

LICENSING COMMITTEE AGENDA

WEDNESDAY 15 MARCH 2017
6.30 PM

COUNCIL CHAMBER CIVIC OFFICES CENTRAL MILTON KEYNES

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Councillor Morris (Chair)

Councillor Petchey (Vice-Chair) and C Williams (Vice-Chair)

Councillors Alexander, Buckley, Exon, Geaney, Green, Legg, McDonald, Miles, Patey-Smith, Wallis, Webb and P Williams

If you have any enquires about this agenda please contact Tina Milner, Committee Manager, Tel: (01908) 254737 or E-mail: tina.milner@milton-keynes.gov.uk (1)

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AGENDA

1. Welcome and Introductions

The Chair to welcome Members, officers and the public to the meeting.

2. Apologies

3. Minutes

To approve, and the Chair to sign as correct records, the Minutes of the following meetings;

The meeting of the Licensing Committee held on 7 DECEMBER 2016 (Item 3a). (**Pages 4 to 5**)

The meetings of the Licensing Sub-Committee held on 22 NOVEMBER 2016 (Item 3b) (**Pages 6 to 12**), 19 JANUARY 2017 (Item 3c) (**Pages 13 to 15**) and 23 JANUARY 2017 (Item 3d) (**Pages 16 to 18**)

4. Disclosure of Interests

Councillors to declare any disclosable pecuniary interests, or personal interests (including other pecuniary interests), they may have in the business to be transacted, and officers to disclose any interests they may have in any contract to be considered.

5. Public Participation

To consider the following items in accordance with the Procedures for Public Participation:

(a) Deputations and Petitions

No deputations have been received for the Committee to consider at this meeting. Any petitions will be reported at the meeting.

(b) Questions

To receive questions from members of the public in accordance with the Council's Constitution, not related to licensing applications.

6. Corporate Enforcement Policy

To consider Item 6 (**Pages 19 to 28**)

Minutes of the meeting of the LICENSING COMMITTEE held on WEDNESDAY
7 DECEMBER 2016 at 6:30 pm

Present: Councillor Morris (Chair)
Councillors Buckley, Exon, Geaney, Green, McDonald, Petchey,
C Williams and P Williams.

Officers: A Moss (Interim Head of Transport), J Agar (Regulatory Unit Senior Practitioner), S Teesdale (Licensing Team Leader), S Bailey (Parking Strategy & Implementation Manager), E Fisher (Senior Practitioner), D Novell (Senior Enforcement Officer), A Ward (Senior Practitioner), L Gardner (Case Manager Litigation), L Hodgkinson (Regulatory Unit Practitioner), M Smith (Housing Finance Manager) and T Milner (Committee Manager).

Also Present: 22 Members of the public.

Apologies: Councillors Alexander, Legg, Patey-Smith and Webb.

LC08 WELCOME AND INTRODUCTIONS

The Chair welcomed Councillors, officers and the public to the meeting.

LC09 MINUTES

RESOLVED –

That the Minutes of the meeting of the Licensing Committee held on 21 SEPTEMBER 2016 be approved and signed by the Chair as a correct record.

LC10 ANNUAL UPDATE – USE OF INCOME FROM THE CASINO

The Committee considered a report from the Housing Finance Manager in respect of an Annual Update – Use of Income from the Casino, which set out the details of how the income had been allocated.

The Committee heard that the Borough of Milton Keynes had a number of betting shops and several gambling establishments including the Casino.

The Committee expressed some concern in respect of the inspection tests undertaken with the Casino and other gambling establishments based in Milton Keynes, including the issue of how under-age sales were being looked into. The Senior Enforcement Officer provided reassurance to the Committee that a robust Test process and criteria was in place in addition to a procedure to aid with dealings with any breaches of the law.

It was reported that the Licensing Team was not complacent in its work, and if it was deemed necessary to address or enhance the testing process and procedures in place, that appropriate action would be undertaken by the Council.

The Senior Enforcement Officer also informed the Committee that although the operation of cameras and recording equipment were checked as part of the process/checks that were in place, the Licensing Team could look into the issues in more detail. The Licensing Team Leader provided further reassurance that he would look at providing the Committee with a summary of tests of camera/recording equipment operations carried out.

The Chair, on behalf of the Committee thanked the Housing Finance Manager for the input and detailed report.

RESOLVED

That the report be noted.

LC11

LICENSING SUB-COMMITTEE – SITE INSPECTIONS

The Committee received a draft Procedure for the Licensing Sub-Committee Site Inspections from the Senior Practitioner.

The Chair informed the Committee that the draft Procedure was an interim measure for the short term, that would assist the Licensing Sub-Committee attend Site Inspections, as part of the Hearings process. Any lessons learnt would aid the development of and would be incorporated within a report being submitted to the Committee for consideration during 2017.

