

## **SHARED REGULATORY SERVICES JOINT COMMITTEE**

Minutes of the meeting held on 27<sup>th</sup> February, 2018.

Present:

Representing Bridgend County Borough Council – Councillors Ms. D. Patel (Chairman) and D. Lewis;

Representing Cardiff City and County Council – Councillor Ms. J. Parry;

Representing the Vale of Glamorgan Council – Councillor T.H. Jarvie.

(a) Apologies for Absence –

These were received from Councillor M. Michael (Vice-Chairman) (Cardiff City and County Council) and Councillor M.J.G. Morgan (Vale of Glamorgan Council).

(b) Minutes –

RESOLVED – T H A T the minutes of the meeting held on 19<sup>th</sup> December, 2017 be approved as a correct record.

(c) Declarations of Interest –

No declarations were received.

(d) Timetable of Meetings: May 2018 – May 2019 –

The Joint Committee considered a draft timetable of meetings for the period May 2018 to May 2019.

The Chairman commented that the meeting scheduled for 25<sup>th</sup> September, 2018 coincided with a prior engagement. The Committee agreed that an alternative date in September would be sought.

RESOLVED – T H A T the timetable of meetings from May 2018 to May 2019, as set out in paragraph 4 of the report, be approved subject to an alternative date provided during September 2018.

Reason for decision

In order to approve a calendar of meetings for the 2018/19 Municipal year.

(e) Update on Review of Arrangements for Stray Dog Provision –

The Operational Manager – Enterprise and Specialist Services presented the report, the purpose of which was to provide an update on the review of arrangements for dealing with stray dogs which was first presented to the Joint Committee at its meeting on 26<sup>th</sup> September, 2017. The report also sought approval for the new arrangements proposed.

The Environmental Protection Act 1990 required Local Authorities to deal with unaccompanied dogs on public land as strays, regardless of whether they were wearing a collar and disc or had been micro-chipped. Straying dogs were seized by SRS Animal Wardens, and those that could not be returned to their owner immediately were retained for a mandatory period of seven days. If a dog was not reclaimed by its owner then upon expiry of the seven day period, the law permitted the Council to rehome the animal, or if necessary, put it to sleep.

In cases where a member of the public found a stray dog, they could hand it over into the care of the Local Authority so that it could be looked after, as above, for the seven day period, or until it was reclaimed by its owner.

The continuation of legacy arrangements had meant that that the stray dog service provided by SRS varied across the three Local Authority areas. Thus dogs straying in the Vale of Glamorgan or Bridgend areas had been kennelled at premises in Bridgend County Borough, while dogs straying in the Cardiff area had been kennelled by a Cardiff provider. In addition, residents in the Vale of Glamorgan and Bridgend areas had traditionally enjoyed a collection service for dogs found straying out of hours, while Cardiff residents had not had this option available to them.

As outlined at the September 2017 Joint Committee meeting, the kennelling in Bridgend of all dogs found straying anywhere in the Vale of Glamorgan had resulted in the anomaly of animals being transported long distances when Cardiff Dogs Home was in much quicker reach of conurbations such as Penarth, Dinas Powys and Barry. In addition to the significant travel cost and travel time this had created for the SRS Animal Wardens, the arrangement had proved inconvenient for residents trying to claim stray dogs.

Under the guidance of the Vale of Glamorgan Council Procurement team, a service specification was established together with quotation criteria, and applications invited via the Sell2Wales site for the provision of kennelling for stray dogs found in the Bridgend and western Vale of Glamorgan Council areas. The closing date was 8<sup>th</sup> January, 2018 and one application was received. The applicant, Hope Rescue, was a registered animal charity based in Llanharan near the borders of both Bridgend County Borough and the Vale of Glamorgan; and the application met all the quotation criteria.

An interim arrangement was already in place with Hope Rescue for the kennelling of dogs found straying in Bridgend. This followed the decision by the previous provider to withdraw its services prior to commencement of the quotation process. The standard of care provided by Hope Rescue to date and resident feedback had both

been excellent, and the Service therefore had confidence in the charity providing these facilities going forward.

Since September and following guidance from the Vale of Glamorgan Procurement team, the Service had engaged with Cardiff Dogs Home to secure additional space for dogs found straying in the eastern part of the Vale of Glamorgan to be kennelled, (in addition to those found straying in the Cardiff area). Cardiff Dogs Home was exempt from the quotation process based on internal provision / inter-Authority co-operation.

