

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION COMMITTEE held in Meeting Rooms 0.1A and 0.1B, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Tuesday, 21 June 2016.

PRESENT: Councillor R Fuller – Chairman.

Councillors Mrs B E Boddington,
Mrs S Conboy, J E Corley, J W Davies,
D R Underwood, D Watt and R J West.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors S J Criswell, Mrs S A Giles and Mrs J Tavener.

5. MINUTES

The Minutes of the meetings of the Licensing and Protection Panel held on 20th October 2015 and the Licensing and Protection Committee held on 18th May 2016 were approved as a correct record and signed by the Chairman.

6. MEMBERS INTERESTS

No declarations were received.

7. LICENSING AND PROTECTION COMMITTEE

The Head of Community gave a brief verbal update on the remit of the Licensing and Protection Committee and the service areas for which it is responsible.

Members were advised that the Licensing and Protection Committee is a Committee of the full Council. It holds a mixture of Regulatory Powers and is responsible for the Council's Environment Health functions, together with a number of licensing and registration functions. Members were informed that one of the Committee's key roles is the approval of the Service Plan for Food Law Enforcement on an annual basis. Historically this had been a matter for determination by full Council, however following changes to the Council's Constitution in March 2016 this responsibility had been delegated to the Licensing and Protection Committee in line with best practice undertaken elsewhere.

The Head of Community went on to explain that the Licensing and Protection Committee has established a Sub-Committee to determine those matters relating to licensing which fall outside of the Council's scheme of delegation to officers. It was explained that the majority of the issues referred to the Sub-Committee related to licences for Hackney Carriage and private hire vehicles, however its remit also included street trading, lotteries, street collections and the licensing of sex shop establishments.

With regard to the remit of the Sub-Committee, Members were reminded that there was provision within the Constitution for the Sub-Committee to refer any application to the full Committee for determination should it wish to do so. It was envisaged that this was a mechanism that could be used for more contentious matters. However once the Sub-Committee had made a decision, the only avenue of re-dress for those who were unhappy with the outcome would be the appeal mechanism.

Finally, the Head of Community drew attention to the Scheme of Delegation to Officers. He explained that following the review of the Council's Constitution earlier in the year, consideration now needed to be given to the balance of functions delegated to officers and those reserved to the Committee. This would be discussed at a later agenda item.

8. SERVICE PLAN FOR FOOD LAW ENFORCEMENT AND HEALTH AND SAFETY MONITORING 2015/16

In the absence of any report for this item, the Head of Community explained that regrettably this matter would need to be deferred to the Committee's next meeting.

Having been advised of the reasons as to why the monitoring information was not available, Members expressed their disappointment and concern that they had only received a quarterly monitoring report once during the last twelve months despite an undertaking being made to provide it. Members emphasised the importance of receiving this information throughout the year, particularly as they had raised previous concerns in relation to the capacity of the Service. Comment was also made that in the absence of any performance information for the last year, it was difficult for the Committee to approve Service Plans for the next 12 months at later items on the Agenda.

In response to Members concerns, the Head of Community emphasised the need to ensure that any data published was accurate and had been verified appropriately. He undertook to ensure that the information was available and published with the agenda for the Committee's next meeting on 19th July 2016.

9. SERVICE PLAN FOR FOOD LAW ENFORCEMENT 2016/17

The Panel considered a report by the Head of Community (a copy of which is appended in the Minute Book) to which was attached a draft Service Plan for Food Law Enforcement for 2016/17. The Plan had been developed to comply with the requirements of the Food Standards Agency (FSA) and sets out how the Council's food safety and hygiene enforcement function would be delivered for the forthcoming year within the resources available.

By way of background, the Commercial Team Leader provided information with regard to the Commercial Team who have responsible for delivering the food safety and hygiene enforcement function. This included the staffing and financial resources available to the team and the demands on the service. Members were advised that the number of food related service requests, complaints and

queries had risen by just over a third over the last five years and that the overall budget for 2016/17 was 3.74% higher than in 2015/16, which, was a result of changes in the methods of internal recharging.

