

CHILTERN DISTRICT COUNCIL

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Licensing & Regulation Committee

Thursday, 13th February, 2014 at 6.30 pm

Large & Small Committee Room, King George V House, King George V Road,
Amersham

A G E N D A

- 1 Evacuation Procedures
- 2 Minutes (*Pages 3 - 6*)
To sign the Minutes of the meeting held on 5 December 2013.
- 3 Apologies for Absence
- 4 Declarations of Interest
- 5 Mobiles Homes Act 2013 (*Pages 7 - 10*)
- 6 Gambling Act 2005 (*Pages 11 - 14*)
- 7 Exclusion of the Public
To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.
- 8 Private Reports (if any)

Note: All Reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Licensing & Regulation Committee

Councillors: P N Shepherd (Chairman)
M Vivis (Vice-Chairman)
N L Brown
Mrs J A Burton
G K Harris
P M Jones
D J Lacey
D G Meacock
M Prince
J J Rush
C H Spruytenburg
N Stewert
H A Trevette
J F Warder
A P Williams

Date of next meeting – Thursday, 1 May 2014

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CHILTERN DISTRICT COUNCIL

**MINUTES of the Meeting of the
LICENSING & REGULATION COMMITTEE**
held on **5 DECEMBER 2013**

PRESENT: Councillor P N Shepherd - Chairman

Councillors: N L Brown
D G Meacock
M Prince
J J Rush

APOLOGIES FOR ABSENCE were received from Councillors M Vivis, Mrs J A Burton, G K Harris, P M Jones, D J Lacey, C H Spruytenburg, N Stewert, H A Trevette, J F Warder and A P Williams

6 MINUTES

The Minutes of the meeting held on 13 June, copies of which had been previously circulated, were agreed by the Committee and signed by the Chairman as a correct record.

7 DECLARATIONS OF INTEREST

There were no declarations of interest.

8 HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

The Hackney Carriage and Private Hire Policy had been considered and agreed by the Licensing and Regulation Committee on 15 June but was subject to a verbal challenge from the trade before it was considered by Full Council. The Policy was reviewed in light of guidance from the Department of Transport in relation to vehicles. Current guidance prevents the authority from adopting an age policy for vehicles but does allow for a greater frequency of testing ensuring passenger safety. Members considered the evidence that older vehicles were more likely to fail compliance and MOT tests.

Councillors were advised that whilst the majority of vehicles licensed by Chiltern District Council were between 5 and 11 years of age some vehicles were 12 years old or greater. Drivers had stated that they could not afford to buy new vehicles and sought to buy older vehicles. The current policy requires that vehicles over 6 years of age were subject to 2 compliance tests per year. Guidance enables the Council to increase the frequency of testing to 3 tests per year.

The following wording was proposed to be included in the policy: 'At the time a vehicle is first licensed (including changes of vehicles if not to a currently licensed vehicle) the vehicle must normally be less than 7 years old. The vehicle's age will be determined by the vehicle registration document. The age limit may be exceeded if the vehicle complies with all applicable standards. Once a vehicle reaches 12 years of age the licence will only be renewed if the vehicle has passed 3 compliance tests each year, at approximately 4 monthly intervals.'

RESOLVED:

1. That the report be noted
2. That it be recommended to Council that the wording for the proposed policy conditions regarding the age of vehicles be amended to: 'At the time a vehicle is first licensed (including changes of vehicles if not to a currently licensed vehicle) the vehicle must normally be less than 7 years old. The vehicle's age will be determined by the vehicle registration document. The age limit may be exceeded if the vehicle complies with all applicable standards. Once a vehicle reaches 12 years of age the licence will only be renewed if the vehicle has passed 3 compliance tests each year, at approximately 4 monthly intervals.'

9 LICENSING AND ENFORCEMENT UPDATE

The Licensing and Regulation Committee received a licensing and enforcement update from the Licensing Officer. Councillors were advised that 356 Premises and 41 Club Premises were currently licensed. These Licensed Premises were inspected on a risk related basis. No formal action had been necessary over the last year.

