

Crawley Borough Council

Licensing Committee

Agenda for the **Licensing Committee** which will be held in **Committee Room A & B - Town Hall**, on **5 November 2018 at 7.30 pm**

Nightline Telephone No. 07881 500 227



Head of Legal and Democratic Services

Membership:
Councillors

M W Pickett (Chair), M L Ayling (Vice-Chair), T G Belben, N J Boxall, B J Burgess, R S Fiveash, K L Jaggard, M G Jones, K McCarthy, C J Mullins, D M Peck, C Portal Castro, B J Quinn, R Sharma and J Tarrant

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The order of business may change at the Chair's discretion

Part A Business (Open to the Public)

	Pages
1. Apologies for Absence	
2. Disclosures of Interest	
In accordance with the Council's Code of Conduct, Councillors of the Council are reminded that it is a requirement to declare interests where appropriate.	
3. Minutes	3 - 6
To approve as a correct record the minutes of the Licensing Committee held on 11 June 2018.	
4. Review of the Statement of Licensing Policy Licensing Act 2003	7 - 10
To consider report HCS/08 of the Head of Community Services.	
5. Arrangements for the Licensing of Activities Involving Animals	11 - 16
To consider report HCS/07 of the Head of Community Services.	
6. Supplemental Agenda	
Any urgent item(s) complying with Section 100(B) of the Local Government Act 1972.	

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Crawley Borough Council

Minutes of Licensing Committee

Monday, 11 June 2018 at 7.30 pm

Councillors Present:

M W Pickett (Chair)

M L Ayling (Vice-Chair)

T G Belben, N J Boxall, B J Burgess, R S Fiveash, K L Jaggard, M G Jones, K McCarthy, C J Mullins, D M Peck, B J Quinn, R Sharma and J Tarrant

Also in Attendance:

Councillor P K Lamb, S Malik and G Thomas

Officers Present:

Tony Baldock Environmental Health Manager

Roger Brownings Democratic Services Officer

Astrid Williams Solicitor

Bill Nailen Senior Licensing Officer

Apologies for Absence:

Councillor C Portal Castro

1. Disclosures of Interest

No disclosures of interests were made.

2. Minutes

The minutes of the meeting of the Licensing Committee held on 30 October 2017 were approved as a correct record and signed by the Chair.

3. Review of Hackney Carriage and Private Hire Vehicle Livery Requirements

The Committee considered report PES/296 of the Head of Economic and Environmental Services. The purpose of the report was to appraise the Licensing Committee of a request from the local Hackney Carriage and Private Hire Trade to review the Council's current licensing policy concerning vehicle livery requirements especially the use of magnetic signs, and to seek the agreement of the Committee to undertake a consultation exercise on a potential change to existing policy.

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11 June 2018

A large number of people from the Hackney Carriage and Private Hire Vehicle trade attended the meeting, and were sat in the public gallery.

In referring the report to the Committee, the Chair reminded the gallery that at this stage the report was to agree to the Council's Licensing Team undertaking a consultation process on a possible amendment to the Council's policy to allow the use of magnetic signs on hackney carriages and private hire vehicles. The Chair emphasised that it would be as part of that consultation process that representations would be sought and considered. However, he indicated that if wishing to do so, he would give a limited number of trade representatives the opportunity to make their views known at this meeting. Although at this point a former taxi driver stood and abruptly protested about not being granted a taxi licence, the Chair explained to him that this was not the forum to consider such matters, and that it was a matter for the magistrates' court to consider.

The Committee considered the report in detail, and in response to issues raised, the Environmental Health Manager:

- Confirmed that in April this year a large number of private hire vehicles and a lesser number of hackney carriages had been broken into.
- Explained that although the responsibility for such criminal acts belonged to the Police, it was agreed with the Leader of the Council, the Cabinet Member, and the Police - at a recent meeting requested by representatives of the Private Hire and Hackney Carriage trades, that the Council's requirements relating to door signage in particular would be reviewed. At that meeting the trade representatives expressed its concerns that licensed vehicles were easier to identify, and thus might be more vulnerable to crime.
- Advised that the Police made a number of arrests following the meeting and the crime spree concerning licensed vehicles subsequently ceased.
- Explained that some flexibility had already been allowed at times when licenced vehicles were not working in regard to removing roof top boxes and covering door signs. Some drivers were not aware of this concession at the time of the recent vehicle break-ins.
- Confirmed that whilst magnetic door signs could be used in place of permanent door stickers, licensed vehicles would still need to have a permanently fixed licence plate.
- It was emphasised that the fixing of the licensing plate was considered a very important safeguard and it would not be appropriate to use a magnetic solution for this purpose.
- Advised that the consultation would be widespread and would include the public

The Committee generally indicated their support for the proposed consultation, whilst a good number of Members emphasised the importance of being able to properly regulate the trade with emphasis on public safety. Members felt that if approved, they, the trade and all stakeholders involved should be open minded in responding to the consultation, ensuring that where possible, risks were minimised. The drivers themselves perhaps needed to be more aware of the risks they could minimise as part of their working environment.

