

Licensing Committee

Wednesday, 4th December, 2019
6.00pm

| Attendees | |
|----------------------------|--|
| Councillors: | David Willingham (Chair), Tim Harman, Diggory Seacome, Mike Collins, Dennis Parsons, Simon Wheeler and Bernard Fisher (Reserve) |
| Also in attendance: | Louis Krog (Licensing Team Leader), Jason Kirkwood (Senior Licensing Officer), Vikki Fennell (Legal Officer), Judith Baker (Minutes) |

Minutes

1. APOLOGIES

Councillor Whyborn, Councillor Boyes, Councillor McCloskey.

Councillor Fisher attended the meeting as a substitute for Councillor Whyborn

2. DECLARATIONS OF INTEREST

Councillor Dr Willingham and Councillor Fisher declared an interest in Item 8, as they sit on the Gloucestershire County Council Task and Finish Group. Their interest is not prejudicial.

3. PUBLIC QUESTIONS

There were none.

4. MINUTES OF THE LAST MEETING

Minutes of the Licensing Committee meeting, held on 4th September 2019 was approved and signed as a true record of the meetings.

5. MINUTES OF SUB-COMMITTEE MEETINGS

Minutes of:

- Licensing – miscellaneous sub-committee, 6th November 2019;
- Licensing – alcohol and gambling sub-committee, 7th November 2019

were approved and signed as a true record of the meeting.

6. CHAIRMAN'S ANNOUNCEMENTS

Before the start of the meeting, the Chairman made the following announcements:

- The achievements of the licensing team have recently been recognised: the licensing team as a whole has received an iESE certificate of excellence, awarded to any public sector body to mark significant

innovations in transforming local public services; and the licensing team leader was runner-up in the Institute of Licensing Jeremy Allen award, a national award for excellence in licensing;

- There have been five prosecutions for illegal plying for hire during race week in March this year. All drivers were fined and received at least six points on their licences; three further cases are going to trial early next year, and one has been dealt with by way of caution. He congratulated the licensing enforcement team for their hard work to achieve these outcomes.

The Licensing Team Leader thanked Sarah Hughes, licensing enforcement officer, for the enormous amount of work involved, including formal cautions and recorded interviews, resulting in 5 pleading guilty on the initial hearing and only three going to trial. In response to a Member's question, he confirmed that one driver was formally cautioned only, as for various circumstances, it was not in the public interest to go through to full trial.

7. REVOCATION OF STREET TRADING CONSENT

The Licensing Team Leader reminded Members that the miscellaneous licensing sub-committee granted consent in April for a fruit and vegetable stall in Cambray Place. The applicant never took up trading and has recently fallen behind on his licence fees. Officers have tried to engage with him but failed to get any response, and in the meantime he is blocking a trading location that could be used by others. Officers are asking the committee to revoke the licence to free the location for others to use. CBC has the power to revoke street trading consents at any time; this power has been delegated to licensing committee, and is not a decision for officers.

In response to a Member's question, the Licensing Team Leader confirmed that the amount currently owed is £336, and will accumulate. Action could be taken to recover the fees, but this will cost more than the amount owed; it will therefore be written off. He confirmed that the applicant was invited to attend tonight's meeting, and that while it is acceptable for Members to make a decision in his absence, they can defer if they prefer.

In the absence of any communication, correspondence or apologies, the Chairman was minded to proceed. Members had no further comments.

Vote on officer recommendation to revoke street trading consent of Mr Mohamed.

Unanimous

The consent is revoked

The Licensing Team Leader confirmed that if the applicant turned up tomorrow and started trading, enforcement action would be taken. He will receive the committee's decision tomorrow.

8. RESPONSE TO SEXUAL ENTERTAINMENT VENUE POLICY REVIEW

The Licensing Team Leader reminded Members that under the constitution of the Council, the licensing committee acts as lead consultee to the Cabinet Member for Development and Safety. A consultation on the revised sexual entertainment venue (SEV) policy has been launched, and Members are invited to feed in comments and put forward any recommendations to Cabinet. The substantial changes are listed in the report.

A Member said he could not see any reference in the report, but when licensing committee is required to review SEV policies through scrutiny sessions and interested parties are invited to address the committee, he would like legal representation to be present.

