

Medway Council
Meeting of Licensing and Safety Committee
Wednesday, 20 July 2011
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: Carr, Mrs Diane Chambers (Chairman), Colman, Etheridge, Adrian Gulvin, Harriott, Hicks, Kearney and Shaw

Substitutes: Councillor Mackness for Councillor Baker
Councillor Tolhurst for Councillor Kemp)

In Attendance: Angela Drum, Head of Legal Services
Mandy Francis, Senior Licensing and Enforcement Officer
Lynsey Keen, Senior Licensing and Enforcement Officer
Anthony Law, Democratic Services Officer
Alison Poulson, Licensing and Local Land Charges Manager

186 Record of meeting

The records of the meeting held on 18 November 2010 and the Joint Meeting of All Committees held on 25 May 2011 were agreed and signed by the Chairman as a correct record.

187 Apologies for absence

Apologies for absence were received from Councillor Baker and Councillor Kemp.

188 Urgent matters by reason of special circumstances

There were none.

189 Declarations of interest

There were none.

190 Arrangements to Determine Applications for Licences under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982

Discussion:

The Head of Legal Services introduced a report addressing the need to consider arrangements for the consideration and determination of applications for sex establishments and sexual entertainment venues, where relevant representations have been received or where conditions have been proposed by officers but not accepted by the applicant.

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Members were advised that the power to regulate these applications was contained within Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and details were given as to the venues and type of entertainment this related to. It was reported that the Council had adopted these provisions on 13 January 2011, which gave greater control over venues currently licensed under the Licensing Act 2003. Members were informed of the transition and implementation arrangements and given details of the options, as set out in the report, for determining applications from 1 October 2011.

Members discussed the options, focusing specifically on the establishment of 1982 Act Hearing Panels and how these could be convened on the same basis as the existing Licensing Hearing Panels. The Committee considered a series of recommendations that would facilitate the establishment of the 1982 Act Hearing Panels, including provisions for substitute Members to be appointed to panels in the event of a Member not being available or otherwise unable to sit on a panel. The Head of Legal Services highlighted that if Members wished to establish panels on the same basis as Licensing Hearing Panels they would need to unanimously agree to waive the requirements of political balance.

Responding to questions, officers confirmed that Member training would be provided in advance of 1 October 2011 and that Members would be able to make representations to 1982 Act Hearing Panels if acting on behalf of constituents who had submitted a representation, with the substitution provisions enabling Ward Members to avoid any potential conflicts of interest. It was also noted that it was not expected that there would be many applications requiring consideration by Members, although any applications submitted before 1 October 2011 would need to be considered at the same time.

Members questioned how they would be notified of applications, prior to their determination under officer delegated authority. Officers referred to the Statement of Policy in respect of Sex Establishments and Sexual Entertainment Venues that had been agreed by Council and also gave assurances that Members would be notified of applications upon their submission so to enable them to discuss the matter within their ward. This would be achieved via the weekly licensing list currently circulated to Members.

Decision:

The Licensing and Safety Committee agreed to:

- a) note the options set out in paragraph 4.1 of the report.
- b) the establishment of the 1982 Act Hearing Panels, as Sub-Committees of the Licensing and Safety Committee, comprising of 3 Councillors, to consider and determine applications for sexual entertainment venues, where there have been relevant representations received in relation to an application or where conditions have been proposed by officers but not accepted by the applicant.
- c) the following terms of reference for 1982 Act Hearing Panels:

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“To determine any applications under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 where relevant representations have been received or where conditions have been proposed by officers but not accepted by the applicant”;

d) the following membership of 1982 Act Hearing Panels:

<u>Panel A</u>		
Councillor Baker (Conservative)	Councillor Etheridge (Conservative)	Councillor Hicks (Conservative)
<u>Panel B</u>		
Councillor Diane Chambers (Conservative)	Councillor Adrian Gulvin (Conservative)	Councillor Harriott (Labour)
<u>Panel C</u>		
Councillor Carr (Conservative)	Councillor Hicks (Conservative)	Councillor Kearney (Liberal Democrat)
<u>Panel D</u>		
Councillor Diane Chambers (Conservative)	Councillor Shaw (Labour)	Councillor Kearney (Liberal Democrat)
<u>Panel E</u>		
Councillor Diane Chambers (Conservative)	Councillor Kemp (Conservative)	Councillor Rodberg (Conservative)
<u>Panel F</u>		
Councillor Carr (Conservative)	Councillor Kemp (Conservative)	Councillor Colman (Labour)

- i) Note 1: The Licensing and Safety Committee agreed unanimously to waive the requirements of political balance in relation to the 1982 Act Hearing Panels.
 - ii) Note 2: Panels will be convened in the order listed as applications arise. In the event of a Panel Member not being available or otherwise unable to sit on a Panel then other Members of the Licensing and Safety Committee will be approached to substitute on a rotational basis in alphabetical order.
- e) Note 2 set out in d (ii) above applying to Licensing Hearing Panels established under the Licensing Act 2003.
- f) Request that the Monitoring Officer, under her existing delegated authority, amends the Constitution:

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- i) to make suitable amendments to the Members Licensing Code of Good Practice to reflect the establishment of 1982 Act Hearing Panels
 - ii) to reflect the terms of reference set out at (c) above
 - iii) to revise the council rules in respect of substitution arrangements: “18.9 Rules 18.2, 18.3 and 18.6 are waived in respect of Licensing Hearing Panels and 1982 Act Hearing Panels, provided always that only members of the Licensing and Safety Committee may act as substitutes on Licensing Hearing Panels and 1982 Act Hearing Panels.”
- g) Request that the Independent Remuneration Panel be requested to recommend to Council to agree a change to the Members’ Allowance Scheme so that an allowance, along similar lines to the Licensing Hearing Panels, is introduced for 1982 Act Hearing Panels.

