

Medway Council
Meeting of Licensing and Safety Committee
Wednesday, 28 October 2015
6.00pm to 7.10pm

Record of the meeting

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

- Present:** Councillors: Bhutia, Carr (Vice-Chairman), Mrs Diane Chambers (Chairman), Fearn, Godwin, Griffin, McDonald and Pendergast
- Substitutes:** Councillors:
Purdy (Substitute for Etheridge)
Shaw (Substitute for Bowler)
Wicks (Substitute for Kemp)
Williams (Substitute for Hicks)
- In Attendance:** DC Gill Angus, Kent Police
Charlie Bennett, Licensing and Enforcement Officer
Rebecca Channon, Lawyer
James Flower, Substance Misuse Programme Manager
Barbara Murray, Public Health Project Co-ordinator
Franco De Fazio, Licensing and Enforcement Officer
Alison Poulson, Licensing and Local Land Charges Manager
Stephen Platt, Democratic Services Officer

456 Record of meeting

The record of the meeting held on 2 September 2015 was agreed and signed by the Chairman as correct.

457 Apologies for absence

Apologies for absence were received from Councillors Bowler, Etheridge, Hicks and Kemp.

458 Urgent matters by reason of special circumstances

The Chairman agreed that agenda item number 8 (Licensing Act 2003 – Changes in Legislation) be considered by the Committee as an urgent item by reason of special circumstances, specifically the changes to the regulations on late night refreshments laid before Parliament on 15 October take effect from 5 November 2015 and the next meeting of this Committee will not take place until 22 December 2015. The report could not be despatched with the agenda as officers needed time to fully consider the legislation alongside the guidance on the licensing of late night refreshment issued in October 2015.

459 Declarations of disclosable pecuniary interests and other interests

Disclosable pecuniary interests

There were none.

Other interests

There were none.

460 SEV Policy Considerations

Discussion:

The Committee considered a report on the outcome of checks carried out by officers on whether there was a need to update the statement of policy in respect of sexual entertainment venues, as requested by the Committee at its meeting held on 24 March 2015 (Minute 8700).

Having reviewed the current statement of policy in conjunction with existing premises, officers were of the opinion that no changes were required at this time. It was recommended that the matter be kept under review and, should any amendments be required as a result of changes in legislation, case law or objections received in the future, a further report be submitted to the Committee.

Members noted that there was currently only one private shop in Medway, in High Street Chatham, and one venue in Rochester, the licences for which were renewed on an annual basis. The private shop had been licensed since around 2002, (previously under Section 2 and Schedule 3 of the Local Government Miscellaneous Provisions Act 1982). The venue had been licensed since the current legislation came into force in April 2012.

Decision:

- a) The Committee agreed that there be no change to the existing policy.
- b) The Committee agreed that the Assistant Director (Legal and Corporate Services) keep the policy under review and report back to the Committee should there be a need to consult on proposed amendments in light of changes in legislation, case law or for any other reason.

461 Licensing Act 2003 - Enforcement Report on Licensing Matters

Discussion:

The Committee considered a joint report on Licensing Compliance and Enforcement during the period April 2014 to March 2015. The Licensing Enforcement Officer, Kent Police, outlined the role of the Police and highlighted the effectiveness of joint working with Council officers and other partner agencies

Licensing and Safety Committee, 28 October 2015

on enforcement work. The excellent joint working relationship ensured that relevant information was shared, visits completed and the results of those visits shared between partners.

Referring to the crime data contained within the report, she reported that the highest number of crimes connected to licenced premises had been under the violence against the person category. The Police were focusing on how to reduce this figure, particularly in relation to the night time economy and they had fostered good relations with staff at Medway's public houses and clubs. An information sharing forum attended by the Divisional Licensing Unit, Neighbourhood Police and door supervisors enabled the identification of people who it was felt needed to be considered for exclusion from all licenced premises. Only 24 drug related offences had been reported during the year with many premises carrying out their own checks and increasing their use of CCTV.

The Committee raised a number of issues including street beggars in Rochester High Street and were advised that additional police patrols had been organised so that people could be sign posted to organisations that offered support.

With regard to drug offences, the Committee was advised that anyone suspected of being a supplier would be arrested and charged. More door staff were searching customers entering licenced premises and this was acting as a deterrent.

Responding to a question on the future organisation of the North Division Licensing Unit, the Licensing Enforcement Officer, Kent Police, advised that it was not envisaged that there would be a reduction in the number of Licensing Officers when Swale no longer came under the Division's responsibility. Most of the visits undertaken by the Division were to premises within Medway.

The Committee considered a further report on compliance and enforcement during April 2014 to March 2015 prepared by the Licensing Authority. This provided details of the compliance and enforcement work carried out by the Licensing Enforcement Officers within the Licensing Team outside of the Licensing Act 2003. The areas covered were taxis, gambling, sex establishments, charity collections, street trading, and scrap metal. It was noted that, with effect from 1 August 2015, all compliance and enforcement activity relating to street trading and scrap metal had passed to the Environmental Services team.

The Committee raised a number of issues including scrap metal enforcement and the Licensing and Local Land Charges Manager advised that one of the main reasons why this had transferred to the Environmental Services team was that their wardens were best placed to identify issues within their locality.

A Member suggested that future reports distinguish between complaints regarding Medway taxi drivers and complaints regarding drivers from outside of the district. The Committee were advised that there were many complaints concerning out of area drivers, particularly in relation to poor local knowledge, dirty vehicles and overcharging. Any vehicles found to be in a poor condition were taken off the road.

