

LICENSING COMMITTEE AGENDA



Wednesday 28th January 2015

at 10.00am

in Committee Room B,
Civic Centre, Hartlepool

MEMBERS: LICENSING COMMITTEE:

Councillors Ainslie, Beck, Cook, Dawkins, Fleet, Gibbon, Griffin, Hall, Hind, Jackson, Lilley and Morris

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
 - 3.1 To approve the minutes of the Licensing Sub-Committee meeting held on 6th November 2014
4. **ITEMS REQUIRING DECISION**
 - 4.1 House to House Collections – *Director of Public Health*
5. **ITEMS FOR INFORMATION**
 - 5.1 Minimum Unit Pricing of Alcohol – *Director of Public Health*
 - 5.2 Taxi Drivers – *Director of Public Health*
6. **ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**



LICENSING COMMITTEE

MINUTES AND DECISION RECORD

6th November 2014

The meeting commenced at 2.00pm in the Civic Centre, Hartlepool

Present:

Councillor: George Morris (In the Chair)

Councillors: Jim Ainslie, Paul Beck, Rob Cook, Keith Dawkins, Mary Fleet, Steve Gibbon, Sheila Griffin, Ged Hall, Tom Hind and Peter Jackson

Also Present: Councillor George Springer

Officers: Louise Wallace, Director of Public Health
Ian Harrison, Trading Standards and Licensing Manager
Dave Barnfather, Senior Licensing Enforcement Officer
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

Also present: Sergeant Paul Higgins and Inspector Carl Peter from Cleveland Police
Andrew Mills from the Town Pastors
Darab Rezai from Hartlepool Licensees Association

8. Apologies for Absence

None

9. Declarations of interest by Members

None

10. Confirmation of the minutes

The following minutes were confirmed:

- Licensing Sub-Committee – 7th July 2014
- Licensing Committee – 23rd July 2014 (subject to the amendment that Councillor Steve Gibbon was present)
- Licensing Sub-Committee – 5th August 2014
- Licensing Sub-Committee – 16th September 2014

A member queried when a report on drivers' dress code, as referred to at the 23rd July meeting, would be brought before the committee. The Chair confirmed it would be on the next agenda.

11. **Early Morning Alcohol Restriction Order / Late Night Levy** (*Director of Public Health*)

In 2012 members were advised that new powers had been made available to licensing authorities to assist with the management of the night time economy – the Early Morning Alcohol Restriction Order (EMRO) and the Late Night Levy (LNL)

Early Morning Alcohol Restriction Order (EMRO)

An EMRO allows the licensing authority to set a specific closing time for a designated area where crime and disorder is a serious issue. In 2012 members had asked officers to commence the formal adoption process requiring premises to close at 2am. However following representations from major national alcohol retailers and the local trade association members determined in 2013 that an EMRO should not be progressed and local businesses given until the end of 2014 to improve matters. 14 premises in the town centre were licensed to sell alcohol after 2am. Of these 4 were closed, 1 was a cinema and 1 a restaurant. Of the remaining 8 premises several chose to close at 2am voluntarily. Feedback from the trade was that business was considerably worse than it was several years ago and pre-loading was having a significant impact.

Representatives from Cleveland Police confirmed that the number of violent crime offences had reduced from 599 in 2005/06 to 198 in 2013/14. However it was thought that the downward trend might have levelled out as a slight increase was expected for 2014/15. There had been a number of significant incidents over the summer months, 8 of which had required hospital treatment and 1 of which had resulted in a fatality. Of these 8 incidents 6 had occurred after 2am, 2 after 4am. The conclusion was that although violent crime had reduced considerably what remained was taking place very late at night. Councillors raised the following queries:

- Did Police have a breakdown of areas where the incidents occurred? All had occurred in the cumulative impact area within the town centre. This did not include the Marina or Navigation Point. The figures for Navigation Point were estimated at less than 40 for the previous year. Officers highlighted that the premises on Navigation Point all closed at midnight.
- How many of the 198 incidents were classified serious? The Police did not have this information.
- Police were expecting a slight increase in the number of violent incidents this year. How much of this was due to the impact of the

austerity cuts? The Police representative was unable to say what impact the cuts had had but he acknowledged that late closing times meant it was more difficult to get officers out into the town due to the timings of shift handovers. Changes to working practices were being considered to alleviate these issues.