191 Revision of Hackney Carriage Byelaws

Discussion:

The Licensing and Local Land Charges Manager introduced a report that sought approval to revise Byelaws in respect of Hackney Carriages. Members were advised that the current Hackney Carriage Byelaws, which had come into force on 1 March 1989, were based on the 1974 model byelaws. Due to changes in legislation and a more recent version of the model byelaws it was proposed that the existing Byelaws were updated. The revisions to the existing byelaws were set out at Appendix C to the report and it was reported that these were based on the new model byelaws with two deviations.

The Senior Licensing and Enforcement Officer highlighted that a stakeholder meeting had taken place with the Medway Licensed Taxi Drivers Association where the proposed changes to the existing byelaws were discussed. It was confirmed that they had no objections and written confirmation was attached at Appendix D to the report.

Members were informed that the proposed byelaws had been forwarded to the Department of Transport for provisional approval, who had advised that the proposed deviation to byelaw 8 should be revised in line with the model byelaw on the basis that the actual act of touting was covered in primary legislation (section 167 of the Criminal Justice and Public Order Act 1994) and should not therefore be included in byelaws. It was noted that the model byelaw had been reworded to make it an offence for a driver also to “use the services of a taxi tout”.

Decision:

The Licensing and Safety Committee approved the making of the revised Byelaws as set out at Appendix C to the report, subject to the revision to Byelaw 8 remaining as the Model Byelaw set out at Appendix B to the report, and agreed the submission to the Secretary of State for confirmation.

192 Licensing Act 2003: Enforcement Report on Licensing Matters

Discussion:

The Licensing and Local Land Charges Manager submitted a report that updated Members on licensing enforcement matters from April 2010 to March 2011.

The Senior Licensing and Enforcement Officer detailed the contents of the report advising Members of the key points, which included:

- the rising number of empty/derelict licensed premises where officers were unable to find the licence holder in order for the licence to be surrendered.
- the high turnover of designated premises supervisors which made it difficult to maintain good working practices
- findings of non-compliance with a variety of legislation by Members' Clubs and the use of officer visits to educate club management
- on-the-job training provided by the Gambling Commission, instances of illegal gambling and action taken against gaming machine operators providing illegal machines in Medway
- details of the action undertaken in relation to private hire vehicles that were transporting vulnerable people to schools in Medway
- enforcement administration and the benefits of using officer reports to inform premises of the outcome of visits and the measures required to rectify issues within a set timetable
- the complaints procedure and the request for the public to make formal complaints about breaches in licensing legislation in writing, which facilitated the complaint process and had reduced the number of malicious allegations
- details of pro-active enforcement activity, such as visits to licensed premises in partnership with other agencies
- partnership working generally and the support provided to a number of police and licensing operations throughout the year.

Members discussed the contents of the report and the Senior Licensing and Enforcement Officer responded to questions raised. This included confirmation that CRB checks were undertaken as part of the private hire and hackney carriage licensing process, clarification as to the licensing of outside drinking areas and that common gambling offences at pubs and clubs related to the lack of controls on games, particularly those that had a roll-over element.

Members were also assured that when officers contacted Members' clubs anonymously in 2009/10, to test compliance with licensing legislation, that this was purely an intelligence gathering exercise and no enforcement action was taken at the time. The Senior Licensing and Enforcement Officer undertook to provide copies of the mail shots issued to Members' clubs providing updates on legislation.

In relation to enforcement activity, Members discussed the remit of the licensing team, the police and environmental health; such as dealing with instances of erratic driving by taxi drivers and complaints about scrap metal. The Senior Licensing and Enforcement Officer gave details of how the licensing team worked with other partners such as the UK Border Agency.

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Members questioned the purpose and requirements for Medway's taxi fleet to have a fire extinguisher in vehicles. It was explained that the specifications and location had been recommended and approved by a Fire Protection Agency in consultation with the Medway Licensed Taxi Driver's Association. Officers undertook to clarify the specification relating to fire extinguishers with the appropriate fire authorities and inform Members as to the findings.

Decision:

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

193 Licensing Update

Discussion:

The Licensing and Local Land Charges Manager updated Members on work currently undertaken by the Licensing Team, future proposals for Member training and the new licensing IT system.

Members discussed the new licensing system from Acolaid. This would enable the licensing team to produce more robust and consistent information and the Committee welcomed that it would provide easier public access to licensing application information.

In relation to the forthcoming training, which included the determination of applications for Sexual Entertainment Venues and Taxi licensing, Members advised that their preference would be for training sessions commencing at 5.30pm.

Decision:

The Licensing and Safety Committee noted the proposed training, update and progress made by the licensing team and agreed that future training should be provided via training sessions commencing at 5.30pm.

Chairman

Date:

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