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MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Licensing and Regulatory Committee held
at on Tuesday, 30th January, 2018 at 10.00 am

PRESENT: County Councillor B. Strong (Chairman)
County Councillor J. Higginson (Vice Chairman)

County Councillors: A. Easson, M.Lane, J.Pratt, R.Roden,
J.Treharne, R. Edwards, D. Evans, L. Guppy and A. Webb

OFFICERS IN ATTENDANCE:

Linda O'Gorman	Principal Licensing Officer
Leigh Beach	Licensing Officer
David Jones	Head of Public Protection
Ioan Gealy	Solicitor
Paula Harris	Democratic Services Officer

1. Apologies for absence

County Councillor F. Taylor.

2. Declarations of interest

None.

3. To confirm and sign the minutes of the previous meeting held on 26th September 2017

The Head of Public Protection updated the Committee in respect of the item Hackney Carriage and Private Hire Vehicle Conditions - to consider the current licensing requirements for vehicles with 5 - 8 seats.

The Committee was advised that Mr Watkins did not appeal the decision but wrote a letter of complaint to the Leader of the Council, Officers have responded to this letter.

4. Review Of Annual Licensing Fees For Financial Year 2018/2019

To agree the Authority's licence fees for 2018-19.

Key Issues

1. The Authority has a broad range of licensing responsibilities including the regulation of licensed premises, taxis and hackney carriages, gambling, street trading, street collections and scrap metal dealers. Whilst some licence fees are set by Government, others are locally set at the discretion of the Authority.

2. The European Services Directive, along with other regulations, statutory guidance and case law underline that fees must be set on a "reasonable" cost recovery basis only and cannot be set in such a manner as to generate a profit or act as an economic

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deterrent to traders. In determining reasonable costs the Authority may take account of costs averaged over a reasonable period (up to three years).

3. Given the current resource pressures on the Authority, there is a need for clarity about the true costs of administering licences so that fees can be set, if considered appropriate, at a level sufficient to recover those costs. Members will clearly also need to be mindful of the potential burden on businesses of increasing costs, and to weigh that against potential burden of underwriting the costs of administering various licensing functions.

4. Officers have undertaken significant work to calculate the true costs associated with different licences based upon up to date financial data. Appendix A provides a summary of these assessments of actual cost along with the current fees.

5. In accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976, the Authority is obliged to give notice of any intention to vary the fees for the grant of licences for hackney carriage and private hire vehicles. It is recommended that any objections to a variation be brought back to Committee for consideration.

6. The Gambling Act 2005 allowed Authorities to set their own fees for Premises Licences under this Act for Casinos, Bingo, Betting, Tracks, Family Entertainment Centres and Adult Gaming Centres. The fees for these types of licences are to be reviewed and set annually on the 21st May each year. These fees have a limit on how much they can be set and an assessment of those fees must also be set to recover costs only. A further report will be submitted to the Licensing and Regulatory Committee on 13th March 2017 to review the Gambling Act fees to commence 21st May 2017.

Member Comments

It was asked if there was a likelihood that those increase can appeal the fees and we were told that Officers would work with those affected to explain how the figure was reached.

It was asked if losses were incurred on the Government set fees.

A Member commented on the lack of fees for hypnotists and asked if we regulated these businesses.

It was asked if mobile vehicles selling food would be subject to fees and were told that they are classed under the heading of street trading.

A question was raised regarding tattoo parlours and we advised that this will be covered under the Public Health Act 2017, with the first provisions coming into force from the 1st February 2018.

Members unanimously approved the following recommendations.

1. Approve the fees set out in Appendix A to this report, entitled "Schedule of Licence Fees for 2018-19", subject, where relevant, to any required public notice.

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2. Any objections, duly made, regarding fees for the grant of licences for hackney carriage and private hire vehicles be brought back to Committee at the earliest opportunity for due consideration .

5. Monmouthshire Busking Code of Conduct

To consider the code of conduct (Appendix A) to be introduced for the County of Monmouthshire. The document has been agreed by a partnership group including Monmouthshire County Council Licensing Section, Heddlu Gwent Police, Retail Premises management and buskers in Monmouthshire.

Key Issues

1. Gwent Police received a number of complaints regarding buskers who regularly visited Abergavenny town centre for busking purposes on a weekly basis in the summer of 2017. Buskers were reportedly and observed by PC's and PCSO's playing music sometimes all day, often from one location in the street and some repeating a short playlist of songs over and over again. If other buskers appeared on occasions the busker would try to perform close to the other busker increasing the volume of amplification to try and mask the other performer. This caused numerous premises from High Street and even Nevill Street to complain because the music was at a high volume.

2. Gwent Police initially assumed it would be a licensing function. However as detailed in the code of conduct busking is often an incidental form of entertainment and is not regarded a licensable activity under the Licensing Act 2003. The Live Music Act 2012 also enabled any performance of Live Music without the need of a licence from the hours of 08:00am to 11:00pm.

