

5 February 2018

Dear Councillor,

A meeting of the **LICENSING COMMITTEE** will be held in the **Council Chamber** at these offices on **Wednesday, 14 February 2018 at 7.00pm**, when your attendance is requested.

Yours sincerely,

KATHRYN HALL

Chief Executive

A G E N D A

	Pages
1. To note Substitutes in Accordance with Council Procedure Rule 4 - Substitutes at Meetings of Committees etc.	
2. To receive apologies for absence.	
3. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
4. To confirm the Minutes of the meeting of the Committee held on 10 May 2017.	3
5. To consider any items that the Chairman agrees to take as urgent business.	
6. Application for a New Premises Licence.	4 – 6
7. Update to Licensing Committee Following Introduction of Penalty Points Scheme and 10 Year Restriction on Licensing of Taxi and Private Hire Vehicles.	7 – 9
8. Questions pursuant to Council Procedure Rule 10.2 due notice of which has been given.	

To: **Members of Licensing** – Councillors Binks, Cherry, Dorking, Forbes, Hansford, Heard, C. Hersey, M. Hersey, Knight, Landriani, Anthea Lea, Marsh, Mundin, Rawlinson. Reed and Thomas-Atkin.

Minutes of the Annual meeting of the Licensing Committee held on 10 May 2017 from 7:18 p.m. to 7:19 p.m.

Present:

Richard Cherry
David Dorking*
Bruce Forbes
Steven Hansford*
Ginny Heard

Christopher Hersey
Margaret Hersey
Jim Knight
Jacqui Landriani
Anthea Lea

Gary Marsh
Howard Muddin
Geoff Rawlinson*
Peter Reed

* Absent

1. ELECTION OF CHAIRMAN

Councillor Ginny Heard nominated Councillor Jim Knight as Chairman of the Committee for the 2017/18 Council year. This was seconded by Councillor Jacqui Landriani and agreed.

RESOLVED

That Councillor Jim Knight be elected Chairman of the Committee for the 2017/18 Council year.

2. APPOINTMENT OF VICE-CHAIRMAN

Councillor Jim Knight nominated Councillor Ginny Heard as Vice-Chairman of the Committee for the 2017/18 Council year, which was agreed.

RESOLVED

That Councillor Ginny Heard be appointed Vice-Chairman of the Committee for the 2017/18 Council year.

3. APPOINTMENT OF MEMBERS TO LICENSING SUB-COMMITTEE A

RESOLVED

That Councillors Forbes, Heard, Knight, Landriani and Marsh be appointed to Licensing Sub-Committee A.

4. URGENT BUSINESS

None.

Chairman.

6. Application for a New Premises Licence

REPORT OF: Tom Clark, Head of Regulatory Services
Contact Officer: Paul Thornton, Senior Licensing Officer
Email: paul.thornton@midsussex.gov.uk Tel: 01444 4774278
Wards Affected: Haywards Heath
Key Decision No

Purpose of Report

- 1 To provide information for the Licensing Committee concerning the process for determining Premises Licence Applications.

Summary

- 2 This report gives an overview of the process to apply for and determine a new premises licence and a variation to an existing licence. It gives information regarding the responsibilities of the Licensing Committee in determining such applications.

Recommendations

- 3 The Committee is asked to note the contents of the report.
-

Background

- 4 The Council is required to have a Statement of Licensing Policy under the Licensing Act 2013. The Policy, published on the Council's website, sets out how we apply the act and promote the four Licensing Objectives:
 - a) The prevention of Crime and Disorder
 - b) Public Safety
 - c) Prevention of a Public Nuisance
 - d) Prevention of harm to children and young persons.
- 5 The policy also details the type of applications the Council regulates such as Premises Licences and Club Premises Certificates. These licences contain 'licensable activities' and stipulate what times they can take place. Licensable activities cover:
 - sale of alcohol
 - entertainment
 - sale of hot food and drink between 2300hours and 0500 hours known as late night refreshment
- 6 A Club Premises Certificate is held by a private members club and is administered by the Club Committee. All profits go back into the club.
- 7 A Premises Licence (typically held by pubs, restaurants, off licences) must have a Designated Premises Supervisor (DPS) in order for alcohol to be sold. This person must have a Personal Licence issued by the local authority. The DPS is responsible for the good management of the premises. The DPS is the equivalent of the 'licensee' in previous legislation.
- 8 Licence holders for both types of licence are obligated by law to promote the four licensing objectives stated in the Licensing Act:

- a) The prevention of Crime and Disorder
 - b) Public Safety
 - c) Prevention of a Public Nuisance
 - d) Prevention of harm to children and young persons.
- 9 The administration process and procedure for new applications and variation of existing licences are the same and is prescribed within the Licensing Act:
- a) An application made is made to the Licensing Team (either on line, post or by hand) together with a plan and a statutory fee.
 - b) A consultation period of 28 days then takes place.
 - c) Consultees include ten bodies defined in the Act. These are known as Responsible Authorities (RA's) and include – Police, Fire Service, Planning, Environmental Health, and HM Immigration. The public are also consultees in this process.
 - d) The application must be advertised at the site throughout the consultation period and once in a local newspaper.
 - e) The Act refers to 'representations' about the application. These can be made by the public or RA's within the 28 day consultation period.
 - f) Representations can only address issues under the licensing objectives set out in paragraphs 4 and 8 to enable their submission to be classified as 'valid'.
 - g) During the consultation period applications may become the subject of discussion between the RAs and the applicants. Compromise is generally reached for conditions to be attached to the licence.
 - h) In these cases and providing there are no outstanding representations, the application can be granted under delegated authority by the Licensing Officer.
- 10 In the event of objections to the licence by the RAs and or the public that cannot be resolved, a Licensing Committee is asked to determine the matter at a Licensing Hearing i.e. Liquor Licensing Panel.
- 11 This panel, a minimum of three members from the Licensing Committee, must hear the application within twenty working days from the end of the consultation period.
- 12 Determination of the application must be made by reference to;
- a) The application
 - b) Any representations
 - c) Submissions by parties at the hearing
 - d) The Licensing Act 2003 and Guidance
 - e) Mid Sussex District Council's Licensing Policy
 - f) Licensing objectives.
- 13 Factors such as the need for another premises, too many such premises, type of premises or whether it's location is in keeping with the town, city or village are not considered relevant under the Act. The hearing is in public but the panel Members can deliberate about their decision in private with assistance from the Legal Officer in attendance.
- 14 The council's decision must be published. It is subject to an appeals process to the Magistrates Court, where the hearing will take place again. Costs can be awarded against the Council if the appeal is allowed.

Current Trends

- 15 At present there are 431 premises licences and 45 Club Premises Certificates operating in the District.
- 16 In 2017 there were 15 successful applications for new premises licences and 19 to vary current ones. These figures are in addition to the 109 DPS changes and 563 Temporary Event notices administered.
- 17 Last year 4 applications were determined by the Liquor Licensing panel, all of which were granted subject to additional specific conditions.
- 18 The Licensing team receive general enquiries on a daily basis from prospective and existing businesses. It would be fair to say that the trend for longer hours has subsided. The established premises appear to be content with the existing hours.
- 19 Similar to other areas we have seen an increase in the number of enquiries from businesses such as cafes and bars taking over empty retail units in our high streets. The Licensing Act 2003 allows such premises to completely change in character from their former use.
- 20 We also have pubs that are closed awaiting decisions on their future.
- 21 We currently have one 'Community owned Pub' – the Half Moon in Balcombe Village, bought by a group of villagers. This came about after the owners decided to sell it and ultimately to close it.
- 22 We are seeing an increase in enquires about 'mini music festivals' and outdoor pop concerts. We advise early engagement with the Mid Sussex Safety Advisory Group and Sussex Police in these cases.
- 23 Temporary Event Notices (TENs) are referred to in paragraph 16 above. They are classed as notifications rather than an application. These 'temporary licences' allow community premises, organisations and individuals to hold licensed one off events. Licensed Premises are also able to submit TENs to temporarily change their hours. The Police and Environmental Health are the only two bodies with a right of objection to TENs. TENs are subject to strict time limits which are set out in law. They must be submitted with a minimum of 10 working days (not including the day of submission or the event day). However TENs can be submitted 'late' on two occasions a year with a minimum of 5 working days. There is no discretion in either of these time scales.