The Committee heard that due to many of Milton Keynes Councillors holding full-time jobs, consideration should be given to the timing of Site Inspections. The Chair also commented that an invitation could only be extended to invite Parish, Town or Ward Councillors to attend a Site Inspection, if a request for representation had been submitted to the Licensing Sub-Committee during the consultation period.

RESOLVED

That the Committee agreed in principle to the Site Inspections draft procedure, and the Senior Practitioner be requested to submit a final draft procedure to a future meeting for consideration.

THE CHAIR CLOSED THE MEETING AT 6:40 PM

ITEM 3b

Minutes of the LICENSING SUB-COMMITTEE held on TUESDAY 22 NOVEMBER 2016 at 1.00 pm

Present: Councillor Morris (Chair)
Councillors Miles and Morris

Officers: L Gardner (Solicitor), S Teesdale (Licensing Team Leader), K Evans (Licensing Enforcement Officer) and J Crighton (Democratic Services)

Also Present: J Shayler (Applicant), F Fender (FJF Licensing Solutions), L Costello (Olney Town Council), Mr Williams (member of the public), Mr Davison (member of the public) and Mr Wilkinson (member of the public)

LSC03 SUSPENSION OF COUNCIL RULE 4

RESOLVED -

That Council Procedure Rule 4 'Time and Place of Meetings' be suspended.

LSC04 APPLICATION FOR A NEW PREMISES LICENCE FOR OLNEY WINE BAR AND BRASSERIE, 9 HIGH STREET SOUTH, OLNEY

The Sub-Committee considered an application for a new Premises Licence for Olney Wine Bar and Brasserie, 9 High Street South, Olney.

The Licensing Enforcement Officer informed the Sub-Committee of the following:

- (a) the application was for a new premises licence but there had been an existing licence in place since September 2005 when it had been known as Olney Wine Bar. It was then subject to a transfer to Grigg and Seidler in 2007. The current licensee, TJD Trade Ltd, took over the licence in October 2009;
- (b) Olney Wine Bar had been closed for approximately two years;
- (c) the adjoining property to Olney Wine Bar was going to be merged with the exiting premises for licensable activities;
- (d) the existing license permitted the following:
 - (i) Supply of Alcohol
Monday to Wednesday (10.00 to 00.30 (01.30 during December))
Thursday to Saturday (10.00 to 01.30)
Sunday (12.00 to 23.30)

Good Friday and Christmas Day (12.00 to 23.30)

New Year's Eve from the start of permitted hours on that day of the week until start of permitted hours the following day.

- (ii) Indoor Regulated Entertainment encompassing Live Music, Recorded Music, Performance of Dance, Activity similar to Live Music / Recorded Music or Performance of Dance

Monday to Wednesday (20.00 to 00.00)

Thursday to Saturday (21.00 to 00.00)

Sundays (12.00 to 23.00)

- (iii) Late Night Refreshment

Monday to Wednesday (23.00 to 00.30 (01.30 during December)

Thursday to Saturday (23.00 to 01.30)

Sundays, Good Friday and Christmas Day (23.00 to 00.00)

New Year's Eve (23.00 to 05.00 New Year's Day)

- (d) the application for new licensable activities are detailed below:

- (i) Supply of Alcohol (on and off the premises), Live Music, Recorded Music and Performance of Dance (indoors)

Sunday to Thursday (10.00 to 00.30)

Friday to Saturday (10.00 to 01.30)

- (ii) Late Night Refreshment (indoors)

Sunday to Thursday (23.00 to 00.30)

Friday to Saturday (23.00 to 01.30)

Seasonal variations had also been requested in respect of the end times for all licensable activities, as follows:

- (i) an additional one hour on the Sundays and Mondays of Bank Holiday weekends;
- (ii) an additional hour on Christmas Eve, Boxing Day, St. Patrick's Day and Valentine's Day, where these days fall other than on a Friday or Saturday;
- (iii) an additional half an hour on the day British Summertime begins;
- (iv) from the end of permitted hours on New Year's Eve until 05.00 on New Year's Day;

- (e) since the application had been submitted, the applicant had agreed with Environmental Health that the condition in the operating schedule relating to the terminal time for drinks and refreshments consumed outside be reduced to 21.00. The applicant had also agreed to further additional conditions to be added to the operating schedule, as follows:
 - (i) a dispersal policy be produced and implemented to ensure noise is kept to a minimum;
 - (ii) a large gathering of customers would be prevented to occur outside the front of the premises to prevent spillage onto the main road;
- (f) the applicant had agreed with Thames Valley Police that conditions in the operating schedule be amended, as follows:
 - (i) Staff Training

All persons involved in alcohol sales must receive full and adequate training on the law relating to underage sales. A written record of the training that each person has received shall be maintained. Regular refresher training is also to be given and recorded. The training records / log are to be kept on site and shall be provided to the Police, the Local Authority or Licensing Authority on request.
 - (ii) CCTV

A CCTV system shall be installed, maintained and operated at the premises. The CCTV system will show images to an evidentiary standard and will cover all areas available internally to the public (excluding toilets), as well as the entrances and exits also the external courtyard area. The system will record at all times that the premises is open to the public. All recordings will be retained for a minimum of 28 days with date and time stamping. Recordings shall be made available upon request of the Police or Local Authority to view or remove upon lawful request. Relevant staff are to be trained and able to use the system.
 - (iii) Door Supervisors

The Designated Premises Supervisor will risk assess the necessity for door supervisors at the premises and will amend such risk assessments if advised to do so by Thames Valley Police.
 - (iv) Drugs

The premises shall operate a zero tolerance policy in respect of illegal drug use.

