

LICENSING SUB COMMITTEE

12 JANUARY 2015

Present: Councillors Sabetian, Dowling, Lee and Roberts (Chair)

8. APPOINTMENT OF CHAIR FOR THIS MEETING

In accordance with the terms of reference of the Licensing Committee, the Chief Legal Officer invited nominations for the appointment of Chair for the duration of the meeting. Councillor Sabetian moved that Councillor Roberts should take the Chair. This was seconded by Councillor Dowling.

RESOLVED (unanimously) that Councillor Roberts be appointed as Chair for the duration of the meeting.

9. APOLOGIES FOR ABSENCE

None.

10. MINUTES OF THE MEETING HELD ON 15 JULY 2014 (FOR INFORMATION)

RESOLVED – That the minutes of the meeting held on 15 July 2014 be approved and signed by the Chair as a true record.

11. DECLARATIONS OF INTEREST

None.

12. NOTIFICATION OF ANY ADDITIONAL URGENT ITEMS

None.

13. APPLICATION FOR REVIEW OF GAMBLING PREMISES LICENCES: ADULT GAMING CENTRE AREAS 1 & 2, FLAMINGO ARCADE, EAST BEACH STREET, HASTINGS

Councillor Roberts set out the procedure that the Sub-Committee would adopt (in accordance with Standard Practice), all parties confirmed they understood this.

The Chair agreed after hearing from the Chief Legal Officer, that parties had requested time for discussion and that once all parties had made their submissions a short adjournment would take place.

The Corporate Director, Environmental Health, submitted a report on a review of a gambling premises licence at Adult Gaming Centre Areas 1 & 2, Flamingo Arcade, East Beach Street, Hastings.

An amendment to the wording of the report was noted to paragraph 11 of the report as follows: the words 'November 2014' were replaced with the words 'October 2014'.

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Councillor Sabetian asked Mr Brown if the Council had written to the premises licence holders advising they segregate the areas of family entertainment from the adult areas within the premises and he sought clarification on the physical separation of the two areas. Mr Brown confirmed the segregation of the two areas was included in the conditions of the licence and defined in law. The conditions were appended to the report under Appendix C of the agenda. He stressed that both areas have to be separate and should be clearly defined by signage. Mr Brown stated that it is common practise that where there is a break between the two areas some premises put up a barrier and operate a buzzer to alert staff when customers move between the two areas. He said this advice is supported by the Gambling Commission and is enforced by the Council.

Mrs Davies, Licensing Officer, who brought the review made her submission on the grounds of the licensing objective "Protecting Children and other vulnerable persons from being harmed or exploited by Gambling". She said the review was necessary because the premises had failed two test purchases. The tests were designed to test the effectiveness of underage gambling policies and procedures in the absence of adequate data provided by the licensees themselves.

The first test purchase took place in April, 2 young people (aged 16yrs and 17yrs) were allowed unchallenged access to the premises and were able to use restricted machines. The premises failed; the compliance manager interviewed and a warning letter followed. Mrs Davies said they were assured that procedures would be tightened up. The second test purchase took place 6 months later in October, during half term week, 2 different young people (both aged 15yrs) were allowed unrestricted access to the premises and allowed to play restricted machines; they were not challenged by staff. The witness statements were appended to the report under Appendix A of the agenda. Both operations were led by staff from Hastings Borough Council supported by officers from both Sussex Police and the Gambling Commission.

Mrs Davies said that 5 other premises were also tested, and failed the initial test purchase, but the Flamingo Arcade was the only premises that failed twice. She went on to say the review was fully justified because the compliance manager had already been warned after failing the first test purchase and she was promised that procedures would be tightened up.

In support of the review, Mr Isaacs from the Gambling Commission made his submission on the licensing objective section 1(c) of the Act, "protecting children...from being harmed or exploited by gambling", and the Commission's codes of practice issued under section 24 of the Act, specifically the social responsibility code provision 3.2 concerning "access to gambling by children and young persons". He said the premises was controlled by dual regulation. The two adult gaming centre premises licences in respect of the two units situated within the Family Entertainment centre, were issued by the local Authority. The separate operator licence was issued by the Gambling Commission and reinforced by conditions that the operator has a duty to comply with". He said it is an offence under S47 of the Gambling Act 2005 for a young child to enter an age restricted area, the operator has a responsibility to manage the premises legally. Due to repeated failings he said he fully supported the review.