Background Papers

- 24 Mid Sussex District Council - Statement of Licensing Policy
<http://www.midsussex.gov.uk/media/79002/licensing-policy-may-2015.pdf>

7. Update to Licensing Committee Following Introduction of Penalty Points Scheme and 10 Year Restriction on Licensing of Taxi and Private Hire Vehicles

REPORT OF: Head of Housing, Environmental Health & Building Control

Contact Officer: Jon Bryant, Hackney Carriage & Private Hire Licensing Officer
Email: jon.bryant@midsussex.gov.uk Tel: 01444 477076

Wards Affected: All

Key Decision No

Purpose of Report

- 1 To advise and update the Licensing Committee following recent changes to the Taxi Licensing Policy, published on the Council's website, regarding the introduction of the Penalty Points Scheme for licensed drivers and operators and the restriction on licensing of vehicles over ten years old.

Summary

- 2 The Penalty Points scheme for drivers and operators was introduced on the 1st April 2017 to encourage compliance with Licensing Conditions and Legislation. Since its inception eighteen drivers have been penalised under the scheme.
- 3 With effect from 1st October 2017 the council will not licence Taxi and Private Hire vehicles over ten years old.

Recommendations

- 4 **This report is for information purposes only.**
-

Background

Penalty Points Scheme

- 5 The Penalty Points scheme was introduced on the 1st April 2017 to encourage compliance with Licensing Conditions and Legislation. In general terms it has been well received by the Trade. To date there have been eighteen incidents which have resulted in points being issued.
- 6 The matters that these have related to have included failure to display door signs, failure to display licence plate, failure to be in possession of or display drivers badge, failure to inform the Licensing Department of damage caused to a licensed vehicle, change of address, failure to behave in an orderly manner and vehicle having a very dirty interior.

- 7 Only one driver has received points on more than one occasion. He currently has six points.
- 8 Currently the highest number of points issued for a single incident is seven. This was for multiple issues found when a vehicle was inspected during compliance checks on district. The average number of points issued is three.
- 9 Drivers do have the right of appeal to the Licensing Sub A Committee if they disagree with points being issued. To date none of the drivers have exercised this right.
- 10 Currently when a driver attends the Licensing Sub A Committee they may have their licence revoked, suspended or a specific condition added to their licence. Any sanctions imposed can be appealed to the Magistrates Court.
- 11 There has been the suggestion that the Penalty Point Scheme could be extended to allow Licensing Sub A to also apply points, this would mean that the driver's right of appeal would go straight to the Magistrates Court. Instead Members could apply specific conditions to a drivers licence for cases where on balance Members considered that the spirit of the regulations has been breached if not a full technical breach. This will show that we can demonstrate a separation between the officer operational work and the policy makers who are the Members, whilst meeting the open and transparency requirements. The Penalty Point Schemes operating elsewhere in the country is only used by licensing officers at part of their compliance checks.
- 12 A further report will be brought to the Committee on the penalty point scheme in 12 months time.

Vehicle Age Restriction Policy

- 13 When the Taxi policy was amended in October 2012 it was decided that there would be a ten year age restriction on licensed vehicles. This age restriction started from the 1st October 2017.
- 14 Applications to licence vehicles over 10 years old must be considered by the Council notwithstanding the policy. If vehicle proprietors disagree with the refusal of the Licensing Team to renew such licences (in accordance with the policy) they have the right to appear before Licensing Sub A Committee who will consider their representations.
- 15 One proprietor has appeared before the Licensing Committee applying to renew a licence on a vehicle over ten years old. This application was unsuccessful and the proprietor did not appeal the Committee's decision at the Magistrates Court.
- 16 Three Private Hire vehicle licences have not been renewed or transferred to a newer vehicle since the introduction of this policy.
- 17 Currently 74% of Hackney carriage vehicles are under 8 years old and 78.6% of Private Hire vehicles are under 8 years old. The older vehicles in the fleet are being taken out of service by their owners prior to the licence renewal dates.

- 18 In May 2017, prior to the Policy taking effect, the situation was that only 47.4% of Hackney carriage vehicles were under 8 years old and 55.3% of Private Hire vehicles were under 8 years old.
- 19 Poor air quality as a result of vehicle emissions is now a matter of public concern and the vehicle age restriction is an initial step to meet those concerns

Background papers

- 20 Mid Sussex District Council Taxi Licensing Policy
<http://www.midsussex.gov.uk/media/80110/taxi-licensing-policy-1st-october-2017.pdf>