

# AGENDA

## LICENSING COMMITTEE MEETING



Date: Thursday 21 March 2013

Time: 6.30 p.m.

Venue: Town Hall, High Street,  
Maidstone

Membership:

Councillors Barned, Mrs Gibson, Mrs Gooch,  
Mrs Grigg, Mrs Hinder, Mrs Joy,  
B Mortimer, Naghi, Parvin (Chairman),  
Mrs Parvin and Yates

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Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Disclosures by Members and Officers
5. Disclosures of Lobbying

**Continued Over/:**

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**Issued on 13 March 2013**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact JANET BARNES on 01622 602242** To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

**Alison Broom, Chief Executive, Maidstone Borough Council,  
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
7. Minutes of the Meeting held on 24 January 2013 1 - 3
8. Hackney Carriage/Private Hire Issues (if any)
9. Report of the Head of Democratic Services - Street Trading Consent Fee Structure 4 - 7
10. Report of the Head of Democratic Services - House to House Collections 8 - 11
11. Report of the Head of Democratic Services - Licensing Training 12 - 15

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 24 JANUARY 2013**

**Present:** Councillor Parvin (Chairman), and  
Councillors Barned, Mrs Gooch, Mrs Hinder, Mrs Joy,  
B Mortimer, Naghi, Mrs Parvin and Yates

81. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs Gibson and Mrs Grigg.

82. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

83. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

84. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

85. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

86. EXEMPT ITEMS

RESOLVED: That the Part II Items on the Agenda be taken in private as proposed.

87. MINUTES

RESOLVED: That the Minutes of the Meetings held on 22 October, 30 October and 12 November 2012 be approved as a correct record and signed.

88. HACKNEY CARRIAGE/PRIVATE HIRE ISSUES (IF ANY)

There were no issues to be raised.

89. BIS CONSULTATION PAPER ON STREET TRADING AND PEDLARY LAWS

The Committee considered the report of the Head of Democratic Services regarding proposed responses to a consultation paper on Street Trading and Pedlary Laws.

RESOLVED:

1. That the proposed response to the consultation paper on Street Trading and Pedlar Laws, as set out in Appendix B to the report of the Head of Democratic Services, be approved for submission to the Department for Business Innovation & Skills.
2. That the documents for inclusion at responses 15.1, 16 and 17 be drafted by parliamentary agents instructed by the Council and delegated authority to submit the recommended wording be given to the Head of Democratic Services.

90. STREET TRADING POLICY

The Committee considered the report of the Head of Democratic Services regarding a proposed change in the fee structure for short term consents to individual street traders seeking to trade for only a few days within a year.

Members sought some clarification from the Head of Democratic Services regarding the consultation and the charges and were in favour of the recommendations.

RESOLVED:

1. That consideration be given to the current fee structure for Farmers Markets being extended to include applications for individual stalls and the pricing being as set out as below:-  
  
Up to twelve days - £30  
Thirteen to twenty three days - £185  
Twenty four days and more - £385
2. That, in light of the proposed significant change to treatment of consent applications which would result from the proposed change in the fee structure set out above, the proposal for change be subject to a 4 week consultation and that the matter be reported back to committee if any objection is received, otherwise the change be implemented from 1 April 2013 by the Head of Democratic Services.

91. SEXUAL ENTERTAINMENT VENUE, 87-88 BANK STREET

The Committee considered the report of the Head of Democratic Services regarding a request from Century Buildings (Rochester) Ltd to reconsider the decision to refuse the Sexual Entertainment Venue application for part of the premises at 87-88 Bank Street, Maidstone.

Members asked that their thanks to Mrs Bolas, Legal Adviser, for her excellent letter be recorded.

RESOLVED: That the report be noted.

92. DRESS CODE FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

The Committee considered the report of the Head of Democratic Services regarding a consultation on a proposed voluntary dress code for hackney carriage and private hire drivers.

Mr Conyan addressed the Committee in support of the recommendations, although asked that the Committee considered including Jeans as permitted clothing.

RESOLVED: That the Head of Democratic Services consult with the Hackney Carriage Association, the representatives of the Private Hire Operators and individual drivers about the introduction of a voluntary dress code on the basis of the draft set out in Appendix 1 to the report of the Head of Democratic Services with the addition of Jeans listed as appropriate clothing.

