

**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 30 JANUARY 2023 FROM 7.00 PM TO 8.40 PM**

Committee Members Present

Councillors: Beth Rowland (Chair), Sarah Kerr (Vice-Chair), Peter Dennis, Mike Smith, Alistair Neal, Morag Malvern, Rachel Burgess, Bill Soane, Michael Firmager, Jackie Rance and Abdul Loyes

Officers Present

Luciane Bowker, Democratic & Electoral Services Specialist
Keiran Hinchliffe, Service Manager for Licensing and Processing
Ed Shaylor, Head of Enforcement and Safety
Neil Allen, Legal Advisor

18. APOLOGIES

Apologies for absence were submitted from Councillors Chris Bowring and Shahid Younis.

19. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 19 October 2022 were confirmed as a correct record and signed by the Chair.

20. DECLARATION OF INTEREST

There were no declarations of interest.

21. PUBLIC QUESTION TIME

There were no public questions.

22. MEMBER QUESTION TIME

There were no Member questions.

23. FEES AND CHARGES FOR LICENSABLE ACTIVITY 2023/24

Ed Shaylor, Head of Enforcement and Safety presented the Fees and Charges for Licensable Activity 2023/24 report which was set out in agenda pages 11-28.

The report contained answers to questions raised at the previous meeting. In particular, the report gave more detail on discretionary fees, which the Council had the power to set - statutory fees were set by central government.

The recommendation was to increase the fees by approximately 10%, by increasing the hourly rate from £59 to £65. Officers had estimated how many hours it took to process an application and manage the licensing regime, this hourly rate was used to calculate the cost of a licence. The detail was in Appendix A.

The Committee had previously asked for a breakdown on the Service's budget costs, this was included in Appendix B and it included salary, non-salary costs and central re-charges. It was pointed out that Trading Standards was a service which Wokingham outsourced from the PPP and had to be paid for, and this was included in the non-salary costs.

Appendix C included a breakdown of the hourly rate calculation, and Appendix D included examples of cost calculations. Appendix E included a benchmarking exercise.

During the discussion of the item the following comments and queries were raised:

- Councillor Dennis asked for more information in relation to the fees for metal recycling and dog fouling. He also asked for more information about the deficit;
- Ed Shaylor explained that:
 - Dog fouling was under the Dog Warden Services (even though this was technically a penalty). The question of why this had increased by 7% when everything else had increased by nearly 10% had been raised prior to the meeting. He proposed that this fee be increased to the default £100;
 - The Scrap Metal – change of site manager had reduced because the current fee was an anomaly, not in line with the hourly rate. The proposed fee, although lower, was not significantly lower and it would bring the fee in line with the hourly rate;
 - One of the reasons for the deficit was that the statutory fees did not go up very often. For example, the alcohol fee had not been increased since 2005 and these applications, which were many, were processed at a loss. It would not be fair to make discretionary fees applicants subsidise statutory licences.
- In relation to market trading, Councillor Dennis asked if it was the Parish Council that held the licence or the trader;
- Keiran Hinchcliffe, Service Manager for Licensing and Processing explained that there was a mix of arrangements. A Parish Council could have a trading licence, manage the pitches to traders, and pay the licence to the local authority. But there were also independent traders that held their own licences;
- Councillor Smith noted that 38% of the income was from discretionary fees and 62% was from statutory fees. He asked if there was any loss of business as a result of pubs closing;
- Keiran Hinchcliffe was of the opinion that closures would have had an impact, and he offered to run a report if required by the Committee;
- Councillor Loyes noticed that there was a big difference in the increase of the fees for new caravan sites and the other licences for caravan sites and asked for an explanation;
- Ed Shaylor explained that this was a fee for new caravan sites, plus the fee per pitch was £16, the existing caravan sites paid £14 per pitch as an annual fee;
- Councillor Kerr made reference to paragraph 12, page 13 of the agenda, and asked for further explanation on the safeguarding risks relating to reducing capacity in the service;
- Ed Shaylor explained that if, hypothetically, a decision was made to reduce capacity in order to balance the budget without increasing fees, compliance checks would not be undertaken. The service would have to delete the two licensing posts. The local authority had a statutory duty to process applications, so processing officers would be retained in such a scenario;
- In terms of enforcement, Keiran Hinchcliffe informed that internal audits had been carried out on current licences and risks had been found. For example, Officers had checked all the data available on taxi drivers, and as a result two taxi drivers had had their licences revoked immediately under Officer delegated authority. Officers had carried out inspections with the police on Pubs Watches and taken part on prosecution of licensing offenses. Should officer capacity be reduced, this work would not be carried out, consequently increasing public safety risk;
- Ed Shaylor added that work was also undertaken in relation to unlicensed people and premises;