- What percentage of the problems were caused by people drinking outside the area? This could not be quantified but there was certainly a culture of pre-loading.
- Would the police welcome an EMRO? They had previously applied for an EMRO in 2012. However they were fully aware of the difficulties and complications associated with obtaining an EMRO so it was ultimately a decision for the local authority.
- Did officers feel that licensees had succeeded in 'putting their house in order' as previously requested? The Trading Standards and Licensing Manager felt that the figures spoke for themselves in terms of the reduction in violent incidents. Licensees would always take credit but it was impossible to say if this was the case. Nevertheless 198 incidents were still too many.
- Had consideration been given to training door supervisors in identifying potential disorder and victims thereof? The Trading Standards and Licensing Officer confirmed that discussions had already taken place regarding this.
- Were some of the incidents caused by sober people targeting those who had been drinking? The Police representative confirmed that the vast majority of incidents were the result of an altercation between people who had been drinking. Professional thieves did not tend to engage in violent crime.
- How many premises chose to close at 2am? This was impossible to quantify as premises tended to respond to demand at the time.

The Director of Public Health commented that an EMRO was 1 tool in a large arsenal that could be used to fight the complex alcohol issues in Hartlepool. The cost and availability of alcohol was also a factor. An EMRO alone would not solve all the problems.

Darab Rezai, Chair of the Hartlepool Licensees Association, indicated that their previous stance against an EMRO had been wrong as late night opening had resulted in a considerable drop in business. A meeting of the association was due to take place on 10th December and he confidently expected an EMRO to be supported. In terms of the number of violent incidents he said this should be looked at in tandem with the number of people who engaged positively with the night time economy. Officers were unable to give exact numbers with regard to footfall but there was no doubt that there were less people going out now than there had been in 2006.

Members discussed the issues at length. There was a general feeling that despite the reduction in the number of violent incidents there were still too many occurring. An EMRO would help the police and other emergency services who were already dealing with the negative impact of the austerity cuts. The Trading Standards and Licensing Manager agreed completely that a 2am closing time would be preferable but did not think that an EMRO was the way to do it. The National Association of Licensed Multiple Retailers had publically stated that they would take any local authority that attempted to introduce an EMRO to judicial review whether or not any of their premises were directly affected. If there had been a significant increase in crime or disorder then there might be stronger grounds for such an attempt to be made but the opposite was true. There was some concern that all the implications on people and resources were being dismissed due to the threat of judicial review however others felt that pursuing an EMRO would be a waste of time and a considerable risk to the Council. Only a handful of licences were able to open past 2am so an EMRO would seem to be a heavy handed approach.

Members felt that no further action should be taken in respect of an EMRO.

Late Night Levy (LNL)

A Late Night Levy permits a licensing authority to make an additional financial charge against all alcohol licensed premises open beyond designated time. The additional charge is based on the rateable value of each premises and is divided between the licensing authority and police. If an LNL was imposed on all premises open after 2am in Hartlepool the maximum annual income which could be generated was £10,500. However affected premises could choose to amend their licensed hours meaning this could drop to as low as £7,000. The administrative cost to the authority would be high and might initially outweigh the income generated by it. Members had previously dismissed the LNL in favour of an EMRO.

Members felt that further investigations should be undertaken into the feasibility of adopting an LNL.

Decision

1. That the report be noted
2. That no further investigation into the adoption of an EMRO be undertaken at this time

That further investigations be undertaken into the feasibility of adopting a Late Night Levy

12. Minimum Unit Price of Alcohol *(Director of Public Health)*

At Council in August 2014 a motion had been passed to refer consideration of minimum unit pricing for alcohol be referred to the Licensing Committee. Several countries had already introduced a minimum unit price and in 2012 the coalition Government had signalled their intent to introduce a minimum unit price of 40p. However following consultation they had decided against this in favour of the addition of a mandatory condition onto premises licences preventing alcohol being sold below the cost of duty and VAT. A number of local authorities had explored the potential for the adoption of a local by-law however the Council's solicitor had advised that there was no legal framework upon which to found such a bye-law and this was therefore not an option. However a reference to minimum unit pricing could be included in the Council's licensing policy. While this would not be legally binding it would highlight the Council's commitment to reducing alcohol harm and any licensing applicants would be expected to have regard to it when making an application. The Council's licensing policy was due for renewal in January 2016 at which time, and depending on the consultation results, minimum unit pricing could be included.

