

LICENSING COMMITTEE

DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 14 SEPTEMBER 2012 AT COMMITTEE ROOM A - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM.

Present:

Cllr Desna Allen, Cllr Trevor Carbin (Substitute), Cllr Rod Eaton, Cllr Jose Green (Vice Chairman), Cllr George Jeans, Cllr Jacqui Lay, Cllr Bill Roberts and Cllr Jonathon Seed (Chairman)

Also Present:

Mandy Bradley (Service Director - Public Protection), Steve Clover (Head of Public Protection - Commercial and Communities), Stuart Figini (Democratic Services Officer), Kate Golledge (Public Protection Manager, North and West, Safer Communities and Licensing), Cllr Jon Hubbard and Paul Taylor (Senior Solicitor)

22 Apologies

Apologies were received from Councillors Richard Beattie, Peggy Dow and Bill Moss.

Councillor Trevor Carbin replaced Councillor Peggy Dow for this meeting only.

23 Minutes

The minutes from the Licensing Committee meetings held on 6 February 2012 and 6 June 2012 were presented and it was,

Resolved:

To approve and sign the minutes of the meetings held on 6 February 2012 and 6 June 2012 as a correct record.

24 Chairman's Announcements

a) Street Trading Consent Scheme

The Chairman reported on the latest position regarding the Council's Street Trade Consent Scheme. He mentioned that 30 full applications

for Street Trade Consent had been received across the Council's area, with 14 applications being granted by officers under delegated authority and 5 being refused.

Concerns about (i) the Scheme fee levels had been expressed by the trade and (ii) the consultation process by some Town Councils.

The Scheme would be reviewed 12 months after coming into operation with any necessary amendments being incorporated in light of the concerns being raised.

b) Drink Banning Orders

The Chairmen informed the Committee that the Drink Banning Orders were now a tool being used by the Police in partnership with the Council to control the night time economy. Further information about the Drink Banning Orders is attached to these minutes.

c) Government Alcohol Strategy

The Chairman referred to a document that outlined the Government's direction concerning their Alcohol Strategy. The document outlined a number of challenges that the industry faced and the impact that irresponsible promotions had on the sale of alcohol.

The document encouraged Members of the Licensing Committee to engage fully in the forthcoming consultation concerning the Governments proposed changes in policy and subsequent legislation.

d) Parish and Town Council's Involvement in Consultations

The Chairman reported that Parish and Town Councils had raised some concerns about how they were involved in consultations and Licensing Hearings.

The Committee were informed that guidance notes were being produced by officers to help the Parish and Town Councils engage in consultations more fully. It was noted that the guidance notes would be available for the next meeting of the Committee.

Members were asked to contact Public Protection with suggestions of Parish and Town Councils who could trial the guidance notes before they were circulated more widely.

25 **Declarations of Interest**

There were no declarations of interest.

26 **Public Participation**

There was no public participation.

27 **Minutes of the Licensing Sub-Committees**

The minutes from the Licensing Sub-committee meetings held on 20.3.12, 11.4.12, 10.5.12, 25.5.12, 30.5.12, 25.6.12, 27.7.12, 3.7.12, 7.8.12 and 23.8.12 were presented, and it was

Resolved:

To approve the minutes of the meetings held between the 20.3.12 and 23.8.12.

28 **Police Reform and Social Responsibility Act 2011 - Early Morning Restriction Orders and Late Night Levies**

The Committee considered a report by Kate Golledge, Public Protection Manager Licensing, Public Protection Services, which informed Members of forthcoming changes to legislation brought into being by the Police Reform and Social Responsibility Act 2011.

The report detailed important changes and the availability of two new tools in the licensing suite of controls namely Early Morning Restriction Orders and Late Night Levies which were designed to give local people a greater influence over the type and number of licensed premise in their communities.

The Chairman referred to a letter, a copy of which was previously circulated to Members that he had received from the Deputy Chief Constable expressing the views of the Wiltshire Police.

Members were assured that Officers would seek advice from the Communications team about the most appropriate process and methods to use for the consultation.

Resolved:

- a) That the report be noted
- b) That a full consultation be undertaken with all interested parties commencing on the 31 October 2012 regarding the making of Early Morning Restriction Orders and the introduction of Late Night Levies and thereafter its implementation in line with the responses to that consultation.

