

**Minutes of a Meeting of the
Licensing Committee of Adur District Council
Queen Elizabeth II Room, Shoreham Centre
6 March 2017**

Councillor Brian Coomber (Chairman)
Councillor David Simmons (Vice-Chairman)

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| Councillor James Butcher | *Councillor Peter Metcalfe |
| Councillor Stephen Chipp | *Councillor David Lambourne |
| Councillor Emma Evans | Councillor Lyn Philips |
| Councillor Robin Monk | *Councillor Ben Stride |

* Absent

LC/16-17/17 Declarations of Interest

There were no declaration of interests

LC/16-17/18 Confirmation of Minutes

Resolved: that the minutes of the Licensing Committee meeting of held on 16 January 2017 be confirmed as the correct record

LC/16-17/19 Questions and Statements by the Public

There were no questions or statements from members of the public

LC/16-17/20 Items Raised Under Urgency Provisions

There were no items.

LC/16-17/21 Constitutional Provisions relating to the Councils' Licensing Function

Before the Committee was a report by the Solicitor to the Council and Monitoring Officer copies of which had been circulated to all Members and a copy of which is attached to the signed copy of these Minutes as Item 5. The report before the Committee provided an opportunity for governance arrangements and procedure rules to be reviewed; and an opportunity to streamline procedures and to combine best practice from Adur District Council and Worthing Borough Council.

The Monitoring Officer introduced the report to the Committee and outlined proposals therein. With reference to Executive Members being included amongst the membership of the Licensing Committee the Monitoring Officer advised that certain local authority functions are not the responsibility of the Executive. This included any function of a licensing authority relating to the Licensing Act 2003. That being the case the Monitoring Officer told the Committee It could be argued that whilst licensing cannot be the responsibility of the Executive this did not bar individual Members of the Executive from

being appointed to the Licensing Committee. However, it could also be argued that those who sit on a Licensing Committee should not be a Member of the Executive and this was the best way to remove all risk of challenge. An alternative option was put forward which was that the constitution be changed to ensure that the Committee be prohibited from including a majority of Executive Members.

The Committee discussed proposals within the report to introduce the use of Sub Committees for 2003 act and 2005 act applications. A Member asked if there had been a successful challenge of a Licensing Committee decision on the grounds that the rules of natural justice had been contravened because of the size of a Committee. The Monitoring Officer told members she wasn't aware of any such case. The general feeling of the Committee was that a full Committee hearing was not unduly overbearing and the use of Sub-Committees would cause difficulties in assuring political balance.

Members discussed raising the quorum of the Committee from three to four Members and agreed that this was reasonable and commensurate with other Committees. However it was felt that reducing the quorum of the Licensing and Regulatory Sub-Committee from three to two risked the maintenance of political balance and were therefore against that proposal.

Members discussed the proposed changes to the way that National Non Domestic Rate Relief (NNDR) appeals were heard and felt that further comment was needed from the Executive Member for Resources before the Joint Governance Committee make a recommendation on the matter.

In relation to Executive Members being part of the Committee membership, Members agreed that this should not be prohibited on the grounds that they could add valuable experience to the Committee and that the legislation did not prohibit Executive Members from sitting on the Committee, it prohibited the Committee from being an Executive responsibility. Members agreed that it was sensible to recommend that a rule stating a majority of the Committee must not be made up of Executive Members so as not to give the impression that the functions of the Committee were being used as an Executive function.

The Committee noted that if a decision of the Licensing Committee is challenged by way of an appeal to the Magistrates Court, the matter would be dealt with by the Councils' Legal Officers. It was possible for negotiations to take place and a settlement to be reached as part of those proceedings, which may have been inconsistent with the Committee's original decision. Members expressed concern that the intent of the Licensing Committee could be amended post decision. A Member commented that the expectation should be that the decision of the committee is defended in court. The Monitoring Officer explained to Members that a matter would be settled if it was in the Council's interest and that efforts would be made to contact the Chairman or Vice Chairman before such action was taken.

Resolved: that the following be recommended to the Joint Governance Committee:

1. That the majority of the membership of the Licensing committee is not made up of Executive Members;

2. That Licensing Act 2003 and Gambling Act 2005 matters are heard by the full committee of ten members;
3. That the quorum of the full committee be raised from three members to four members;
4. That the quorum of the Licensing and Regulatory sub committee remain as three;
5. That before recommending a change to the way that NNDR applications and appeals are heard, the Joint Governance seek the views of the Executive Member for Resources;
6. That the Committee Chairman or Vice Chairman be expected to attend appeals held at the magistrates court.

The meeting ended at 7.40pm it having commenced at 7.00pm

Chairman