In seeking and receiving the permission of the Chair, the Leader of the Council also spoke on this matter. In so doing, and whilst acknowledging the need to regulate and maintain the safety of the public, he referred to the recent break-ins of licensed vehicles and suggested that the Council should take this opportunity to review the Council's current licensing policy - especially the use of magnetic signs on licensed vehicles, to ensure that those drivers could continue their livelihoods in safety. With

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Police resources stretched, he considered that the Council had a duty to assist, where possible, vehicle security and thus help the drivers of the trade.

At their request, the Chair then invited the Chair of the Private Hire Association and the Chair of the Hackney Carriage Association to speak to the meeting. Both representatives conveyed their strong opposition to the use of permanent signage on licenced vehicle doors, with each putting their case forward in seeking the Council's assistance to help secure their vehicles and to assist licensed drivers to maintain their livelihoods safely.

At this point, Councillor Malik indicated that he also wished to address the Committee. The Chair declined that request reminding that Councillor twice of the strong relationship / personal interests, he had with the trade. The Councillor was vocal in his displeasure with the Chair's response and stating that the report before the Members was misleading and then left the meeting abruptly. The majority of the trade representatives sitting in the public gallery also left.

With order restored, the Committee continued to consider the report.

RESOLVED UNANIMOUSLY

That the contents of report PES/296 be noted and that the Licensing Team undertake a consultation process on a possible amendment to the Council's policy to allow the use of magnetic signs on hackney carriages and private hire vehicles.

Closure of Meeting

With the business of the Licensing Committee concluded, the Chair declared the meeting closed at 8.16 pm

M W PICKETT
Chair

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Crawley Borough Council

Report to Licensing Committee

5th November 2018

Review of the Statement of Licensing Policy Licensing Act 2003

Report of the Head of Community Services – HCS/08

1. Purpose

- 1.1 To make Licensing Committee Members aware that the current Statement of Licensing Policy concerning the Licensing Act 2003 expires in 2018 and needs to be updated.
- 1.2 To make Licensing Committee Members aware it is necessary to conduct a consultation exercise when the policy is updated.
- 1.3 To make Licensing Committee Members summarily aware of added areas the policy will now cover.
- 1.4 To ensure the Licensing Committee is involved in the process as far as is possible as it may be beneficial to raise awareness in this group, and encourage good engagement from Members having specialist knowledge and experience. However, as a Policy Framework Document the adoption of the Policy as updated, must ultimately be considered by the OSC and agreed by the Cabinet for recommendation to the Full Council.

2. Recommendations

- 2.1 The Committee is asked to note the report, and provide any views it might have.

3. Reasons for the Recommendations

- 3.1 To agree and develop the proposed strategy to discharge the Council's role in its capacity of Licensing Authority for the 5 year period 2019 – 2024.
- 3.2 To ensure our policy and procedures are compliant with guidance regarding consultation good practice, and specific guidance issued under section 182 of the Licensing Act 2003.

4. Background

- 4.1 The current Licensing Policy was adopted in 2013. It is a legal requirement that the Council publish a policy and it is also an important document in regards to any legal challenge including licence reviews.