29 **Licensing Act 2003 - Review of Statement of Licensing Policy**

The Committee considered a report by Kate Golledge, Public Protection Manager Licensing, Public Protection Services, which provided a position

statement on the review of the statement of licensing policy following its approval by the Council on 1 December 2009.

The report informed Members of the relevant changes that had occurred in the years since the policy was approved and sought Members views on how to move forward. Two options were suggested:

- i) Review the policy now
- ii) keep the existing policy until the introduction of Late Night Levies and Early Morning Restriction Orders

Members raised the possibility of including a fifth licensing objective relating to the effect of additional licensed premises on the local community. Kate Golledge reported that the four licensing objectives were set by legislation and that those could not be altered or added to. However, the Council could consider adopting a policy on Cumulative Impact Zones in its Statement of Licensing Policy and that this could be included in the consultations being undertaken at Minute 28 above.

Resolved:

- a) That the report on the latest position on the Review of the Statement of Licensing Policy be noted**
- b) That the existing Statement of Licensing Policy, as approved by Council on 1 December 2009 continues to be used, but that a full review be carried out during 2013**
- c) That the possible inclusion of Cumulative Impact Zones in the Council's Statement of Licensing Policy be included in any consultations undertaken**

30 Licensing Act 2003 - Licensing Authorities as Responsible Authorities

The Committee considered the report by Kate Golledge, Public Protection Manager Licensing, Public Protection Services, informing Members about the internal arrangements of the licensing service to ensure that the Licensing Authority had the correct structure in place to carry out its new function as a Responsible Authority.

The Public Protection Manager referred to the Police Reform and Social Responsibility Act 2011 which added Licensing Authorities to the list of Responsible Authorities under the Licensing Act 2003. The change would ensure that Licensing Authorities were better able to respond quickly to the concerns of local residents and businesses by taking actions they consider appropriate to tackle irresponsible premises without having to wait for representations from other Responsible Authorities.

Members expressed their concern about public perception in relation to the arrangements and in particular questioned how the officers would deal with the separation of responsibilities between acting as an advisor to a Sub-Committee and being a Responsible Authority bringing a case to a Sub-Committee. The Public Protection Manager reassured the Committee that the Council had a large enough licensing service to allocate the functions to officers to ensure procedural fairness and avoid a conflict of interest. It was also confirmed that the officer acting for the Responsible Authority would not be involved in the licensing decision process and would not discuss the merits of the case with those involved in making the determination by the Licensing Authority.

It was suggested that Officers from other Licensing Teams could take on the role of the Responsible Authority where hearings were considered for other Licensing Team areas, for example a hearing in the Western Area – West and North Team officer would present the case at the hearing and a South and East team officer act as the Responsible Authority at the hearing and would sit with other attendees not with other officers. However, Officers felt that the proposed arrangements were robust enough and would be effective in separating the officer roles as described above, but that officers would monitor the situation and report to a future meeting on any changes to the arrangements if necessary.

Resolved:

- a) That the report be noted
- b) That the proposed arrangements for service structure and responsibilities within the Licensing Service as detailed in the report be agreed

31 **Dates of Future Committee Meetings**

The date of the next meeting was confirmed as Monday 12 November, 2012 starting at 10:30a.m.

The Chairman suggested that a further meeting was needed early in the new year 2013.

Resolved:

That an additional meeting of the Licensing Committee be held on Monday 18 February, 2013 starting at 10:30a.m.

32 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 - 11.10 am)

The Officer who has produced these minutes is Stuart Figini, of Democratic & Members' Services, direct line 01225 718376, e-mail stuart.figini@wiltshire.gov.uk

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Drink Banning Orders



Wiltshire Police

Delivering safe, satisfied and confident communities

David Bennett
Community Safety

www.wiltshire.police.uk

DBOs on Application



Commenced Sections 1-5 and 9-14 of the Violent Crime Reduction Act 2006.

Introduced Violent Crime Reduction Act 2006 (Drinking Banning Order) (Approved Course) Regulations 2009.

Both came into force on 31st August 2009.

Exclusion Orders remain in force and have not been repealed.

DBOs on Application



To address an individual's alcohol misuse behaviour and protect others and their property from such behaviour.