The condition in reference to legal highs has been agreed to be removed as they are now termed as psychoactive substances under the law, the use of which is now illegal.

(v) Challenge 25

An effective 'Challenge 25 Policy' shall be implemented and maintained in place at the premises. Any persons appearing to be under the age of 25 who attempts to purchase alcohol must be challenged in respect of their age and required to provide adequate proof that they are over the age of 18 before they are sold or supplied with alcohol. Only photographic based forms of identification shall be accepted as proof of age in respect of suspected underage sales. These must be accredited to the PASS scheme or subsequent equivalent but could also include passport, HM forces ID card, driving licence, national ID card.

- (f) there had been complaints previously recorded against Olney Wine Bar but these had little relevance to the decision regarding the new application;
- (g) there had been representations made from Olney Town Council and four local residents in relation to the application which, in summary, included the following issues:
 - (i) the unsuitability of the location and timings for licensable activities;
 - (ii) that the seasonal timings for New Year's Day were excessive and that St. Patrick's Day and Valentine's Day were not sufficiently exceptional to warrant additional hours;
 - (iii) the potential for anti-social behaviour;
 - (iv) the hours of music should be reduced and the last entry to the premises be 22.00;
- (h) the applicant had responded to some concerns raised by objectors and, as a result, proposed to amend the indoor terminal hours from 00.30 to 23.00, with the premises closing at 23.30, Sunday to Thursday, therefore, the proposed Late Night Refreshment from 23.00 to 00.30 would be withdrawn; and
- (i) the applicant had also proposed that a contact number be available for residents to report any concerns that may arise.

F Fender (FJF Licensing Solutions), on behalf of J Shayler (applicant), informed the Sub-Committee of the following:

- (a) the applicant was acquiring the adjoining property;

- (b) the applicant had a vast knowledge operating premises licences and had complied with the appropriate legislation;
- (c) the courtyard, situated behind 11 High Street South, would be used as a smoking area;
- (d) Olney Wine Bar had had a good reputation and the applicant wished to restore its reputation;
- (e) the premises would not be used as a nightclub but that of a Boutique Bar;
- (e) the premises would appeal to mature customers;
- (f) all staff would be fully trained; and
- (g) the applicant wanted to work closely with residents.

On hearing evidence from the officers, the applicant's representative and from parties that made relevant representations, the Sub-Committee considered the main licensing objective was public nuisance.

The Sub-Committee considered the position of the wine bar, in that it was in a small market town with residential properties in close proximity. It also took into consideration the two other licenced premises in the town.

The Sub-Committee heard that the wine bar was situated in a place with very narrow pavements where patrons could easily step into the road causing a danger to themselves and oncoming traffic.

It also took into consideration the concerns of local residents in having a wine bar operating to 1.30 am at the weekend.

In considering all their points, the Sub-Committee decided to reduce the requested operating hours at the weekend to the same as those requested for Sunday to Thursday.

The Sub-Committee decided that knowing the other two licenced premises had licences that did not go past midnight, that licencing a premise to open till 1.30 am would mean that patrons would be migrating from one premises to the wine bar to stay drinking late.

If this occurred it would encourage those premises to apply to vary their licences to extend those hours to compete, thus resulting in a proliferation of late night opening at the weekend that would increase the chances of nuisance and anti-social behaviour to local residents.

The Sub-Committee considered whether a restriction to entry would stop migration to the premises. The Sub-Committee accepted the applicant's representative's statement in that he did not want his business to adversely affect other licenced premises. However, if a last entry time was set then it would mean that patrons would be leaving the other premise early to get in the wine bar before the cut

off, resulting their business being affected and then being forced to apply for the late licence.

All of the other conditions that the Sub-Committee applied were agreed prior to the Sub-Committee or through statements made to the Sub-Committee and members were happy to approve those conditions.

