

Swindon Borough Council

Licensing Committee

Monday, 17 December 2018

Committee Room 6, Civic Offices, Swindon (Anticipated meeting room)

At 5.30 p.m.

Conservative Councillors

Alan Bishop
Malcolm Davies
Fionuala Foley
Nick Martin
Brian Mattock
(Vice-Chair)
Caryl Sydney-Smith
Rahul Tarar
Vera Tomlinson
(Chair)

Labour Councillors

Abdul Amin
John Ballman
Paul Dixon
Steph Exell
Imtiyaz Shaikh
Nadine Watts
Peter Watts

Committee Officer: Shaun Banks (Telephone: 07980752047)

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Swindon Borough Council, Civic Offices, Euclid Street, Swindon, SN1 2JH
(Telephone 01793 445500)

AGENDA

1. Apologies for Absence

2. Declarations of Interest

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

3. Minutes (Pages 3 - 4)

To receive the minutes of the meeting held on 22nd November 2018.

4. Public Question Time

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

5. Introduction of a Local Policy in respect of Home Boarding Businesses with Additional Hosts (Pages 5 - 10)

6. Street Trading (Report to follow)

7. Taxi Caution and Conviction Policy (Report to follow)

Date of Despatch: 07 December 2018

Public Question Time - Swindon Borough Council remains committed to increasing its accountability to the public and to promoting active citizenship. 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from the public about the work of the Committee (except for confidential matters, and matters relating to planning and licensing applications). We will give priority to those who submit questions in writing at least two days before the meeting. Questions must be relevant, clear, and concise. You may not use Public Question Time as an opportunity to make speeches or statements.

Questions in writing should be sent to the Committee Officer whose contact details appear on the agenda above or to the Director of Law and Democratic Services, we will publish it, along with the answer, alongside the Minutes. The process associated with asking a public question is set out in the "Public Question Time at Council Meetings Protocol and Guidance" available on the Council's Website.

(<http://www5.swindon.gov.uk/moderngov/ecCatDisplay.aspx?sch=doc&cat=13338&path=0>) or from the Committee Officer named above.

Access Arrangements – *The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.*

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

LICENSING COMMITTEE

THURSDAY, 22 NOVEMBER 2018

PRESENT:- Councillors Brian Mattock in the Chair; Councillors Abdul Amin, Alan Bishop, Malcolm Davies, Steph Exell, Fionuala Foley, Nick Martin, Imtiyaz Shaikh, Caryl Sydney-Smith, Rahul Tarar, Nadine Watts and Peter Watts.

Apologies for absence were received from Councillors John Ballman, Paul Dixon, Vera Tomlinson.

16. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

17. Minutes

Resolved – That the minutes of the meeting held on 27th September 2018, be confirmed and signed as a correct record.

18. Public Question Time

Mr Mervin asked whether the introduction of a Byelaw to set a standard throughout the Borough for Tattooing would be a logical way forward. The Chair responded at the meeting.

The Committee was asked whether the Committee agreed with him that any Tattoo Hygiene Policy, or standards approved, should be compulsory for all tattoo premises within the Borough. The Chair responded at the meeting.

The Committee was asked whether Tattooists within the Borough could help establish a policy and standards for tattooing within the Borough. The Chair responded at the meeting.

The Committee was asked why the proposals for consultation only included hygiene and did not reflect the skill level of the tattooist. The Chair responded at the meeting.

Mr Bannister asked if the Council would support including details of the local Gamblers Anonymous within its Policy document and require them to be displayed in betting establishments. The Chair responded at the meeting.

19. Gambling Act 2005 - Statement of Licensing Principles

The Council's Licensing Manager submitted a report setting out (a) the results of a public consultation in respect of a revised Gambling Statement of Principles, and (b) a proposed Gambling Statement of Principles as required under Section 189 of the Gambling Act 2005.

Resolved – That, subject to the inclusion of the email address of Swindon's branch of Gambler's Anonymous within the Statement of Principles and requiring betting establishments to display this email address, the revised Gambling Statement of

Principles set out within the report be approved and recommended to Council for adoption.

20. Consultation for the Tattoo Hygiene Rating System

The Council's Licensing Manager submitted a report seeking the Committee's approval to undertake a public consultation for a Tattoo Hygiene Rating Scheme within the Borough.

Resolved – (1) That approval be given to a twelve week consultation, commencing in January 2019, with the public and relevant organisations in respect of the proposed Code of Conduct for the Tattoo Hygiene Rating Scheme as set out within the report.

(2) That, the results of the consultation referred to in (1) above, be submitted to this Committee for consideration.

