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## **LICENSING AND APPEALS COMMITTEE**

Minutes of a Meeting held on Thursday 01 November 2018 in the Council Chamber, Town Hall, Matlock at 6.00pm

### **PRESENT**

Councillor Jean Monks - In the Chair

Councillors Sue Bull, Tom Donnelly, Ann Elliott, Graham Elliott, Richard FitzHerbert, Steve Flitter, Helen Froggatt, Alyson Hill, Joyce Pawley and John Tibenham.

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

### **APOLOGIES**

No apologies were received.

### **197/18 – MINUTES**

It was moved by Councillor Helen Froggatt, seconded by Councillor Tom Donnelly, and

**RESOLVED**  
(unanimously)

That the Minutes of the meeting of the Licensing and Appeals Committee meeting held on 22 March 2018 be approved as a correct record.

The Minutes were signed by the Chairman.

### **198/18 – LICENSING ACT 2003 AND GAMBLING ACT 2005 – ANNUAL PROGRESS REPORT**

The Committee considered a report on 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. As the Committee did not sit in July, the annual report was presented at this November meeting and included details of compliance and enforcement work carried out in partnership with other statutory authorities.

### **THE LICENSING ACT 2003 (“The Act”)**

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.

Each year the District Council (in its role as the Licensing Authority) maintained in the region of 550 premises licences and club premises certificates; 1250 personal licences; and on average (each calendar year) acknowledged some 450 to 550 temporary event notices (TENs). In addition, a number of new premises licences were granted each year and a small number were surrendered, as businesses closed down or moved premises.

The first annual progress report was presented to this Committee in 2007, and it was noted that some of the activities referred to were no longer licensable, as set out in the report. Licence applications made under the Licensing Act 2003 were tabled in paragraph 1.7 of the report for the years 2015/16, 2016/17 and 2017/18. For completeness, and where available, the figures for the first 6 months of 2018-19 were also provided.

During 2017-2018, applications for 17 new premises licences and 1 new club premises certificate were received, 3 of which attracted representations (relevant objections), and had to be referred to the Licensing and Appeals Sub-Committee for determination. It was noted that during the period 1<sup>st</sup> April to the end of September 2018, it had not been necessary to refer any applications received for these licence types to a Sub-Committee.

In October 2009, the Minor Variations application process was introduced, allowing proprietors/operators to make small changes to their premises licences, examples of which were listed in the report. In line with Government recommendation, the Head of Regulatory Services and the Licensing Manager were both delegated to determine applications for Minor Variations, and details of those granted since 1<sup>st</sup> April 2017 were tabled in paragraph 1.14 of the report.

The Licensing Team worked closely with the other agencies with responsibility for dealing with applications for licensing, e.g. through the Safer Derbyshire (Community Safety) Partnership VAL Group (Violence, Alcohol and Licensing). Visits to licensed premises were carried out jointly, where appropriate, with officers from the Police, Environmental Health, Fire Service and Trading Standards Authorities. Where problems existed or there was the potential for problems, measures to deal with these were agreed by all officers and negotiated with the licence holder.

In 2017-18 the 20 visit target detailed in the Licensing Service Plan actions was exceeded for the second year running, with 21 visits to licensed premises being carried out. A target of 20 visits to licensed premises during 2018-19 had been agreed and published in the Licensing Service Plan, and the targets for 2019-20 were currently under consideration.

The Safe and Responsible Manual produced and promoted by the High Peak and Derbyshire Dales VAL had been re-branded as part of the '*Intoxicated – No Sale*' Campaign being rolled out across Derbyshire by the Police and Licensing Authorities working together. Officers would be supporting pre-Christmas and similar campaigns organised by the Police, to promote awareness of not selling alcohol to persons who were already drunk.

During the last 18 months, officers from the Council's Licensing and Community Safety Teams had participated in several joint test-purchase operations to monitor how well licensed premises implemented a Verification of Age Policy and Refusals Log. Furthermore, all newly licensed premises for the sale of alcohol were expected to operate the Challenge 25 scheme, and premises that had been licensed for some time were being encouraged to move from the earlier Challenge 21 and Challenge 18 schemes to operate

Challenge 25 as this offered a more robust approach to ensuring that alcohol sales were not made to anyone under the age of 18.