RESOLVED -

The decision of the Sub-Committee was to grant a new premises licence with the following conditions:

- (a) Supply of Alcohol (on and off the premises), Live Music, Recorded Music and Performance of Dance (Indoors)
 - Sunday to Thursday (10.00 to 23.00)
 - Friday and Saturday (10.00 to 00.00)
- (b) Late Night Refreshment (Indoors)
 - Friday and Saturday (23.00 to 00.00)
- (c) Premises Open to the Public
 - Sunday to Thursday (10.00 to 23.30)
 - Friday and Saturday (10.00 to 00.30)
- (d) Seasonal variations have been approved for all licensable activities, as follows:
 - (i) an additional one hour on the Sundays and Mondays of Bank Holiday weekends;
 - (ii) an additional hour on Christmas Eve, Boxing Day, St Patrick's Day and Valentine's Day;
 - (iii) an additional half hour on the day British Summertime begins;
 - (iv) from the end of permitted hours on New Year's Eve until 05.00 on New Year's Day.
- (e) that a dispersal policy be agreed between Thames Valley Police and Environmental Health with Olney Town Council being consulted;
- (f) additional conditions, as detailed in Annex A to the report, be approved;
- (g) all conditions agreed with the Police and Environmental Health, as contained in Annexes D and E, be approved;
- (h) that drinks shall not be consumed in the outside area after 21.00;
- (i) that appropriate signage be displayed on exit to the outside smoking area and to the external smoking area stating no

drinks to be allowed outside after 21.00 and also to be respectful to neighbouring residential properties; and

- (j) that a contact telephone number be available for residents and responsible authorities to call with any concerns that may arise and this to be manned at all times.

In addition to the conditions of the licence the Sub-Committee held:

- (a) that there will be no last entry hours; and
- (b) that the Highways department be asked to review the road outside the premises to see if bollards are required for the safety of customers.

THE CHAIR CLOSED THE MEETING AT 2.35 PM

Minutes of the LICENSING SUB-COMMITTEE held on THURSDAY 19 JANUARY 2017 at 10.00 am

Present: Councillor Morris (Chair)
Councillors McDonald and Petchey

Officers: L Gardner (Solicitor), J Sloan (Licensing Officer) and J Crighton (Democratic Services)

Also Present: Mr A Ekter (applicant), Mr I Aydaojan (applicant's interpreter), G Clarke (Senior Environmental Health Officer) and Councillor J Jeffreys (Woburn Sands Town Council)

LSC05 SUSPENSION OF COUNCIL RULE 4

RESOLVED -

That Council Procedure Rule 4 'Time and Place of Meetings' be suspended.

**LSC06 APPLICATION FOR A NEW PREMISES LICENCE FOR BODRUM
KEBAB AND PIZZA HOUSE, 37 HIGH STREET, WOBURN
SANDS**

The Sub-Committee considered an application for a new Premises Licence for Bodrum Kebab and Pizza House, 37 High Street, Woburn Sands.

The Licensing officer informed the Sub-Committee of the following:

- (a) the application was for a new Premises Licence and limited to late night refreshment (the supply of hot food and drink) on Fridays and Saturdays, 11.00 pm to midnight;
- (b) since November 2014, the premises had been operating for the additional hours applied for without the required licence in place;
- (c) following a visit to the premises and a subsequent meeting with the applicant, officers concluded that there had been a misunderstanding by the applicant following a discussion with the Council's Planning Department and he believed that he had been operating with the relevant permissions and licences;
- (d) on realising that he had made an error, the applicant ceased to trade the additional hours and submitted an application;
- (e) following the discussion and the action of the applicant, Licensing officers had made the decision to bring the premise into compliance rather than take any enforcement action; and

(f) there had been no complaints made against the premise.

Mr Idris Aydaojan (the applicant's interpreter), on behalf of Mr Ali Ekter (applicant), informed the Sub-Committee of the following:

- (a) he wanted the extra hour to accommodate patrons leaving nearby establishments;
- (b) he had received between 15-20 customers in the additional hours of trading;
- (c) he had not received any complaints regarding noise disturbance; and
- (d) his neighbour, who had objected to the application, confirmed that they had no issues with the noise and odour of the premise's extractor fan and, therefore, wished to withdraw the representation.

Gillian Clarke (Senior Environmental Health Officer) informed the Sub-Committee of the following:

- (a) That the following condition be placed on the licence, if granted:

"At the close of trading every day, the licence holder, or his representative, shall ensure all litter is removed from the vicinity of the business location. All litter and waste, including oil and grease products, must be suitably disposed of."

The applicant's representative confirmed that a bin was provided at the door of the premises for patrons to dispose of the waste and agreed to clear any rubbish that had accumulated in the immediate vicinity of the premises at the end of the working day, including around the War Memorial on the opposite side of the road as there was seating there where patrons may sit to eat their food.

The applicant's representative also confirmed that the oil and grease products are stored to the rear of the premises and are collected four weekly.

- (b) Environmental Health was happy with the operation for the disposal of oil and grease products, however, requested that the applicant contact them to discuss any changes to the arrangements.

Councillor Jacky Jeffreys, Woburn Sands Town Council, informed the Sub-Committee of the following:

- (a) the premise is situated in a residential area;
- (b) the additional hours requested would cause noise and odour problems;

- (c) other nearby establishments do have licensing hours in excess of 11.00 pm, however, these operating hours are not fully used and the establishments close at 11.00 pm; and
- (d) the Town Council had not received any complaints regarding the premise.

