal licence cannot be delegated to officers and will be a function for the Licensing Sub-

Committee. The personal licence holder will have a right of appeal to the magistrates' court against any decision of the Licensing Authority to suspend or revoke the licence.

#### Addition of further relevant offences.

2.21 A conviction for a relevant offence can be grounds for refusing a new personal licence (or for suspending or revoking an existing licence if the provisions described in section 2.16 of this report are met). The 'Act' will expand the list of relevant offences for personal licences holders to include:

- the sexual offences listed in schedule 3 to the Sexual Offences Act 2003
- the violent offences listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003
- the manufacture, importation and sale of realistic imitation firearms contrary to section 36 of the Violent Crime Reduction Act 2006
- using someone to mind a weapon contrary to section 28 of the Violent Crime Reduction Act 2006
- terrorism-related offences listed in section 41 of the Counter-terrorism Act 2008.

#### Licensing Act 2003: Guidance.

2.22 The Secretary of State must produce Guidance to Licensing Authorities under section 182 of the 'Act'. However, before a revised version of the guidance can be published the Secretary of State must lay a draft of that guidance before both Houses of Parliament.

2.23 Since the 'Act' came into force, there have been a number of revisions to the guidance, none of which have been subject to Parliamentary debate. The proposed amendment within the 'Act' will enable the Secretary of State to publish any revised guidance without the need to lay it before each House of Parliament. This will enable amendments to be made quicker and reduce parliamentary time.

#### Placing cumulative impact policies on a statutory footing.

2.24 The 'Act' is to be amended so that in determining or revising its licensing policy, a licensing authority must have regard to any cumulative impact assessments published by it and must summarise any cumulative impact assessments within its licensing policy.

### **3. Policy framework implications**

3.1 No amendments are required to Runnymede's Licensing Policy as a result of this new legislation.

### **4. Resource implications**

4.1 Some of these amendments are minor in nature, such as the change to the meaning of alcohol, changes to the way statutory guidance is published and adding relevant offences for personal licences. The changes brought about the Immigration Act 2016 will impact on how Runnymede as Licensing Authority undertakes its functions associated with premises and personal licence applications. This will entail more checks and more officer time. This is in addition to the extra resources which may be devoted to checking those personal licence holders who are convicted of a relevant offence and when considering, determining and defending appeals for summary review applications. Careful management of time and resources will be needed to

ensure the necessary checks are not carried out to the detriment of other licensing functions.

- 4.2 The Government have produced amended forms to take account of the changes to the Licensing Act 2003 by the various 'acts' mentioned in this report. These forms have been published under The Licensing Act 2003 (Miscellaneous Amendments) Regulations 2017 and take effect from 6 April 2017.
- 4.3 Officers have the task of replacing existing versions with the new forms and amending the Council website so that the new forms are available.
- 4.4 There is a risk of increased appeals and costs as a result of the additional expedited appeal rights. The Home Office considers the risk of expedited appeals to be minimal on the basis that licensees will have been given the new opportunity to put forward their case against any interim steps at the conclusion of the full review hearing. However, it is not considered that such an opportunity will actually mitigate against the need to appeal if the interim steps involve either the loss of a key licensable activity or the suspension of the licence.

## 5. **Equality implications**

- 5.1 It is RBC policy that there must be no discrimination, all applicants will be treated in the same way during the process. This approach by officers will also help to demonstrate a fair, transparent and consistent application process. Officers are also aware that assumptions should not be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic or national origin, accent, colour of skin or length of time they have been resident in the UK.

## 6. **Legal implications**

- 6.1 Any legal implications are contained within the body of this report.

## 7. **Conclusions**

- 7.1 Members are asked to note the contents of this report.

**(For information)**

### **Background papers**

Licensing Act 2003 – Part 7  
Immigration Act 2016 – Regulation 2 and 3  
Policing and Crime Act 2017  
Sexual Offences Act 2003  
Criminal Justice Act 2003  
Violent Crime Reduction Act 2006  
Counter-Terrorism Act 2008  
Runnymede Statement of Licensing Policy  
The Licensing Act 2003 (Miscellaneous Amendments) Regulations 2017

## 7. **EXCLUSION OF PRESS AND PUBLIC**

If Members are minded to consider any of the foregoing items in private, it is the

**OFFICERS' RECOMMENDATION that -**

**where appropriate the press and public be excluded from the meeting during discussion of the report(s) under Section 100A(4) of the Local Government Act 1972 on the grounds that the report(s) in question would be likely to involve**

disclosure of exempt information of the description specified in the relevant paragraphs of Part 1 of Schedule 12A of the Act.

(To resolve)

## **PART II**

### **Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

a) Exempt Information

(No reports to be considered under this heading)

b) Confidential Information

(No reports to be considered under this heading)