## **THE GAMBLING ACT 2005 (“The Act”)**

Local licensing authorities had regulatory obligations under the Gambling Act 2005 for licensing gambling premises and issuing permits and permissions, working closely with the Gambling Commission and other regulatory partners on joint initiatives, providing support through training, advice and publications.

The premises in Derbyshire Dales currently licensed under the 2005 Act were listed in the report and it was noted that there had not been any changes to the legislation affecting the licensing of these premises since the last annual report was considered by this Committee.

Licensing authorities (LAs) also had a statutory duty to provide the Gambling Commission with specific information about gambling regulation in their area, and every September the Commission published these statistics. The statistics for the year ending 31 March 2018 had just been received, as set out in the report, and were available on the Gambling Commission’s website via the following link:

<https://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Statistics/Licensing-authority-statistics.aspx>

It was reported that National Gambling Awareness Week would take place from 1<sup>st</sup> – 7<sup>th</sup> November 2018, and The Council’s Licensing Team would be supporting its 10 licensed premises to promote this initiative. Support would also be available from organisations such as the National Gambling Helpline, GamCare and GambleAware, and a range of resource materials were available for those wishing to support the week.

With regard to the 3-Yearly Review of Statement of Principles – Gambling Policy, it was reported that the draft Statement of Principles for Gambling was approved at the March 2018 meeting of this Committee and was currently out for consultation. A final draft would be considered for approval by the full Council before the end of December.

It was moved by Councillor Richard FitzHerbert, seconded by Councillor Tom Donnelly and

**RESOLVED**  
(unanimously)

- 1) 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 2019:
  - 20 licensing awareness visits to premises licensed for alcohol sales, gambling or scrap metal;
  - 2 taxi enforcement operations
- 2) That the Licensing Team continues to contribute to the work of the Community Safety Partnership’s VAL (Violence Alcohol and Licensing) Group, to raise licensees’ awareness on not selling alcohol to people who are already drunk, by supporting the County-Wide ‘Intoxicated-No Sale’ Campaign.

- 3) That support be provided to National Gambling Awareness Week, 1<sup>st</sup> -7<sup>th</sup> November 2018.

## **199/18 – IMPLEMENTATION OF THE ANIMAL WELFARE REGULATIONS (LICENSING OF ACTIVITIES INVOLVING ANIMALS) (ENGLAND) REGULATIONS 2018**

The Committee considered a report on the introduction of the Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018 (“The Regulations”). The report also recommended a scheme of delegation involving both Licensing and Environmental Health; and proposed a new fee structure and the system for its adoption by the Governance and Resources Committee.

At the March 2018 meeting, the Committee was given an update on the Government’s review of Animal Welfare Licensing following DEFRA’s launch in 2016 of a consultation exercise on the introduction of secondary legislation to introduce a single “Animal Establishment Licence”. The Regulations were made on 16<sup>th</sup> April 2018 and came into force on 1<sup>st</sup> October 2018, with guidance to assist Licensing Authorities in implementing the Regulations re-issued on 1<sup>st</sup> October 2018. The Regulations covered those activities listed in the report, and it was noted that the current licensing procedures for zoos and the keeping of dangerous wild animals were not affected by the Regulations and would continue to be carried out under the existing legislative provisions.

The Key changes were set out in section 2 of the report.

Within the Regulations was a star rating system to allow customers to see how businesses performed against the regulation standards; this would be issued by the inspecting licensing officer/animal specialist, as outlined in section 3 of the report.

