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LICENSING AND APPEALS COMMITTEE

Minutes of a Meeting held on Wednesday 15 July 2015 in the Council Chamber, Town Hall, Matlock at 6.00pm

PRESENT

Councillor Jean Monks - In the Chair

Councillors Jennifer Bower, Tom Donnelly, Steve Flitter, Helen Froggatt, Alyson Hill, Angus Jenkins, Tony Millward, BEM, Joyce Pawley and John Tibenham

Tim Braund (Head of Regulatory Services), Eileen Tierney (Licensing Manager) and Jackie Cullen (Committee Assistant).

APOLOGIES

Apologies for absence were received from Councillors Graham Elliott and Richard FitzHerbert

64/15 – MINUTES

It was moved by Councillor Tom Donnelly, seconded by Councillor Tony Millward, BEM, and

RESOLVED

(unanimously)

That the Minutes of the meeting of the Licensing and Appeals Committee meeting held on 25 March 2015 be approved as a correct record.

The Minutes were signed by the Chairman.

65/15 – LICENSING SERVICE PLANNING AND PERFORMANCE MANAGEMENT

The Committee considered a report on the Licensing Service Plan that informed Members of the measures in place to ensure that the Licensing Service operated both efficiently and effectively, and sought Members' opinions on long-term service objectives.

The report was delivered around a short PowerPoint presentation to complement the licensing training sessions being delivered by Legal and Licensing Officers to Members in July and September, which focussed mainly on flame-proof decision-making.

The Licensing Service Plan for 2015-2016 set out how Licensing services would contribute towards meeting the Corporate Priorities for 2015/16; this was attached as Appendix 1 to

the report. The objectives and Key Activities of Licensing were outlined in the PowerPoint presentation, and listed in the report.

The process for deciding next year's priorities for the service would begin in October and it was suggested that a report outlining the Service Plan for 2016-2017 be submitted to the November meeting of the Committee for discussion and comment.

The Head of Regulatory Services advised the Licensing & Appeals Committee should be involved in the review process, and the extent of its involvement would need to be decided. It was recommended therefore that a Members' Panel be set up prior to publication of the scoping report.

It was moved by Councillor Jennifer Bower, seconded by Councillor Tony Millward, BEM, and

RESOLVED
(unanimously)

1. That the Licensing Service Plan for 2016-17 be brought to the November meeting of the Licensing and Appeals Committee for comment.
2. That a Members' Panel be established with a view to being involved in the review process.

66/15 – LICENSING ACT 2003 AND GAMBLING ACT 2005 – ANNUAL PROGRESS REPORT

The Committee considered a report that provided a summary of the work relating specifically to the Licensing Act 2003 and the Gambling Act 2005, undertaken by the Licensing Team during the last financial year, and the previous two financial-year periods, to allow comparisons to be made.

The Licensing Act 2003 established a single integrated scheme for licensing premises which were used for the sale or supply of alcohol, and/or to provide regulated entertainment and/or to provide late night refreshment. The types of premises in Derbyshire Dales that currently had a licence were listed in the report.

Since 7th February 2005, under the provisions of the Licensing Act 2003, the District Council (in its role as the Licensing Authority) had processed and granted in the region of 500 premises licences and club premises certificates; over 1,000 personal licences; and on average (each calendar year) some 500 temporary event notices (TENs).

Furthermore, a small number of new premises licences were granted each year, and existing licences varied for a variety of reasons, including new businesses or one-off events in the District.

A table detailing the number of applications made under the Licensing Act 2003, during 2014-2015, offering a comparison to figures for the 2 previous financial years, was set out in the report.

Applications for Minor Variations

In October 2009, the Minor Variations application process was introduced, which allowed proprietors/operators to make small changes to their premises licences, as long as the

proposed changes would not undermine the licensing objectives. Examples of permitted changes were listed in the report, together with the 12 minor variation applications that had been approved during 2014/15.

Summary of Changes to Alcohol and Entertainment Licensing since July 2014.