The Commercial Team Leader then went on to talk through the activities that contribute to the delivery of the Plan, which are set out in detail at Section 3 of the report. It was explained that the Services provided by the team were almost entirely statutory and that there were very few opportunities for income generation. In reviewing this section of the Plan, a number of questions were raised by Members with regards to the types of premises which are classified as being of 'No Inspectable Risk' and comment was made with regard to the changing nature of the provision of the school meals service given that a number of academies were now using independent meal providers and the impact that this would have on the Primary Authority Partnership scheme.

With reference to Section 6 of the draft Plan, which provided a review of activity within the previous year, Members questioned how many of the 700 planned inspections of food businesses had been completed in 2015/16. Having noted that officers did not have that information to hand, it was suggested that it would have been useful to include this type of detail within the report. In response to Members comments, Officers also undertook to amend this Section to reflect the fact that progress with the delivery of the Plan and its performance measures would be reported to the Licensing and Protection Committee on a regular basis.

With regard to the resources available to support the delivery of the Plan, Members queried the impact that a reduction in admin support staff would have upon the service and noted that inevitably this would have some effect. Members were advised that the delivery of the plan was based upon current staffing levels and had taken account of the existing vacancy within the Commercial team. In terms of proposals to fill this vacancy, Members were advised that a re-structure of the Community Division was currently being undertaken and the outcome would not be known until September 2016.

Having reminded Committee Members that the 2015/16 Service Plan had been rejected in the first instance as being unachievable and given the number of planned inspections which had not taken place in the previous year, the Chairman questioned to what extent the proposed plan for 2016/17 was challenging and realistic given that the budget was increasing and yet targets for programmed work were not being met. In response to which, officers explained that historically the Council had sought to undertake conventional routine inspections for low risk businesses in Categories D and C, however the Code of Practice allows local authorities to use Alternative Enforcement Strategies for low risk business which would enable efficiencies to be made. It was planned for example to increase the Council's commitment to food sampling and to review the basis upon which complaints and service requests are investigated. Officers were confident that the targets set within the plan were realistic and achievable.

In response to a question regarding the resilience of the Service, officers explained that a serious or major incident or large outbreak of

food poisoning or food borne illness would inevitably have an impact on the delivery of the service.

With regards to the future of the Service and with reference to the limited income that was received in 2015/16 from the Primary Authority Partnership Scheme, a Member questioned whether this represented good value for the Authorities investment and should be continued. It was suggested that the Committee might like to give this further consideration at a later date.

In response to Member's interests in horizon scanning, the Head of Community agreed that mapping could be undertaken based upon the Council's known growth projections to demonstrate what that might mean for the future of the Service. This could be presented to a future meeting.

Whereupon and having regard to the assurances that had been made regarding the realistic nature of the Service Plan and the importance of the Committee receiving monitoring information against performance measures on a regular basis, it was

RESOLVED

that the Service Plan for Food Law Enforcement 2016-17 be approved in accordance with the Council's Constitution.

10. SERVICE PLAN FOR HEALTH AND SAFETY REGULATION 2016/17

The Panel considered a report by the Head of Community (a copy of which is appended in the Minute Book) to which was appended a draft Service Plan for Health and Safety Regulation for 2016/17. The Plan sets out how the Council's role as a health and safety regulator will be delivered and is reviewed on an annual basis to ensure compliance with the National Local Authority Enforcement Code, to which it has a statutory duty to comply.

Following an introduction from the Commercial Team Leader, Members attention was drawn to the proposed service delivery for 2016/17, the resources available to deliver the service and the review of performance in the previous year. Members were advised that this year the service will increase its commitment to the provision of advice to new businesses, in an attempt to improve relationships with local business.

In reviewing the contents of the draft Plan, Members commented on the reduction in the number of inspections and interventions estimated for 2016-17 and queried what alternative activity would be taking place given that there was no proposed reduction in resources. Having noted that there would be other activities that officers would be undertaking within the constraints of the National Enforcement Code, Members expressed concerns that this had not been reflected within the draft Plan for 2016/17. Comment was also made with regards to the absence of any reactive section within the Plan.

Whereupon to enable Officers to address Members concerns, it was

RESOLVED

that consideration of the Service Plan for Health and Safety Regulation 2016-17 be deferred to the Committee's next meeting.