93. EXCLUSION OF THE PUBLIC FROM THE MEETING

RESOLVED: That the public be excluded from the meeting for the following items of business because of the likely disclosure of exempt information for the reasons specified, having applied the Public Interest Test:-

**Head of Schedule 12A  
and Brief Description**

Exempt Appendix to the Report of the Head Of Democratic Services – Dress Code for Hackney Carriage and Private Hire Drivers	5 = Legal
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94. DRESS CODE FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

The Committee considered the Exempt Appendix setting out legal advice with regard to a dress code for Hackney Carriage Drivers.

A Member raised some typographical and presentation errors in the Hackney Carriage Byelaws.

95. DURATION OF MEETING

6.30 p.m. to 7.16 p.m.

# Agenda Item 9

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING COMMITTEE**

**21 MARCH 2013**

#### **REPORT OF HEAD OF DEMOCRATIC SERVICES**

**Report prepared by Neil Harris**

#### **1. STREET TRADING CONSENT FEE STRUCTURE**

##### 1.1 Issue for Decision

1.1.1 To consider the responses to the Street Trading Fee Structure Consultation and as a result a proposed change to the fee structure for short term consents to individual traders.

##### 1.2 Recommendation of the Head of Democratic Services

1.2.1 That the fee structure for applications for individual stalls, as agreed at the last meeting, be amended to the following:-

Up to 12 days - £30  
Up to 30 days - £65  
Up to 90 days - £180  
Full year consent - £385

##### 1.3 Reasons for Recommendation

1.3.1 At your last meeting you agreed to consult on amending the current fee structure for Farmers Markets to be extended to include applications for individual stalls and that the price would be on the same basis as for Farmers Markets namely:-

Up to 12 days - £30  
13 to 23 days - £185  
24 days and more - £385

A consultation was undertaken and a number of responses were received and all were supportive of the proposal to introduce this change to the fee structure.

1.3.2 However, a comment was raised on whether the applicants could have more than one application for twelve days in a single year and were

there any restrictions on the number of twelve day applications that could be made by each applicant. The intention of the proposal was that it should only be one application for twelve days within a single year. However, the twelve days could be taken as a block and then expanded to the whole year if required or could be taken as individual days, possible one per month, or grouped into three days per quarter.

- 1.3.3 However, in considering this proposal again resulting from this enquiry, it was felt that perhaps to be more helpful to applicants if the fee structure could be amended by making it more flexible in terms of the number of days that could be taken within a single year. Therefore, on the basis that the application is for one year and for one applicant, it is suggested that applicants could apply for a consent for up to 30 days or for 90 days as an additional option to the original 12 days. This would give a greater flexibility throughout the year if they wished to trade on specific days only, or would give them a longer period of settling in to see whether they would wish to continue on a long term basis for a whole year.
- 1.3.4 It was also felt that as part of this process it would be appropriate for the applicant to indicate, in their application, whether they intended their application to be for a trial period with the intention of possibly expanding to a whole year or whether it was for specific days within a year. As an example, if they only wished to trade one day in a month that would require twelve day permission. However, if they wished to trade every Saturday that would be fifty two days which would require permission for up to ninety days. It is important when applying that the applicant makes the Council aware that, if successful, they might seek an extension to a whole year so that consultees are aware that this is a potential change to their application and can comment.
- 1.3.5 It is felt that these changes in the fee structure will again give further flexibility in the scheme and in the same way as the proposal consulted upon encourage additional traders trading on a set pattern of days or encouraging new people to try their business in the Maidstone area to potentially expand to the whole year and thereby helping to introduce a vibrant street atmosphere within Maidstone.
- 1.3.6 It is felt that this particular change follows the theme of the change consulted upon and that there is, therefore, no need for further consultation. It is suggested that if Members agree that this proposal be introduced the change to the fees takes place from 1 April 2013.
- 1.4 Alternative Action and why not Recommended
  - 1.4.1 If the Committee decides it does not wish to make any changes as proposed in this report the fee structure as previously approved for consultation at the last Committee could be introduced. However, this

could have a restrictive effect on street trading which is eliminated from the current structure and original proposal by the changes suggested within this report.

1.5 Impact on Corporate Objectives

1.5.1 It is felt that this change in the fee structure could encourage new business into the area, thereby helping to create a more vibrant economy in the Maidstone area and supporting local business / traders.

1.6 Risk Management

1.6.1 There are no particular risks with regard to this change and in fact it will hopefully encourage new business to the area. The process of an application other than fee charge and indication of days trading and intention will not change.