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- 4.2 The Act is presumptive in nature meaning that unless a reason exists why a licence should not be issued then the Council must issue upon an application being received. There are number of standard conditions that attach to all types of licences granting permission for the sale of alcohol such as a duty for the licence holder to provide free tap water and controls on the size of measures which must be offered. It is nevertheless not possible for the Council to impose non mandatory conditions in contrast to the Town and Country Planning Act 1990 unless agreed by the parties or by way of a hearing. The number of premises that are already licensed for the sale of alcohol in a location is also not a matter that can be considered when assessing an application unless the respective Licensing Authority has a Cumulative Impact Policy (CIP) in place. No CIP's currently exist in Crawley.
- 4.3 The authority to issue licences under the Act is delegated to the Head of Service. Where a review or hearing is required due to a representation having been made a Licensing Sub Committee consisting of three Councillors drawn from suitably trained Members of the main Licensing Committee is convened. The Licensing Act 2003 (Hearings) Regulations 2005 sets out statutory requirements on how these meetings shall be conducted. An applicant for a licence, objector to the grant of a licence or requestor of a review of a licence has a right of appeal against the Council's decision by way of a de novo hearing in the Magistrates' Court. To ensure members are suitably trained all new Councillors elected to the Licensing Committee receive instruction before being asked to participate in any proceedings. In recent times very few matters have needed to go to a Licensing Sub Committee for a decision. This is most likely due to the working relationship Licensing Officers have with our statutory partners such as the police enabling constructive dialogue between applicants and potential objectors.
- 4.4 Crawley Borough Council's policy includes a section on ABV strength of beers and ciders as a result of a project undertaken in conjunction with Crawley and Gatwick Business Watch showing the level of sales of such goods in the Town. This project also lead to the creation of a Know Your Strength scheme operated by local off licences. It is proposed that this is retained in the document and refreshed through another project on the same theme.
- 4.5 The policy sets out the way in which the Council deals with applications made under the Act, enforcement and how we will work with partner agencies to ensure the objectives of the said Act are promoted and upheld namely;
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 4.6 The Council also has an agreed protocol with Sussex Police on which organisation leads in which area of regulation which is referenced within the Policy. The Council's General Enforcement Policy is also of relevance in regards to legal proceedings and it would be necessary to consider this document also, in the event of any enforcement action.
- 4.7 The Act sets out that the Council as a Licensing Authority when creating or updating its policy it must consult as follows;
- a) The chief officer of police for the licensing authority's area,
 - b) The fire and rescue authority for that area,
 - c) Local Health Board for an area any part of which is in the licensing authority's area,
 - d) Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,

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- e) Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - f) Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - g) Such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- 4.8 In addition to the statutory partners covered above the following representative groups have also been consulted;
- Crawley and Gatwick Business Watch
 - London Gatwick Airport
 - British Beer and Pub Association
 - Residents via newspaper advert
 - Manor Royal BID
 - Sussex Enterprise
 - Gatwick Diamond Business Group
 - All Ward Members
 - Neighbouring Local Authorities
- 4.9 Due the numerous updates that have an impact on this area of law the policy will marginally increase in length by a few pages going up from 33 pages to 36 pages. The text has been kept as simple and concise as possible in redrafting the document to make it as easy to read and understandable as possible.

5. Description of Issue to be resolved

- 5.1 The Licensing Act 2003 (the Act) requires the Council to have a published policy. The Act principally deals with the licensing of premises who sell alcohol, provide regulated entertainment or late night refreshment.
- 5.2 The current policy covers the period 2015 – 2018 so it is necessary to produce an updated version for 2019 onwards.
- 5.3 Central Government has a statutory duty to issue guidance under sec. 182 of the Act outlining how Local Authorities shall apply and enforce controls in their area. The CBC policy follows this guidance closely. The CBC policy also has a section dealing with high strength beers and ciders, and how the Council will work to raise awareness with retailers to limit sales through cooperation.
- 5.4 The Council has a duty to consult with certain named persons/organisations who are considered representative of personal licence and premises licence holders. Historically we have contacted statutory partners and local organisations such as Crawley and Gatwick Business Watch and London Gatwick Airport. The responses to the consultation concerning the draft policy will be considered and the final policy will be amended if appropriate prior to a recommendation to full Council via Overview and Scrutiny Committee and Cabinet.
- 5.5 There have been a substantial number of changes to the law concerning this area of regulation since 2013 which now need to be included in the policy document namely;
- Licence reviews – Changes to expedited proceedings
 - Personal licences and the right to work – CBC now has to check if people have the right to work in the UK

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- Convictions – CBC can now revoke a personal licence if the holder commits a specified offence
 - Additional responsible authorities – CBC is now also a responsible authority in its own right as well as the Home Office
- 5.6 The policy has also been amended to include more local information concerning how the local Business Watch operates and CBC controls in regards to adult entertainment.

6. Information & Analysis Supporting Recommendation

- 6.1 The Council has a statutory duty to produce a Statement of Licencing Policy concerning the Licensing Act 2003 which must be updated at least every 5 years.
- 6.2 The Council is obliged to consult as widely as possible when updating its Statement of Licensing Policy as well as consulting key named stakeholders.
- 6.3 This matter is not Ward specific so all Elected Members have been consulted for their views.
- 6.4 Although the Council is obliged to consult and take account of the views of the respondents it is not legally bound to follow the suggestions.
- 6.5 The Consultation exercise is still in progress at present and it is not possible to update the Licensing Committee further on any responses at this time.