The Sub-Committee, in reaching its decision, reviewed the nine reasons for refusal submitted by Woburn Sands Town Council and considered the relevant points were numbers three and four, relating to litter and noise disturbance. It also considered the representation made by the local resident, however, on the basis that during the two years the premises was operating till midnight on a Friday and Saturday night and that the applicant had accepted the conditions requested by Environmental Health, the Sub-Committee were satisfied that, in granting the licence, it would not breach the licensing objectives.

RESOLVED -

1. That the licence for Late Night Refreshment for Friday and Saturday nights from 23.00 hours to 00:00 hours be granted.
2. The Sub-Committee noted that the applicant agreed to the conditions proposed by the Senior Environmental Health Officer and thus added the following conditions.
 - (a) that the area in the vicinity of the premise, including the area of the war memorial on the opposite side of the road be cleared of rubbish at the close of business; and
 - (b) that a bin be provided at the front door of the premise for rubbish collection.

THE CHAIR CLOSED THE MEETING AT 10.50 AM

Minutes of the LICENSING SUB-COMMITTEE held on MONDAY 23 JANUARY 2017 at 10.10 a.m.

Present: Councillor Morris (Chair)
Councillors Bradburn and Exon

Officers: L Gardner (Solicitor), E Fisher (Senior Practitioner) and D Imbimbo (Committee Manager)

Also Present: Mr G Lama (Licensee's Representative), G McCormick (Licensing Officer [Thames Valley Police])

LSC07 SUSPENSION OF COUNCIL RULE 4

RESOLVED -

That Council Procedure Rule 4 'Time and Place of Meetings' be suspended.

LSC08 TEMPORARY EVENT NOTICE - MEMLINGS GRILL, 27 - 29 JANUARY 2017

The Sub-Committee considered an application from Thames Valley Police to issue a counter notice in respect of a Temporary Event Notice (TENS) submitted on behalf of Memlings Grill and Restaurant, The Agora Centre, Wolverton for an event from 27 January 2017 to 29 January 2017.

The Senior Practitioner informed the Sub-Committee of the following:

- (a) a Temporary Events Notice had been received from Mrs S Lama advising of an event to be held at Memlings Grill and Restaurant from Friday 27 January 2017 until 29 January 2017;
- (b) the notice was in respect of the proposal to serve alcohol and provide regulated entertainment and late night refreshment during the following hours;
 - (i) Friday 27 January 2017
13:00hrs to 02:00hrs on the morning of Saturday 28 January 2017
 - (ii) Saturday 28 January 2017
13:00hrs to 02:00hrs on the morning of Sunday 29 January 2017
 - (iii) Sunday 29 January 2017
14:00hrs to 23:45hrs

The Licensing Officer for Thames Valley Police told the Sub-Committee that the Police had applied for a Counter Notice, thereby prohibiting the event for the following reasons:

- (a) A TENS notice had been submitted to the Council on 30 December 2016 in respect of an event scheduled for 6 – 8 January 2017
- (b) The TENS had been served late and had therefore failed to give the minimum required notice and had therefore been refused.
- (c) The Personal Licence holder (PLH) had held the event without a valid licence and served alcohol, provided regulated entertainment and served late night refreshment without any appropriate licence in place. The Police were considering a prosecution
- (d) The Police held a belief that the failure on the part of the Personal License Holder (Mrs S Lama) to comply with Licensing Law indicated that there was a risk to the personal safety of the public and a risk that The licensing objective to prevent Crime and Disorder would not be met
- (e) Following the events on 6 – 8 January the PLH had delayed in providing CCTV evidence requested by the Police.

The representative of the PLH confirmed:

- (a) the email advising that the TENS relating to the event scheduled for 6 - 8 January had been refused had been received but not read;
- (b) no confirmation of the TENS had been received but this was taken to indicate that the TENS had been accepted;
- (c) the event had taken place in the belief that a TENS was in place;
- (d) the event scheduled for 27 - 29 January had bookings and would be difficult to cancel;
- (e) there had been bookings for the event scheduled for 6 - 8 January;
- (f) there had been no issues arising from events that had taken place under a TENS; and
- (g) the PLH had made no enquiries when the TENS notice had not been sanctioned to establish where the PLH's copy that was required to be held by the PLH was.

RESOLVED -

The decision of the Sub-Committee was to uphold the application on the part of the Thames Valley Police to issue a Counter Notice for the following reasons:

1. The Premises License had been revoked in 2016 for reasons which included the sale of alcohol out of hours (i.e. without a license in place) and that the Licensee had failed to provide CCTV recordings when requested, it was clear that these practices were still being carried out by the Personal Licence Holder, and,
2. This gave the Sub-Committee reason to believe that there was a significant risk that the licensing objectives, to Prevent Crime and Disorder and Maintain Public Safety would not be met by virtue of previous conduct and poor management competency.