3. Gwent Police PCSO Amanda Yung and Monmouthshire County Council's Licensing Officer, Leigh Beach visited business premises in town for their views. Further meetings was held the shop owners at Abergavenny Police Station to gather an understanding of their complaints, which were mainly;

- Volume
- Poor quality music
- Repetitive music
- Duration of performance
- Distance to shop entrance
- Use of public benches
- Rude when approached

Gwent Police tried to approach some buskers who were reported for nuisance, in order to deal with the complaint. However, later the same day or the following week the busker often returned to cause the same or similar problems.

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4. Licensing conducted research into other Authorities that look to control busking activities mainly large City Centres, whereby busking is a common and daily activity. It became apparent that a code of conduct seems to be the preferred approach to control and offer advice and guidelines to buskers and people who wish to complain about a busking activity. London and Manchester both have a clear and helpful code of conduct in place.

5. We approached some of the buskers to inform them of our intentions and discuss our ideas. The buskers agreed it would be helpful to have set of guidelines for all to follow and also a point of contact should other buskers not follow the code of conduct.

6. One of the charity shops on Frogmore Street informed Licensing and Police that volunteer staff refused to work on certain days because the buskers outside the premises were causing such a nuisance it was unbearable. The charity shop also has a quiet room for people of family members who are struggling with cancer or fatality due to cancer. This room became unusable on certain days if the busker performed outside all day and refused to move away from the premises. As such, the Code of Conduct has recognised this and has refused this area being used for busking purposes.

7. The code of conduct has been approved by the partnership, referred to in point 1 above and Heddlu Gwent Police have agreed to place their logo on the document. The Code of Conduct has also been endorsed by Monmouthshire County Council's Legal Section. The Code of Conduct for Busking is attached to this report as Appendix A and will be available on the Monmouthshire website for everyone to view bilingually.

Members Comments

A Member asked if there were restrictions that we are able to enforce in areas where there are high levels of traffic.

It was asked if buskers in the County were consulted on this policy.

Members welcomed the policy and hoped that it will provide for guidance for both buskers and shop owners.

It was asked if the performance times were could be limited.

A Member asked if the map in the policy could be made clearer for people who do not know the area well.

It was asked if the policy could be condensed into a bullet point format for ease and if the local shops could hold copies to distribute to buskers.

The Members unanimously agreed to the following recommendation;

Members consider and provide comments if required before Gwent Police and the Licensing Section implement the code of conduct and distribute to buskers for compliance.

6. Film Classification Policy

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There is currently no formal policy or procedure for the Licensing Authority to deal with the classification of previously unclassified films, appeals by distributors against the BBFC (British Board of Film Classification) decisions or to reclassify films. This report considers the proposed Film Classification Policy to be adopted.

Key Issues

1. Film classification is regulated primarily by means of the Video Recordings Act 1994 and the Licensing Act 2003. All cinemas and premises that show films are required to be licensed under the Licensing Act 2003 unless they are exempt by virtue of being 'community premises' as defined in the Act. Films are normally classified by the British Board of Film Classification (BBFC). However, some films are produced by small, local companies who will not have had their film classified. Added to this, though unlikely, an individual could request a local authority to overrule the classification given to a work by the BBFC.

2. Section 20 of the Licensing Act 2003 provides that a mandatory condition shall be applied to all premises licences that authorise the exhibition of films. This relates to the restriction on the admission of children to the exhibition of any film either in accordance with the film classification recommended by the BBFC or, if the Licensing Authority does not agree with the recommendation, to such other classification recommended by the Licensing Authority.

3. Ultimately, therefore, it is the local authority that has the final word in relation to the rating given to a film displayed in a cinema but in reality it would almost always be unwise to challenge the decision of the BBFC.

4. The Licensing Authority may be required to classify a film that has not been classified by the BBFC. A typical example of this would be a locally made film to be shown at a film festival within the County.

5. A distributor of a film or other party may appeal to the Licensing Authority against the decision of the BBFC requesting that the Licensing Authority reclassifies the film for local screening.

6. In addition to classifying films the Licensing Authority can issue a classification waiver which permits the exhibition of a film or films within the local area without a classification but subject to certain conditions and restrictions.

7. The introduction of the policy will provide greater consistency and transparency when undertaking film classification work. The policy and assessment of films will have due regard to the BBFC guidance.

http://www.bbfc.co.uk/sites/default/files/attachments/BBFC%20Classification%20Guidelines%202014_0.pdf

Members Comments

A Member asked the frequency of members of the public questioning the film classification.

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It was asked what would happen in the event that a film was unclassified.

The wording of the report was questioned where reference was made to 'the Council', it was suggest this was changed to Monmouthshire County Council.

The Members unanimously agreed to the following recommendation

Members approve the policy for Film Classification,

7. To note the date and time of the next meeting

13th March 2018 at 10am.

The meeting ended at 10.40 am