

Medway Council
Meeting of Licensing and Safety Committee
Tuesday, 23 July 2013
6.00pm to 7.20pm

Record of the meeting

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

Present: Councillors: Baker, Mrs Diane Chambers (Vice-Chairman), Colman, Griffin, Adrian Gulvin, Kearney, Kemp, Rodberg, and Shaw

Substitutes: Councillors:
Hicks (Substitute for Etheridge)
Tolhurst (Substitute for Carr)
Paul Godwin (Substitute for Harriott)

In Attendance: Perry Holmes, Assistant Director Legal and Corporate Services/Monitoring Officer
Daniel Kalley, Democratic Services Officer
Lynsey Keen, Senior Licensing and Enforcement Officer
Alison Poulson, Licensing and Local Land Charges Manager

202 Change of Committee membership and appointment of Chairman

Discussion:

The Committee was advised that following his appointment to the role of Portfolio Holder for Community Safety and Customer Contact, Councillor Hicks would no longer be serving on this Committee and Councillor Carr had been appointed to replace Councillor Hicks.

The above change had resulted in the requirement of the Committee to appoint a new Chairman. It was pointed out that should the Committee wish to elect the current Vice Chairman to the role of Chairman, the Committee would then need to appoint a Vice Chairman.

The Committee was further advised that since the Annual Council Meeting, Councillor Avey had been replaced on the Committee by Councillor Griffin.

.Decision:

- a) Councillor Mrs Diane Chambers be elected Chairman of the Committee for the 2013/14 Municipal year

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- b) Councillor Carr be elected Vice-Chairman of the Committee for the 2013/14 Municipal Year

NOTE: In accordance with Rule 12.5 of Chapter 4 of the Constitution, Councillors Colman, Paul Godwin and Shaw requested that they be recorded as having voted against the appointment of Councillor Carr as Vice Chairman of the Committee.

203 Record of meeting

The record of the meeting held on 7 March 2013 and the Joint Meeting of all Committees held on 15 May 2013 were agreed and signed by the Chairman as correct.

204 Apologies for absence

Apologies for absence were received from Councillors Carr, Etheridge and Harriott.

205 Urgent matters by reason of special circumstances

There were none.

206 Declarations of disclosable pecuniary interests

There were none.

207 Enforcement Report on Licensing Matters

Discussion:

The Committee received a detailed presentation on the work of the Licensing Enforcement Team.

The Senior Licensing and Enforcement Officer advised members on the key points including:

- The increasing number of licensed premises surrendering their licences during the last financial year.
- There were a number of empty/derelict licensed premises where officers were unable to locate the licence holder. Officers had spent time trying to locate the licence holders, as they owed money to the Council. However, recent legislation changes now gave the Licensing enforcement team the power to suspend premises licences and club premises certificates for non-payment of the annual maintenance fee.
- The high turnover of licence holders and designated premises supervisors. In partnership with the Police Officer were involved in Operation Trigger, which ran every two weeks and involved visiting those premises where changes had taken place.

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- Prioritising and focusing enforcement visits on those high-risk premises that cause crime and disorder, endanger public safety or cause a nuisance as a result of bad management.
- Gambling offences in pubs and clubs, including an increase in the number of illegal gaming machines. Working in partnership with the Gambling Commission, in 99% of cases, the illegal machines were removed within seven days.
- Medway is currently seen as a leader in cutting down illegal gambling in Kent.
- Operation Chaser involving work with Police Special Constables, to pull over licensed vehicles so that the enforcement team can carry out the necessary inspections.
- Successful running of Operation Trinian's in carrying out inspections on Hackney Carriage and Private Hire Vehicles transporting school children to and from school.
- The taxi trade were supportive of the inspections, as they wanted to ensure enforcement action was taken against those who did not comply.
- Temporary Event Notices (TEN's) had been difficult to manage, as there was a statutory requirement to acknowledge each TEN within 24 hours of receipt of the notification, this impacted on officers getting out to carry out visits/inspections and is now being done by the licensing services team
- As of 1 April 2013 new compliance and enforcement pads allows enforcement officers to instantly issue their report at the time of their visit/inspection and ensured the person they had spoken to had a record of their official visit/inspection.
- Action taken by the Licensing Enforcement Team when acting as a Responsible Authority under the Licensing Act 2003 and the Gambling Act 2005
- Details of re-active and pre-active compliance activity, such as the number of premises visits and the number of taxi inspections.
- Close working relationship with other departments who are responsible for investigating different complaints.
- Partnership working and the support provided to a number of organisations such as the Police.
- The Olympic Games had an impact on the number of resources that were available by partners for a three month period in 2012.

The Senior Licensing Enforcement Officer advised members on the key areas the enforcement team were to prioritise including:

- Increased checks on members clubs, as, in the past there have been significant breaches under the Licensing Act 2003 and Gambling Act 2005. This had resulted in the issuing of a Section 90 Withdrawal of a Club Premises Certificate. Two clubs applied for premises licences and surrendered their club premises certificate rather than be served with a Section 90 Withdrawal of a Club Premises Certificate.
- Running Operation Unite with the support of the UK Border Agency to tackle illegal working in off licences, restaurants and takeaways.
- Continuation of Operation Bragg with the Gambling Commission to target unlicensed gaming machines.

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- Working in partnership with the Medway Taxi Association which we brought in new extinguisher requirements on 1 September 2012.
- Dealing with the attitudes of taxi drivers towards enforcement officers carrying out their duties and, if necessary, referring cases to the Licensing Sub Committee for consideration.

The Senior Licensing Enforcement Officer explained that changes to the IT system involved the transfer of all enforcement actions onto the new IDOX system and that this would take time to complete.

