

**Medway Council**  
**Meeting of Licensing and Safety Committee**  
**Tuesday, 18 November 2014**  
**6.00pm to 7.00pm**

**Record of the meeting**

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

- Present:** Councillors: Mrs Diane Chambers (Chairman), Adrian Gulvin, Harriott, Griffin, Iles and Paul Godwin
- Substitutes:** Councillor Hicks (Substitute for Carr)  
Councillor Turpin (Substitute for Etheridge)
- In Attendance:** Alison Poulson, Licensing and Local Land Charges Manager  
Lauren Wallis, Democratic Services Officer  
Christine Wilson, Head of Legal Services

**517 Record of meeting**

The record of the meeting of the Committee held on 17 September 2014 was agreed as correct and signed by the Chairman.

**518 Apologies for absence**

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

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

There were none.

**520 Declarations of disclosable pecuniary interests and other interests**

Disclosable pecuniary interests

There were none.

Other interests

There were none.

## 521 Update on Taxis

### Discussion:

The Committee was updated on the discussions and work carried out by officers with other local authorities and the Medway Licensed Taxi Driver Association (MLTDA) in looking at ways to tackle the safety concerns raised over the currently unregulated out of area drivers operating in Medway.

With regard to the case of Stockton-on-Tees Borough Council versus Fidler, officers clarified that a hackney carriage licensed by another local authority could be used for private hire but not as a hackney carriage in another borough. The Committee noted that two hackney carriage drivers, licensed by Tonbridge & Malling Borough Council, were working for a private hire company in the Medway area. The Licensing and Local Land Charges Manager reported that whilst it was not illegal for the drivers to work as private hire vehicles, it was illegal to stop to pick up clients who had hailed them on the road. However, this was difficult to prove as drivers often called the operator to have the journey recorded as pre-booked. Officers had also heard that drivers from Swale and Thanet intended to work in the Medway area and a solution must be found to this problem that was both legal and would stand up to challenge.

Members made the following comments:

- The first priority for Councillors was customer safety whether whilst using hackney carriage or private hire vehicles.
- It was noted that mystery shopping exercises were difficult to carry out within the Medway area and collaboration with other local authorities was more effective. Officers working as mystery shoppers from each authority used the same questions in relation to the condition of the vehicle, customer care and attention, and knowledge of the shortest route versus the quickest route, for reasons of comparison.
- A question was asked in relation of the safety of officers working as mystery shoppers. Members were assured that a risk assessment was calculated on each route and, depending on the time of day, low risk routes were worked by a lone officer and high risk routes by two officers. The Committee noted that the licensing authority was the regulating authority and therefore partnership working would make any initiative to address the cross-border working issues more effective. An issue with regard to the use of Regulation of Investigatory Powers Act 2000 (RIPA) powers was raised. The Committee was advised that the the Council's Licensing function had gone through the RIPA process in the past and the Council was likely therefore to be able to withstand a legal challenge. However, the Licensing and Local Land Charges Manager agreed to obtain legal advice should this matter arise.
- The Head of Legal Services clarified that partnership working with other local authorities would work in the same way as a joint committee arrangements. The delegation of enforcement powers to partner authorities

## Licensing and Safety Committee, 18 November 2014

would have to be agreed by Council. This would give officers the ability to deal with all drivers operating within the Medway area if their licensing authority was part of the signed agreement.

- Following a general consensus by the Committee to agree to the recommendations contained within the report, the Licensing and Local Land Charges Manager highlighted new case law in relation to consultations in that the consultation could also ask for suggestions to the issues and officers would then gain legal advice on any solutions raised by consultees.
- The Committee noted that private hire drivers not licensed by Medway were expected to use Medway tariffs when working in the area. However, there was a problem with meters having more than one tariff programmed into them.
- The Committee noted the presence at the meeting of Mr Mike Smith and Mr Ian Walton of the Medway Licensed Taxi Drivers Association (MLTDA) and asked for their views:

Mr Smith and Mr Walton advised that the health and safety duty of care to customers was the biggest issue in relation to out of borough drivers working in Medway as they should conform to Medway standards but many do not. The MLTDA's preference would be that private operators should only be permitted to employ drivers licensed by Medway Council.

Legal guidance would be required ensure it would be permissible to guarantee that drivers conformed to Medway standards. Any policy to address this issue would require in depth conditions and would have to cover every eventuality. It was noted that the policy would follow the format of the Council's Statement of Licensing Policy in that much of the salient information and conditions would be contained within its appendices with the authority for amendment of the appendices being delegated to officers to allow policy to remain current and responsive.

- Following concern expressed by Members, Officers undertook to move forward on the consultation process. The Legal Officer summarised the requirements to ensure lawful consultation and it was agreed that in the present case a six week consultation period would be appropriate.