Decision:

The Committee noted the reports prepared and presented by the Licensing Authority and Medway Police

462 Local Licensing Guidance

Discussion:

The Substance Misuse Programme Manager presented a report on Local Licensing Guidance, the aim of which was to improve the quality of applications for premises licences for off license premises in areas where there was evidence of significant alcohol harm as the quality of applications was generally considered to be poor. Operating schedules, where the applicant stated how they intended to promote the four licensing objectives, often contained a list of conditions with no supporting evidence of the alcohol related issues and harms in the area. Without this detail it was difficult to make an informed decision on the suitability of the application or whether the applicant had any knowledge of the area and how the four licensing objectives may best be promoted.

The Statutory Guidance issued under section 182 Licensing Act 2003 gave the level of detail expected in an operating schedule. Appendix 1 to the committee report detailed the relevant part of the statutory guidance and the report gave examples of the type of information that it was recommended an application contained within the operating schedule.

The Council's Strategic Licensing Group had looked at ways of supporting applicants in order to make a positive impact on alcohol harms. Evidence from agencies and partners had been collated and 3 areas were identified as being most suitable for the production of local, non statutory licensing guidance, these being Gillingham High Street/Canterbury Street, Luton and Chatham High Street. Following further research, guidance for each area was written and commented on by other responsible authorities. Overall the Strategic Licensing Group intentions were to make a positive impact on alcohol related harms in the identified areas. The Local Licensing Guidance would assist with these aims by:

- Assisting and supporting individuals and businesses in making an application for a premises licence, as they would be better informed of the best ways of promoting the licensing objectives, which could be included within their application.
- With ready access to evidence of alcohol harms in an area, improved, targeted conditions could be suggested by the applicant, which would better promote the four licensing objectives.
- By improving the quality of the applications and the evidence used to support the promotion of the licensing objectives, there would be fewer representations from responsible authorities and other parties, resulting in fewer licensing hearings.

Licensing and Safety Committee, 28 October 2015

The areas identified for local licensing guidance did not follow ward boundaries and were based on a combination of all the collated evidence of alcohol harms and the locations of licensed premises. The three pieces of guidance were aimed at off license applications due to the number of these premises in each of the areas and the corresponding evidence.

Members were advised that, further to additional comments received from Legal Services, the proposed options for the Committee set out in the report had been revised. The Committee was therefore asked that, if it was minded to agree to the guidance in principle, officers be instructed to do further work on the guidance documents and bring them back to a future meeting of the Committee. The revised guidance would incorporate the comments of the Committee, which were sought.

The Committee discussed the proposal and were strongly of the view that any guidance should be available to any applicant for a premises licence for an off licence in Medway, rather than only being available to applicants in three specific areas. Whilst it was recognised that the areas had been devised based on the available evidence, Members considered that any additional guidance should be of a general nature so that the quality of applications in all areas could be improved. It was also noted that this guidance would only assist new applicants and was not directed at existing premises, for example in Rochester High Street.

In conclusion, Members were not opposed to the principle of introducing further guidance, to supplement the guidance already available, to assist those applying for a premises licence for an off licence on the completion of the application form and the operating schedule. However, such guidance should be general guidance available to applicants in all areas of Medway. It was recognised that there were currently significant issues in particular areas, but Members were not convinced that the proposed guidance would specifically address those issues.

Decision:

The Committee instructed officers to reconsider the proposed guidance in the light of Members' comments and present revised guidance proposals to a future meeting of the Committee.

463 Licensing Act 2003 - Changes in legislation

Discussion:

The Committee considered a report on further changes in regulation in respect of Late Night Refreshment . The Chairman had agreed to accept the report as urgent because the changes that had been laid before Parliament on 15 October would take effect from 5 November 2015 and the next meeting of this Committee would not take place until 22 December 2015.

The Licensing and Local Land Charges Manager advised the Committee that Section 71 of the Deregulation Act 2015 would permit Licensing Authorities to

Licensing and Safety Committee, 28 October 2015

relax the requirements for licensing late night refreshment in certain circumstances by way of the Licensing Act 2003 (Late Night Refreshment) Regulations 2015.

The Guidance made it clear that, whilst a Licensing Authority could use more than one type of exemption, it could not use different forms of exemption in conjunction with one another, giving the example that a Licensing Authority was not permitted to change the times premises required permission to sell hot food and drink in one geographic area only. The hours would have to be changed for the entire area for the Licensing Authority.

If a premises became exempt from the requirement to hold a Premises Licence for the sale of hot food, but did not surrender it, there was no requirement for the Licence Holder to continue to pay an annual fee, if the Premises Licence only permitted late night refreshment. In addition, any conditions on a licence relating solely to the provision of the late night refreshment would no longer have effect.

Members considered three options in response to the new regulations, these being:

Option 1 - To do nothing and not adopt the prescribe list of exemptions set out in the regulations.

Option 2 – To instruct officers to adopt the prescribed list of exemptions.

Option 3 – To instruct officers to investigate areas and/or change of hours exemptions and report back to the Committee.

Members were of the view that there should be no exemptions from the current requirement for late night refreshment to be licenced under the Licensing Act 2003. They expressed concern that a relaxation of the requirement could lead to increased complaints from residents arising from non-licensable activities.

Decision:

The Committee agreed not to adopt the prescribed list of exemptions set out in the Licensing Act 2003 (Late Night Refreshment) Regulations 2015 and instructed officers to keep the matter under review.

Chairman:

Date:

Stephen Platt, Democratic Services Officer

Telephone: 01634 332011

Email: democratic.services@medway.gov.uk