She explained that over the forthcoming year the enforcement team would be looking at the legislation around the issuing of street trading licences and introducing a new system, which would impact on existing and future traders. Under the current system, the Town Centre Managers were responsible for Street Trading Consents for Town Centres and Festivals and the Licensing Team licensed other areas in Medway. This resulted in a level of inconsistency. A further report on this issue would be submitted to the Committee in late 2013/early 2014.

Members discussed the report and the Senior Licensing Enforcement Officer responded to questions raised. This included confirmation of the average level of licence fee debts, which were written off as irrecoverable.

Members commented that having two different sources issuing street trading consents was not sensible and welcomed the proposal to change this. Members supported the referral of those drivers who were abusive to enforcement officers to the Licensing Sub Committee.

Decision:

The Licensing and Safety Committee noted the report and congratulated officers on the work set out in the report.

208 Update on Legislation Affecting Licensing

Discussion:

The Local Land Charges and Licensing Manager introduced a report updating members on the current changes in legislation affecting licensing. The Licensing Act 2003 (Descriptions of Entertainment)(Amendment) Order 2013 came into force on 27 June 2013. The changes include the removal of the need for entertainment licenses between 8am and 11pm for performances of plays and exhibition of dance (up to audience limits of 500 people) and indoor sports up to audiences of 1000 people. The order also clarified that combined fighting sports such as mixed martial arts and exhibitions of dance of a sufficiently adult nature would not be deregulated.

The Local Land Charges and Licensing Manager drew attention to Appendix A to the report setting out a Working Draft of Guidance related to Regulated Entertainment and outlined the affect of the legislation on conditions relating to live

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music in licensed premises in that any existing conditions on relevant licensed premises would remain in place but were suspended between the hours of 8am and 11pm. However, she advised that on a review of a premises licence a Licensing Authority was permitted to lift the suspension and give renewed effect to any existing condition.

The Local Land Charges and Licensing Manager informed members that the Scrap Metal Dealers Act 2013 will come into force in October 2013. The new act would revise the regulatory regimes for scrap metal dealing and vehicle dismantling and give local authorities increased powers including the power to refuse a licence and powers to revoke licences if the dealer was considered unsuitable.

The Act would introduce two types of licences either a site licence or a collector's licence. A person could only hold one licence in a Local Authority's area but could hold a licence in more than one local authority. Members were assured that they would be informed of how the Scrap Metal Dealers Act works in practice once guidance becomes available from central government and this would be brought back to the Committee in due course.

The Local Land Charges and Licensing Manager, referring to the report of the Senior Licensing and Enforcement Officer at Minute 207 above, referred to the proposals to amend the street trading policy as this had not been updated since Medway Council was created. It was proposed that this new policy would introduce consistent Trading Consent fees on a scale relevant to the period for which the street trading consent was being requested. In addition, it was intended that an applicant would be required to specifically state the roads in which they intended to trade. IT was also intended that applications for Street Trading Consents would be the subject of consultation with relevant parties, e.g. the Police, the Children's and Adult's Services and local businesses.

Members were advised that a new computer system would be introduced that will detail all licences issued or pending for individual Wards. This would help build up a picture of the number of licences and types of licensed premises in one particular area.

Members discussed the report and the Local Land Charges and Licensing Manager responded to questions raised.

It was noted that it was intended to introduce the revised Street Trading Consents Scheme in April 2014 and therefore this would be the subject of a further report to the Committee later in the year and would also be the subject of consultation.

During discussion on this item, a Member referred to an issue with a particular premise. The Chairman advised the Member that this could not be addressed in open committee and therefore this would be discussed in closed session at the end of the meeting.

Decision:

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The Licensing and Safety Committee noted the update on legislation and thanked the Local Land Charges and Licensing Manager for the report.

209 Update on Cumulative Impact

Discussion:

The Local Land Charges and Licensing Manager updated members on the work to be carried out on Cumulative Impact. A meeting had taken place on 8 July with representatives from public health, environmental protection, police, and licensing and relevant members.

Public Health had agreed to be responsible for the receipt, collation and analysis of all relevant data from the Police, Environmental Protection, Licensing and Members and work would be carried out with other local authorities that had cumulative impact policies to learn from experience. This work would be undertaken over the next year following which a decision would be made as to whether or not Medway had sufficient evidence to consult and put in place a cumulative impact policy.

It was stressed that when looking at evidence it is not reviewing the premises itself, but the impact the premises was having on the area outside of the premises

Future meetings on cumulative impact will take place once a new analyst had been appointed. Members were advised that this could take up to 18 months to put in place.

Decision:

The Licensing and Safety Committee note the report.

210 Exclusion of the Press and Public

Decision:

The Panel agreed to exclude the press and public under paragraph 7 of Schedule 12A of the Local Government Act 1972 on the basis that a Member wished to refer to an issue with a specified licensed premises in Medway.

211 Issue with a specific licensed premises in Medway

Discussion:

A Member referred to a specific licensed premises in Medway and expressed concern that when planning permission and licences were granted, little account was taken of the number of patrons for which the premises was being licensed

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and the provision of toilet facilities within the premises. This often resulted in patrons urinating in the street.

The Chairman explained that the occupancy levels of all licensed premises were regulated by the Fire Authority,

Decision:

- a) The Chairman agreed to pass on the Member's concerns regarding the premises specified at the meeting; and
- b) Councillor Adrian Gulvin in his capacity as a Medway Council representative on the Kent and Medway Fire and Rescue Authority agreed to ask a representative of the Fire Authority to attend a future meeting of the Committee to report upon how the occupancy levels of licensed premises are determined.

Chairman

Date:

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