11. SCHEME OF DELEGATION - DISCUSSION

With the assistance of a copy of the Council's existing scheme of delegation to Officers (a copy of which is appended in the Minute Book) the Head of Community outlined his intention to present a revised scheme to the Licensing and Protection Committee at their meeting in July 2016 for approval.

The Head of Community explained that the overarching principle behind any proposed changes was to create an efficient and effective process and to avoid undue bureaucracy. There were also a number of changes required to reflect changes in personnel and within the Council's governance arrangements.

Having noted the intention of the Head of Community to circulate a revised version with track changes to Members for comments and a suggestion that the wording be standardised on those occasions where consultation is required with the Chairman and/or Vice-Chairman, it was

RESOLVED

that the Head of Community be requested to prepare a revised version, highlighting proposed changes for consideration at the Committee's next meeting

12. ENERGY ACT 2013 & HOUSING ACT 2004: THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

With the assistance of a report by the Head of Community (a copy of which is appended in the Minute Book) the Committee received an update on the Smoke and Carbon Monoxide Alarms (England Regulations 2015).

The Regulations place a duty on landlords to provide the necessary alarms to the majority of private rented dwellings, which Local housing authorities are duty bound to enforce. Having noted that the regulations place a duty upon local authorities to serve a remedial notice where there is reasonable grounds to believe that the landlord is in breach of one of the duties specified, attention was drawn to the contents of a draft Statement of Principles to govern the application of a penalty charge for this purpose. (A copy of the Statement is appended in the Minute Book).

Having noted that the regulations apply only to the private rented sector and only on commencement of a tenancy, Members were advised that the proposed penalty charges were in-line with proposals by other local authorities.

Whereupon and to enable the Council to comply with the regulations, it was

RESOLVED

- (i) that the necessary amendments be made to the Council's Scheme of Delegation, such that the Head of Community Service be authorised to appoint suitably qualified officers to enforce the provisions specified in the Regulations; and
- (ii) that the Head of Community be authorised to publish and review, as necessary in consultation with the relevant Executive Councillor, a statement of principles governing the application of a penalty charge to remedy matters of non-compliance within the terms of a remedial notice.

13. ENTERPRISE AND REGULATION REFORM ACT 2013 - REDRESS SCHEMES FOR LETTING AGENCY WORK AND PROPERTY MANAGEMENT WORK ORDER

By means of a report by the Head of Community (a copy of which is appended in the Minute Book) the Committee were provided with details of the Redress Schemes for Letting Agency Work and Property Management Work Order 2014, which places a duty on those involved in such business to be a member of an approved scheme.

Having been advised that Local housing authorities are duty bound to enforce the provisions within the Order and to enable the District Council to enable the District Council to comply with these Regulations, it was

RESOLVED

- (i) that the necessary amendments be made to the Council's Scheme of Delegation, such that the Head of Community be authorised to appoint suitably qualified officers to enforce the provisions specified in the Order; and
- (ii) that the Head of Community be authorised, in consultation with the relevant Executive Councillor to set the value of the penalty charge for failure of businesses to be a member of an approved scheme.

14. LICENSING AND PROTECTION APPLICATIONS SUB GROUP

With the aid of a report by the Elections and Democratic Services Manager (a copy of which is appended in the Minute Book) the Panel noted details of the nine meetings of the Applications Sub-Group which had taken place between 17th November 2015 to 26th April 2016.

15. FEEDBACK FROM ANNUAL LICENSING TRAINING

Following the recent annual training which had been held for Members of the Licensing and Protection Committee, the Head of Community sought the views of Committee Members on the event and whether any further training was required.

Overall, Members agreed that the annual training had been useful and noted that this would be repeated on an annual basis in accordance with the requirements of the Council's Constitution. Specific mention was made of the mock hearings which were held during the afternoon session and it was suggested that it might be useful to hold a similar session in-house using some of the recent cases which had been considered by the Applications Sub-Group. With this in mind, it was

RESOLVED

that the Head of Community be requested to make arrangements for a half day afternoon session, at which time Committee Members could hold mock meetings of the Licensing and Protection Sub-Committee and the Licensing Sub-Committee.

Chairman