THE CHAIR CLOSED THE MEETING AT 11.25 AM

Wards Affected:

'All Wards'

ITEM 6**LICENSING COMMITTEE****15 MARCH 2017**

Report Sponsor

Duncan Sharkey – Corporate Director - Place

Author and contact:

Lee Gardner – Case Manager - Litigation

Executive Summary:

Milton Keynes Council regularly reviews its policies to confirm that they are up to date and complies with any recent guidance or changes in legislation. This report is to inform the Committee of the revised Corporate Enforcement Policy

1. Recommendation(s)

1.1 That the Corporate Enforcement Policy be noted.

2. Background

2.1 The Council's Corporate Enforcement Policy ("Policy") was last updated on 13th September 2012. A review of the policy was required following the introduction of the Regulators Code.

2.2 A revised draft of the policy was circulated to Officers responsible for enforcement within the Council for comments.

2.3 These comments were incorporated into the policy. The report was placed on the forward plan and sent for Cabinet approval on 3rd January 2017. Report attached at Annex B

2.4 The changes to the previous policy were an update following a revised government guidance and did not represent a significant change in the previous policy. For example the right to appeal a decision on enforcement action, which will be dealt with through the Council's complaints procedure.

2.5 Following the decision of the Cabinet to adopt the policy, the decision was called in by the Chair of the Regulatory and Licensing Committee and the Chair of the Development Control Committee.

2.6 At mediation the call in was withdrawn. It was agreed that this policy would be brought before Regulatory, Licencing and Development Control Committees for information. It was also agreed that proposed changes to policy relevant to the committee's work will be discussed with the Chair prior to approval by Cabinet.

3. Options

3.1 Note the report

4. Implications

4.1 Policy - None

4.2 Resources and Risk – There is a risk if enforcement action is taken and the code is not complied with as the decisions could be challenged.

X	Capital	Y	Revenue	X	Accommodation
X	IT	X	Medium Term Plan	X	Asset Management

4.3 Carbon and Energy Management - None

4.4 Legal – Section 22 of the Legislative and Regulatory Reform Act 2006 states:-

(1) A Minister of the Crown may issue and from time to time revise a code of practice in relation to the exercise of regulatory functions.

(2) Any person exercising a regulatory function to which this section applies must, except in a case where subsection (3) applies, have regard to the code in determining any general policy or principles by reference to which the person exercises the function.

(3) Any person exercising a regulatory function to which this section applies which is a function of setting standards or giving guidance generally in relation to the exercise of other regulatory functions must have regard to the code in the exercise of the function.

X	Equalities/Diversity	X	Sustainability	X	Human Rights
X	E-Government	X	Stakeholders	Y	Crime and Disorder

Annex:

A - Corporate Enforcement Policy

B - Cabinet Report of the 7th January 2017

Corporate Enforcement Policy

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- 4. General principles of enforcement**
- 5. Referrals / Service Requests etc.**
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- 7. Recovery of costs**
- 8. Accountability**

1. Introduction

Milton Keynes Council functions as a regulator and enforcement agency with a wide range of legal powers and duties. The authority has an essential role in the protection of the environment and of the health, safety and interests of residents, visitors and businesses within and where relevant outside Milton Keynes.

This enforcement policy is an overarching policy, designed to ensure a consistent, fair, proportionate and effective approach to regulatory inspection and enforcement across a number of services. The policy highlights the aims and principles each enforcement service should consider when exercising their duties.

2. Aims

The Council's aim is to undertake its regulatory and enforcement role in an impartial, open, and consistent manner. This is achieved through education, mediation, advice, inspections, monitoring, and by regulating the activities of individuals and business as necessary.

Securing compliance through the use of enforcement powers and sanctions, including prosecution, is sometimes necessary to achieve this. In doing this, Milton Keynes Council enforcement officers will act in accordance with the guidance and standards set out in this policy. In particular Milton Keynes Council will:

- Work with people and businesses to help them understand and comply with their legal responsibilities, obligations and whether the outcomes can be achieved by less burdensome means while supporting economic growth.
- Undertake proportionate, fair and effective enforcement activities

- Robustly challenge the actions of individuals who have a negative effect on the community
- Liaise and co-operate closely with partner agencies to ensure the most appropriate and proportionate action is taken in each case
- Ensure enforcement staff are competent, appropriately trained, and apply this policy and its principles professionally and consistently
- Make information about this policy widely available to the public and businesses within and outside Milton Keynes
- Act in accordance with the Government Enforcement Concordat, Code for Crown Prosecutors and the Regulators' Code.
- Have regard to other Council policies and procedures that sit underneath this overarching policy

A further aim of this policy is to ensure that Milton Keynes Council can tackle the needs of individual communities by engaging with them in all suitable formats, identifying issues of particular importance to them, and using enforcement sanctions appropriately to bring about compliance under specific legislation and apply the approach tailored to the relevant circumstances. This approach will provide swift resolution to community problems through the use of intelligence and effective community engagement.