Members discussed the issues at length. The general consensus was that if they were determined enough drinkers would get access to alcohol regardless of how high the cost was. Minimum unit pricing would just be an arbitrary tax, penalise the less well off and have no real impact on the wider issues around alcohol addiction. The Director of Public Health acknowledged that minimum unit pricing was just one weapon in an arsenal that could be used. Alcohol abuse was a key priority for the department but there were other ways to make a difference including treatment services and partnership working. Members noted how much easier it was for drug addicts to receive treatment than it was for alcoholics. Members asked that minimum unit pricing be referred to the Health and Wellbeing Board for further discussion and that it be included in the drafting of the next licensing policy. Members queried which committee would ultimately decide whether to approve minimum unit pricing should that option ever be available to them. The Trading Standards and Licensing Manager advised that this would ultimately be a decision for full Council.

Decision

1. That the report be noted
2. That the principle of a minimum unit price of alcohol be included in the drafting of Hartlepool's next licensing policy to be consulted upon in 2015 and published in January 2016

That minimum unit pricing for alcohol be referred to the Health and Wellbeing Board as part of the broader public health agenda.

The meeting concluded at 15:50 pm

CHAIR

LICENSING COMMITTEE

28th January 2015



Report of: Director of Public Health

Subject: HOUSE TO HOUSE COLLECTIONS

1. PURPOSE OF REPORT

1.1 To seek the views of Members on issues surrounding the consideration of applications for House to House Collection licences.

2. BACKGROUND

2.1 By virtue of the House to House Collections Act 1939 and the House to House Regulations 1947 anyone wishing to carry out a house to house collection for charitable purposes must first obtain a licence from the local authority.

2.2 House to house collections regularly take place in Hartlepool and typically involve the unsolicited delivery of plastic bags to local residents asking for donations of clothing and other items such as books, shoes or anything of value in order to benefit a good cause or charity.

2.3 Residents are asked to leave bags of donations on the street or doorstep which are then collected and transported to regional centres where they are sorted and sold for a profit.

2.4 If the charity has engaged a commercial collection company the costs of the collection will be recovered from the proceeds and the remainder will be regarded as 'profit'. If collection costs are high, the amount of profit will be low. The profit, or sometimes a proportion of the profit, is then donated to the good cause.

2.5 A House to House Collection licence must be granted by a licensing authority unless it believes there are grounds to refuse it. The grounds for refusal are as follows: -

- i. That the total amount likely to be applied to the charitable purpose as a result of the collection is inadequate in proportion to the value of proceeds likely to be received

- ii. That remuneration that will be retained or received is excessive
 - iii. That granting the licence would facilitate the commission of an offence under the Vagrancy Act
 - iv. That the applicant is unfit due to previous criminal convictions
 - v. That the applicant has failed to ensure that the persons conducting the collection are fit and proper
 - vi. That the applicant has failed to supply the local authority with relevant information
- 2.6 In April 2011, following a significant increase in the number of collections being requested and, in some instances, the very low amount of benefit that was being received by the good causes being 'promoted', the issue of house to house collections was considered by the Licensing Committee.
- 2.7 The Committee determined to introduce a policy that states that for an application to be approved, the applicant must be able to demonstrate that either: -
- i. A minimum of 75% of the proceeds (not the profits) of the collection are donated to the good cause, or
 - ii. That, where the percentage is less than 75%, the collection bag or collection leaflet clearly and prominently states the percentage that will be donated.
- 2.8 The purpose of this report is to consider the potential consequences of the current policy on legitimate charities that rely heavily on house to house collections as a means of generating income.