- Personal Licence Renewals abolished;
- Some Regulated Entertainment de-regulated;
- Licensing Authorities not going to be setting own licensing fees;
- Alcohol, Entertainment and Late Night Refreshment Licensing Policy revised.

All of the above changes had been reported in detail to the meetings of this Committee during 2014/15.

The Gambling Act 2005

The following numbers of premises were currently licensed under the 2005 Act:

- 1 Adult Gaming Centre (Matlock Bath)
- 4 Bookmakers (Betting Shops)
- 5 Family Entertainment Centres (Matlock Bath)
- 3 Occasional Use Notices (for Flagg Races and Pikehall Harness Racing)
- 8 Club Machine Permits (registered clubs)
- 170 (circa) Small Society Lotteries.

It was moved by Councillor Steve Flitter, seconded by Councillor Tom Donnelly and

RESOLVED

(unanimously)

- 1) That the report be noted.
- 2) That the Licensing Team continues to contribute to the work of the Community Safety Partnership's VAL (Violence Alcohol and Licensing) Group, in particular the on-going partnership working with the Police to maintain an active PubWatch Scheme across the Derbyshire Dales.
- 3) That the Licensing Team continues to work with other Responsible Authorities, where possible, when carrying out the following number of planned compliance/enforcement visits in the District by 31 March 2016:
 - a) 20 licensing awareness visits to premises licensed for alcohol sales, gambling or scrap metal; and
 - b) 2 taxi enforcement operations.

67/15 – INSTITUTE OF LICENSING (IoL) CONSULTATION ON DRAFT GUIDANCE ON PREMISES LICENCE CONDITIONS FOR THE LICENSING ACT 2003

The Committee considered a report that provided an outline of how The Institute of Licensing (IoL) was consulting its members and stakeholders about its draft Guidance on Premises Licence Conditions for the Licensing Act 2003.

In July 2012, the IoL announced its intention to develop good practice guidance in relation to licence conditions for premises licences under the Licensing Act 2003.

The Licensing Act 2003 (the 2003 Act) regulated the sale of alcohol, the provision of late night refreshment and regulated entertainment in England and Wales, and was primarily administered by local authorities, acting in their capacity as licensing authorities.

Between February and August 2005 all existing holders of alcohol, entertainment and late night refreshment licences were required to make an application to convert these to a new premises licence (or club premises certificate for a registered club), including carrying out a risk assessment and volunteer measures to promote the 4 licensing objectives if a licence was granted. The Licensing Authority was required to translate these volunteered measures into conditions consistent with the applicant's intention and attach them to the licence.

The licensing objectives were:

- The prevention of Crime and Disorder
- The prevention of public nuisance;
- Public Safety; and
- The Protection of Children from Harm.

Understandably, many measures volunteered by applicants were ambiguous, open to misinterpretation by licensing officers, and not necessarily enforceable, and at the time, Licensing Authorities tended to copy the measures proposed verbatim and attach them to licences.

The Statutory Guidance issued to Licensing Authorities by the Government under section 182 of the Licensing Act 2003 advised that there were three types of condition that may be attached to a premises licence or club premises certificate: proposed, imposed and mandatory. In 2012, the revised guidance strongly advised that it was not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule, and that a condition should be interpreted in accordance with the applicant's intention.

In July 2012 the IoL announced its intention to develop good practice guidance for Licensing Authorities in relation to licence conditions for premises licences. This Guidance was now available for consultation, and its aims were set out in the report.

The 36-page Consultation Document could be accessed via the IoL website link provided.

To gather views effectively, the IoL had provided a consultation survey for responses. The Survey would close on 30 September 2015, and the IoL would publish its response to the consultation in due course. A copy of the survey form was included at Appendix 1 to the report.

It was recommended that a formal response was co-ordinated and submitted by the Licensing Manager after consultation with Members, and Officers from all of the Responsible Authorities and the District Council's Legal Team.

It was moved by Councillor Angus Jenkins, seconded by Councillor Helen Froggatt

RESOLVED That the Licensing Manager co-ordinates a response to the IoL
(unanimously) Survey on Guidance on Premises Licence Conditions, taking into account the views of Members, Responsible Authorities and the

District Council's Legal Team.

