

Licensing Committee report



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REVIEW OF PROCEDURE OF NOTIFYING RESIDENTS OF LICENSING APPLICATIONS

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Executive Summary

Milton Keynes Council (“The Council”) adopted a process in 2007 of notifying residents within 50 metres of a premises subject to a ‘substantive’ application under the Licensing Act 2003 (“The Act”). Substantive applications are either a new application for, a variation to, or review of, a premises licence.

The Licensing Committee (“The Committee”) received reports from Officers in 2013 and 2019 expressing a concern that the impact of this process on Council resources outweighed any benefit derived from it. Five years’ worth of data highlighting this concern was considered by the Committee at its meeting in September 2019. The Committee feared residents would be disenfranchised if the letters ceased and asked for further exploration of the issues. This resulted in a consultation being carried out throughout 2020.

1. Recommendation

- 1.1 That, if the Committee is satisfied that the Council should continue to take steps beyond the minimum statutory process to bring licensing applications to the attention of residents and others, the procedure, set out in **Annex B** to the report, be adopted.

2. Issues

- 2.1 The Licensing Team (“The Team”) have sent out letters to all properties within a 50 metre radius of a substantive premises licence application since 2007¹. These “50 metre letters” were first reported to the Committee in that year as being a

¹ The applications considered substantive are either new applications or ‘major’ variations.

'pilot scheme' subject to further update and review. No further update was provided to the Committee until 2013, by which time the "50 metre letters" had become an established process.

- 2.2 In 2013 the Committee requested that the process continued, and additional data be recorded to enable further review of the matter. Five years' worth of data was collated and reported to the Committee in September 2019 with the recommendation that the letters cease and applications be advertised in a less resource intensive way. Whilst the Committee accepted the evidence that the letters did not appear to be beneficial it had a concern that residents would be disenfranchised if the letters ceased. The Officers were instructed to discuss the matter with the communications team to seek a way forward.

Disenfranchising Residents / the Statutory Consultation Procedure

- 2.3 Officers do not believe that the removal of the letters disenfranchises residents. The "franchise" in this instance is the right for residents to know about; and put a representation in (often to object to), an application and is incorporated into the Licensing Act 2003. Furthermore, even if a resident is not aware of an application until after a licence is granted, they retain the statutory power of review. The issue, therefore, is perhaps better framed as to how residents and others are informed of their statutory right.
- 2.4 Regulations laid under the Act set out a process which requires "an applicant to advertise his application... in a manner... which is likely to bring the application to the attention of the persons who live; or are involved in a business...and...likely to be affected by it". Parliament is satisfied that the current process fulfils this.
- 2.5 The statutory process requires an applicant to place a notice at or on their premises where it can be prominently read by residents and advertised in the local newspaper and for the Council to advertise an application on its website. In addition to this and the 50 metre letters, the Licensing team go beyond the statutory process by notifying all applications to the relevant Parish/Town Councils and Ward Councillors.

Summary of the concerns with the Process as reported in 2019

- 2.6 The 2019 report details the concerns in full but in summary Officers consider that any benefit derived from the letters is so small that the process is not proportionate to the impact on Council resources and the environment. Only 1% of recipients to the letter respond to the Council and these representations are focused on 10% of all applications. The average cost of £76.32- and 1-hour officer time is wasted on 90% of the applications. More letters are unable to be delivered by Royal mail and returned to the Council than actual responses from residents. The overall cost of the process to the Council is over £5,000 each

year. The 50 metre measurement is arbitrary, is not defined by Policy and takes no account of the size, activity or nature of premises. The Council is open to challenge by applicants who may consider the Council is courting representations and also by properties within the 50 metre radius who do not receive a letter as well as those outside that radius who believe they have been disadvantaged by the arbitrary measurement.

Consultation

- 2.7 Officers used the data presented to the 2019 Committee to indicate that the letters had little benefit as only 1% resulted in representations. As the purpose of the letter is to provide information to residents its value cannot be based solely by reference to the number who object. It is possible that the remaining 99% of recipients found the letter of value but chose not to object.
- 2.8 The 50 metre letter continued to be sent out during 2020 but Officers amended the letter to make clear that the Council was considering ceasing to send such letters in future. Recipients were asked to let the Council know if they found such letters useful by responding to a consultation. A consultation form was included with the letter and could be returned by post or email. Additionally, a web address and QR code was provided should they wish to submit online. The consultation ran from 31 January to 31 December 2020 (“The consultation period”).

Comparison with the Data provided to the 2019 Committee

- 2.9 The data gathered during the consultation period is not directly comparable with the data provided to the committee in 2019 as that data was an average taken over 5 years or in some instances since 2007. Additionally, the number, type and the location of premises subject to applications is not within the Council’s control and will vary from year to year. The number of applications received by the team during 2020 was less than the five year average shown in 2019² and there was also a difference in the type of application received - for example there were no substantive applications in respect to pubs, bars and night clubs but more new applications for existing businesses responding to the challenges of the pandemic (i.e. online delivery, take-aways).
- 2.10 During the consultation period there were 49 substantive applications³ which resulted in 1002 letters being sent out (an average 20.5 letters per application)⁴.

² 2019 report stated the average number a year was 67.

³ 42 New premises licence applications, 5 variations and 2 reviews.

⁴ Approx. 50% less than average number per application reported in 2019. It is suggested that this is the result of no applications being submitted for high density areas such as the Hub.

