

Medway Council
Meeting of Licensing and Safety Committee
Tuesday, 26 June 2018
6.30pm to 7.17pm

Record of the meeting

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

Present: Councillors: Bhutia, Bowler, Carr (Vice-Chairman),
Mrs Diane Chambers (Chairman), Etheridge, Godwin, Griffin,
Hicks, Kemp, McDonald and Pendergast

In Attendance: Perry Holmes, Chief Legal Officer
Mark Lees, Interim Licensing Manager
Vicky Nutley, Assistant Head of Legal Services
Stephen Platt, Democratic Services Officer

96 Apologies for absence

An apology for absence was received from Councillor Fearn.

97 Record of meetings

The record of the meeting held on 7 March 2018 and the record of the Joint Meeting of Committees held on 16 May 2018 were agreed and signed by the Chairman as correct.

98 Urgent matters by reason of special circumstances

There were none.

99 Declarations of disclosable pecuniary interests and other interests

Disclosable pecuniary interests

There were none.

Other significant interests (OSIs)

There were none.

Other interests

There were none.

100 Chairman's announcements

The Chairman welcomed Mark Lees to his first meeting of the Committee. It was noted that Mark was the Licensing Manager for Gravesham Borough Council and had also been covering the position of Licensing Manager of Medway Council on an interim basis since the retirement of Alison Poulson.

101 Gambling Act 2005 - Review of Statement of Gambling Policy

Discussion

At its meeting held on 7 March 2018, the Committee had agreed to authorise officers to place the draft revised Statement of Gambling Policy on the Council's website, advertise it, and consult with all relevant interested parties. The Committee further agreed that the results of the consultation be reported back to a future meeting of the Committee.

The Committee considered the results of the consultation exercise which was carried out over a twelve week period between 12 March and 4 June 2018. Only three responses had been received and the report provided an evaluation of these and recommendations as to whether or not to amend the policy statement.

Decision

The Committee agreed to:

- a) note the minor administrative change to Appendix C of the Policy as outlined in section 7 of the agenda report;
- b) note the recommendations set out in Appendix 3 of the agenda report and instruct the Licensing Manager to amend the draft policy in accordance with the recommendations; and .
- c) recommend that the Business Support Overview and Scrutiny Committee refers the revised policy to the Cabinet for consideration and to Council for approval in accordance with the policy framework rules.

102 Gambling Act 2005 - Government response to the consultation on proposals for changes to gaming machines and social responsibility measures

Discussion

The Committee noted a report on the Government's response to the consultation on proposals for changes to the Gaming Machines and social responsibility measures.

Members welcomed the reduction in the maximum stake on Fixed Odds Betting Terminals (FOBTs) and Category B2 gaming machines from £100 to £2. However, some Members expressed frustration that the reduction would not take effect until 2020.

Licensing and Safety Committee, 26 June 2018

In response to a question from a Member, the interim Licensing Manager undertook to provide information to Committee members on the number of FOBTs within Medway. The Member also suggested that, if possible, the economic impact of the reduction in the maximum stake should be monitored. Officers undertook to work with the Association of British Bookmakers to assess the impact.

Decision

The Committee noted the content of the report.

103 Shared Licensing Service between Gravesham Borough Council and Medway Council

Discussion

Members considered a report on a proposal for Medway Council to delegate the Council's licensing functions to Gravesham Borough Council whereby Gravesham Borough Council would assume responsibility for the discharge of Medway Council's licensing functions.

The Chief Legal Officer advised the Committee that this would be the third shared service between the two Councils but would be the first time where Gravesham would be the lead Council. Following the retirement of Medway's Licensing Manager at the end of April 2018, Gravesham Borough Council's Licensing Manager was providing management support to Medway's Licensing Team on an interim basis. It was envisaged that the new shared service arrangements would build resilience into the team and provide an opportunity to consider potential new ways of working which might lead to savings. The shared service business case was appended to the report and set out the case for the proposed option, Option 1 – the establishment of a shared licensing service.

With reference to the Addendum report, the Chief Legal Officer advised the Committee that, although a majority of licensing functions were non-executive functions, the licensing of scrap metal dealers was an executive function. It would therefore be necessary to seek the agreement of Cabinet to delegate responsibility for the discharge of this function to Gravesham Borough Council. The Addendum report included additional recommendations to reflect this distinction between the delegation authority of executive and non-executive functions.

