

LICENSING AND HEALTH AND SAFETY COMMITTEE

MINUTES of a **MEETING** of the **LICENSING AND HEALTH AND SAFETY COMMITTEE** held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **16th JULY 2007**

PRESENT: Cllr. Goddard (Chairman);
Cllr. Feacey (Vice-Chairman);
Cllrs. Ellison, Mrs Heaton, Kemp, Mrs Laughton, Link.

APOLOGIES: Cllr Mrs Blanford, Environmental Health Manager (Commercial).

ALSO PRESENT: Licensing Manager, Senior Environmental Health Officer, Member Services & Scrutiny Support Officer.

132 MINUTES

Resolved:

That the Minutes of the meeting of the Licensing and Health and Safety Committee held on the 19th April 2007 be approved and confirmed as a correct record.

133 STATEMENT OF PRINCIPLES FOR UNLICENSED FAMILY ENTERTAINMENT CENTRES, GAMING MACHINE PERMITS AND PRIZE GAMING PERMITS – GAMBLING ACT 2005

The Licensing Manager introduced the report and explained that the policy was to assist people when making applications for Unlicensed Family Entertainment Centres (UFEC), Gaming Machine Permits (GMP) and Prize Gaming Permits (PGP). He referred to paragraph 3 of the report and the need for the Council, in adopting the Policy, to have regard to the Licensing objectives set out in the Gaming Act 2005 ie:-

- (a) Preventing gambling from being a source of crime, or disorder, being associated with crime or disorder or being used to support crime;
- (b) Ensuring that gambling is conducted in a fair and open way; and
- (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The law stated, however, that the Licensing Authority may have regard for these objectives when determining whether or not to issue a permit for an UFEC, GMP or PGP. The Statement of Principles would declare to applicants that the Council would have regard for all these objectives. Enforcement of the objectives would fall to a number of enforcement agencies, including the Police, the Gambling Commission and the Council. The appendix to the report set out what the Council expected from applicants. The Council required all applicants to have an enhanced criminal record certificate because they could be working with children. The Licensing Manager reported the views of the Portfolio Holder, Councillor N Bell, in support of the Statement of Principles.

The Licensing Manager gave the following responses to queries/comments:-

- A plan of premises would be required with the application.
- Licenses were not required for private homes (because they were not public places).
- He would check if military premises were exempt.
- Foreign Nationals could obtain a sworn affidavit from a solicitor or a document from their consulate that they did not have a police record in their country of origin.

- If the Army could vouch for former soldiers/Ghurkhas having exemplary service records this would be considered as an alternative to an enhanced criminal record.
- The maximum number of Licensed/Gambling premises within a council area was not stated in the Licensing Act or the Gambling Act.
- Ashford was below the national average with approximately 9 bookmakers, and one in Tenterden.
- 75% of licences had been received and the remainder were being contacted.
- Applicants had until the 30th July to submit a premises licence and have continuation rights. Applications received after the 30th July and before the 30th August 2007 would have grandfather.

Recommended:

That the Statement of Principles for Unlicensed Family Entertainment Centres, Gaming Machine Permits and Prize Gaming Permits be adopted subject to the inclusion of “military equivalent” being included.

134 **SMOKE FREE ENFORCEMENT POLICY – HEALTH ACT 2006**

The Senior Environmental Health Officer introduced the report and explained that the legislation was aimed at helping the public. The Policy at Appendix A to the report was similar to that of other local authorities many of whom had worked together for consistency. Paragraph 12 met the principles for prosecution and the Department of Health (DoH) grants were £9,421 in 2006/07 and £46,561 for 2007/08 with any monies collected from Fixed Penalty Notices (FPN) being paid back to the DoH. The number of FPNs issued in Wales, Ireland and Scotland had been miniscule (eight for the latter). There had been 85% compliance to display notices and enforcement would be through education with only two members of staff having the ability to issue FPNs. These staff would have to witness non compliance and could issue an FPN on the following day. The Premises Licence Holder was responsible for enforcing the legislation; therefore, they would be targeted if there was an infringement. The only difficulty might be that staff able to issue FPNs had no powers to insist that a person gave them their name and address as this could only be done in the presence of a Police Officer. Two complaints had been received since the 1st July and would usually involve the Council in writing to the Premises Licence Holder with the attached Appendix ‘Smoke free – Good Practice Guide’.

The following responses were given to questions/comments:-

- Signs in taxis (including those for the disabled) and work vehicles need only be 70mm large.
- The Enforcement strategy would be based on premises that were likely to be the least non-compliant eg Private Members’ Clubs, Bingo Halls, and national chains such as Woolworths plc that had maintained a no smoking policy for years and had assumed that notices did not need to be displayed.
- Most premises deemed to be in the higher risk category had been visited on a proactive basis prior to the 1st July 2007.
- Since 1st July 2007 over 130 premises had been visited, including some 60 licensed premises which had been visited during an evening of enforcement visits on the 6th July. During the evening visits only one had not been compliant.
- Neither the Health Act 2006 or the five sets of Smoke Free Regulations contravened a person’s Human Rights as defined by Articles 8, 9, and 10 of the Human Rights Act.

- The draft legislation had changed between the first and second consultation exercises, so unless an outdoor construction had a roof and a certain percentage of walls, people were permitted to smoke surrounded by other people/dining non smokers.
- The decision had been taken that Licensing staff would not wear uniforms and would introduced them selves on arriving at premises and show their ID Cards.
- The Head of Environmental Services could give authorisation for and the carrying out of covert surveillance.
- The Council's Lone Worker Policy specified the staff should work in pairs after 7.00pm, unless accompanied by a (usually) non uniformed Police Officer.
- Staff would not be expected to enter premises after 11.00pm if there were no door staff on duty.

Recommended:

That the Smoke Free Enforcement Policy be approved.

MINS:LHSX0729