Responses to the Letters

- 2.11 34 responses to the consultation were received. 22 by hard copy and 11 online. As a percentage this means that 3% of all letters sent out generated a response. Whilst this is higher than the previous 5 year average of 1% it is still very low - particularly given that the revised letter made clear that the such letters may cease to be sent and positively sought the views of residents to let us know if it was of value.

Analysis of Responses

- 2.12 The results of the consultation are attached at **Annex A** to the report. However, regardless of this, the Committee needs to consider that only 3% of people responded to the request to let us know that they found the letter of interest. This is open to interpretation as to whether 97% of the residents are happy with the statutory process or are not interest in licensed premises at all. Even if the 3% who responded all wished for the letter to continue to be sent out, it would still be strongly recommended that it ceased.
- 2.13 The survey posed six questions to residents and intended to identify if the 50 metre letter was useful to them, if the statutory process was adequate, if there were any barriers to the statutory process and if there were any acceptable alternatives. Some questions allowed the respondent to choose more than one option.
- 2.14 Not surprising, given that they responded, most (32) said that they were interested in being made aware of applications by the Council⁵. 31 respondents found one or more of the alternative proposals acceptable. Whilst three did not, two of those were amongst the 58% (20) of respondents that were happy not to receive a letter should a suitable environmentally friendly alternative not be available. Only one responded wished to receive a letter despite the environmental impact and did not consider any of the options presented suitable.
- 2.15 When asked about what was likely to bring an application to their attention 32 respondents stated that it was the Council letter. 4 said it was the statutory process and two word of mouth. Despite the Licensing teams regular process involving notifying parish councillors and ward councillors of applications, only one respondent felt that it was likely that either would notify them of an application.
- 2.16 In terms of relying solely on the statutory process, 10 respondents thought that they would certainly or probably find out about an application advertised via that method. 15 felt it was unlikely that they would and 7 said that they would

⁵ 1 stated they were neutral and 1 said they were not interested.

not. The common reason for not being aware of an application was that the respondents do not buy or receive the Citizen newspaper (23). This was followed by not walking past any licensed premises (11). Only one person cited disability as a reason, one no internet access and one being regularly away from home.

- 2.17 The feedback from respondents accorded with Officer expectations on the statutory process. Whilst not perfect no significant barrier was raised by respondents to suggest that it doesn't do what statute intends - i.e. that it is "likely" to bring an application to the attention of residents. The most popular reasons as to why the statutory process was not adequate was that the respondents did not buy the MK Citizen. This is of course something that residents could chose to do, depending on how interested they are in knowing about licensed premises and applications are advertised on the Citizen website.
- 2.18 Of the alternative options provided an opt-in email address (19) was the most popular solution. 13 were happy that the Council displayed several larger notices near to an application. Seven agreed with the use of social media and ten with an advert on the Councils home page. Five felt that a letter should only be sent out in respect to high risk applications.

Conclusion

- 2.19 It is accepted that the consultation carried out is only representative of one unique year. Officers do not believe further consultation is worthwhile as the results are expected to be similar. The Committee is asked to consider if it is satisfied that the statutory process is sufficient to make residents aware of premises licence applications and if not, what further method is reasonable. Officers remain of the view that the financial, labour and environmental impact of sending the letters out is not reasonable given that there is little value that can be shown resulting from the letters.
- 2.20 97% of recipients may be satisfied with the statutory process or simply not interested. Of those who did respond, the majority were happy that one of the alternatives suggested would be suitable. Officers believe that all the alternatives can be adopted, except for the proposal that letters are only sent out in respect to "high risk" applications. Doing this would require consideration as to whether a policy change is needed to justify why, and what is a high-risk application.
- 2.21 Given the lack of feedback from 97% of recipients and the fact that the majority of those who did respond were happy with an alternative method, it does not appear to be reasonable for the Council to continue with the letters as done currently, but only until the alternative process is up and running.

3. Options

- 3.1 That the Committee resolve that Licensing team continue to send letters to all properties within 50 Metres of a substantive application. Should the committee wish to continue with the process it is recommended that a report is taken to Full Council amending the Licensing Policy to justify the measurement of 50 metres.
- 3.2 That the Committee resolve that the statutory process for advertising applications under the Licensing Act 2003 is sufficient and no further measures are necessary.
- 3.3 **This is the recommended option**
- (a) That the Committee resolve that the Licensing team advertise all substantive applications in line with the process set out in **Annex B**.
- (b) The licensing team shall cease notifying residents by a letter sent out in the post (“50 metre letter”) once the process in **Annex B** is implemented.

4. Policy

- 4.1 Paragraph 3.2 of the Council’s Statement of Licensing Policy reads: “The licensing authority, on behalf of MKC may notify parties they consider appropriate such as residents, councillors, town and parish councils and community councils etc. of relevant applications.”

5. Resources and Risk

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

- 5.1 The current procedure has an impact on current resources which would be lessened if an alternative was adopted. If a successful challenge was made against the process, there could be a significant cost to the Council.

6. Carbon and Energy Management

- 6.1 Reducing the amount of letters sent out by the Council will assist the Council meet its aims set out in its Sustainability Strategy to become carbon neutral by 2030 and a post-carbon city by 2050.

7. Legal

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

List of Annexes

Annex A	Survey Results
Annex B	Procedure to ensure that residents of Milton Keynes are aware of Substantive Licensing Applications made to the Council

List of Background Papers

Licensing Committee Report - 26 June 2013: Review of existing Policy of notifying properties within 50 metres of new and major variation applications

Licensing Committee Report - 11 September 2019: Review of existing Policy of notifying properties within 50 metres of new and major variation applications

[Licensing Committee - 11 September 2019](#)