In response to Members' questions, the Licensing Team Leader confirmed that:

- once the consultation is complete, the report will go to Cabinet and then to full Council for debate in the new year;
- the 'relevant locality' will take in Bath Road from Vernon Place to Sandford Park entrance;
- the shaded area on the map is where policy designates SEVs to be appropriate;
- officers will look again at when and where fliers can be distributed, and make it clearer;
- proposed Condition 20 relates to the requirement for SEV premises to maintain a refusals log;
- under discretionary grounds, the authority can adopt a policy approach saying an 8.00pm start time is appropriate – to protect children and vulnerable people from harm from SEVs;

Members pointed out the following typographical errors:

- Page 49, line 7 – 'Town' means Cheltenham and refers to it ~~on~~ **in** its entirety;
- Page 44, line 11 – 'The authority recognises however that the Central Shopping Area offers a ~~more~~ **varied** unique situation...?';
- Page 44, para 12.3, where 'council' has been amended to 'authority', 'recognise' needs to be amended to 'recognises';
- The last paragraph on Page 47 is numbered '19. Specific Conditions', and the first paragraph at the top of Page 48 is numbered '19. Duration of Licence';
- No. 14 in the Purple Flag map is not listed underneath;
- Page 39, under No. 2 Definitions, '**The Authority means Cheltenham Borough Authority Council**'

A Member suggested that, given that paragraphs 12.4(c) and (d) state that licences could be refused in sensitive areas, and The Two Pigs has been granted a licence on several occasions despite being close to the children's

library, these paragraphs may need different phraseology as CBC could be going against its own policy if it grants a further licence at this location. Leaving the wording as 'sensitive areas', rather than specifying churches, schools, mosques etc., would be better.

In further response to Members' questions, the Licensing Team Leader stated that regarding distribution of flyers, which are currently distributed on free buses, this type of bus may not be allowed in future, potentially addressing concerns about flyer distribution, subject to conditions.

The Chairman raised the following points:

- Page 50, para. 18, '*no children/children and young adults*' would have higher impact than '*person under the age of 18*', and Challenge 25 rather than Challenge 21 should be adopted;
- Page 51, para. 30, needs to be updated to reflect modern availability of electronic communication identifiers, such as Facebook, Instagram and WhatsApp;
- Page 51, para.35, should also include reference to people who are victims of modern slavery/domestic abuse/human trafficking – the risks are similar to those highlighted by GRASAC, and access to information should be available to anyone at risk. Some authorities also give advice on contraception etc., though it is wrong to assume that SEV performers are involved in other activities. Members discussed the possibility of providing performers with leaflets, useful telephone numbers, details of organisations etc. – to be placed in the changing rooms, for example;
- regarding the community impact assessment, it is worth noting that our policy applies equally to performers of all genders, though is not sure how to phrase this; there are always a lot of objections to venues with female performers, but negligible objections to venues with male performers. The Licensing Team Leader confirmed that the impact assessment states that the council is non-discriminatory.

The Chairman concluded the discussion, saying that officers can take away factors about which Members are concerned, and think about how to re-write the report. There were no further comments from Members.

9. SAFEGUARDING - TAXIS AND PRIVATE HIRE

The Senior Licensing Officer introduced the item, following on from a discussion of the draft statutory guidance for the taxi and private hire industry at the September meeting, and inviting Members to consider the improvements and direction of travel of this work. He said a few things have crystallised since September, but the Department of Transport has not yet confirmed the implementation of the statutory guidance. He highlighted aspects of his report as follows:

- some of the actions laid out in the previous guidance have already moved on and been implemented, and some are ongoing, as explained after each action;
- some work may sit better in GCC's Taxi Licensing Task Group, such as flexible warranting under Action 2, which could be done through GCC or GLOG; this is a significant change;
- under Action 3, safeguarding training is being implemented – a few further tweaks are needed;
- having looked into the Disclosure and Barring Service, CBC does not have a legal obligation or duty to refer an individual to the DBS, but does have the power to do so – these are two different things. CBC will have to go through case by case process to make referral;
- CBC doesn't carry out a massive amount of enforcement action, but statutory guidance talks about reviewing work on a regular basis to pick up trends. CBC officers will therefore work on liaison with the trade, although there no easy answer. Officers have looked at advice from a representative body, but got nothing back;
- the information at Annex 2 regarding safety advice for taxi users will be posted on the website when complete;
- there are quite a lot of items and improvements referred to in statutory guidance which will be better dealt with by GCC, to produce something meaningful to help everyone;
- Level 2 considers changes to policy conditions, looking at the process re drivers and updating the service; there are slight differences in conviction policies across councils, and statutory guidance may carry out the work for us; a definitive version for all will follow;
- Improvements Action 4 deals with the CCTV issue, where it was clear last time that Members have concern. This could be brought about on a more consistent level nationally through the latest guidance – cases are going through now – but for the time being no requirements will be imposed on drivers and will follow in due course. It is incumbent on CBC to produce more guidance for drivers as there are a lot of them out there with no clue about their responsibilities.