The Committee discussed the proposal and a Member expressed concern that Gravesham Borough Council would be the lead Council for a shared licensing service. Citing examples of issues with taxi licensing, and the non-availability of Gravesham Borough Council statistics for taxi related compliance inspections and checks, he expressed the view that it would be more appropriate for Medway, as the larger service, to be the lead Council. Another Member sought reassurance that the risks had been assessed and the current high level of Medway Council's licensing service would be maintained.

Licensing and Safety Committee, 26 June 2018

The Chief Legal Officer responded that, through the current shared arrangements for other services, strong partnership working between the two Councils had already been established. Gravesham's Licensing Manager was already providing effective management on an interim basis and this had enabled the provision of a seamless service following the retirement of Medway's Licensing Manager. The effectiveness of the current shared legal service, with staff from each Council working within both locations, demonstrated the resilience that had been built up. The risks had been considered and it was expected that the same level of success would be achieved through a shared licensing service.

In response to a question regarding the legal qualifications of Gravesham's Assistant Director who would have delegated authority to exercise licensing delegations under the employee delegation scheme, the Chief Legal Officer explained that it was not necessary for the officer discharging licensing functions to be legally qualified. In response to a further question regarding a service level agreement to provide assurance that the level of service would not be diminished, the Chief Legal Officer undertook to circulate a draft service level agreement to members of the Committee and members of the Business Support Overview and Scrutiny Committee and Cabinet.

The Chairman said that she and the Vice Chairman had sought clarification when the option for Gravesham to be the lead Council for a shared licensing service had first been proposed, and had been reassured that it was not simply a cost cutting measure. The licensing policies of each Council would remain in place and the shared service would be properly monitored to ensure that service standards were maintained.

Decision:

The Committee agreed to:

- a) recommend to Full Council that option one set out in paragraph 5.1 of the agenda report is agreed whereby Medway Council shall delegate responsibility for the discharge of its Licensing Service non-executive functions to Gravesham Borough Council;
- b) recommend to Full Council that all non-executive licensing delegations currently with the Chief Legal Officer can also be exercised by Gravesham Borough Council's Assistant Director (Communities);
- c) recommend that Cabinet agree to delegate authority to Chief Legal Officer of Medway Council to enter into a legally binding contract between both local authorities setting out the detail of the arrangements for a fully shared Licensing Service;
- d) recommend to Cabinet that option one set out in paragraph 5.1 of the agenda report is agreed whereby Medway Council shall delegate responsibility for the discharge of its Licensing Service executive functions to Gravesham Borough Council; and

Licensing and Safety Committee, 26 June 2018

- e) recommend to the Leader and Cabinet that all executive licensing delegations currently with the Chief Legal Officer can also be exercised by Gravesham Borough Council's Assistant Director (Communities).

104 Settlement of Licensing Act 2003 Appeals - Delegation to the Chief Legal Officer

Discussion

The Committee considered a report seeking the Committee's agreement to a delegation to the Chief Legal Officer to settle appeals made under the Licensing Act 2003 out of court, where this was in the interests of the Council. Although the Chief Legal Officer already had this authority under a general delegation, in the light of revised guidance recently issued under section 182 of the Act, it was considered that a more specific delegation within the Employee Delegation Scheme would be beneficial.

A Member suggested that the proposed wording of the delegation be amended to clarify that the agreement of the members of the Licensing Hearing Panel that determined the application must be obtained before any appeals were settled out of Court. If there was no agreement, the appeal would proceed to a Court hearing.

Decision

That the Committee:

- a) delegates authority to the Chief Legal Officer to exercise the additional function in relation to the procedure for hearings held under the Licensing Act 2003, as set out below:

'To settle appeals prior to their consideration by the Magistrates Court, where this is in the interests of the Council, with the agreement of the members of the Licensing Hearing Panel that determined the application, and to inform all parties to the original hearing of the revised decision and the reasons for it.'

- b) recommends that the Monitoring Officer, who has delegated authority to make minor changes to the Constitution, amends the Employee Scheme of Delegation accordingly.

Chairman

Date:

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