1.7 Other Implications

1.7.1

1.	Financial	X
2.	Staffing	
3.	Legal	
4.	Equality Impact Needs Assessment	
5.	Environmental/Sustainable Development	
6.	Community Safety	
7.	Human Rights Act	
8.	Procurement	
9.	Asset Management	

1.7.2 It should be noted that the cost of administering the applications for the lower number of days consents as detailed in the report is more than the fee charged but this should be weighed against the encouragement given to new businesses. Additionally there will be no significant financial implications because of the increased number of applications received leading to more full applications and less applications being aborted and the fee needing to be refunded.



1.8 Relevant Documents

Street Trading Consent Policy report to Licensing Committee on 24 January 2013.

1.8.1 Appendices

None

1.8.2 Background Documents

None

**IS THIS A KEY DECISION REPORT?**

Yes

No

If yes, when did it first appear in the Forward Plan?

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This is a Key Decision because: .....

.....

Wards/Parishes affected: .....

.....

# Agenda Item 10

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING COMMITTEE**

**21 MARCH 2013**

#### **REPORT OF HEAD OF DEMOCRATIC SERVICES**

**Report prepared by Neil Harris**

#### **1. HOUSE TO HOUSE COLLECTIONS**

##### 1.1 Issue for Decision

1.1.1 To consider the policy relating to House to House collections within the Borough.

##### 1.2 Recommendation of the Head of Democratic Services.

1.2.1 That the report be noted.

##### 1.3 Reasons for Recommendation

1.3.1 Members may recall that following the end of the last meeting the Chairman asked that a report be submitted to the Committee on the Council's policy relating to House to House collections and in particular whether the policy indicates that house to house collections would only be for local charities.

1.3.2 An application for a house to house collection can only be refused on the specific grounds stated in Section 2(3) of the House to House Collections Act 1939, the details of which are set out below:-

(3) A licensing authority may refuse to grant a licence, or, where a licence has been granted, may revoke it, if it appears to the authority:

(a) that the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received);

(b) that remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been retained or

received out of the proceeds of the collection by any person;

- (c) that the grant of a licence would be likely to facilitate the commission of an offence under section three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection;
- (d) that the applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted in the United Kingdom of any of the offences specified in the Schedule to this Act, or has been convicted in any part of His Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or an offence of a kind the commission of which would be likely to be facilitated by the grant of a licence;
- (e) that the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised; or
- (f) that the applicant or holder of the licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs.

### 1.3.3 House to House Collections come in 3 different types as follows:-

- (1) Holders of exemption orders from the Home Secretary – these are usually the larger Charities who operate on a national basis and the object is to relieve those Charities of the burden of applying separately to a large number of authorities at the same time. The only requirement they have to fulfil is to notify each Local Authority of the dates during which they propose to collect.
- (2) Those collections which, because they are purely local in character are likely to be completed within a short period are authorised by the Police who issue their own Local Exemption Certificate.

(3) House to House Collections for which permits are required from the Council.

1.3.4 Only one of the above gives power to the Council to issue permits and the discretion to refuse to issue a permit is as set out in Section 2(3) of the House to House Collections Act 1939, see 1.3.1. There is no power for the Council to refuse on the basis that it would only accept applications from local charities and not charities outside the Maidstone area. However, it should also be noted that most of the national charities will already have an exemption from the Home Secretary to allow them to be able to undertake collections in the area anyway. In fact the likelihood is that most applications to the Council are from local charities but it is not exclusive to them.

1.4 Alternative Action and why not Recommended

1.4.1 The Council currently operates its House to House collections scheme on the basis set out within the House to House Collections Act 1939 and has no flexibility to change the way that it is administered. To operate outside the statutory requirements would not be within the Council's powers and would be subject to challenge.

1.5 Impact on Corporate Objectives

1.5.1 There is no impact on the Councils corporate objectives.

1.6 Risk Management

1.6.1 There are no particular risks regarding the House to House collections policy.

1.7 Other Implications

1.7.1

1. Financial	<input type="checkbox"/>
2. Staffing	<input type="checkbox"/>
3. Legal	<input checked="" type="checkbox"/>
4. Equality Impact Needs Assessment	<input type="checkbox"/>
5. Environmental/Sustainable Development	<input type="checkbox"/>
6. Community Safety	<input type="checkbox"/>
7. Human Rights Act	<input type="checkbox"/>

- 8. Procurement
- 9. Asset Management


1.7.2 The legal implications are dealt with in the report.

1.8 Relevant Documents

House to House Collections Act 1939.

