

LICENSING COMMITTEE

22 March 2019 at 9.30 am

Present: Councillors Cooper (Chairman), Wheal (Vice-Chairman) Cates, Clayden, Dillon, Hitchins, Mrs Oakley, Oliver-Redgate and Warren.

[Note: Councillor Oliver-Redgate was absent from the meeting during consideration of Minutes 487 to 490 (Part)].

487. APOLOGIES FOR ABSENCE

An apology for absence had been received from Councillor Mrs Daniells.

488. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

489. MINUTES

The Minutes of the meeting held on 14 December 2018, which were circulated at the meeting, were approved as a correct record and signed by the Chairman.

The Committee also received and noted the Minutes of the meeting of the Licensing Sub-Committee held on 22 February 2019, as circulated to the meeting.

490. ENFORCEMENT POLICY FOR ENVIRONMENTAL HEALTH, PRIVATE SECTOR HOUSING, LICENSING AND CLEANSING - AMENDMENTS

The Group Head of Technical Services confirmed that this report was being represented to the Committee so that it could make recommendations to Full Council to adopt amendments to the existing Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing.

The Policy included an additional enforcement option covering Civil Penalty for Housing Act 2004 offences. Minor amendments had also been made to reflect changes in job descriptions or structures within teams. All amendments had been clearly highlighted in the Policy using tracked changes for ease of reference.

It was explained that where there was sufficient evidence that certain Housing Act 2004 offences had arisen, civil penalties could be issued as an alternative to prosecution. If these penalties were not paid, they could be pursued as a civil debt in the Courts. Examples of such offences were provided including where there was failure to comply with an improvement notice where standards of accommodation had fallen short in terms of what was deemed to be safe.

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In addition, the report sought approval for setting a Fixed Penalty Notice fine level of £100 as an alternative to prosecution for the offence of breaching a Community Protection Notice. It was explained that Community Protection Notices were already served by the Council in instances where unreasonable behaviour of a continuing or persistent nature was having a detrimental effect on the quality of life of those in the locality. The Notices required the recipient to either do something or not do something, for example to not cause a noise nuisance.

The main advantage of this introduction was that it would be a more efficient process to operate rather than having to instigate a complex prosecution.

In considering the Policy, various questions were asked by the Committee. Firstly, concern was expressed that the £100 Fixed Penalty Notice would not be a big enough deterrent for repeat offenders. The Group Head of Technical Services explained that repeat offences of anti-social behaviour matters would be escalated to prosecution stage. It was also explained that civil penalties of up to £30k could be issued for when there had been deliberate acts causing significant harm in relation to Housing Act offences. The scale of the civil penalty was dependent on culpability and harm. Other queries related to the level of anti-social behaviour and what this might cover. Would one-off minor offences come under this new introduction and how would the Council respond to constant harassment issues. The Group Head of Technical Services explained that very minor one-off incidents such as noise from a garden party would not apply. He explained instances in which the issuing of a fixed penalty notice would apply.

Following some further discussion,

The Committee

RECOMMEND TO FULL COUNCIL – That

- (1) The amended Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing be adopted;
- (2) The setting of a Fixed Penalty Notice fine level at £100 for breaches of a Community Protection Notice, as an alternative to prosecution be approved; and
- (3) Approval be given to the Group Head of Technical Services, or his nominated representative, to be given delegated authority to make any necessary consequential changes to the amended Enforcement Policy for Environmental Health, Private Sector Housing, Licensing and Cleansing as a result of new legislation or alternative practices.

491. LICENSING FEE SETTING

The Licensing Team Manager presented this report which set out proposed licensing regimes for approval so that these could be adopted from 1 April 2019.

The report provided Members with information as to how fees had been calculated and ensuring that the Council should seek to recover its costs in relation to the authorisation procedures and formalities of each specified regime. Members were advised that some fee regimes were set on a national basis which the Council had no power to amend. Some regimes allowed for the change of a reasonable fee to cover costs up to a capped limit set by Government and some statute permitted for the setting of local fees to recover costs.

An important influencing factor for this year's fee setting process had been the introduction of a new software system as this had changed the way in which applications were administered. As fees were calculated including the time taken to process and administer applications, this had had an impact on the fees charged. It was also likely that further changes to processes would continue over time as more efficient ways of working were introduced.

The Licensing Team Manager stated that it was also important to mention that there were a number of pieces of European Legislation that needed to be taken into consideration as these were applicable to some fee regimes but not all.

Finally, Members' attention was drawn to the response received with regard to the setting of street trading fees where it was explained that a response would be sent following this meeting confirming the decision reached by the Committee

In considering the fees proposed, mention was made that it would have been useful if Members could have been provided with the existing list of charges so that they could see the level and percentage of increases or decreases proposed.

Following a brief discussion,

The Committee

RESOLVED

That the fees for the licensing regimes set out in the Appendix to the report, as proposed by Officers, which had been calculated in accordance with the requirements of each regime and principles of cost recovery laid out in guidance be approved for adoption on 1 April 2019.

492. VOTE OF THANKS

As this was the last meeting of the Committee in this administration, the Chairman thanked Members and Officers for their support and hard work over the last four years.

(The meeting concluded at 10.20 am)