The Chairman thanked the officer for his report, saying that safeguarding is an essential piece of work doing – really good place for starting the issues. In response to Members' questions, the Senior Licensing Officer made the following points:

- On the subject of flexible warranting – the variation of conditions between adjoining councils, and how to train and inform taxi drivers what it actually means and what their obligations are - at the recent race meeting, South Gloucestershire colleagues, including a full-time, permanent officer dedicated to taxis – joined Cheltenham officers for a night of enforcement. Whereas CBC officers cannot do anything about Tewkesbury vehicles in the Cheltenham borough, he could pull over any vehicle he wanted,

question the driver, who quickly understood and were compliant. It was useful to see how powerful that tool was;

- On the matter of CCTV, the member is correct that there are strong benefits, both for the passenger and the driver, but at the moment, CBC is not making it mandatory. It advises drivers with CCTV to make sure their systems are compliant with the law, as another potential big issue is that drivers have no understanding of privacy law. It can be a tool to protect them, but they need more advice about their responsibilities, and to be conscious of the threat of legal action if they are not using it correctly.

The Chair made the following minor suggestions:

- 'CSEA' in the introduction should be written out in full – 'child sexual exploitation and abuse';
- 'NR3' should be defined as the national register of refusals and revocations of taxi licences;
- A reverse contract should be included – how people are expected to consult themselves in taxis – drivers are as vulnerable as passengers, being lone workers and picking up strangers;
- A Christmas campaign, reminding people to be sure about the vehicle they are getting into, is worth doing pointing out.

A member asked that CSEA, GLOG and any other acronyms be written out in full when first mentioned. He also suggested that after Members have been required to undergo training before sitting on Licensing Committee, any refresher training should be mandatory rather than optional. The Senior Licensing Officer confirmed that this was flagged up because it is generally mentioned in statutory guidance, and there is inconsistency across councils. It needs to be mandated to allow Members to attend, though the Chairman pointed out that CBC is a member-led authority, unlike some others, and Members are involved in a lot of work and decision-making.

The Chairman confirmed that Members are happy to approve the report with the minor amendments mentioned.

10. NOMINATION OF ENTE CHAMPION FOR CHELTENHAM

The Licensing Team Leader said that the authority has recently adopted a strategy to manage Cheltenham's evening and night-time economy (ENTE), and that as part of this, there is an action is to appoint an ENTE champion, with sufficient political influence. This report is seeking a nomination and appointment. The role and responsibilities are set out in the report.

The Chair of Licensing was happy to put himself forward for this role, and was proposed and seconded by other Members. He suggested tying the role to the Chair or Vice-chair of licensing committee, to be reviewed annually or biennially. Other Members agreed that it was logical to attach the role to the post of Chair rather than to a specific person, and were happy to proceed on that basis.

11. REVIEW OF PREVIOUS DECISIONS

There were none.

12. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION

There were none.

13. OTHER MATTERS

The Licensing Team Leader reported a disproportionate number of issues in the town during the recent November race meeting, more in keeping with the March festival. Officers from South Gloucestershire and the police worked with CBC officers over the weekend, and issues included UBER vehicles operating in Cheltenham and absent or late door staff. Officers will be picking this up with various night clubs. There were no prosecutions but there were some particularly difficult issues, and South Gloucestershire officers will be back to help in March.

A member suggested that the officer introduction of agenda items adds nothing to the meeting and is pointless and time-consuming, if the assumption is that Members have read the papers and come prepared to the meeting. The Licensing Team Leader pointed out that tonight's meeting is unusual, in that no members of the public are present, but when they are, it cannot be assumed that they know or have read everything, and it seems odd to jump straight into the debate and decision. He conceded that for council business it could be appropriate to get straight down to business. The Chair made the point that the officer introduction is minuted, and that when anyone comes back to look at the minutes, the information is all recorded in one place. Other Members agreed that it should not be assumed that members of the public know what is going on, that the officer introduction is basically a brief introduction and reminder of what Members have read, and that they find it useful and a reasonable level of cover.

14. DATE OF NEXT MEETING

David Willingham
Chairman