- The Chairman confirmed that as a result of this audit and enforcement work, a number of appeals had been received and various Sub-Committees had been convened to determine the outcome of those licences. She believed that it was important to continue this work for the purpose of keeping the public safe;
- In response to a question Ed Shaylor confirmed that the checks were being carried out for all licence holders, not just taxi drivers. It included street trading, animal boarding, and others;
- There was general consensus that this work should be carried out, Members asked that once the audit was completed, the Committee would like to receive a report outlining its findings;
- Councillor Soane noted that there were a number of licences that required follow up checks. He asked if this additional work was considered in the costings of such licences and wondered if there were some inconsistencies in the pricings;
- Ed Shaylor informed that the service charged 23 hours per street trading consent annual fee, 3 hours for an individual skin piercing person and 5 hours for a premise, so 8 hours altogether for a licence for skin treatments. Keiran Hinchcliffe agreed to review this for the next year;
- In response to a question Ed Shaylor informed that the Council did not charge for food hygiene inspections as this was a statutory requirement. Food establishments operated under a different regime, under the Food Standards Agency;
- Ed Shaylor informed that there was a peculiarity in relation to skin treatments, in that if the Council wanted to enforce hygiene standards, it had to have bylaws in place. This was something that was being currently reviewed with the Legal team;
- The service would also undertake a review of animal boarding licence fees, as these type of licences could take a lot of Officer time;
- Councillor Neil noted that the market licence fee for the town market was the same as the licence fee for a sole trader and wondered if this was fair;
- Keiran Hinchcliffe stated that he was discussing this issue with other Officers, and it seemed that the Town Council had a historical permit for the use of that land, which in recent years had moved to a street trading authorisation. It was a different licensing model;
- Ed Shaylor pointed out that street traders did not have to pay for premises costs;
- Councillor Firmager asked if market traders paid a licence fee to the Town Council;
- Keira Hinchcliffe stated that it was possible that traders paid a lower amount to the Town Council;
- The Chairman informed that ancient laws regulated markets, in Woodley, traders paid a fee to the Town Council for the administration of the market;
- Councillor Kerr stated that the cost of the licence was directly related to the number of hours it took to process the licence, and asked if there was a difference in the number of hours it took to process a market licence versus a sole trader licence;
- Keiran Hinchcliffe stated that this was a trade-off, the Town Council regulated that area;
- Councillor Dennis asked if the PPP had been informed of the risks that had been identified in Wokingham following the audit?
- Officers agreed to feedback to the PPP.

In relation to the charge for stray dog – kennel charge in addition to recovery charge (page 22 of the agenda), it was pointed out that in the report the charge was for 5 days at £16 a day with a maximum charge of £80. However, it had been pointed out that dogs had to be kennelled for 7 days, so Officers proposed to make this charge £112, for a maximum of 7 days rather than 5.

A proposal to adopt the statutory maximum fee charge for all penalties and licences was discussed but there was insufficient support for this proposal.

Upon being put to the vote and after much discussion, the Committee agreed to the recommendations set out below.