The proposed new arrangements would include out of hours drop off facilities at the kennelling providers, but not an out of hours collection service. As indicated in the September 2017 report, the discontinuation of an out of hours facility in the Bridgend and Vale of Glamorgan areas would result in a saving of approximately £13k per annum. The new arrangements offer value for money and would ensure the service was able to continue to operate effectively in the control and management of stray dogs.

Consequently, the Committee was asked to approve the appointment of Hope Rescue and Cardiff Dogs Home as the providers of kennelling for stray dogs in the SRS region, from 1<sup>st</sup> April, 2018.

A Committee Member asked for clarification around the collection of dogs during out of hours operations. In reply, the Operational Manager stated that any dangerous dog would come under the authority of the Police and the proposed changes to the out of hours service related to cases where a number of calls would be received from members of the public for the same stray dog. The Operational Manager added that overall, the out of hours service was not well used and that there was a concern around how this facility was being policed.

Having considered the report, the Committee

**RESOLVED – T H A T** the appointment of Hope Rescue and Cardiff Dogs Home as the providers of kennelling for stray dogs in the Shared Regulatory Service region from 1<sup>st</sup> April, 2018 be approved.

#### Reason for decision

To enable the appointments to be made and for contracts to be agreed and operational from the start of the new financial year.

#### (f) Update on Public Health (Wales) Act 2017 –

The Head of the Shared Regulatory Service presented the report, the purpose of which was to provide an update on new legislation affecting the work undertaken by the Shared Regulatory Services (SRS).

The Public Health (Wales) Act 2017 received Royal Assent on 3<sup>rd</sup> July, 2017. The Act addressed a number of specific public health concerns namely tobacco and nicotine products; “special procedures” (acupuncture, body piercing, electrolysis and tattooing); intimate piercing; pharmaceutical services; and the provision of toilets for public use.

The Act’s purpose was consistent with the five ways of working outlined by the Well-being of Future Generations (Wales) Act and would contribute to the well-being goals of a prosperous, resilient, healthier and more equal Wales.

The Act aimed to achieve its aims through:

- Focusing upon obesity through the introduction of a national strategy;
- Protecting children and young people from the harms of smoking by restricting smoking in school and hospital grounds, public playgrounds and outdoor care settings for children;
- Requiring tobacco retailers to be on a national register;
- Protecting people from the risks of infection resulting from special procedures including body piercing, electrolysis, acupuncture and tattooing, through a new licensing system;
- Protecting children and young people from the harms which could be caused by intimate piercing by prohibiting the intimate piercing of those under 18;
- Changing the planning processes for pharmaceutical services and access to toilets for public use.

Parts 4 and 5 of the Act contained the provisions dealing with Special Procedures and Intimate Piercing. The new provisions were being introduced in response to the perceived inadequacies of the current legislative framework. The Act introduced a compulsory national licensing system for practitioners of specified special procedures namely: tattooing, piercing, electrolysis and acupuncture.

On 1<sup>st</sup> February, 2018, the Intimate Piercing provisions within the Public Health (Wales) Act came into force. The commencement of the provisions on intimate piercing made it an offence to perform an intimate piercing on children and young people under the age of 18 in Wales, or to make arrangements to do so. There were ten “intimate body areas” specified within the Act, including the nipples, breast, genitalia, buttocks and tongue, and these applied to all genders.

The Act aimed to protect children and young people from the potential health harm caused by an intimate piercing, such as the incidence of body piercing-related complications (including infections and injuries) amongst young people whose bodies were still maturing, and who may be less adept at keeping up with aftercare requirements.

The Act required individuals who performed intimate piercing to be licensed; along with the premises or vehicles from which they operated approved in order to perform any of the defined special procedures. Licences and approvals would be valid for three years. Failure to operate without a licence or to break the conditions of a

licence would result in the service of “Stop” notices and prosecution with unlimited fines.

In support of the new legislative requirements, businesses affected had received guidance and publicity material from the Welsh Government detailing the changes and advising them of their obligations. Officers from SRS were conducting a series of workshops with the beauty sectors, piercers and tattooists throughout the region to further support compliance.

Finally, the SRS was also currently involved in discussions with Welsh Government in relation to hosting the administration of the aforementioned licensing system. This would be in form of maintaining a national database on a cost recovery basis.

The Chairman queried whether the service had looked into the likely financial cost of the new legislation. In reply, the Head of Service stated no, not immediately as it would take time for the full effects of the legislation to come into fruition. He also added that the service continued to lobby Welsh Government for additional funding as the service was undertaking more duties but with less money.