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Mr Lucas, Solicitor, representing Flamingo Arcade said the arcades were managed by 2 directors who between them had 80 years of combined experience and owned a number of seaside arcades. He stated that this was the first occasion they had been brought to a review. He said their company fully accepted the obligations of their licences. Furthermore, two years ago they held two training sessions for staff which covered basic training principles with an emphasis on underage training. He said that training had obviously not been sufficient and that following the failed test purchases in April they had a meeting with Jan Hall who was responsible for compliance and Mr Brown, Licensing Manager. Since Jan Hall left the company in July 2014, compliance was the responsibility of Mr Moore. Mr Lucas said that Mr Moore felt that procedures were robust enough to prevent test purchases in other premises and that there had been some training, but it was not enough.

Moving forward, Mr Lucas said they had looked to identify areas in which training could be improved along with the physical arrangements of the premises, to ensure procedures were more robust for all of their premises. Mr Lucas read out a list of actions, the majority of which had taken place. These included:- the separation of the family entertainment centre and the adult gambling area; Staff will have radio pagers so that they can communicate with each other at all times; CCTV is to be mounted on site and remotely transmitted to Mr Moore and his colleagues; Additional signage will be placed in the entrance and foyer; Refresher training will be provided to all staff; All staff will be presented with badges 'Are You 21' or similar and asked to wear them at all times. Mr Moore added that emphasis was on compliance, they would check the age of people entering the premises under 'Challenge 21' and if ID was not provided they would ask them to leave.

Mr Isaacs from the Gambling Commission asked Mr Moore if he was a member of the Trade Association and asked if the test purchase was a mandatory requirement of the Trade Association. In his response, Mr Lucas said it was not mandatory and that the BACTA toolkit manual provided a summary of all requirements and refers to various policies and procedures.

Councillor Sabetian asked Mr Lucas why he thought the failings took place. Mr Lucas said the company previously did not have sufficiently robust procedures in place and they had not put enough emphasis on members of staff regarding compliance.

Councillor Sabetian asked if they thought there was enough staff to ensure the checks and monitoring was carried out? Mr Moore said that every member of staff attended training. Additional staff were employed during the summer season, and they attend a 2 hour induction regarding procedures. Mr Lucas added that emphasis was placed on a test at the end of the training session, so staff had to demonstrate they understood it. He said this information was monitored.

Councillor Dowling asked whether the cashier's desk was in full view of the adult entertainment area and whether the cashier would be able to see who was going to the adult area. Mr Lucas said the reason they looked at providing pagers was the cash box was not always manned. On the pager system he said you could guarantee that someone was always there.

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With the agreement of the Chair, the meeting was adjourned to allow for discussions concerning additional conditions to the licence.

Following discussions with the Licensing Officer, Mr Lucas read out a number of suggested conditions that had been proposed for the committee to consider.

The Chair sought confirmation from Mr Isaacs from the Gambling Commission that he was happy with the recommended conditions. Mr Isaacs confirmed he was in agreement.

In his summary, Mr Brown said the review was supported by the Gambling Commission, the Council had taken a robust stance against underage gambling and they would continue to carry out test purchasing. Other premises owned by Mr Moore which failed first time were checked again to ensure they were operating correctly.

RESOLVED (unanimously) that the review be upheld subject to the following conditions:-

- 1. Physical barrier (ie: supermarket metal type or similar) acceptable to the Licensing Authority and operated in conjunction with the existing monitored alert system to be put in place within 3 months.**
- 2. Compulsory third party test purchasing on a twice yearly external system and the results to be reported to the Local Authority. In the first 12 months 2 additional internal test purchase operations to be carried out.**
- 3. No machine on the unlicensed family entertainment centre to be sited within 1 metre of the adult gambling centre entrance.**
- 4. New and seasonal staff must attend induction training. All existing staff must attend refresher training every 6 months.**

Reasons:

The licence holder has made significant improvements to their operating procedures and policies.

All staff have received further training with a commitment for a regular training programme to be delivered.

Pagers are in place to bring to staff attention anyone entering the Adult Gambling Centre. Staff can then check that the person is the appropriate age to enter. Staff can keep in contact with each other by a radio controlled system.

The Committee have had regard to the guidance issued by the Secretary of State and its own policy.

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The Chair thanked all parties involved in coming to an agreement.

14. ADDITIONAL URGENT ITEMS (IF ANY)

None.

(The Chair declared the meeting closed at. 11.30 am)