

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION COMMITTEE held in the Civic Suite 0.1A, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 11 March 2020

PRESENT: Councillor S J Criswell – Chairman.

Councillors B S Banks, J R Clarke, Ms A Diaz,
Mrs A Dickinson, Mrs S A Giles, Mrs P A Jordan,
L W McGuire, Mrs P E Shrapnel and R J West.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors D J Mead and K I Prentice.

18 MINUTES

Subject to the substitution of the word 'they' to the word 'businesses' in the fourth line of paragraph four of Minute No. 14, the Minutes of the meeting held on Wednesday 4 December 2019 were approved as a correct record and signed by the Chairman.

19 MEMBERS INTERESTS

No declarations were received.

20 DUTY OF CARE SECTION 34 (2A) OF THE ENVIRONMENTAL PROTECTION ACT 1990

With the assistance of a report by the Community Resilience Manager (a copy of which is appended in the Minute Book) the Committee considered a proposal to issue Fixed Penalty Notices to residents for failing to ensure that their household waste is transferred to an authorised waste carrier under Section 34(2A) of the Environmental Protection Act 1990.

By way of introduction, Members were advised that incidents of Fly Tipping continue to have an impact across the District and were reported on an almost daily basis. It was envisaged that the ability to utilise powers in relation to Duty of Care would enable the District Council to increase awareness of the responsibilities of individuals when disposing of their waste and contribute to the District Council's overall efforts to tackle the ongoing issues relating to the illegal disposal of waste.

In terms of calls for service in relation to incidents of the illegal disposal of waste, the Committee were advised that in 2019 there had been 985 reports of fly-tipping and there have been 115 in the year to-date. The Community Resilience Manager undertook to circulate further details in relation to the number of investigations undertaken. In response to a question regarding the impact of the recent changes by the County Council to Household Waste Recycling Centres, it

was noted that this was being reported as a reason by those issued with Fixed Penalty Notices.

In considering the proposal, Members of the Committee recognised the need to address the ongoing issues particularly in light of the number of complaints received from parish councils but expressed concerns particularly in relation to the potential impact on the more vulnerable members of society who may not understand their new responsibilities. In this regard, Members were reassured to hear that there would be an extensive awareness raising campaign, that cases would be considered individually on a case by case basis and it was not the intention to penalise more vulnerable individuals. The education of the potential users of these services would also help to assist in the identification and prosecution of fly-tipping offenders and that this would always be the first and preferred approach. There would also be the opportunity for individuals to appeal if they felt that they had been wrongly issued with a Fixed Penalty Notice.

In a similar vein, concerns were expressed that the proposal should be targeted at the perpetrators of fly tipping themselves. However, Members were advised that several current prosecutions had identified the need to target the providers of the waste and the Committee received assurances that the approach to the issue of Fixed Penalty Notices would not be overly forceful. Members were advised that by educating individuals as part of the communications campaign it was hoped to have a significant impact on the levels of fly-tipping within the District and a number of Members of the Committee took the view that individuals need to take responsibility for the disposal of their waste and that there was a balance to be struck in this regard.

Members emphasised the need for a more extensive communications campaign before the introduction of any Fixed Penalty Notices and it was agreed that the proposal for a 28-day campaign was insufficient and should be extended to 1st June 2020. It was also suggested that as part of the campaign, information should be provided on what can and can't be currently taken to household waste recycling centres, a list of approved waste carriers and details of the Council's Bulky Waste Disposal Service. The Committee agreed that District Council Members also had a role to play in providing information to their parish councils and the Community Resilience Manager was asked to draft an article for circulation which could be incorporated into local parish magazines, together with an appropriate press release. Comment was also made regarding the potential to provide information by way of a 'bin hanger' on residents refuse bins and the Community Resilience Manager undertook to give this further consideration.

Members were also of the opinion that the education of residents could also address the differences between household waste and commercial waste recycling centres where there was often confusion and provide information concerning restrictions surrounding their use.

The Committee went on to discuss the penalties which were issued to the perpetrators who were found to be fly-tipping and it was reported that these individuals could be issued with a Fixed Penalty Notice of £400, the maximum which could be applied. The District Council did undertake a number of prosecutions, but potential prosecutions needed to be considered on a case by case basis and the likely outcomes taken into consideration. Members also noted that the District Council have in the past also attempted to utilise powers to

confiscate vehicles to deal with the problems within Huntingdonshire. The Committee were keen to emphasised that the perpetrators of fly-tipping should receive the brunt of any penalty system and should always be the primary focus of efforts to address fly-tipping.

During the discussions, Councillor A Diaz expressed her concerns with regards to the proposals and suggested an alternative approach involving for example, the provision of greater information from the District Council or a significantly longer communications campaign to see if this had any potential impact before the introduction of any fines were introduced.

Whereupon having acknowledged that the new powers would be utilised sparingly, that residents have an individual responsibility to ensure that their waste is disposed of appropriately and on the understanding that an extensive communications campaign would be put in place until the later date of the beginning of June, it was

RESOLVED

- a) that delegated officers of the District Council be given authority to issue Fixed Penalty Notices for the offence of Duty of Care for incorrectly disposing of household waste under Section 34(2A) of the Environmental Protection Act;
- b) that the level of Fixed Penalty Notice be set at £250;
- c) that authority be given to the District Council's Chief Operating officer to delegate responsibility to identified officers to issue Fixed Penalty Notices for Resident Duty of Care Offences from 1st June 2020; and
- d) that an update be presented to the next meeting.