Having considered the report, it was

RESOLVED – T H A T the contents of the report be noted.

#### Reason for decision

In view of the information contained therein.

#### (g) Overview and Update on Shared Regulatory Services –

The Head of Shared Regulatory Services presented the report, advising that it provided an update on the work undertaken by the Shared Regulatory Services (SRS). The Head of Service began by referring to the area of Human Resources. It was reported that in the last quarter attendance levels had been higher when mapped against the previous year. Information provided showed a slight reduction on attendance in the current year when set against 2016/17. The Head of Service stated that there were mitigating factors with a number of staff undergoing planned medical interventions. However, the attendance figures continued to compare favourably with attendance across all three Councils.

In addition, an Employee Survey was undertaken between 15<sup>th</sup> and 26<sup>th</sup> January, 2018 to establish employee perceptions of various aspects of working for the SRS after three years of operation. The timing of the survey followed communications on proposed budget cuts to the service. The survey was distributed electronically to all staff with a 77% response rate.

The Survey contained 44 questions with officers being asked to indicate how much they agreed or disagreed with the statement. Of the statements, 30 out of the 44 (68.18%) achieved very good to excellent results. 13 out of the 44 statements

(29.54%) achieved good results with only one statement (2.27%) achieving a very poor result. This related to opportunities to progress within the service and was attributed to a more flat staffing structure now existing within the SRS area.

With regard to the financial position for Quarter 3, a financial monitoring report was attached at Appendix 1. The Head of Finance stated that the service was projecting to overspend by £19k against a gross revenue budget of £8.830m.

In terms of the core service, the Committee was advised that the service was projecting to achieve an overall underspend of £125k, with further information outlined within paragraph 3 of the covering report.

With regard to Authority specific services, a breakdown of which was provided in the report, the Head of Finance advised that it had projected for an overspend of £144k.

The Committee was then taken through Quarter 3 performance as shown in Appendix 2.

In highlighting some key areas, the Head of Service began by advising that for Food Hygiene, the service had exceeded the Quarter 3 target for the number of high risk inspections of Category A, B and C businesses and was on track to achieve 100% by year end. There was a similar picture for the number of new businesses identified which were subject to a risk assessment, with it being noted that the performance for the Cardiff area was slightly below target. It was reported that overall performance for the number of food establishments deemed to be broadly compliant had also exceeded the Quarter 3 target.

In clarifying the rating system, the Head of Service stated that the ratings were from 0 to 5, with 5 being the best rating and 0 being the lowest rating. For 0 rated premises, the service would issue cautions and improvement notices, while for premises rated 1 and 2, the service would actively encourage these to seek improvements.

With regard to the number of high risk establishments that were inspected by Trading Standards, the Head of Service advised that performance was still Red but the numbers inspected were picking up. An Amber status had been attributed to the number of significant breaches rectified by Trading Standards, with a Green status attributed to the percentage of new businesses subject to a risk assessment for Trading Standards.

For his service area, the Operational Manager for Neighbourhood Services stated that the performance for all indicators was positive. He outlined that previously there had been issues within the Cardiff area which had been rectified with new work practices and a shift in resources. He highlighted that performance for the number of domestic noise and air complaints responded to within 3 working days was a success story, although certain areas of the region had required greater focus.

Furthermore, the service had exceeded targets for the percentage of commercial and industrial noise and air complaints responded to within one working day. A

Committee Member, referring to the amount of complaints relating to the new Biomass facility in Barry, queried whether the service would respond in general terms. In reply, the Operational Manager for Neighbourhood Services stated that complaints may come under a wider investigation, but the service would attempt to respond on an individual basis.

In reply to a query regarding staff vacancies, the Head of Service advised that at present there was 1 vacant post to fill. He added for the area of food hygiene, the service had decided to “grow its own” and look to up skill and develop the current workforce.

Referring back to the report, the Head of Service stated that the Auditor General for Wales had indicated that his 2018/19 work programme would include “issues, themes, and learning” identified in earlier Local Government Study Reports and also a determination of how those recommendations have been addressed.

The Auditor General would be considering undertaking work to look at how Councils had responded to the 2014 report “Delivering With Less – the impact on Environmental Health Services and Citizens”. There were also proposals to look at Corporate Safeguarding Arrangements. The SRS had a role to play in these assessments across all three partner Councils and discussions were underway with performance colleagues to prepare for any audit requirements.