It was noted that the number of licensed Taxi and Private Hire drivers had not increased. This was due to market forces. In regards to animal licenses, the number of home boarders had doubled, and it was noted that the premises were inspected by vets twice a year. One Councillor questioned how much the license for this was and was advised that a new license for animal boarding in the home cost £330, while renewal was £360 per year. Riding establishments were charged the admin costs, and then charged the exact costs for each visit by a vet.

Councillors were also reminded that it was possible for Parish and Town councils and the public to see which premises were licensed by accessing the Public Access Licensing System.

RESOLVED:

That the report be noted.

10 CHARITABLE STREET COLLECTIONS

Councillors were asked to consider a report regarding Charitable Street Collection licenses. In February 2010 the Licensing and Regulation Committee approved amendments to the Regulations made by Chiltern District Council with regard to Street Collections to comply with the Provision of Services Regulations 2009. These amendments lifted the restrictions as to when and where charitable collections could take place. This has led to reports of streets having collectors from a number of charitable organisations

collecting at the same time. The Licensing Team received complaints from the public, and it has been considered that there was a reason of public interest to impose some form of restriction. It was noted that the proposals have been well received in consultation.

The Councillors received the guidance that was given to street collectors. This stated that collectors should not harass members of the public and advised them against rattling the box and calling out. It was noted that a few charity collectors were not aware of this guidance. The Institute of Fundraising also produced guidance stating this. It was suggested that the guidance from the Council be placed on the website. The draft guidance considered by the Councillors had been amended in light of comments received during consultation.

The draft guidance notes state that the Council would need four weeks notice to process the application and issue the permit. Councillors questioned whether this could be reduced in exceptional circumstances and were advised that it may be possible to process the application form in a few days.

One Councillor stated that a collection period of a maximum of eight consecutive days may not be sufficient as it does not cover two consecutive weekends. It was noted that charities had been in favour of a shorter period of time than was previously allowed. It was suggested by Councillors that the maximum collection period should be ten consecutive days to allow charities to collect on two consecutive weekends.

RESOLVED:

That the Licensing and Regulation Committee agree with the proposed amendments to the Charitable Street Collections Guidance notes.

11 UPDATE ON SHARED SERVICES

Members of the Licensing and Regulation Committee were advised that the shared service review proposals were agreed by the Joint Committee. It was noted that the migration of the South Bucks District Council system to Chiltern District Council systems was nearly complete. The Joint Licensing Team would be in place from 1 March 2014. The Joint Appointments and Implementation Committee and the Personnel Committee would consider and approve changes to the structure of the team. Councillors extended their thanks to the Principal Environmental Protection Officer, Environmental Health Manager and Interim Licensing Officer for their work.

RESOLVED:

That the update on Shared Services be noted.

The meeting ended at 7.44 pm

**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE 13 February 2014**

Background Papers, if any, are specified at the end of the Report

MOBILE HOMES ACT 2013

Contact Officer: Louise Quinn 01494 732209 lquinn@chiltern.gov.uk

RECOMMENDATIONS

- To note the new local authority powers in the Mobile Homes Act 2013.
- To recommend to Full Council that the terms of reference of Licensing and Regulation Committee be amended to include the new functions introduced by the Mobile Homes Act
- To agree that a fee policy is considered and developed during 2014/2015 to take effect from 1 April 2015, but that no fees are to be charged for the year 2014/15.
- To recommend to Full Council that that the Scheme of Officer Delegations is amended to give authority to the Head of Health and Housing to exercise the functions introduced by the Mobile Homes Act 2013, including the preparation, adoption and publication of a fees policy.

Relationship to Council Objectives

Objective 1 – Efficient and effective customer focused services

Objective 2 – Safe, healthy and cohesive communities

Implications

(i) This matter is a key decision.

(ii) This matter is within the policy and budgetary framework.

Financial Implications

The Government's intention is that the cost of administering the licensing regime will be met from fee income. However, as the number of sites in the Chiltern District is small, any income from fees is also likely to be minimal and any additional workload is likely to be absorbed within existing resources.