21 MONITORING REPORT ON THE DELIVERY OF THE FOOD LAW ENFORCEMENT AND HEALTH AND SAFETY SERVICE ACTION PLANS

With the assistance of a report by the Acting Operational Manager (Business) (a copy of which is appended in the Minute Book) the Committee received an update on progress against the delivery of work on the Council's Food Law Enforcement and Health and Safety Service Plans during the period 1st April 2019 to 31st January 2020.

In general terms, the Committee were advised that continued vacant posts and the loss of the lead food officer had had an impact on targets and service delivery during the year. Attention was then drawn to the appendices within the report which contained the detailed performance information relating to the plans.

In terms of the detailed performance information, the Committee were advised that as a result of the staffing situation, priority had been given to higher risk interventions and complaints whilst providing business support to maintain a quality service. Members conveyed their appreciation to the team for the commitment during this difficult period.

In reviewing programmed activity against the Food Safety Service Plan, the Committee noted that progress against the number of programmed food hygiene inspections was currently at amber, this was a direct consequence of the way that inspections were structured. The Acting Operational Manager (Business) was optimistic that the highest risk inspections would be completed by the end of the financial year. Progress was also being made in business support functions following the recruitment of a new business support manager for the service.

Members commented on the activities within the Food Safety Plan which had been classified as 'Red'. In response to which, the Acting Operational Manager (Business) reiterated that priority had been given to the highest risk activities / reactive work whereas the Alternative Enforcement Strategy for example dealt with the lowest risk food premises. Other proactive visits had been reduced for the same reason which had resulted in the red rating within the report.

Comment was made with regards to the references within the report to the UK leaving the EU and the potential impact on imported food controls for Local Authorities. Whilst this remained unclear at this stage, there could be a significant impact if there became an expectation that local authorities were required to inspect food export and import companies, as this was not currently required. The District Council was continuing to work with the countywide group to promote the risks to local authorities at a national level.

The Committee discussed the ongoing vacancies within the Environmental Health team and Members were advised that a technical lead food officer had now been appointed. It was intended to re-advertise the other vacant posts shortly. In response to questions from Members, the Committee were provided with the difficulties which had been encountered in appointing suitable qualified environmental health officers and the recent changes in the operation of the organisation which may make employment at the District Council more attractive, together with the use of alternative advertising methods to promote vacancies.

Whereupon, it was

RESOLVED

that progress on the delivery of the Service Plans for the period 1st April to 31st January 2020 be noted.

22 SERVICE PLAN FOR FOOD LAW ENFORCEMENT 2020-21

Consideration was given to a report by the Acting Operational Manager (Business) (a copy of which is appended in the Minute Book) to which was attached a proposed Service Plan for Food Law Enforcement in 2020-21, which enables the Council to discharge its duty as an enforcing authority for food safety and hygiene.

In presenting the report, attention was drawn to the potential impact on the successful delivery of the Plan from the continuing vacancies within the Business Team and details of the available resources for the forthcoming year were also provided. Members were advised that the Authority had recently begun recording the number of re-score requests under the Food Hygiene Rating scheme and

would continue to do so going forward. Re-score visits also generated a small income for the District Council.

In reviewing the details of the draft plan and the targeted levels of activity for each activity area, comment was made with regards to the reduction in Primary Authority Partnership Activity and the Committee were advised that the Primary Authority Agreement for Cambridgeshire was no longer in existence.

Whereupon, it was

RESOLVED

that the Service Plan for Food Safety Enforcement 2020-21 be approved in accordance with the Council's Constitution.

23 SERVICE PLAN FOR HEALTH AND SAFETY REGULATION 2020-21

Consideration was given to a report by the Acting Operational Manager (Business) a copy of which is appended in the Minute Book) to which was attached the proposed Service Plan for Health and Safety Regulation 2020-21 which enables the Council to discharge its duty as an enforcing authority for Health and Safety regulation.

In reviewing the draft Plan, the Committee commented on the performance data for the previous year and were pleased to note that despite the continuing vacancies within the team, all health and safety complaints and requests for service have been responded to. The fatality at Hamerton Zoo had continued to draw on resources within the team as work had been undertaken with experts to identify future steps and review best practice. However, this was expected to conclude shortly.

In response to a question from a member of the Committee, Members were advised that there were currently 2,274 premises on the premises database and which were categorised by Health and Safety Executive classification. A brief discussion then ensued regarding the reporting mechanisms for accidents and incidents at these premises.

Whereupon, it was

RESOLVED

(a) that the Service Plan for Health and Safety Regulation 2020-21 be approved in accordance with the Council's Constitution.

(b) that the Operational Manager (Business) be authorised to update the 2019/20 performance data within the Service Plan prior to publication.

24 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

that the press and public be excluded from the meeting because the business to be transacted contains exempt information that is likely to reveal the identity of an individual.

25 SUSPENSION AND REVOCATION OF PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLE AND DRIVERS LICENCES UNDER DELEGATED POWERS

With the aid of a report by the Licensing Team (a copy of which is appended in the annex to the Minute Book) the Committee noted the details of actions which had been taken under the powers delegated by the Licensing and Protection Committee.

In terms of the information which had been included within the report, the Committee were advised that changes to the scheme of delegation and the introduction of new lean working practises had enable officers to take action more quickly and undertake a greater number of investigations. The increase in activity within the last quarter also reflected the fact that a significant number of suspensions had arisen as a result of the lapse of one Operating Licence. However nearly all these suspensions had now been lifted. Details of the reasons surrounding a decision not to renew a current licence were also provided.

Attention was drawn to the number of licensing decisions which had been appealed during the period, which was noteworthy given the significant number of decisions which had been made. Clarification was also sought and provided on the details of one case.

Following a question as to why this item was considered in private session and in light of other members' comments on the matter, it was agreed that further consideration would be given to the matter and the potential presentation of information in advance of the next meeting.

Chairman