The Head of Service stated that should the Auditor General decide to review progress against the report, the SRS would be able to demonstrate a successful change programme and strong links to national and corporate priorities. The SRS’s business plan was constructed to show how the service contributed to the three corporate objectives of the partner Councils. The importance of the Wellbeing of Future Generations (Wales) Act was also recognised, as were the regulatory enforcement priorities for Wales and other national strategies. Section 6 of the SRS Business Plan outlined the activities undertaken and demonstrated linkage to these strategic initiatives. The SRS now collected more data than the legacy Authorities and sought to use that information to determine the best allocation of resources.

The Committee was asked to consider a change to the current approach to the service for Fixed Penalty Notices as outlined in Appendix 1 of the Enforcement and Compliance Policy. The reasons were to update the Policy in relation to the promotion of ratings on publicity materials regulations and to be in line with the national approach to enforcement by removing requirements to initially send a warning letter.

Having considered the request, it was agreed that paragraph 7.2 of the Policy be amended as follows:

“With respect to food law enforcement, an authorised officer has the discretion to issue a Fixed Penalty Notice for an offence under Section 9 of the Food Hygiene Rating (Wales) Act 2013 concerning the display, or failure to display, of the appropriate food hygiene rating scheme score. In addition a Fixed Penalty Notice can be served for an offence under Regulation 5 of the Food Hygiene Rating

(Promotion of Food Hygiene Rating) (Wales) Regulations 2016 with regard to failure to comply with requirements for the promotion of ratings on publicity materials.

These may be given where there is no reasonable excuse for non-compliance.”

The Operational Manager for Enterprise and Specialist Services then referred to a jewellery survey that had been undertaken by the service. The possibility of jewellery scams was identified by the Shared Service as a potential threat to local residents and reputable traders. In order to provide assurance as to the quality and authenticity of jewellery available locally, survey work was being undertaken across the trade sector. Officers from the Shared Service had conducted inspections of locally based jewellery outlets, including those selling online as well as those in the high street.

With Phase 1 of the survey now complete, a range of jewellery outlets had been visited, primarily in the Cardiff area. Among the premises included in the survey were those with a history of previous non-compliance and temporary market stalls. With regard to hallmarking requirements, the Hallmarking Act 1973 required items of jewellery to bear the appropriate markings as well as the display of customer information notices at the point of sale. More than 250 items of jewellery were checked for relevant hallmarks and also compliance with descriptions applied to precious metals and gemstones. Overall, the survey results were positive with problems found in only three outlets which meant that overall, less than 7% of the items examined and tested were non-compliant. These items were removed from sale immediately.

In addition, officers found a quantity of jewellery that, while properly hallmarked, was found to be in a breach of number registered trademarks. The offending items were estimated to be in the region of £25k and had been seized pending further investigation. Phase 2 of the jewellery survey had been undertaken during February and focussed on outlets in Bridgend and Vale of Glamorgan areas. It was reported that 67 items were bought, with 66 being fully compliant. A detailed update on this area of work would be provided to the Joint Committee at a future meeting.

It was reported that the SRS had investigated complaints concerning defective solid fuel appliances and wood burners, in relation to serious life threatening incidences of Carbon Monoxide poisoning and also nuisance from smoke and particulates. The number of complaints received by the service had begun to increase with a rise in the popularity of wood burners with statistics showing that there were over 290,000 new installations across the UK in the last 12 months.

A training day was organised and attended by staff from different disciplines within the SRS. Representatives from the National Association of Chimney Engineers were able to share their expertise concerning the dangers associated with incorrect installation and use of appliances.

The training enabled staff to identify any potential hazards whilst they were carrying out an investigation and helped them to deal with smoke nuisance complaints more efficiently. It was noted that a project would be undertaken in the next financial year

to focus upon the competency of installers, and to raise awareness amongst consumers of the potential dangers.

In terms of safeguarding / scams, the report highlighted that following on from the previous Safeguarding Roadshows a further successful event took place during December 2017. This time the venue was alongside the Trinity Church in Porthcawl town centre and once again the Vibe youth organisation bus was used successfully to gain the attention of the public.

The team spoke with 107 people during the course of the day and gave advice on crime prevention with particular focus on how to avoid scams. A further safeguarding event was due to take place in the Cardiff area and plans were underway.

The Commercial Services Team Manager, Trading Standards provided an update on the work undertaken around zero powered contact lenses (sometimes referred to as cosmetic lenses). The service had received a complaint from a person following a Halloween event who was later admitted to hospital. The complaint was the first of its kind that the service had received.

