

Medway Council
Meeting of Licensing and Safety Committee
Wednesday, 18 September 2013
6.00pm to 7.30pm

Record of the meeting

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

- Present:** Councillors: Baker, Carr (Vice-Chairman), Mrs Diane Chambers (Chairman), Etheridge, Griffin, Adrian Gulvin, Harriott and Rodberg
- Substitutes:** Councillors:
Pat Gulvin (Substitute for Kemp)
- In Attendance:** DC Gill Angus, Kent Police
Elizabeth Benjamin, Senior Lawyer - Litigation
Mandy Francis, Senior Licensing and Enforcement Officer
Daniel Kalley, Democratic Services Officer
Alison Poulson, Licensing and Local Land Charges Manager

359 Record of meeting

The record of the meeting held on 23 July 2013 was agreed and signed by the Chairman as correct.

360 Apologies for absence

Apologies for absence were received from Councillors Colman, Kemp and Shaw.

361 Urgent matters by reason of special circumstances

The Chairman introduced Christine Wilson the new Head of Legal Services and welcomed Elizabeth Benjamin, Senior Lawyer – Litigation to the committee.

362 Declarations of disclosable pecuniary interests

There were none.

363 Licensing Act 2003 Enforcement report on licensing matters

Discussion:

The Licensing and Local Land Charges Manager welcomed DC Gill Angus to the meeting to present the police's annual licensing enforcement report to the committee. She outlined a number of areas including:

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- There had been a re-structure within Kent Police in November 2012, as a result Divisional Licensing Units (DLU) were formed. The North Division Unit was responsible for 1908 licensed premises across Dartford, Gravesend, Medway and Swale and much of the work around licensed premises was of a reactive nature.
- The Unit also worked proactively and there had been occasions when licensing officers had witnessed incidents at certain premises, which were dealt with by the licensing officer in attendance.
- Much of the work carried out by the North DLU fell under compliance, officers were able to provide support and effectively promote the licensing objectives. However there were occasions when enforcement was necessary, this was seen as a last resort.
- Medway had a high turnover of licence holders (72) in the last financial year and 111 changes in Designated Premises Supervisors. The North DLU ensured that they visited any premises where such change had occurred, which enabled the North DLU to discuss the expectations of the licence holder and of the Designated Premises Supervisor.
- Every two weeks, in partnership with the local authority, premises where changes had occurred were visited to show licence holders and designated premises supervisors that the North DLU worked closely with the local authority to promote the licensing objectives.
- Visits to all licensed premises were prioritised based on a continued intelligence based assessment and Police officers inform the North DLU of any problem premises and these would be prioritised for visits.
- Multi-agency working had shown benefits and helped ensure that licensed premises in Medway were properly managed. As a consequence the number of people wanting to gain a licensing qualification had increased.
- There had been 373 temporary event notices (TENs) issued in Medway during the past year. This was considered high in comparison with 202 in Dartford, 196 in Gravesend and 338 in Swale.
- The North DLU also reviewed a number of other applications relating to minor variations, changes of Designated Premises Supervisors or transfers of premise licences.
- The North DLU reviewed every call to the Police call taking system (Storm) relating to licensed premises on a daily basis. An email report was then prepared outlining incidents that had occurred and a copy of this email was sent to the local authority.
- Some licensed premises also provide information to the North DLU to assist the Police in collating information on any incidents that had occurred.
- The North DLU worked closely with partner agencies in Medway and participated in a number of partnership groups.
- The North DLU had also participated in a number of joint operations organised by the local authority and Kent Trading Standards. The North DLU were made aware, in particular, of all UK Border Agency (UKBA) visits and the removal of those individuals who had been working illegally.