Risk Implications

The 2013 Act imposes new duties and grants new powers to local authorities in respect of residential caravan site licensing. Failure to

adequately discharge these duties and powers may result in a legal challenge from mobile home site licence holders, residents or other aggrieved parties. Any fees policy should therefore be carefully developed having regard to guidance and the actual cost of administering licencing to reduce the risk of challenge or non-payment.

Equalities Implications

None

Sustainability Implications

None

Background

- 1 The Council has a statutory duty under the Caravan Sites and Control of Development Act 1960 to licence caravan sites (including mobile home parks) which have planning permission. There is no discretion to issue a licence where planning permission has been granted, but the Council is able to attach conditions to licences to ensure basic standards relating to the physical condition of the site including matters such as layout and the provision of services and equipment.
- 2 There are six licensed permanent multiple residential caravan sites (ie with more than one caravan) and 11 licensed permanent single residential sites in the Chiltern District. New applications are received infrequently – less than one application per year.
- 3 Whilst there is no statutory duty to regulate site licence conditions, the 1960 Act gives powers to take enforcement action where conditions are not complied with. The Council's Private Sector Housing Officer currently undertakes routine inspections of permanent multiple caravan sites to check compliance with licence conditions. Most sites are visited on a three to five yearly inspection programme.
- 4 The Mobile Homes Act 2013 received Royal Assent on 26th March 2013 and aims to improve standards in the industry, give greater protection to home owners and provide more effective enforcement action by local authorities regarding licence obligations. The 2013 Act amends the 1960 Act by introducing (amongst other matters) new provisions in relation to local authority powers with effect from 1st April 2014. These are:
 - Power to charge fees for new residential site licences, licence transfers and variations
 - Power to charge an annual fee to existing residential site licence holders
 - Power to refuse a licence (or to refuse to transfer a licence)
 - New enforcement powers to tackle breach of licence conditions including powers to serve and enforce 'compliance notices' and

undertake emergency works together with the power to recover expenses and costs relating thereto.

- Requirement to be the keeper of 'Site Rules' deposited with the authority by site operators and Registers.

5 The Act also gives the Secretary of State powers to make regulations requiring a site licence holder to be a 'fit and proper' person and for the local authority to keep a register of fit and proper persons. However, Regulations are not expected to be issued in this regard for at least three years.

6 Guidance is also awaited in respect of:

- a. setting licence fees,
- b. matters to have regard to when deciding whether to issue a licence and
- c. the details around depositing of site rules.

7 The 2013 Act has also introduced new laws to address malpractice across the park homes sector with the aim of raising standards in the industry. For example, it removes opportunities for site operators to block sales and requires them to agree new site rules with park home residents. Many of these provisions are now in force but do not affect local authority powers and duties.

Licence Fees

8 The 2013 Act requires that where a local authority intends to charge fees it must prepare and publish a fee policy, which can be revised from time to time. However, the guidance around the setting of fees is not expected until February 2014.

9 It is therefore proposed that no fees are charged in the first year 2014/15 and a fee policy is developed during the coming year to be implemented from April 2015. The reasons for this are:

- a. **Timeframe:** The timeframe between the availability of the guidance and the start of the financial year are too short to give full consideration to appropriate charges, leaving the authority at risk of challenge or non-payment. By delaying the introduction of fees for a year, will enable the Council to enter in to effective consultation with site owners and also assess the costs in exercising this licensing regime. National case law will also provide more clarity as to the appropriate fee charges to apply.
- b. **Numbers:** As there are few sites, the potential income is not significant. The application process will therefore need to be low cost and utilise the internet, and on line payment systems and a risk based inspection programme.
- c. **Shared Service:** Caravan site licensing will be dealt with by the new shared Chiltern and South Bucks licensing team. In the early part of 2014/15 resources will be focused on implementing the new service.

The processes and costs of administering caravan site licensing will need to reflect the resources available in the shared service.

Scheme of Delegation

- 10 The Scheme of Delegation will need to be amended to reflect the new powers in the 2013 Act, for example the powers to serve a Compliance Notice and powers to undertake emergency action. It is proposed that authority to exercise the Council's functions under the 2013 Act, including the preparation, adoption and publishing of a fees policy is delegated to the Head of Health and Housing.
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**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE (13TH FEBRUARY 2014)**

Background Papers, if any, are specified at the end of the Report

GAMBLING ACT 2005

Contact Officer: Ian Snudden 01494 732057

RECOMMENDATIONS

Members to note report for information.