7. Implications

- 7.1 The Council acting as the Licensing Authority will now be able to revoke Personal Licences.
- 7.2 The Council acting as the Licensing Authority must ensure anybody issued with a Licence has a right to work in the United Kingdom.
- 7.3 There are no expected financial or staffing implications foreseen due to the updated Statement of Licensing policy.

8. Background Papers

[Updated Statement of Licensing Policy Licensing Act 2003](#)

[Section 182 Licensing Act 2003 Guidance](#)

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Crawley Borough Council

Report to Licensing Committee

5th November 2018

ARRANGEMENTS FOR THE LICENSING OF ACTIVITIES INVOLVING ANIMALS

Report of the Head of Community Services – HCS/07

1. Purpose

- 1.1 For Members to consider the new arrangements for the licensing of activities involving animals and approve the revised fee levels.

2. Recommendations

The Committee is asked to:

- 2.1 Agree the new arrangements for the licensing of activities involving animals.
2.2 Approve the implementation of revised fee levels

3. Reasons for the Recommendations

- 3.1 To ensure the Council complies with its statutory requirements and also recovers the costs of administration and enforcement of the regime without excessive cost to business.

4. Background

- 4.1 The Animal Welfare Act was brought into force in 2006, and until this point it has had a minimal impact on animal licensing other than influencing licence conditions. The legislation aims to ensure that animals are not mistreated, and statutory guidance made under the legislation introduced the 5 freedoms of animal welfare which are:-

- For a suitable environment (place to live)
- For a suitable diet
- To be housed with or apart from other animals
- To be protected from pain, suffering, injury and disease
- To exhibit normal behaviour patterns

- 4.2 The Animal Welfare Act 2006 is the enabling legislation for new regulations that cover the licensing of activities involving animals. New regulations, called the Animal Welfare (Licensing of Activities Involving Animals) Regulations (the regulations) were passed by Government in April 2018 and come into effect 1st October 2018.

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- 4.3 These regulations repeal and amend a raft of legislative provisions that currently govern the Council's licensing activities in relation to animal establishments, such as:-
- Animal Boarding Establishments Act 1963
 - Breeding of Dogs Act 1973
 - Breeding of Dogs Act 1991
 - Pet Animals Act 1951
 - Performing Animals (Regulation) Act 1925
 - Riding Establishments Act 1964 Etc.
 - (a full list can be found in Schedule 9 and 10 of the act.)
- 4.4 The new Regulations provide for licensing by the Council of the following five activities involving animals:
- Selling animals as pets.
 - Providing for or arranging for the provision of boarding for cats or dogs (includes boarding kennels or catteries, home boarding for dogs and day care for dogs).
 - Hiring out horses.
 - Dog breeding.
 - Keeping or training animals for exhibition (to be transferred from County Councils to District Councils).
- 4.5 Zoos' and 'Dangerous Wild Animal' establishments will continue to operate under their current respective licensing regimes.

Key Changes

- 4.6 All current licences will continue to be subject to the same restrictions until their relative expiry date. Other than current animal exhibition registrations, which will continue to be valid until 1 April 2019, and riding establishments which have unique expiry dates, all current licences affected are due to expire on 31 December 2018.
- 4.7 Licences will no longer be issued in accordance with the calendar year but will be issued for 12 months, or longer for a period up to 3 years.
- 4.8 A new risk rating system resulting in a 1-5 star score for the business will be implemented with businesses licence duration determined by the level of compliance and extent to which they meet or exceed the required standards. Each premises will require an inspection prior to determination of a new or renewal licence application.
- 4.9 Those carrying out inspections will be required to be suitably qualified. In addition inspections of new dog breeders will require a veterinarian to be present. Horse riding establishments will require a listed veterinarian to carry out an annual inspection.
- 4.10 Premises that meet higher standards (as defined within the statutory guidance), and are fully compliant, may be eligible for a licence to be granted for of up to a 3 year duration, which provides a financial incentive to attain higher standards.
- 4.11 There is an appeal process for aggrieved applicants to appeal against a star rating decision. A person can appeal against the risk level determination; the appeal must be heard by a party other than the inspecting officer who carried out the risk assessment.
- 4.12 Licence holders will be required to display their licence number on any of their websites.