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- The North DLU participated in the Safer Medway Partnership which ensured that all licensed premises were aware of persons that had been required to leave the area under a Section 27 dispersal notice.
- Since the restructure in November 2012 the North DLU have had the chance to go and observe the behaviour of individuals on a Friday and Saturday night.
- Licensed premises that used a Temporary Event Notices were required to continue to abide by the conditions of their licence. Non-licensed premises were given advice and guidance in relation to the licensing objectives and expectations of running a safe event.
- The Police had no powers in relation to noise legislation, however the North DLU was happy to give advice to licence holders about reducing noise levels.
- Noise from smoking areas was still an issue, however the North DLU had worked with licence holders to voluntarily restrict the number of people at one time going outside to smoke and prohibiting them from taking their drinks outside.
- The Police wished to continue to work with partners and licensees to ensure that Medway is an area that people wished to visit.

Members welcomed the report and DC Gill Angus responded to questions raised as follows:

- Although there had been a number of changes to Designated Premises Supervisors of licensed premises in Medway, there had been little movement by licensees within Medway.
- That the Licensing Hearing Panel had the power to hear any representations about a licensed premises.
- That the North DLU considered each licence application on its individual merits and ensured that conditions in the licence met the four licensing objectives and helped the premises operate successfully.
- That door staff at licensed premises were trained to be aware of anyone who seemed as if they were unable to look after themselves, in particular, large groups and ensuring that drinks were not served to individuals who were intoxicated. The North DLU was working with licence holders to ensure all staff had the required training to deal with these situations.
- That Operation Unite enabled agencies to look at all licensed premises in a single ward. Two such operations were proposed within the next six months in two wards in Medway. A number of issues would be considered including licensing offences, food hygiene and health and safety.
- Incidents occurring between 1am and 3am were generally as a result of venues closing, people moving between venues and, on occasions, domestic violence between people who were making their way home.
- It was considered that staggering the closing times of venues had assisted in preventing patrons leaving individual premises at the same time and this had reduced the risk of violence.
- The first Alcohol Ban Order had recently been issued which ensured that the person in question would not be allowed into any licensed premises for a year.
- Approximately 230-240 dispersal notices had been issued within the last year.

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A member raised concerns that they were aware of some premises receiving warnings from the Police for minor infringements, in particular with regard to incorrectly displaying their licence and suggested that such issues would be better dealt with in a newsletter reminding licensees of their responsibilities. The Licensing and Local Land Charges Manager confirmed that the local authority was exploring the possibility of licences being register on the Council's website. This would enable licensees to receive a newsletter via email.

Decision:

The Licensing and Safety Committee noted the report and thanked DC Gill Angus and the North DLU for their work as set out in the report.

364 Scrap Metal Dealers Act 2013 - Update

Discussion:

The Licensing and Local Land Charges Manager informed the committee that a supplementary agenda had been circulated with revised recommendations, along with an additional appendix highlighting the changes to the council's constitution in line with the powers of the Scrap Metal Dealers Act 2013.

The Senior Licensing and Enforcement Officer introduced the report on the Scrap Metal Dealers Act 2013, which was due to come into force on 1 October 2013. The new Act would give local authorities increased powers, including the power to refuse to grant a licence and powers to revoke licences if the dealer was considered unsuitable.

The Act introduced two types of licence 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.

Any dealers that had been registered before 1 October 2013 would be deemed to have a licence under the Act from 1 October 2013 and provided that the dealer submitted an application on or before 15 October their deemed licence would last until the council either issued a licence or gave notice of the decision to refuse the licence. Any dealer who failed to submit an application on or before 15 October 2013 would see their deemed licence lapse on 16 October 2013. Any new scrap metal dealer would be able to apply for a licence but would have to wait until a licence was granted before being able to trade.

Members were advised that local authorities would complete suitability checks before granting a licence. The Local Government Association had recommended that decisions on whether to grant or refuse a licence to those previously registered was to be made by 1 December 2013.

The Senior Licensing and Enforcement Officer explained that fees would be set locally by each local authority, but that this should be on a cost recovery basis and not a profit making exercise.

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The committee welcomed the report and the Senior Licensing and Enforcement responded to a number of questions. The committee were informed that no licences had yet been granted, as currently all scrap metal dealers only had to register themselves with the local authority. In total there were approximately 45 scrap metal dealers who were registered.

The Senior Licensing and Enforcement Officer confirmed that the only agency who could object to the granting of a licence was the Police and it was being proposed that the dealer could appeal the decision via the Licensing Sub-Committee.