3. Scope

This policy applies to all enforcement functions carried out by Milton Keynes Council. It supports and supplements existing specific guidance on enforcement action contained in the statutory Code of Practice for Regulators and other statutory codes of practice, relevant guidance documents, and guidelines issued by other government departments and other bodies. Due consideration will be given to any other enforcement policy or scheme such as the Primary Authority Principle, where relevant.

4. General Principles of Good Enforcement

In enforcing relevant legislation, the Council will pay due regard to the following principles of good enforcement practice.

Standards: where appropriate, clear standards will be drawn up to set out the level of service and performance that can be expected by service users, eg response times to service requests.

Openness: against whom enforcement action is considered will receive sufficient explanation in plain English to enable them to understand what is expected of them, and what they may expect from us including clear indication of any charges we set. The Council will give clear explanations of things which are legal requirements, and things which are recommendations. Our correspondence and advice, where appropriate will set out clear deadlines when which action is required.

Helpfulness: prevention is better than cure and the Council will actively work with people and businesses to advise on and assist with compliance. The Council will provide a courteous and efficient service and our staff will identify themselves by

name. The Council will provide a contact point and telephone number for further dealings with us and will encourage those to seek advice/information from us. The Council will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

Consistency: Broadly similar approaches will be used in similar circumstances in order to achieve consistent ends. The Council recognises that businesses and people expect consistency from different enforcement officers with whom they come into contact eg in the investigation of complaints.

The Council will continue to take steps to promote consistency of enforcement. These will include training, effective liaison with other local authorities, enforcement bodies, and professional organisations, attending local regional and national meetings.

Proportionality: Enforcement action will be related to the risk and the public interest. Any action taken by enforcement officers to achieve compliance with the law will depend on the seriousness of any breach.

Any decision regarding enforcement action will be taken on the merits of each case, be impartial and objective. It will not be affected by race, disability, socio-economic factors, age, politics, gender, sexual orientation or religious beliefs of any Council employee, offender, victim or witness. However, where a victim has been targeted by an offender by virtue of their status (eg ethnicity) or where the perpetrator is young or vulnerable, consideration will be given to this when deciding on any course of action.

A copy of our equality and diversity policy can be found on our website: [Equalities Policy](#) and may also be obtained by applying in writing to: Corporate Equalities & Diversity Officer, Milton Keynes Council, Civic Offices, 1 Saxon Gate East, Milton Keynes, MK9 3EJ.

Where appropriate, we will seek to achieve compliance through early engagement, mediation, education and advice. Where this is deemed by officers to be an inappropriate route, their decisions will be recorded and justified. Further if Officers believe that any provision of the Regulators Code does not apply they will record that decision and the reasons for it

5. Referrals / Service Requests etc

If we receive a complaint which may result in enforcement action against a business or individual, it will be brought to their attention as soon as practicable. We will keep complainants and witnesses informed of the progress of any enforcement action taken. In circumstances where notifying any party could impede enforcement action, notification will not take place until those circumstances no longer exist.

6. Enforcement actions

The following courses of action are available to the Council:

- Use of informal warnings
- Provision of written advice and guidance
- Issuing Fixed or Variable Penalty / Monetary Notices
- Suspending, revoking, or attaching conditions to an existing licence or refusing an application for a new one
- Statutory Notices
- Stop / Prohibition Notices
- Simple Cautions
- Undertaking work in default (in appropriate cases)
- Undertakings / Injunctive Proceedings
- Prosecution
- Confiscation / Forfeiture (including Proceeds of Crime Act 2002 applications)

Any sanctions and penalties imposed will be consistent, balanced, and fairly implemented. They will relate to common standards which ensure the adequate protection of individual safety and welfare, public safety, financial security, or the environment. Where it is clear that another regulator is responsible for enforcing any matter or imposing any form of sanction, the matter will be passed across to them accordingly; however this will not preclude an investigation from taking place to ascertain relevant facts. The aim of using sanctions and penalties is to:

- Protect the public and businesses from harm
- Stop the infringing conduct immediately
- Change the behaviour of the offender
- Deter future non-compliance and reassure the community
- Restore the harm caused by regulatory non-compliance
- Eliminate any financial gain or benefit from non-compliance
- Be proportionate to the nature of the offence and the harm, or risk of harm caused and with consideration as to the public stigma that might come with receiving a criminal conviction

In deciding which sanction is appropriate, the service will have particular regard to the following criteria:

- Whether the breach was pre-meditated or committed deliberately or recklessly, or without due diligence;
- Whether there are any previous complaints, convictions, or other information relevant to the history of the individual or business;
- Inadequate mitigation or explanation given by the individual or business.
- The attitude shown by the individual or the business and in particular whether they were obstructive, or co-operative and remorseful;
- The prevalence of the type of breach and whether a particular sanction could act as a deterrent and encourage compliance generally;
- The effect of the breach on the victim or affected person, in particular where the victim or affected person is in some way vulnerable or the infringement resulted in death or serious injury.