A survey was carried out across the SRS region in September / October 2017, prior to Halloween, to assess compliance with the General Product Safety Regulations 2005. Officers inspected 22 premises and issued advice to the retailers selling this produce in collaboration with the General Optical Council. Officers then carried out a series of test purchases at the premises that had received advice. It was reported that three of the premises continued to sell and so Requirement to Mark Notices were issued by the department. Following this, further test purchases were carried out, with one premises continuing to sell the products, so was in breach of the notice.

During the survey, retailers raised a number of issues including that suppliers had indicated that these were a cosmetic product and also that the products were not contact lenses and did not come under the definition of an optical appliance. The Team Manager indicated that the Opticians Act required that zero powered contact lenses should be sold under the supervision of a registered optometrist, registered dispensing optician or registered medical practitioner. The health problems associated with this produce were well documented and included reports of people having serious eye injuries that required long term care.

With regard to future actions, the Team Manager outlined that a copy of the report would be presented to the next Wales Heads of Trading Standards (WHoTS) product safety meeting. A reminder would be sent to all retailers during September 2018 advising that they should not sell the lenses. A further reminder would be sent to those retailers issued with a General Product Safety Regulations Notice, advising that these notices were still enforceable. In addition, an information flyer aimed at 16 to 18 year olds would be designed for circulation to schools/colleges and the service would engage with opticians and A&E departments about them reporting incidences.

The Committee noted that the Bridgend Employers Engagement Project was a partnership intervention led by the SRS and facilitated by the Health and Safety

Executive and Public Health Wales. The aim of the project was to support businesses to effectively manage a safe, healthy and more prosperous workplace in line with the Health and Safety Executive's strategy "Helping Great Britain Work Well".

Business from the 24 industrial estates operating in Bridgend were selected as this group was known to have higher than average accident and ill health rates. A pilot of businesses on Brackla and Bridgend Estates in 2016 indicated key weaknesses in health and safety management including reporting of accidents, managing risk assessments, fire safety and working at height.

609 businesses were identified for inclusion in the intervention. Advisory visits using standardised protocols were undertaken between May and July 2017. The Business Forum was promoted during the initial visit and followed up with e-mails, telephone calls and local publicity.

It was reported that the most common industry sectors identified were manufacturing and engineering, retail and light industry. Micro businesses made up the greatest proportion of businesses followed by small businesses. Micro businesses were identified as requiring the most help and safety support, particularly in relation to management of asbestos, risk assessment, accidents and ill health, muscular disorders and working at height. Visits also confirmed a lack of business awareness in relation to substance misuse and tobacco use. The contents of the business forum was informed by the outcome of the site visits and both the format and content was reported as successful.

The Committee was also advised of work undertaken with regard to cellar safety. Safety in cellars had been chosen as a national health and safety priority following a number of fatalities and serious injuries to both employees and members of the public. Incidents had included falls through unguarded cellar hatches and unlocked cellar doors, and exposure to low level oxygen atmospheres in cellars as a direct result of beverage gas cylinder leaks.

Between October and November 2017 the Health and Safety Team undertook 71 inspections of pubs, hotels, restaurants and nightclubs which focused on: falls from height, specifically cellar hatches, doors and steps, compressed gas safety in confined spaces and lifting equipment safety where cellar lifts or hoists were used.

40 premises in Cardiff, 21 in the Vale and 10 in Bridgend were visited. All 71 business were found to be non-compliant, the most common non-compliances were identified as beverage gas safety in confined spaces and falls from height or down steps / stairs.

It was noted that officers would continue their work with this sector of business to ensure full compliance with the legislation. The project would also be extended for a further year, with 80 inspections programmed to take place from June 2018 over the three Authorities with focus on nightclubs, sports and social clubs and independent public houses.

The Committee also received details of recent cases investigated by the SRS that had resulted in prosecutions which were set out in Appendix 3 to the report.

Having considered the report, it was

RESOLVED –

- (1) T H A T the contents of the Overview and Update Report be noted.
- (2) T H A T in relation to regulations regarding the promotion of Food Hygiene ratings on publicity materials, paragraph 7.2 Fixed Penalty Notices of Appendix 1 of the Enforcement and Compliance Policy be amended as outlined in paragraph 18 of the Overview and Update Report.

#### Reasons for decisions

- (1) In view of the work of the service and the progress towards completing the implementation programme.
- (2) To update paragraph 7.2 of Appendix 1 of the Enforcement and Compliance Policy and to reflect the national approach to enforcement by removing the requirement to initially send a warning letter.