Members asked if it was possible for the new licence to identify the vehicle that itinerant dealers used but the committee was informed that it would be the dealers themselves who would be granted a licence and not the vehicle. However, all dealers were to be given an ID card and the Police had the power to stop and ask to see their ID.

Members were advised that there was currently no resource within the licensing team to visit all dealers. The Licensing and Local Land Charges Manager advised the committee that one of the reasons behind delegating authority to the Assistant Director, Legal and Corporate Services was to allow time to see how many applications the local authority received and how this cost could be absorbed within current resources. The Licensing and Local Land Charges Manager also explained to the committee that although full council determined the setting of charges and fees, by granting the Assistant Director, Legal and Corporate Services delegated authority to determine these particular fees it would enable any restructuring of fees to be dealt with quickly, rather than having to wait until the new financial year. By the 1 December 2013 the licensing team would have a better idea of how many applications had been received and would review resources at that point.

It was noted that the effect of the new legislation would be communicated to all scrap metal dealers, primarily by the British Metals Recycling Association. The Police had also visited a number of sites and advised dealers of the changes in legislation and asked that this be disseminated to itinerant dealers. In addition, the local authority was creating a webpage explaining the changes and updates to the legislation.

In response to a Member's question, the Senior Licensing and Enforcement Officer confirmed that there was no power to prevent dealers parking their vans on the street provided the vehicles were taxed and insured. However, any dealer who owned a site would need to have the site licensed in order to keep scrap metal on the land.

The Senior Licensing and Enforcement Officer noted the concern of members that some dealers might not take all reasonable steps to verify the names and addresses of anyone they received scrap metal from. However, any dealers who proved that they had taken all reasonable steps to ensure validity would not be prosecuted.

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It was also stressed that information as to local authority boundaries would be included on the guidance issued with the Licence and on the Council's website to assist dealers and collectors in knowing the boundary within which they were licensed.

Members asked if it was possible to issue a sticker, which could be placed on the vehicle windscreen when granting a licence, similar to a sticker when a restaurant passes its health and safety check. The Licensing and Local Land Charges Manager confirmed that she would review the legislation to assess whether such sticker would be permissible but stressed that this could be an additional cost to the service to create stickers or another form of identification for the vehicle. The Senior Licensing and Enforcement Officer also informed members that the personal licence would be small and could fit on the vehicles windscreen.

A member asked whether it was possible to attach conditions to the licence. The Licensing manager confirmed that the LA had no power to do this except in certain specified conditions.

A member also suggested that an article be included in a future edition of Medway Matters drawing attention to the need for the public to be aware that they could ask scrap metal collectors for their identity and licence. It was also noted that all licences that were granted would be available to view online, and dealers were aware that anyone could ask to see their licence on request.

Decision:

The committee agreed;

- (i) To note the contents of the report, particularly the requirement to set fees for the licensing functions within the Scrap Metal Dealers Act 2013 (the Act), which falls to full Council.
- (ii) To recommend the Council at its meeting on 17 October 2013 add responsibility for dealing with all matters relating to the functions of the Council under the Scrap Metal Dealers Act 2013 to the terms of reference of the Licensing and Safety Committee, and, subject to this being agreed by the Council, to agree that the Licensing Sub Committee should consider and determine the action to be taken when representations are received from an applicant where it is proposed to refuse, vary or revoke a scrap metal licence
- (iii) That subject to (ii) above the powers and duties of the council as the licensing authority relating to the determination of applications made under the Scrap Metal Dealers Act 2013 be delegated to the Assistant Director, Legal and Corporate Services.
- (iv) That subject to (ii) above, the setting of fees under the Scrap Metal Dealers Act 2013 be delegated to the Assistant Director, Legal and Corporate Services

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- (v) That the Council be recommended to agree the consequential changes to the Council's Constitution as set out in Appendix D to the updated addendum report circulated at the meeting.
- (vi) That the licence be clearly displayed so it can be easily visible to the public.
- (vii) That provision of the new legislation be publicised in the local press and in Medway Matters.

Chairman

Date:

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