1.8.1 Appendices

None.

1.8.2 Background Documents

None.

**IS THIS A KEY DECISION REPORT?**

Yes

No

If yes, when did it first appear in the Forward Plan?

.....

This is a Key Decision because: .....

.....

Wards/Parishes affected: .....

.....

# Agenda Item 11

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING COMMITTEE**

**21 MARCH 2013**

#### **REPORT OF HEAD OF DEMOCRATIC SERVICES**

**Report prepared by Neil Harris**

#### **1. LICENSING TRAINING**

##### 1.1 Issue for Decision

1.1.1 To consider the appropriate level and type of training required to effectively undertake the role of Licensing Committee Member or substitute for the forthcoming municipal year 2013/14.

##### 1.2 Recommendation of Head of Democratic Services

1.2.1 That the training for Licensing Committee Members outlined in the report be approved.

##### 1.3 Reasons for Recommendation

1.3.1 The Committee consists of 11 Council Members and the Council has agreed that the following rule regarding training must apply to the Licensing Committee:-

“The Council has agreed that no member will be able to serve on the Committee without having agreed to undertake a minimum period of training on the policies and procedures of the Committee as specified by the Committee. This training should be completed to an agreed level according to an agreed programme within an agreed time period set by the Committees for newly appointed Members and Substitute Members of the Committee. If the specified training has not been completed by the due date, the Member will cease to be a Member/Substitute Member of the Committee in question until the training has been completed. The Head of Democratic Services will keep a record of the training requirements of each Committee and of Members’ compliance with the requirements. Existing Members of the Committee should be updated regularly on changes of legislation and procedures and receive refresher training on an annual basis.”

1.3.2 The Committee needs to determine the program for training for the forthcoming year and set out below is a draft programme, based on the feedback from Members:-

- June - Licensing Act 2003 subcommittee meetings refresher including Chairmanship at hearings.
- November – Training on legislative changes.

It is intended to invite Councillors from our partnership authorities at Sevenoaks and Tunbridge Wells. Additionally, they will also be holding training events at Sevenoaks and Tunbridge Wells and the Committee Members will be invited to attend should they wish to. Arrangements are also being put in place for Members of each authority to be given the opportunity to attend to observe Licensing Act 2003 Sub Committee meetings at each of the authorities. Committee Members will be notified of these arrangements in due course.

1.3.3 In respect of the above training the Committee are asked to confirm that they are happy with the training programme for existing Members. In respect of new member/s of the Committee, Members are asked to set the level of training required in all major licensing areas including policy and procedure, with the Committees' legal advisor, which will be arranged for them as soon as possible after their appointment and in any event within 3 months.

#### 1.4 Alternative Action and why not Recommended

1.4.1 The Committee could choose not to set the levels of training required but this would fail to meet its obligations under the Constitution.

#### 1.5 Impact on Corporate Objectives

1.5.1 The training being delivered will enable the Committee to operate effectively and deliver Corporate and Customer excellence.

#### 1.6 Risk Management

1.6.1 Ensuring it sets a level of training which is sufficient to ensure the Committee members have the necessary knowledge and understanding to meets its obligations as a Licensing Committee and reduce the risk of appeals against its decisions.

#### 1.7 Other Implications

1.7.1

1. Financial
2. Staffing

x

- 3. Legal
- 4. Equality Impact Needs Assessment
- 5. Environmental/Sustainable Development
- 6. Community Safety
- 7. Human Rights Act
- 8. Procurement
- 9. Asset Management

X
X

1.7.2 Financial Implications

The cost of training will be met from within existing resources.

1.7.3 Staffing Implications

The staffing to assess and deliver the training and development requirements will be identified from within existing resources.

1.7.4 Legal Implications

The Constitution requires the Licensing Committee to set a minimum level of training.

1.8 Relevant Documents

1.8.1 Appendices

None.

1.8.2 Background Documents

Maidstone Constitution.



**IS THIS A KEY DECISION REPORT?**

Yes

No

If yes, when did it first appear in the Forward Plan?

.....

This is a Key Decision because: .....

.....

Wards/Parishes affected: .....

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