It was reported that fees and charges would be set locally, and on a full-cost recovery basis, the criteria for which were set out in paragraph 4.1 of the report and had been calculated by Officers using DEFRA’s guidelines for fee setting. The fees proposed were tabled in the report, and are reproduced below:

Activity	Fee
Application fee for new licence	£310
Fee for grant of licence, including compliance and enforcement	£75
Application fee for renewal of licence	£310
Fee for grant of renewal, including compliance and enforcement	£75
Variation of licence – administration	£25
Variation of licence – administration and inspection	£125
Re-rating inspection	£100
Appeal inspection	£100

In addition, it was considered appropriate to introduce fees for advisory work undertaken before a formal licence application was submitted; however, in order to assist with the creation of new businesses it was also proposed that a reasonable amount of time was offered free of charge to new enquiries and that a comprehensive web-based resource was established to guide those seeking advice. A flat rate fee of £50 was considered reasonable in respect of a meeting lasting more than 30 minutes, as shown in the amended table below:

Activity	Fee
Advice from Licensing team - first 30 minutes	Free
Advice from Licensing team – more than 30 minutes	<b>Flat rate fee of £50 (to include meeting &amp; letter)</b>
Advisory site visit	£100

If Members were in agreement with the proposed schedule of fees set out in the report, it was recommended that they be submitted for consideration by the next meeting of the Governance and Resources Committee, for implementation from 1 January 2019.

These proposed charges were officers' best estimates of the costs of implementing the new licensing system; therefore it was recommended that the actual costs involved in administering the system were closely monitored over the next 12 months, with the intention of a full review being included in the annual fees and charges report considered by the Governance and Resources Committee.

In order for the new licensing system to operate in an efficient and effective manner it was necessary to consider the various powers that might be delegated to officers. The recommended scheme of delegation was tabled in paragraph 5.3 of the report, but had been amended to include the following additions shown in bold:

Section	Provision	Delegation
Sections 23, 25, 26, 27, 53 and Schedule 2 Animal Welfare Act 2006	Powers of entry	Head of Regulatory Services, Principal Environmental Health Officer, Environmental Health Officers, Environmental Health Technicians, Licensing Manager
Regulation 4(2)(a) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Authorised officers to inspect establishments	Principal Environmental Health Officer, Environmental Health Officers, Environmental Health Technicians
Regulation 4(2)(b) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Grant of licences	Head of Regulatory Services, Licensing Manager
Regulation 4(4), 4(5) and 8 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Authority to authorise veterinary surgeons to inspect establishments	Head of Regulatory Services, Licensing Manager
<b>Regulation 4(8) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018</b>	<b>Refusal of licences</b>	<b>Head of Regulatory Services, Licensing Manager</b>

Regulation 5 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Authority to determine licence period	Head of Regulatory Services, Licensing Manager, Principal Officer Environmental Health
<b>Regulation 5 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018</b>	<b>Determine appeals against licence period and/or star rating</b>	<b>Chief Executive, Head of Regulatory Services</b>
Regulation 6 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Take samples	Head of Regulatory Services, Licensing Manager, Principal Environmental Health Officer, Environmental Health Officers, Environmental Health Technicians
Regulation 9 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Vary licences	Head of Regulatory Services, Licensing Manager
Regulation 12 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Extend licence period	Head of Regulatory Services, Licensing Manager
Regulation 15 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Suspend, vary and revoke licences	Head of Regulatory Services, Licensing Manager
Regulation 16 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Consider and determine representations in respect of suspensions and variations	Chief Executive, Head of Regulatory Services
<b>Regulation 16(11) Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018</b>	<b>Reinstate, vary and reinstate, revoke licences</b>	<b>Chief Executive, Head of Regulatory Services</b>
Regulation 17 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Reinstate licences	Chief Executive, Head of Regulatory Services
Regulation 20 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018	Institute proceedings	Head of Regulatory Services in consultation with Head of Corporate Services
<b>Schedule 1 Animal Welfare Regulations (Licensing of Activities Involving Animals) (England) Regulations 2018</b>	<b>Determine whether an operator meets the 'business test'</b>	<b>Head of Regulatory Services, Licensing Manager</b>

It was moved by Councillor Richard FitzHerbert, seconded by Councillor Sue Bull and

**RESOLVED**  
(unanimously)

1. That the scheme of delegation proposed in the report, is agreed.
2. That the proposed fee structure and process is submitted to the Governance and Resources Committee.

**MEETING CLOSED 6.47PM**

**CHAIRMAN**