

LICENSING COMMITTEE

Date: 5 July 2017

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 7.30 pm

Present: Councillors:- **Glenvil Greenwood-Smith (Chairman)**
Barbara Jenney (Vice-Chairman)

Tony Boto	Andy Mercer
Richard Gell	Gill Mercer
Helen Howell	Geoff Shacklock
Dorothy Maxwell	Pam Whiting

61. CHAIRMAN'S ANNOUNCEMENTS

The Chairman paid tribute to Honorary Alderman Albert Campbell who had died recently. Former Councillor Campbell had been Chairman of the Council's Licensing Committee between 2005 and 2010 and Councillor Greenwood-Smith stated that he had been afforded the privilege of seconding the motion appointing former Councillor Campbell as an Honorary Alderman in 2016.

The Chairman reminded Members that training on licensing matters for members of the Committee would take place on 19 July and he hoped that all Members would be able to attend.

62. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Steven North and Peter Wathen.

63. MINUTES

The minutes of the meeting held on 27 April 2017 were approved and signed by the Chairman as a correct record.

64. DECLARATIONS OF INTEREST

No declarations of interest were made.

65. QUESTIONS BY MEMBERS UNDER COUNCIL PROCEDURE RULE 10.3

Councillor Dorothy Maxwell asked the following questions under Procedure Rule 10.3.

Section 136 of the Licensing Act 2003 136 Unauthorised Licensable activities.

1. Why has ENDC decided to introduce a Policy of Education in relation to section 98(2) to (4)?

The Chairman gave the following reply:

*In April 2014, the Department for Business Innovation & Skills issued the Regulators' Code under the Legislative and Regulatory Reform Act, 2006 (the Act). This Act required all regulators, of which East Northamptonshire Council (ENC) is one, to have due regard to the Code when developing its regulatory policies and procedures. One key requirement is that **regulators should avoid unnecessary regulatory burdens** on business, and should consider whether business compliance and development can be achieved by **less burdensome means**." The Code goes on to require, that except in cases requiring immediate enforcement action to prevent or respond to serious or repeated breaches, "**regulators should clearly explain what the non-compliant activity is**" and offer support and guidance to mitigate the breach.*

The requirements of this Code, including the one cited above, have been adopted by ENC, including in the current Environmental Services Enforcement Policy Statement dated July 2016.

*Although ENC does not have a specific "**Policy of Education**", it does have a legal requirement to consider advice and guidance to businesses before it embarks on strict and proportionate enforcement. Failure to do so, unless justified is an offence under the Act. However, should a business continue to flaunt the advice and repeat offending, ENC will take the necessary, appropriate and proportionate enforcement action to address the issues present.*

2. How are businesses who offer, quote, 'a choice of refreshing drink's whilst soaking your feet' not to be subject to a fine in accordance with the Licensable Act 203 136 Section 98(2) to (4)?

The Chairman gave the following reply:

Businesses that do offer an alcoholic drink as part of their trade, even if it is supplementary to the main trade of the business, and irrespective as to whether there is a charge for the alcoholic drink or not, are subject to the various requirements of the Licensing Act, 2003. However, with due deference to the requirements of the Regulators' Code and our own Enforcement Policy, the business will initially be advised of their need to comply with the law, or should they choose to cease the practice, be advised of the need for a licence should they wish to recommence the practice. As mentioned previously, should a business decide to ignore the advice and continue to provide licensable drink, appropriate and proportionate enforcement action will be considered.

Businesses providing non-licensable drinks are exempt from this requirement.

3. If ENDC has decided on education for unauthorised licensable activities- will ALL businesses be informed of Section 136 so that they cannot plead ignorance when in breach of the law?

The Chairman gave the following reply:

Please refer to the obligations referred to in the answer to question 1.

ENC treats all businesses, partners and other agencies equally, and strive to work with businesses by providing them with the information and support to allow them to develop and grow in a legally compliant manner. Where breaches of the law are found, subject to the severity and risks posed by those breaches, ENC will continue to work to bring about legal compliance in accordance with the requirements imposed on us. However, should the breach be sufficiently serious or repeated, enforcement action will be considered against any business, irrespective of type.

Councillor Maxwell asked the following supplementary questions:

- i) When the policy on education was taken in 2016, did the Committee Members know?

The Chairman indicated that he would provide a written reply.

- ii) Given that businesses may be flouting the rules; will we be advertising the policy?

The Chairman indicated that he would provide a written reply.

- iii) Will we advertise in the press the Section 136 provisions?

The Chairman indicated that this question had already been answered in the reply given earlier to question 3.

66. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be excluded from the meeting during consideration of the following item of business because exempt information, as defined under paragraphs 1 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 may be disclosed.

67. LICENSING ACTIVITY UPDATE

The Health Protection Manager presented a report outlining developments under the Licensing Act 2003 and other licensing associated legislation, and the licensing activity undertaken by East Northamptonshire District Council and the Central Licensing Administration Unit since the previous Licensing Committee Meeting in April 2017.

Since the last meeting, there had been no new legislation published affecting the licensing industry. However, there had been a number of significant changes to the interpretation of the law due to the publication of new or revised official guidance. The revised Section 182 guidance had been published and circulated to members of the Committee; the House of Lords Select Committee had published its report on the Licensing Act 2003 and changes to the interpretation of the law had occurred.

In response to Members' queries, it was confirmed that the only visits to premises undertaken with other Agencies were the test purchases at gambling premises exercise to be discussed later in the meeting. A guidance note on bingo activities permitted at various types of premises would be provided to Members after the meeting.

RESOLVED:

That the licensing activity and update report be noted.

68. HOUSE OF LORDS SELECT COMMITTEE REPORT ON THE LICENSING ACT 2003

The Licensing Enforcement Officer presented a verbal update on the procedure and outcome of the report and highlighted a number of the 73 recommendations contained in the report. Some of the recommendations were considered to be contentious and might not be implemented.

69. GAMBLING COMMISSION TEST PURCHASE EXERCISE FEEDBACK

The Licensing Enforcement Officer presented a verbal report on the test purchases carried out with the Police and representatives of the Gambling Commission. Five premises in the District had been visited with underage volunteers attempting the test purchases. The volunteers had been ejected from each of the premises quickly and each of the five premises had passed the exercise and this outcome was welcomed by the Committee.

70. VARIATION OF AGENDA

With the consent of the Committee, the Chairman varied the order of the published Agenda.

71. SECTION 182 GUIDANCE CHANGES

The Licensing Enforcement Officer referred to a Member Briefing dated 28 June 2017 and the revised Section 182 Guidance issued to Members of the Committee setting out amendments arising from the Immigration Act 2016 and the Policing and Crime Act 2017.

The Committee considered the need for Immigration Service involvement in Licensing Panel Hearings where a licence review had been requested in order that the Panel could properly review the evidence presented by the Service. The position would be monitored for the time being and the Committee expressed the view that representations should be made if necessary to local MPs regarding this with a view to the matter being pursued with the Home Office.

72. REVIEW OF RECENT LICENSING PANEL CASES

The Committee received a report on the outcome of a recent Licensing (Taxi and Miscellaneous) Panel Hearing.

Chairman