(3) That the fees for the Tattoo Hygiene Rating Scheme, as set out within the report, be approved.

(4) That the Head of Planning, Regulatory Services and Heritage be requested to write to the Secretary of State to ascertain whether there are currently any plans by Government to introduce national regulations and/or standards for individuals and premises involved in tattooing.

21. Street Trading

The Council's Licensing Manager submitted a report setting out public responses received following a consultation reviewing the Borough's Street Trading Policy.

Resolved – (1) That the report and responses received in respect of the public consultation reviewing the Council's Street Trading Policy be noted.

(2) That the street trading policy, as amended by members, be submitted to the next meeting of this Committee.

(3) That the Head of Planning, Regulatory Services and Heritage be requested to write to the Secretary of State to ascertain whether consideration could be given to bringing door to door sales and charity commercial street collectors (who take credit details rather than collect money) under some sort of formal Licensing regime.

Introduction of a Local Policy in respect of Home Boarding Businesses with additional hosts

Licensing Committee

Date: 17th December 2018

Author: Kathryn Ashton – Licensing Manager

Wards: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 To seek the agreement of the Licensing Committee to adopt a local policy covering licence inspections in respect of home boarding premises falling 'out of scope' as defined in DEFRA guidance, referred to in paragraphs 3.10 – 3.11 and 3.14-15 of this report, and to commend the policy to Council for adoption.

2. Recommendations

2.1 It is recommended that:

Licensing Committee agree to the adoption of such policy and to commend the policy to Council for adoption.

3. Detail

- 3.1 Prior to the new Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, Local Authorities in England, Scotland and Wales issued licences to proprietors of Kennels, Catteries and Home Boarders under the Animal Boarding Establishments Act 1963.
- 3.2 Under this legislation, anyone who carried out home boarding for dogs as part of a business required an annual licence including an inspection. This included "host" families also known as carers that were part of a wider business model.
- 3.3 This would generally be a main Arranger who would undertake all advertising, applications, payments and then place the dog with a suitable 'host' family. The Arranger could pay the 'host' family a proportion of the boarding fee, expenses only or in some business models, nothing at all.
- 3.4 Under the 1963 legislation, the Licensing Authority would individually license each host family if they received any payment. They received an inspection as part of their licence conditions. If the Arranger was able to provide all paperwork as being the same for each host family, the application fee was reduced as the inspection was simpler to carry out.

Further information on the subject of this report can be obtained from Kathryn Ashton 01793 466113, KAshton@swindon.gov.uk.

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- 3.5 'Host' families that were not paid did not require a licence. It was felt that Arrangers for these premises should be licensed as they received payment for boarding although they were national companies based outside of the Borough so fell out of our remit.
- 3.6 On 1st October 2018 the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force. This replaced multiple pieces of legislation including the Animal Boarding Establishments Act 1963.
- 3.7 DEFRA has published guidance for this including the aspect of what should be considered "in and out of scope" for each activity. For home boarding, they have made it clear that businesses which arrange for the provision of accommodation should be licensed themselves.
- 3.8 DEFRA have stated in communications with Local Authorities that the guidance released is statutory guidance as referred to in Section 14 of the Regulations although it is noted that this is not referred to on the guidance documents themselves. Section 14 of the Regulations states: *A local authority must have regard in the carrying out of its functions under these Regulations to such guidance as may be issued by the Secretary of State.*
- 3.9 DEFRA have produced the "Guidance in relation to licensing of dog boarding franchises": Local Authorities have requested further guidance on how these Businesses should be licensed. In particular Local Authorities have asked if each host should be licensed, if only the central arranging body should be licensed, or if a licence is required from each local authority in which a Business has a host family.
- 3.10 DEFRA's responded that *The policy intention behind the Regulations is that anyone who is undertaking one of the five activities specified in the Regulations in England is licensed. This will ensure that businesses profiting from these activities in England all meet the minimum welfare standards set out in the Regulations. We are aware that under the previous legislative regime (the Animal Boarding Establishments Act 1963) these Businesses used different approaches to licences. Some Businesses asked each of their host families to obtain a licence from their local authority (at significant cost) while other Businesses did not hold a licence at all. The policy intention is for a middle ground between these two existing approaches. Such an approach allows for the proper inspection of activities involving animals in the interests of animal welfare*
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- and accords with the interpretation that businesses should be licensed where they are undertaking such activities.*
- 3.11 *The policy intention is for these Businesses to require a licence from each local authority in which they have host families. The individual host families do not themselves need to be licensed (unless they separately meet the business test in the Regulations). It does not matter how many host families the Business has in each local authority only one licence will be required per area.*
- 3.12 The Business test in the Regulations states that the Authority has to consider if the operator earns any commission or fee from the activity but in the guidance for each activity, it states that the allowance of £1000 for annual trading income should be considered and if the host family falls under this threshold they would not need to be individually. They would however be listed under the licence for the Arranger.
- 3.13 The Authority has questioned this matter with DEFRA at length due to the concerns that it would not be possible to check an operator's trading income for example. Instead a disclaimer has been drawn up for an operator that believes they are out of scope to sign. If evidence can be found that the operator is in fact receiving a higher trading income, this disclaimer could assist with any subsequent investigation and potential action.
- 3.14 With regards to inspections for out of scope premises that are listed on Arranger's licences, the "Guidance for providing home boarding for dogs" states that: *The accommodation provided in these circumstances must meet the conditions in Schedule 2 and 4, and it is the responsibility of the business to ensure that this is the case. The local authority needs to be satisfied that the conditions are met in all of the accommodation provided.*
- 3.15 In addition to this, the "Guidance in relation to licensing of dog boarding franchises" states: *It will be for the individual local authorities to decide what level of inspection they wish to conduct in relation to each licence. Depending on the number of hosts in their area they may wish to inspect all of them or only a selection, they may also wish to cooperate to ensure a consistent approach is taken across local authorities. Beyond the requirement that these Businesses obtain a licence in each local authority in which they operate it will be for each local authority to make an assessment of how best to assess whether the business meets the licence conditions in their area. We do not want to specify a standard approach*
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here as what may work in one local authority may be inappropriate in another.