3. DETAILS

- 3.1 An application for a House to House Collection licence has been received by The Great North Air Ambulance Service Trading Company Ltd which is a wholly owned subsidiary of The Great North Air Ambulance which is a registered charity.
- 3.2 The company's business involves the recycling of clothing and a variety of other types of goods. All profits from the operation of this business are donated to The Great North Air Ambulance charity.
- 3.3 As part of their application for a licence, the trading company has provided accounts which details their turnover and the value of donations made to the charity.
- 3.4 An examination of these accounts demonstrates that the percentage of proceeds donated to the charity falls far below the 75% currently required by the Council's policy.
- 3.5 As the company has not been able to meet the requirement as detailed in para 2.7 i) above, the company may still be granted a licence if they can

meet the requirement detailed in para 2.7 ii) i.e. they will detail the true percentage of proceeds donated on the collection bag or leaflet.

- 3.6 The company has stated that such a requirement is onerous for businesses that operate across many local authority boundaries and therefore it is a requirement that cannot be practically or economically be met.
- 3.7 As a consequence of the above, and in compliance with the Council's current policy, the application for a House to House Collection licence on behalf of The Great North Air Ambulance will be refused.
- 3.8 This report is not intended to ask Members to approve or refuse the application from The Great North Air Ambulance specifically but rather to re-consider the current policy in the light of its impact on what would be considered to be a genuine 'good cause'.
- 3.9 Information provided by the National Association of Licensing and Enforcement Officers states that published accounts from collectors across the country indicate that a typical percentage of proceeds donated to good causes is around 20%.
- 3.10 Whilst Hartlepool's current policy requires a minimum of 75%, it must be remembered that applicants can still have their applications approved if they are willing to provide potential donors with details about the true percentage of proceeds to be donated.
- 3.11 It may be considered that this policy introduces transparency into the house to house collection business as it requires collectors to explain how much of the value of goods collected will be donated to the good cause.
- 3.12 Since Hartlepool adopted its current policy in 2011 the number of House to House applications being granted has fallen considerably. It could be argued that this has reduced the amounts being raised for good causes, or, alternatively, that the same level of donations are being made but to more efficient collectors.

4. SECTION 17

- 4.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as 'Section 17'.
- 4.2 There are no Section 17 issues associated with this matter.

5. RECOMMENDATIONS

- 5.1 That Members note the contents of this report.

- 5.2 That Members consider whether the current House to House Collections policy should be amended.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The current House to House Collections policy introduces transparency into the house to house collection business as it requires collectors to explain how much of the value of goods collected will be donated to the good cause.
- 6.2 An unintended consequence of the current policy has been to reduce the number of collections taking place. It could be argued that this has reduced the amounts being raised for good causes, or, alternatively, that the same level of donations are being made but to more efficient collectors.

7. BACKGROUND PAPERS

- 7.1 Licensing Committee report and minutes – 13th April 2011

8. CONTACT OFFICER

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LICENSING COMMITTEE

28th January 2015



Report of: Director of Public Health

Subject: MINIMUM UNIT PRICING OF ALCOHOL

1. PURPOSE OF REPORT

1.1 To update Members on the issue of minimum unit pricing of alcohol.

2. BACKGROUND

2.1 At a meeting of the Licensing Committee on 6th November 2014 Members were advised that there was no legal foundation upon which a locally sponsored by-law could be introduced to impose a minimum unit price for alcohol.

2.2 The Committee agreed that minimum unit pricing should be included in a consultation of the Council's draft licensing policy which will be drafted during 2015 whilst accepting that inclusion in the licensing policy did not create a legally binding obligation on alcohol retailers to sell alcohol at any particular price.

2.3 The Committee also proposed that any further discussions surrounding minimum unit pricing would be best considered by the Health and Wellbeing Board as part of the broader alcohol agenda.

3. DETAILS

3.1 The Licensing Committee's proposals were fed back to full Council at its meeting in December 2014 where it was agreed that minimum unit pricing should be referred to the Health and Wellbeing Board.