### **Decision:**

The Committee agreed that:

- (a) Officers investigate all options contained in paragraph 4 of the report (including those listed below) to ensure that all vehicles operating in the Medway area, including all out of area drivers operating in this area, conform to the Medway licensing authority:
  - (i) mystery shopping
  - (ii) policy and conditions on operator licenses

## Licensing and Safety Committee, 18 November 2014

- (iii) delegated functions
- (b) all aspects in relation to this subject as set out in the report, such as cross border working; all other aspects of concern, for example tinted windows; and all other matters raised during the consultation process be considered by Officers for inclusion in the proposed taxi policy; and
- (c) the draft policy be submitted to a future meeting of the Licensing and Safety Committee for consideration.

### 522 Update on Responsible Gambling

#### Discussion:

The Committee was advised on the voluntary partnership agreement relating to the promotion of responsible gambling in Medway through the Medway Responsible Gambling Partnership.

Members raised a number of points and questions including:

- Councillor Hicks, the Portfolio Holder for Community Safety and Customer Contact, advised that all operators in the Medway area had attended two meetings and all had supported the voluntary partnership agreement between the Council, the Association of British Bookmakers (ABB) and operators. In addition Councillor Maple and Councillor Juby also attended and were in support of the initiative. It was intended that there would be a two year trial with regard to the self-exclusion pilot scheme which it was hoped would start in December 2014 and with regular meetings would be held to check progress.
- Concern was raised about how the Council intended to introduce the self-exclusion scheme and to encourage gamblers take the first steps to self-exclude. It was considered that gambling was an addiction and without the right kind of referral to the scheme, it was likely to be ignored by those most in need. It was suggested that agencies such as the Clinical Commissioning Group and the Health and Wellbeing Board could become involved. Gamblers Anonymous was also mentioned.
- Following a question regarding the length of time a person could self exclude, the Head of Legal Services explained that as far as she could recall, people would be able to self exclude for a fixed period such as six months or a year. Once a person had self excluded in one premises, the exclusion would be shared with all appropriate premises in Medway. In addition, she stated that the self exclusion form contained appropriate exclusions of liability to protect the Council and the participating companies, and also the self-excluder's consent to the sharing of information for data protection purposes.
- It was considered that those who self excluded would need assistance to address their gambling addiction before their self exclusion period ended.

## Licensing and Safety Committee, 18 November 2014

The Licensing and Local Land Charges Manager highlighted that the voluntary agreement that included the self exclusion initiative sat alongside the Gambling Act, Guidance and the Council's associated policies. The Council had worked with the trade to address issues and this was a good starting point.

### Decision:

The Committee:

- (a) noted the cutting edge work undertaken by Medway at the request of the Business Support Overview and Scrutiny Committee that had culminated with the signing of a voluntary partnership agreement between the members of the Medway Responsible Gambling Partnership;
- (b) noted the setting up of a multi operator self exclusion pilot scheme in Medway;
- (c) noted that a report on the progress of the work of the Medway Responsible Gambling Partnership and the self-exclusion scheme be reported to the Committee in the summer of 2015; and
- (d) agreed to refer the Medway Responsible Gambling Partnership and details of the self exclusion scheme to the Council's Health and Wellbeing Board to investigate the wider issues in relation to raising awareness and usage of the scheme and, once self excluded, the support in place to address the addiction.

## 523 Licensing Act 2003 - Mandatory Conditions and Changes in Legislation

### Discussion:

The Committee was given an update on the current list of mandatory conditions under the Licensing Act 2003 and changes in legislation. To ensure that the Council did not have to re-issue every single licence, the Licensing and Local Land Charges Manager advised that a letter would be sent to all licence holders which drew attention to the mandatory conditions. Where up-to-date information could be accessed and the responsibility of the licence holder to keep themselves abreast of any changes.

Members raised a number of points and questions including:

- The Committee noted that if a local authority or the police were satisfied on reasonable grounds that use of a particular premises had resulted in or was likely to result in nuisance to members of the public, or that there had been or was likely to be disorder near the premises which was associated with the use of the premises that they may issue a closure notice which prohibited access to the premises for a period specified in the notice, up to a maximum of 48 hours. As local authorities now had the power to issue a closure notice, it was considered that the Council's Constitution might need to be amended to take account. The Head of Legal Services and the

## **Licensing and Safety Committee, 18 November 2014**

Licensing and Local Land Charges Manager agreed to look into this possibility.

- Following a question from a Councillor, the Committee was advised that only a summary of the premises license should be displayed inside the premises whilst the complete licence should be kept on the premises and made available to Licensing Officers for inspection.

### **Decision:**

That the Committee note the revised mandatory conditions and the changes in the Anti-Social Behaviour, Crime and Policing Act 2014 as set out in the report.

**Chairman**

**Date:**

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