- 3.16 One of the other changes to the requirements is that the premises will be star rated and can potentially achieve a one, two or three year licence. This will depend on whether they meet the required standards, the higher standards and whether they are considered to be high or low risk. An inspection is only required at the point of applying for a new licence with a further unannounced inspection within the licence period.
- 3.17 The Authority have enquired of DEFRA if unlicensed host families also require an unannounced visit in the licence term, they have been clear that such decisions are a matter for the individual authority to make a decision on.
- 3.18 Whilst the Licensing Manager has delegated authority to consider such operational matters, it is felt most appropriate for this element to be considered by the Licensing Committee and determined as a local policy.
- 3.19 Currently the Borough has several different types of businesses with additional host families. Some are part of a wider national franchise, some of these with head offices in a different area of the country but there are also businesses with a franchise owner in the Borough or indeed non-franchise businesses based solely in this Borough.
- 3.20 The Licensing Authority proposes that each host family be inspected before being used as a premises to board dogs and on each renewal of the Arranger's licence in accordance with Regulation 4(2). It is considered that the only way the Authority can be satisfied the required conditions are met in all of the accommodation provided is by carrying out this proposed frequency of inspections. Previously the properties were inspected on an annual basis so, it could be certain that standards were maintained. With the potential for a three year licence being issued, it is also proposed that host families be included in the requirement for an unannounced visit as otherwise it would potentially be a considerable amount of time between inspections.
- 3.21 It is recognised by the Licensing Authority that some businesses with host families have a more "hands on" approach than others with their own additional inspections and checks carried out. The Licensing Authority welcomes such proactive work by franchises but considers a consistent approach across all business models is necessary to discharge the Authority's responsibility in licensing such premises.

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4. Alternative Options

- 4.1 The Council could decide not to adopt a local policy; however, this would mean that there would be no consistent guidelines when undertaking inspections of proposed and existing establishments and attaching appropriate conditions.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no direct financial or procurement implications arising from this report, though licences for animal activities do attract a fee, which is considered to be reasonable in ensuring that there is no financial burden on the Council in dealing with, and enforcing consents.

Legal and Human Rights Implications

- 5.2 Legal and Human Rights considerations have been taken fully into account in compiling this report. It is considered that the recommendations of this report are compatible with Convention Rights. The Council is required to comply with the statutory provisions referred to in the report. All other legal and human rights implications have been considered in the preparation of this report.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other implications

Diversity Impact Assessment

- 5.4 A DIA has been completed and is available on request

6. Consultees

- 6.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
- 6.2 All Licensed Animal Boarding Establishments within the borough

7. Background Papers

- 7.1 Animal Boarding Establishments Act 1963

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- 7.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- 7.3 Procedural guidance notes for local authorities – October 2018
- 7.4 Guidance in relation to licensing of dog boarding franchises - October 2018
- 7.5 Guidance notes for conditions for providing home boarding for dogs – November 2018
- 8. Appendices**
- 8.1 None