3.2 During the Council meeting a Member stated that by-laws were still being investigated by Manchester City Council's Licensing Committee and asked that a dialogue be opened with them.

3.3 Subsequent investigations have confirmed that the issue of minimum unit pricing is indeed being contemplated by a number of Councils in the North

West of England (and others) but this is being done by their respective Health and Wellbeing Boards and not by Licensing Committees.

- 3.3 As full Council has agreed to the issue of minimum unit pricing being passed to the Health & Wellbeing Board it is proposed that no further action is required by the Licensing Committee.

4. SECTION 17

- 4.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as ‘Section 17’.
- 4.2 It is not anticipated that the subject of this report will have any impact on the Council’s section 17 responsibilities.

5. RECOMMENDATIONS

- 5.1 That Members note the contents of this report.

6. REASONS FOR RECOMMENDATIONS

- 6.1 As full Council has agreed to the issue being passed to Health & Wellbeing Board it is proposed that no further action is required by the Licensing Committee.

7. BACKGROUND PAPERS

- 7.1 Licensing Committee report and minutes 6th November 2014

8. CONTACT OFFICER

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LICENSING COMMITTEE

28th January 2015



Report of: Director of Public Health

Subject: TAXI DRIVERS

1. PURPOSE OF REPORT

1.1 To update Members on the options available to licensing authorities to regulate the standard of appearance of taxi drivers.

2. BACKGROUND

2.1 At the Licensing Committee meeting in July 2014 a question was asked about what could be done to regulate the standard of dress of taxi drivers.

2.2 Hartlepool Borough Council is the licensing authority for hackney carriage and private hire drivers and the licensing of taxi drivers is regulated by virtue of the Town Police Clauses Act 1847 (and associated by laws) and the Local Government (Miscellaneous Provisions) Act 1976.

2.3 All hackney carriage and private hire drivers must be licensed by Hartlepool Borough Council and, in addition to the laws detailed above, the Council has a licensing policy that details additional duties and obligations that are placed on licensed drivers.

3. DETAILS

3.1 Whilst the Council has a licensing policy, it must be written in compliance with legislation and subsequent case law.

3.2 The licensing of Hackney Carriage drivers is largely regulated through the Town and Police Clauses Act 1847 (and associated by-laws) whilst private hire driving is regulated by the Local Government (Miscellaneous Provisions) Act 1976.

3.3 Due to this difference in applicable legislation the regulatory regime for the two licences differs.

- 3.4 For private hire drivers, the law permits licensing authorities to attach conditions to licences that cover anything that is considered appropriate. Failure to comply with such a condition may result in suspension of a licence but is not a criminal offence.
- 3.5 Hartlepool's taxi licensing policy contains a condition that private hire drivers shall 'Have a good standard of personal hygiene and be reasonably dressed in appropriate clean clothing'.
- 3.6 For hackney carriage drivers, licensing authorities are restricted to what is permitted by the Town Police Clauses Act and by local by-laws.
- 3.7 The Town Police Clauses Act does not permit the attachment of conditions to a hackney carriage driver's licence. The only method available for conditions to be added is through local by-laws.
- 3.8 In 1977 Hartlepool Council adopted by-laws for hackney carriage drivers but these do not make any reference to a driver's standard of dress or appearance.
- 3.9 Whilst there are no enforceable conditions which can be used against a poorly dressed hackney carriage driver, licensing officers can, and have, spoken to drivers whose appearance has been considered unacceptable. In most cases drivers have responded positively to constructive advice.
- 3.10 Due to the time and cost associated with the adoption of a new by-law it would not be considered to be an appropriate response to this particular issue in isolation.

4. SECTION 17

- 4.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as 'Section 17'.
- 4.2 It is not anticipated that the subject of this report will have any impact on the Council's section 17 responsibilities.

5. RECOMMENDATIONS

- 5.1 That Members note the contents of this report.

6. REASONS FOR RECOMMENDATIONS

- 6.1 In the absence of any further proportionate legal remedies available to the Council on this matter no further action is recommended.

7. BACKGROUND PAPERS

7.1 There are no background papers to this report.

8. CONTACT OFFICER

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