



## LICENSING AND GAMBLING COMMITTEE

MINUTES OF THE MEETING HELD IN THE COUNCIL CHAMBER, PENALLTA HOUSE,  
ON THURSDAY, 25TH OCTOBER, 2018 AT 10.00 AM

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### PRESENT

Councillor D.W.R. Preece – Chair  
Councillor J. Simmonds – Vice-Chair

### Councillors:

J. Bevan, D. Cushing, W. David, M. Davies, K. Etheridge, Ms J. Gale, J. Ridgewell,  
J.E. Roberts and W. Williams

### Together with:

J. Morgan (Trading Standards, Licensing and Registrars Manager), L. Morgan (Licensing Manager) and T. Rawson (Solicitor), E. Sullivan (Senior Committee Services Officer),  
R. Barrett (Committee Services Officer)

### 1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors P.J. Bevan, D.C. Harse, Mrs D. Price and R. Whiting.

### 2 DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

### 3 REVIEW OF SUB COMMITTEE HEARING PROCEDURES AND REPORT FORMATS

The Licensing Manager presented the report which proposed amendments to the meeting procedure and report format for the Licensing and Gambling Sub Committee.

Members were advised that following a review of Committee hearing procedures, a number of minor amendments had been identified as being required for both the meeting procedure and the report format for the Licensing and Gambling Sub Committee. The amendments proposed the attendance of the Legal Advisor throughout the entirety of the meeting (including Member deliberations) and the inclusion of an Officer recommendation in future Committee reports.

In view of these proposed amendments, approval was also sought for the revised Licensing and Gambling Sub Committee Hearing Procedure and a copy was attached to the report for

Members' consideration. It was noted that the revised Hearing Procedure reflects a recent change to the Sub Committee's decision notification process as permitted by the provisions of the Licensing Act 2003, in that relevant parties are now informed of the Members' decision within 5 working days (instead of immediately prior to the close of the meeting).

Members were advised that some minor wording had been omitted from the revised Procedure at Section 5 (Legal Advisor) Point 1 and that the sentence should read "Interpretation of the Licensing Act 2003 and Gambling Act 2005".

During consideration of the proposals, a Member raised concerns as to the fairness of including an Officer recommendation in Sub Committee reports and suggested that this could lead to a perception of bias. The Licensing Manager emphasised that this would merely be a recommendation to the Sub Committee, with all cases to be considered on their own merits, and that Members could potentially have a different view to that of the recommendation after considering all the information presented at the hearing. The Committee were also advised that Officer recommendations are included in the report format as standard across a number of the Council's other Committees.

A Member voiced his support for the inclusion of an Officer's recommendation, but sought Legal's view on whether or not it could be considered good practice to have a legal presence throughout the entirety of the hearing. The Legal Advisor explained that this could be conducive to Members' deliberations as they would be on hand for any matters concerning points of law and procedure, and could also provide clarity on evidential points as and when required.

A Member expressed the view that an Officer's recommendation would provide consistency across future hearings, and in lending his support to the proposals, moved a motion that the three recommendations as set out in the report be approved, which was not seconded.

Discussion then took place regarding the meeting start times for Licensing and Gambling Sub Committee Hearings. The Licensing Manager explained that there were no plans to change these times due to the potential length of these meetings, and that the proposed change related to meetings of the Taxi and General Sub Committee, which was included in a separate report for consideration by the full Committee. It was queried whether the inclusion of an Officer's recommendation could leave the Council open to legal challenge in the event of appeals. The Licensing Manager reiterated that the decision in respect of licensing applications is a matter for the Sub Committee, and explained that a recommendation is just that and should not be viewed as pre-determination towards a decision.

Following due debate it was moved and seconded that recommendation 10.1 (a) as set out in the report be approved and recommendations 10.1 (b) - 10.1 (c) not be supported. By a show of hands (and in noting there were 2 for and 8 against) the motion was declared lost.

It was then moved and seconded that the three recommendations as set out in the report be approved. By a show of hands (and in noting there were 9 for and 2 against), this was agreed by the majority present.

RESOLVED that:-

- (a) the Legal Officer be in attendance throughout the entirety of future Licensing and Gambling Sub Committee Hearings;
- (b) an Officer recommendation be included in future Licensing and Gambling Sub Committee Hearings;
- (c) the revised Licensing and Gambling Sub Committee Hearing Procedure as appended to the report (and with the additional wording to reflect the requirements of the Gambling Act 2005) be approved.

Before the close of the meeting, a Member queried the accuracy of the disclaimer within the procedure which stated "This is a Committee Hearing and Not a Court of Law" and asked if it would benefit from modification. The Licensing Manager explained that this form of words has been lifted from the existing procedure and is intended to give context to the format and structure of Committee hearings.

The meeting closed at 10.25 a.m.