RESOLVED That:

- 1) The Committee notes the proposed discretionary fees for 2023/24 set out at Appendix A as part of the Council's annual fee setting process, with the following amendments:
 - a) The penalty for dog fouling be increased to £100
 - b) The maximum fee for stray dog kennelling be increased to 7 days at £112
- 2) The Committee recommends to Executive that, in relation to those fees which are within the Council's discretion to set, the fees should follow best practice and ensure that the cost to the Council of administering, managing and enforcing the licensing regime is covered by the fee income; and
- 3) The following items be added to the Forward Programme:
 - a) The audit review on checks and enforcement
 - b) The review of discretionary fees for 2024/25 with specific reference to street trading, dermal treatments and animal boarding

24. LICENSING OF GAMBLING

Keiran Hinchcliffe presented the Licensing of Gambling report which was set out in agenda pages 29-33. The report had been requested at the last meeting of the Committee, with the purpose of finding ways to protect vulnerable people.

The LGA had produced a helpful handbook for councillors outlining gambling regulations (Appendix A) and a document titled: Tackling gambling related harm a whole council approach (Appendix B).

Research suggested that gambling premises were more common in deprived areas. In Wokingham, there were five licenced betting gambling premises and 17 licences for gambling machines. This meant that there was one betting shop per 35.000 population, putting Wokingham towards the lower end of the national scale.

Best practice pointed out by the LGA referred to the Statement of Policy for Gambling and the local authority's powers in relation to compliance and enforcement.

Members noted that although in Wokingham there was one betting shop per 35.000, the location of betting shops may be more concentrated in certain areas. Woodley for example had two betting shops, and there were areas of deprivation in Woodley.

Councillor Kerr was interested to know if betting premises were taking advantage of the current cost of living crisis to set up premises in areas of the borough that were least affluent.

Keiran Hinchcliffe clarified that the law and legislation around gambling was in favour of permitting the opening of gambling premises, so the powers of local authorities were limited to compliance and enforcement. Outside of Licensing, the LGA referred to the roles of Planning and Public Health in this matter.

Councillor Burgess was of the opinion that it was time to review the Statement of Gambling Policy as this had not been reviewed for a long time. She understood the limitations of powers, but suggested that a statement should be included in the revised policy, stating that the local authority expected premises to follow best practices, not just the minimum requirements. She also added that premises should be encouraged to certify with GamCare.

Councillor Smith expressed concern about online gambling and wondered if the local authority could prevent online gambling in its public computers, for example in libraries.

It was explained that online gambling was outside of the remit of the local authority's policy, online gambling was regulated directly by the Gambling Commission. However, Councillor Kerr agreed to investigate the situation in relation to libraries.

Councillor Soane asked if taxis were precluded from advertising gambling in their vehicles. Keiran Hinchcliffe informed that gambling advertising was currently permitted, however the draft policy was under consultation and he encouraged councillors to express their views through the consultation.

In response to a question, Officers stated that it was not known if the five betting premises in the borough were certified with GamCare.

Councillor Kerr noted that the Committee had not yet received a report outlining how the policy was being enforced, and this might be of interest.

Keiran Hinchcliffe informed that compliance checks in gambling premises had not been undertaken for some time.

Councillor Kerr emphasized the need to carry out enforcement work, especially in view of the fact that more people were facing financial difficulties at the moment. Officers agreed that this work should be carried out, subject to resources, given the small number of gambling premises in the borough.

Members suggested that there should be a whole Council approach to developing and enforcing the Statement of the Gambling Policy.

RESOLVED That the Committee notes the report and decided that Officers should develop an updated Statement of Policy in relation to gambling regulation, which includes a whole Council approach, for consideration at a future meeting of this Committee.

25. REVIEW OF STATEMENT OF LICENSING POLICY

Keiran Hinchcliffe presented the Review of Statement of Licensing Policy report which was set out in agenda pages 35- 40.