Alcohol misuse behaviour a strong contributory factor in:

- public order offences
- criminal damage
- minor and serious assaults
- violent offences
- traffic offences.

Can be applied to individuals 16 and over.

Who can apply?



Police (including British Transport Police).

Local Authorities in England and Wales.



Courts



Magistrates' courts (acting in their civil capacity)

County courts (where the principal proceedings involve alcohol misuse crime or disorderly behaviour by those who are party to the proceedings or could be made a party).



Length of a DBO



- 2 months -2 years
- Different prohibitions can take effect for different time periods
- Consideration of an approved course

Is a DBO appropriate?



A DBO may **not** be appropriate if:

- A ban longer than 2 years is needed
- Football match related behaviour
- Domestic violence or non-molestation proceedings
- Vulnerable, drug or alcohol dependent or mental health problems
- Offending behaviour is solely related to drug use



Before making an application consult with the relevant ‘appropriate persons’:

- The **Chief Officer of Police** for the police area in which the conduct in question took place;
- The **Chief Officer of Police** for the police area in which the subject usually resides;
- Every **Local Authority** in whose area the subject usually resides;

Prohibitions



Cover the range of criminal and disorderly conduct

Be necessary to protect others/or property

Be reasonable and proportionate

Be realistic and practical

Be clear, concise and easy to understand

Be specific -location

Be specific -times

Must NOT prevent access to home; place of work, place of education, worship, training or medical treatment; place ordered to attend.

Prohibitions



Prohibitions can be proposed by the authority seeking the DBO, and/or the court can impose those prohibitions that it considers necessary.

Examples of prohibitions could include;

- *Excluding the individual from specific licensed premises*
- *Preventing the individual from entering specific areas of a town*
- *Preventing the individual from consuming alcohol in public*
- *Preventing the individual from purchasing alcohol*

Evidence



Conduct must be after the commencement of the Act

Previous convictions, cautions and PNDs can be used.

Applications must be made within 6 months of the conduct.

Hearsay evidence is permitted.



Approved courses



Recipient can be referred by the court if he/she agrees

Undertaken on a voluntary basis

Can reduce the ban by up to half

Recipient pays for their own attendance (Min £125 -Max £250)

16hrs tuition time = 3 days

Service provided by “SWADS” based in Swindon



Interim DBOs



Interim DBOs can be made if the Police/Local Authority believe that persons or property are in urgent need of protection from the individual.

Application must be accompanied by an application for a full DBO, and can last for up to 4 weeks.

Can be applied for without notice to the defendant and can be heard in their absence. This can be done only with the permission of the court.

If an interim DBO is granted, the relevant authority who applied for the is responsible for serving the individual with the order.



- Case by case basis
- Pubwatch
- Local Media
- No restriction on sharing of photographs, provided it is for the purpose of enforcing the order

Breach of a DBO



- Breach of a DBO without reasonable excuse is an offence.
- On summary conviction liable to a fine not exceeding £2500





In 25 Local Justice Areas - BUT NOT WILTSHIRE
(Consider use of exclusion legislation) as alternative.

Courts will be required to consider imposing a DBO in all cases where the offence was committed if the individual was under the influence of alcohol.

Same rules apply to DBOs on conviction as they do to those made on application. There will be instances where DBOs are not appropriate; eg football, DV.

ASBO / DBO Comparison



ASBO -Min 2yrs

DBO -2mths to 2yrs

No approved course

Approved Course.
Reduces term by half

Breach = Imprisonment or
Fine

Breach = Fine £2500

On conviction or on
application

On application or On
conviction but only in 25
areas

Licensed Premises (Exclusion of Certain Persons) Act 1980



- This Act allows the courts to make orders excluding potentially dangerous convicted persons from licensed premises.
- Where a person is convicted of an offence committed on licensed premises, the court may, if satisfied that he resorted to violence or offered or threatened to resort to violence in committing that offence, make an 'exclusion order' prohibiting him from entering those premises or any other specified premises.

Licensed Premises (Exclusion of Certain Persons) Act 1980



- Where a subject is charged with a violence or disorder offence connected with a licensed premise.
- An exclusion order is for a period of not less than three months or more than two years.
- The order needs to specify the premises and notify the licence holders.
- Administration can be picked up by Licensing Department.

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