If the Council is considering any criminal action the final decision to prosecute will be taken in accordance with the Code for Crown Prosecutors.

7. Publicity

The Council will consider whether the outcome should be publicised in the media particularly in relation to prevalent or frequent issues. We may publicise a conviction in order to draw wider attention to the need to comply with the law or to deter others who may be tempted to behave in a similar way.

8. Recovery of costs

Where appropriate, the Council will seek to recover all costs incurred in carrying out any proceedings (including staff time) from relevant parties to ensure that the financial burden of the infringement is not borne by the authority and ultimately the tax-payer.

9. Accountability

If any person or business is unhappy with the implementation of this Policy they are invited to raise the issue with the relevant enforcement officer. If they feel this has not resolved the issue they may raise a formal complaint.

Complaints and Appeal about our service or decision regarding enforcement action will be addressed through our corporate complaints procedure, which can be found on our website: Tilted [Complaints](#) and may also be obtained by applying in writing to: Milton Keynes Council, Civic Offices, 1 Saxon Gate East, Milton Keynes, MK9 3EJ.

Wards Affected:*'All Wards'***Corporate Enforcement Policy**

Responsible Cabinet Member Councillor Legg – Cabinet Member for Customer Services

Report Sponsor Duncan Sharkey – Corporate Director - Place

Author and contact: Lee Gardner – Case Manager - Litigation

Executive Summary:

Milton Keynes Council regularly reviews its policies to confirm that they are up to date and complies with any recent guidance or changes in legislation. This report seeks to update the Enforcement Policy following the introduction of the statutory regulators code.

1. Recommendation(s)

1.1 That the updated Corporate Enforcement Policy be adopted

2. Issues

- 2.1 The Council's Corporate Enforcement Policy ("Policy") was last updated on 13th September 2012. Since the last update the Government has introduced a statutory Regulators Code ("the Code").
- 2.2 The Legislative and Regulatory Reform Act 2006 as amended in 2014 states that the Council must have regard to the Code in determining any general policy in the exercising of its regulatory functions.
- 2.3 The Code has been set by the Secretary of State and the Policy is required to be drafted in line with the Code. The Code lays down the principles that regulatory action should be transparent, accountable, proportionate and consistent and the Policy has therefore been reviewed to make sure it is complying with the new Code.
- 2.4 The Government Enforcement Concordat, which was a voluntary code, was the basis for the previous Policy. The new statutory code does not replace the concordat and contains many of the same principles, as such the new Policy still mirrors the format of the concordat with the additional requirement of the right to appeal an enforcement decision which is now contained in the Code.
- 2.5 The Council undertakes a number of regulatory and enforcement functions across the whole Council which include School Attendance, Planning Enforcement, Private Sector Housing as well as all of those undertaken by the Regulatory Service.

- 2.6 The Code does not apply to all regulatory and enforcement functions, however the principles in the Code is good practice for all Council enforcement actions and thus the Policy will act as an overarching framework for all regulatory and enforcement functions of the Council.
- 2.7 As the Code is statutory the Policy must be drafted in line with the code, it is not considered that consultation is appropriate as the contents of the Policy is a requirement.
- 2.8 Further as the Policy is drafted in line with the Code and the Concordat then unless there are changings in legislation, guidance or a new code, it is proposed that the Policy will only be reviewed as and when there are any changes that would require a review.

3. Options

- 3.1 The Council must update the Policy as the 2012 Policy was not drafted taking into account the Regulators Code.

4. Implications

- 4.1 Policy - None

- 4.2 Resources and Risk – There is a risk if enforcement action is taken and the code is not complied with as the decisions could be challenged.

X	Capital	Y	Revenue	X	Accommodation
X	IT	X	Medium Term Plan	X	Asset Management

- 4.3 Carbon and Energy Management - None

- 4.4 Legal – Section 22 of the Legislative and Regulatory Reform Act 2006 states:-

(1) A Minister of the Crown may issue and from time to time revise a code of practice in relation to the exercise of regulatory functions.

(2) Any person exercising a regulatory function to which this section applies must, except in a case where subsection (3) applies, have regard to the code in determining any general policy or principles by reference to which the person exercises the function.

(3) Any person exercising a regulatory function to which this section applies which is a function of setting standards or giving guidance generally in relation to the exercise of other regulatory functions must have regard to the code in the exercise of the function.

X	Equalities/Diversity	X	Sustainability	X	Human Rights
X	E-Government	X	Stakeholders	Y	Crime and Disorder

Annex: Corporate Enforcement Policy
Background Papers: Regulators Code
Government Enforcement Concordat