Background

- 1 The Gambling Act 2005 (the "Act") introduced a licensing framework for gambling activities similar in many ways to the Licensing Act 2003. Any premise where gambling activities take place such as bingo halls, gaming arcades, betting shops, and pubs/clubs need to obtain permission prior to commencing the activities.
- 2 The Council is responsible for issuing premise licences, permits, and registrations, whilst, unlike the Licensing Act 2003, other types of licence covered by the Act, such as personal licences, and operator licences are issued by the Gambling Commission. Premises Licences for premises such as Betting Shops, and Adult Gaming Centres can only be issued once an Operator Licence from the Gambling Commission has been obtained. Providing all the relevant steps are fulfilled an application for a Premises Licence must be validated by the Licensing Authority.
- 3 When the Licensing Authority receives an application for a Premises Licence under the Gambling Act 2005 the documents can be viewed via the Public Access function on the Council's website. Members can register via the website to receive an automatic notification of all pending applications within their Ward.
- 4 In carrying out its functions under the Act the Council looks at a valid application, and considers it against the three licensing objectives (Preventing gambling being a source of or associated with crime and disorder; Ensuring that gambling is conducted in a fair and open way; and, Protecting children and other vulnerable persons from being harmed or exploited by gambling), and its own "Statement of Gambling Principles" in addition to any code of practice or guidance issued by the Gambling Commission. Where the application is considered not to uphold these items Officers may object to the application. In addition to the right of Officers to object, Responsible Authorities, Ward Members, and members of the public (subject to certain restrictions) may also object. Where this happens a hearing of the Licensing and Regulation Sub-Committee must be held. The Licensing and Regulation Sub-Committee may grant or refuse applications placed before them.
- 5 Unlike the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982 (which controls Sexual Entertainment Venues) it is not

Item 6

possible to refuse applications due to the potential cumulative impact on an area, or because it would not be suitable due to the character of the area.

- 6 If a Premises Licence application is successful it will be granted subject to specific mandatory and default conditions. All licence holders must continue to comply with them, and any “Code of Practice” for their particular activity (if one exists) throughout the currency of their licence.
- 7 An example of a restriction placed on a Premises Licence is a Betting Shop may only provide up to 4 gaming machines. Another example is an Adult Gaming Centre may only have 20% of the total number of machines on the site able to pay out the larger jackpots.
- 8 The Act also provides the Council, Gambling Commission and Police with a number of inspection powers, and a large number of offence provisions to help them ensure that gambling activities are conducted in accordance with the Act.
- 9 The following table contains just a few of the many offences contained in the Act that the Council, Gambling Commission, or Police are authorised to enforce:

Section	Offence
37	Using premises, or permitting them to be used for betting, gaming etc without the necessary permission
46	Inviting, causing or permitting a person under 18 to gamble (unless permitted under the Act)
47	Inviting, or permitting a child or young person to enter a casino, betting shop or adult gaming centre when facilities for gambling are being provided (unless otherwise permitted under the Act)
51-55	Employing a child or young person to provide facilities for gambling or to work in premises where facilities for gambling are provided (unless otherwise permitted under the Act)
328	Breaching advertising regulations

- 10 The combination of the above provides a very robust framework, and as a result the number of infringements found by Licensing Authorities is generally very small compared to the Licensing Act 2003. To illustrate this point, in the period since the Act came into force on the 1st September 2007 the Council has not received any complaints suggesting that gambling premises licensed within the district have caused problems within their immediate or extended vicinity.
- 11 The following table illustrates the current number of active permissions issued by the Council under the Gambling Act 2005:

Type	Number of issued licences/ permits or registrations
Adult Gaming Centre	1
Licensed Family Entertainment Centre (F.E.C)	0
Bingo	0
Betting Shop	7
Small Society Lottery	127
Unlicensed F.E.C	0
Pub Gaming Machines	46
Club Gaming Machines	6

Background papers: None

