

**Medway Council**  
**Meeting of Licensing and Safety Committee**  
**Thursday, 7 March 2013**  
**6.00pm to 7.15pm**

**Record of the meeting**

**Subject to approval as an accurate record at the next meeting of this committee**

- Present:** Councillors: Baker, Mrs Diane Chambers (Chairman), Colman, Etheridge, Harriott, Hicks (Vice-Chairman), Kemp, Rodberg and Shaw
- Substitutes:** Councillors:  
Griffin (Substitute for Adrian Gulvin)  
Tolhurst (Substitute for Carr)
- In Attendance:** Wayne Hemingway, Democratic Services Officer  
Alison Poulson, Licensing and Local Land Charges Manager  
Nicola Swan, Head of Legal Services

**909 Record of meeting**

The record of the meeting held on 21 November 2012 was agreed and signed by the Chairman as correct.

**910 Apologies for absence**

Apologies for absence were received from Councillors Carr, Adrian Gulvin and Kearney.

**911 Urgent matters by reason of special circumstances**

There were none.

**912 Declarations of disclosable pecuniary interests**

There were none.

**913 Licensing Act 2003 - Review of Council's Statement of Licensing Policy**

**Discussion:**

The Licensing and Local Land Charges Manager submitted a report which set out the draft Statement of Licensing Policy, including comments received following public consultation and some minor proposed amendments to the Committee's terms of reference.

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She stated that there had been considerable changes in legislation over the last twelve months through the Police Reform and Social Responsibility Act 2011 that have been included in the draft statement for consideration, which was attached at Appendix A to the report. These changes included:

- Statement of Licensing Policy to be reviewed every five years instead of every three years
- Abolition of the vicinity test – allowing anyone in the country to send a relevant representation or an application
- Locally set fees
- Late night levy
- Early Morning Alcohol Restriction Orders
- The Primary Care Trust (soon to be the Medway Clinical Commissioning Group) had become a responsible authority for the notification of an application and being able to respond to it
- The use of the word “appropriate” instead of “necessary” - amended by S109 Police Reform and Social Responsibility Act, introduced with a view to lowering the evidential threshold required for a Licensing Authority to make such decisions which may be harder to challenge on appeal
- Review of a licence can now be made by a responsible authority or any other person
- Changes to standard Temporary Event Notices (TENs)
- Introduction of a late Temporary Event Notice with no hearings and no right of appeal.

As part of the review of the Statement of Licensing Policy, the draft documentation had been correctly advertised as part of a six-week consultation.

She stated that not all the requests within the responses could be considered, as they did not meet the requirements of the legislation or guidance in respect of licensing. In these cases a short explanation had been provided against each request for inclusion.

The main areas of concern to come out of the consultation related to Temporary Event Notices (TEN) and Cumulative Impact Policies. In respect of Temporary Event Notices, the current legislation under Part 5 of the Licensing Act 2003 sections 98 to 110 allowed for the following: A TEN was a form that was provided to the local Council, the Police and Environmental Health, letting them know about the planned event and she explained the difference between the two types of TEN, namely a standard TEN, which was to be submitted no later than 10 working days before the event to which it related or a late TEN, which was to be submitted not before 9 and not later than 5 working days before the event. It was noted that a TEN was for a relatively small-scale event attracting fewer than 500 people, lasting no more than 168 hours either outdoors or indoors. Any premises could be used for 12 temporary events per year, up to a total maximum of 21 days. The temporary event holder needed to be aged 18 or over.

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She explained the number of TENs which could be held as follows: If a person already held a personal licence, 50 TENs (made up of standard and late TENs) could be held per calendar year; if a person did not hold a personal licence only 5 (made up of standard and late TENs) could be held per calendar year.

If a person held a personal licence, 10 late TENs could be held per calendar year; if a person did not hold a personal licence, only 2 late TENs could be held per calendar year.

It was noted that there must be at least 24 hours between temporary events organised by the same person or an associate in relation to the same premises.

Once the police or environmental health received a TEN, they had three working days to make any objections to it on the grounds of any of the four licensing objectives: prevention of crime and disorder; prevention of public nuisance; public safety; protection of children from harm.

If they objected, the council would organise a panel to consider the evidence and may decide that the event could not proceed. If there was an objection to a late TEN the event would not be allowed to proceed. Otherwise the event could go ahead as planned. The current legislation did not allow for public objections, notification or advertisement.

She also provided the Committee with detailed information on cumulative impact policies which had been introduced as a mechanism for licensing authorities to limit the growth of licensed premises in certain areas. These were currently set out in guidance and no decision had been taken to put this forward through legislation.

The statutory guidance governing Cumulative Impact Policies was focused on local needs and easier for licensing authorities to implement. This focused on the evidential requirements as detailed in the draft policy set out at section 77.

The phrase Cumulative Impact was defined in the guidance as "the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The number, type and density of licensed premises selling alcohol within an area may be such to give rise to serious problems of crime, disorder and/or public nuisance." She stated that the draft policy had been written in such a way to highlight the types of evidence required for the introduction of cumulative impact policies to be pursued.

Members sought further clarification on the issue of TENs with particular regard to existing licence holders, the new provision for Environmental Health to object to TENs and on what grounds it could object to a TEN and who would hear any objections to a TEN.

The Licensing and Local Land Charges Manager stated that an existing licence holder could hold 50 TENs per calendar year outside of the existing premises with 12 TENs on the existing premises. Where an existing licence holder held a TEN on the existing premises this counted as one TEN in respect of both the licence holder's and the existing premises' quota per calendar year. Environmental

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Health's ability to make objections to TENs were required to be within the four licensing objectives. Objections to a TEN would be heard by an emergency meeting of the Licensing Hearing Panel. She stated that other legislation, including the Live Music Act 2012, also had an impact on the types of objections either the Police or Environmental Health could make in respect of TENs.

Members discussed each of the representations made, as set out in Appendix B to the report, with particular regard to the issue of cumulative impact policies. Members discussed and sought clarification on the type of evidence required to enable the introduction of a cumulative impact policy in specific areas of Medway, with particular regard to Rochester and the way forward on this matter, including a proposal for a public meeting with relevant stakeholders. Members also discussed ICT arrangements in relation to licensing matters.

The Licensing and Local Land Charges Manager stated that a cumulative impact policy could be introduced in relation to certain types of premises or certain areas. Sufficient evidence would be required before any such policy could be introduced. A request for a cumulative impact policy could be made, for example, by the public, Members, the Police or Public Health.

The Licensing and Local Land Charges Manager informed Members that it was envisaged that new licensing software could be introduced in the future which would provide website users with a service similar to that provided in respect of planning applications. The introduction of such software was subject to the Council's Better for Less programme.

A Diversity Impact Assessment (DIA) screening form had been undertaken on the draft policy as set out in Appendix C to the report. It was concluded that a full DIA was not necessary, however, a couple of actions had been identified for future reviews.

### Decisions

- (a) The Committee noted the documentation set out in Appendix A to the report and recommendations set out in Appendix B to the report and recommended approval of the draft Statement of Licensing Policy to Council on 25 April 2013 for use from 1 May 2013.
- (b) The Committee recommended to Council to agree the amendments to the Licensing and Safety Committee's terms of reference, as set out in Appendix D to the report.
- (c) The Committee asked the Licensing and Land Charges Manager to arrange an all Member training session with key stakeholders/responsible authorities on the issue of cumulative impact policies to enable Members to be fully informed of the requirements to pursue any such policies in Medway.

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**Chairman**

**Date:**

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