68/15 – DEREGULATION ACT 2015 – CHANGES TO TAXI LICENSING PROCEDURES

Councillor Angus Jenkins left the meeting at 7.30pm during discussion of this item.

The Committee considered a report that informed Members of legislative changes which would come into effect in October 2015, and that would alter the minimum period allowed for renewal of a Taxi/Private Hire Vehicle Driver's Licence (badge) to 3 years and a Private Hire Operator's Licence to 5 years. The Licensing Authority needed to amend its administrative procedures and revise its fees to ensure it was operating in accordance with the provisions of the Deregulation Act 2015 which had introduced these changes.

Changes to Taxi Driver and Private Hire Operator Licence Periods

The Deregulation Act 2015 (The Act) contained a number of provisions across a number of sectors aimed at reducing the burdens resulting from legislation for businesses or other organisations or for individuals. Section 10 of the Deregulation Act 2015 (Taxis and private hire vehicles: duration of licences): amended two sections of the Local Government (Miscellaneous Provisions) Act 1976 that dealt with the granting of licences to drive taxis and private hire vehicles and licences to operate private hire vehicles, and would come into force on 1 October 2015. The changes were detailed in the report, but in summary:

- Subsection (2) established a standard licence period of three years for taxi and private hire vehicle driver licences*;
- Subsection (3) established a standard licence period of five years for private hire vehicle operator licences*;
- From 1st October 2015, taxi driver licences were to be issued for no less than three years as a standard;
- From 1st October 2015, private hire operator licences were to be granted for a minimum period of 5 years.

*The section specified that a licence may be granted for a shorter period, but only in the circumstances of an individual case, not because of a 'blanket' policy.

The changes to the licence periods would need to be reflected in the cost of the licence, and procedures would need to be updated to monitor the changes, as set out in the report.

Setting of Fees

Local Government Miscellaneous Provisions Act (1976) (LGMPA) prescribed either that the fee in respect of the grant of vehicle and operator licences should be set at £25 or that it may be set at "such other sum as the Council may from time to time determine" subject to conditions as set out in the report.

The current application fees and income relating to Driver Licences and Private Hire Operator Licences were set out in the report. On that basis, it was proposed that a 3-yearly licence fee of £160 be adopted in respect of licensed drivers, and a 5-yearly licence fee of £400 in respect of Private Hire Operator Licences. These proposed fees took account of the current legislative changes and had been calculated to achieve full cost recovery based on current known costs and licence holder numbers. The fees would be

considered in more detail as part of the Licensing Service Review, alongside levels of staffing resource and more sophisticated cost-accounting systems.

It was recommended that the proposed fees were advertised to the Trade and public for comment and that the outcome of the consultation was referred to the September meeting of the Governance and Resources Committee for consideration and final approval.

The District Council had a duty of care to ensure public safety, as best it could, and protect children and vulnerable adults from harm. It was recommended that the District Council adopted a minimum standard of requiring an annual inspection of the Private Hire Operators' bookings records and carried out at least 2 inspections of the licensed premises (operator's base) during the 5-year period of the licence. This would allow officers to monitor and check compliance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the District Council's Private Hire Operator Licence Conditions.

It was moved by Councillor Steve Flitter, seconded by Councillor Tony Millward, BEM, and

RESOLVED
(unanimously)

- 1) That the Committee approves the proposed changes to the procedures for processing applications for Taxi/Private Hire Vehicle Driver Licences, and for Private Hire Operator Licences, to ensure the service is fully compliant with the provisions of the Deregulation Act 2015 by 1st October 2015.
- 2) That the proposed fees in respect of hackney carriage/private hire vehicle driver licences and private hire operators' licences are advertised to the Trade and public for comment for a 28-day period.
- 3) That the proposed fees and the outcome of the consultation exercise be referred to the September meeting of the Governance and Resources Committee for consideration and approval, to enable implementation of the changes by 1st October 2015.

MEETING CLOSED 7.34PM

CHAIRMAN