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- 4.13 Businesses that fail to meet minimum standards in relation to animal welfare (as defined within the statutory guidance) will not be able to renew their licence. An operator who is aggrieved by the Council's decision to grant a licence can appeal to "The First Tier Tribunal" within 28 days.
- 4.14 Licensing Authorities are encouraged to publish a list of licensed business and star ratings on the Council's website.
- 4.15 All licences will be subject to new national standard conditions determined by the type of licensable activity. These will replace the Council's current licence conditions for any licence granted after 1st October 2018, including existing operators. For businesses providing multiple licensable activities, only one licence will be required.
- 4.16 The Council may suspend, vary or revoke a licence in the interests of protecting animal welfare by way of notice at anytime. The Council can consider representations from the licence holder submitted within 7 days. An operator who is aggrieved by the Council's decision following representation can appeal to "The First Tier Tribunal" within 28 days.

5. Description of Issue to be resolved

- 5.1 The law concerning Animal Welfare as enforced by local authorities has been modernised and previous legislation concerning this area has been repealed. It is necessary for the Council to update its procedures and also re licence all extant licensees to ensure it applies the new legal controls in compliance with the new regulatory regime.

6. Information & Analysis Supporting Recommendation

- 6.1 The cost of implementing and operating the new licence regime should be covered by income from animal establishment licensing fees. There may be more work than anticipated due to the unknown numbers of persons needing to be licensed for dog breeding in which case future fees may need adjustment to reflect this possibility.
- 6.2 Implementation of the new licensing regime is a statutory requirement and no other options are available

7. Implications

- 7.1 The new licensing regime will necessitate additional work by the Council and accordingly a new fee regime should be implemented to ensure the Council covers its costs.
- 7.2 Regulation 13 helpfully sets out what the Council may charge fees for, as follows:
- The costs of considering an application and associated inspections.
 - The reasonable anticipated costs associated with considering a licence holders compliance and associated additional inspections.
 - The reasonable anticipated costs of enforcement in relation to any licensable activity or an unlicensed operator.
 - The reasonable anticipated costs of providing statutory returns.
- 7.3 The licensing service has prepared a new fee schedule (as set out in Appendix A to this report), which reflects the Council's anticipated costs in relation to the matters set out in paragraph 7.2. In preparing this fee schedule the Licensing Service has

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had regard to “Open for business: LGA guidance on locally set licence fees” and “BEIS Guidance for Business on the Provision of Service Regulations”. It is intended that fee levels will be regularly reviewed to ensure that fees are kept to a minimum while ensuring Council costs are met. It is not proposed to change existing fees for Dangerous Wild Animal or Zoo licences. The fees have been set to share the costs of running the licence service across all the service users as opposed to splitting into licence types.

- 7.4 The legislation does not provide any statutory requirements in terms of consulting on or publishing new fee levels prior to their adoption. The terms of reference within the Licensing Committee’s constitution permit the committee to make decisions as to whether to charge fees in respect of the new licensing regime and determine what those fees will be.

Impact

- 7.5 The new licence conditions are largely reflective of the Council’s current standards and it is anticipated that most operators are unlikely to have significant difficulties with compliance. However, those that have not updated their facilities may find that the renewal of their licence is refused.
- 7.6 All existing licence holders have been contacted to notify them of these changes and information will be displayed on the web site.
- 7.7 The number of inspections carried out will increase as all premises will require an inspection prior to granting of a licence or renewal of a licence. The Council will have to train additional officers in order to carry out these inspections and consider the possibility of outsourcing some inspections to competent accredited individuals/bodies in order to meet demand.
- 7.8 In accordance with the Council’s constitution the Council officers have delegated responsibility to deal with issues of consents and undertake all aspects of enforcement action pursuant to the Council’s statutory functions relating to animal welfare. In addition environmental health, licensing officers and enforcement officers have delegated authority to carry out enforcement activity under the Animal Welfare Act 2006.
- 7.9 All forms and licence templates have been produced and are available on the Council’s web pages.

8.0 Background Papers

<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

AEL Licence Fee Setting Guidance November 2017

Report Author: Tony Baldock
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Licence Type	PART A Application Fee	PART B Grant of licence	Total fee	Re-inspection
Boarding for Cats and/or dogs (Kennels)	£172	£312	£484	£156
Home Boarding for Dogs	£172	£312	£484	£156
Dog Day Care	£172	£312	£484	£156
Breeding Dogs	£172	£312	£484	£156
Hiring out horses	£172	£312	£484	£156
Selling Animals as pets	£172	£312	£484	£156
Keeping or training animals for exhibition	£172	£312	£484	£156

Veterinary charges will be made where applicable. These costs will be met by the licence holder. The applicant will be re-charged the cost of such by the Authority

Supplementary licence action	Cost
Variation to licence	Price on Application
Transfer of licence	Price on Application
Appeals	Price on Application
Site Visit	Price on Application
Where more than one activity listed takes place, an additional fee will be levied	Price on Application

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