The policy had five main purposes, as stated in the report contained in the agenda. The Council was required to consult publicly and publish a Statement of Licensing Policy every five years.

The revised Statement of Licensing Policy had been drafted following a review of current best practices available. Innovations included:

- Women's safety in the night time economy, referencing Ask for Angela campaign;
- Pre-application advice;
- An appendix with examples of model conditions.

Ed Shaylor explained that it would be desirable to start the consultation on this policy soon after the conclusion of the taxi policy consultation. He pointed out the possible timescales and asked Members to be mindful of the pre-election period which was due to start in March.

Councillor Kerr asked the following questions about the consultation process:

- How long it was going to run for?
- Who would be consulted?
- Which specific groups would be consulted?

Officers stated that there were statutory consultees, but the consultation could be widened to specific groups, a direction from Members was welcome. The usual minimum of six weeks for a consultation would be used, but it could be more if deemed necessary. The usual platforms would be used to advertise the consultation.

In response to a comment, Keiran Hinchcliffe confirmed that the Fire Authority was involved in the consultation. They had looked at capacities in nightclubs in the town centre, but mainly used their own legislation in relation to fire safety.

Councillor Soane wondered how effective the ask for Angela initiative was and asked if Councillor Kerr had ever used it. She responded that she had not used it, but she believed it was a good campaign. There was, in her opinion, more work that needed to be done in relation to women's safety.

In response to a question, Ed Shaylor explained that the work to be undertaken to adopt the policy was cost neutral to the Council.

There was a debate about whether a picture of Henley was appropriate or if a picture from another part of the borough should be used. It was explained that a picture of Henley had been used because the Henley Regatta and Henley Festival were, both, events that created a lot of activity for the Licensing Service. There was no consensus on this.

With regards to the effectiveness of the Ask for Angela campaign, Officers explained that this was being reviewed by the Metro newspaper. It was recognised that training was needed so that staff can help if necessary.

Councillor Smith observed that in recent years pub landlords were less likely to intervene to stop people from becoming too inebriated. He also noted the increase in multiple drinks offers. He asked if there was any guidance for landlords in the policy.

Officers explained that the Designated Premises Supervisor (DPS) had to be present or contactable during the opening hours of the premises. The regulations in relation to premises licences had not changed. With regards to multiple drinks offers, there was no legislation stopping them, as long as the licence conditions were being met.

Councillor Smith was surprised that there was no mention of Covid in the Public Safety section 8 of the policy. Keiren Hinchcliffe agreed to consult about this in Safety Advisory Groups. However, Public Health was not a licensing objective.

Ed Shaylor pointed out that the policy would last for five years and advised against including topical issues in the policy which could go out of date.

Neil Allen, Legal Advisor to the Committee advised that Licensing Act could not extend to other areas already regulated by other laws. During the Covid pandemic, specific legislation had been drawn to deal with that situation at the time. There were boundaries within the law.

In response to a question Ed Shaylor explained that a late night levy was not included because it would have to apply to the whole borough. Late night levy was usually adopted by cities and was used to pay for extra policing.

Councillor Smith asked if there was a risk related to the pre-application advice service, for example if a licence was not granted following paid advice being given. Keiran Hinchcliffe clarified that the policy was clear in saying that the advice given did not pre-judge the outcome of the application.

Neil Allen drew attention to the timescales - the policy had to be approved by Council prior to its implementation by 31 August.

RESOLVED That the Committee decides to initiate a public consultation about the revised Statement of Licensing Policy 2023/2028.

26. DECISIONS TRACKER AND FORWARD PROGRAMME

The actions on the decision tracker had now been completed or added to the Forward Programme.

Members were invited to take part in the Taxis Liaison Group as part of the consultation on the taxi policy.

The following items were added to the Forward Programme:

20 March 2023
Audit of compliance and enforcement

22 June 2023
Statement of the Licensing Policy

18 October 2023
Review of the cost of running licensable activities for 2024/25