

Rotherham Metropolitan Borough Council

Remote Peer Review of the Operation of the Licensing Board Sub-Committee and Licensing Sub-Committee

19 – 23 October 2020

Feedback Report

1. Executive Summary

Councillors and officers at Rotherham Metropolitan Borough Council (RMBC) take pride in their licensing policies. The council has made significant progress since 2015 when the Casey and Jay reports into Child Sexual Exploitation in Rotherham were published.

Underpinned by the desire to make the council's licensing function effective and generally well-regarded the efforts of members and officers meant that licensing was one of the first parts of the council's operations to come out of the intervention. Much of the progress and improvement is reflected in the council's policies having been completely re-written whilst some additional policies have been formulated to strengthen some specific elements of the council's taxi licensing regime for example. There is a clear prioritisation by members of the importance of a robust taxi licensing system in light of the Jay and Casey reports.

RMBC's overall progress has been recognised nationally. This provides a sound foundation on which the council can build further and future improvement of its Licensing Committee's operation and decision making.

RMBC has the benefit of dedicated and committed staff. However resource and capacity challenges are clear in how stretched these staff are with some working additional hours in order to support the council's licencing functions. The team would encourage RMBC review the current structure in order that the council can better assure itself that these are fully fit for purpose

In pushing forward a 'can-do' approach, and focusing more on what is positively achievable, suggesting alternatives to applicants as a means of exploring new and wider enterprise could be of significant value going forward. This would be potentially more in tune with a culture of treating applicants as customers of council services first and foremost. There is proven good practice that exists in RMBC's Planning department which can be utilised in strengthening the connection between corporate functions.

As part of the same view from the Review team, hearing the applicant first would go a long way towards engendering a dynamic which is less adversarial than seems to be the case at a number of the hearings the team viewed online. There is an opportunity for the benefits and potential positive development economic impact of some enterprises to be the starting point of the interaction with applicants. At the present time this is difficult to achieve in an order of proceedings where the first contributions from applicants is to respond to the input to proceedings from objectors. This would contribute positively to the look and feel of hearings becoming more responsive, engaging and collaborative. On occasion at the present time applicants are not treated like customers of the council's service.

Underpinning this is the team's view that partnership working arrangements may benefit from review to ensure they are fit-for-purpose. This will involve a reflection on the effectiveness of collaboration with bodies such as South Yorkshire Police in maximising the deployment of the expertise which can support effective decision-making.

The team posed a question in its presentation back to the council asking how comfortable RMBC is that its licensing function fully recognises, understands and reflects the diversity of Rotherham's communities. It is clear that since the Jay and Casey reports into Child Sexual Exploitation there has been capable and determined response from the council. However five years on does there need to be reflection on where Rotherham is now on that journey?

Making progress in engendering a culture which builds on the lessons of the past whilst focussing on the future is a shared responsibility which will be best achieved through collaboration and co-production with the council's customers. One way of achieving this might be to review the training programme available to members to ensure the widest possible range of topics and issues are covered. This would usefully include reflections on subjects such as the consequences of Covid 19 and local lock downs as well as better understanding unconscious bias.

It will also require a joined-up effort by all members who support the council's Licensing function in order to embed a more customer-focussed and less adversarial feel to some of the committee's business. Achieving the right customer-focused values is a collective effort and will require the input of all Members of the Committee. Based on experiences from other parts of the country RMBC would find some value in providing development opportunities for members to allow them to lead on embedding the cultures that would strengthen the customer focus. For example rotating chairing arrangements of the Committee and its various structures would be a means of making each of the Licensing members the custodians of the council's ambition to embed the right Customer Experience 'culture' along with the behaviours which demonstrate this.

2. Key recommendations

The following are the peer team's key recommendations to the Council:

1. Need to address perception by fostering a more collaborative culture ('doing with' rather than 'doing to'). For example
 - Order of licensing business may benefit from review to remove perception of an adversarial experience (e.g. objections being heard after applicant submission).
 - Unnecessary use of legalistic terms (e.g. cross examination)
 - Recognise the full range and scope of the licensing regime across multiple trades
2. Reviewing training programme to ensure widest possible range of topics and issues covered (e.g. unconscious bias, the consequences of Covid 19 and local lock downs etc).
3. Reflect on where Rotherham is now five years on from the Jay and Casey reports into Child Sexual Exploitation.
4. Review engagement and communications styles with trade representatives and responsible authorities.

5. Review structure and the number of posts within the licensing team to assure yourselves it is fit for purpose.
6. Ensure applicants have access to business support advice (either council provision or signposting)
7. Consider the provision of pre-application advice and the meeting of key stakeholders to support the applicant.
8. Reflect on the current level of cultural competence of the Board and how this could be further enhanced and made more apparent in future.

3. Summary of the Peer Challenge approach

The peer team

Peer challenges are delivered by experienced elected member and officer peers. The make-up of the peer team reflected the requirements of Rotherham Metropolitan Borough Council (RMBC) as detailed within the scope for the Peer Review. Peers were selected on the basis of their relevant experience and expertise and agreed with the council ahead of the review taking place. The peers who delivered the peer challenge at Rotherham Council were:

- **Lead Peer:** Sharon Bridglalsingh (Monitoring Officer, Director of Law and Governance and the Returning Officer at Milton Keynes Council)
- **Member Peer:** Councillor Bryony Rudkin (Deputy Leader, Ipswich Borough Council and LGA National Lead Peer)
- **Senior Officer Peer:** John Garforth (Trading Standards and Licensing Manager - Oldham Metropolitan Borough Council)
- **LGA Review Manager** – Ernest Opuni (LGA Improvement Manager)

Scope and focus

RMBC requested a Peer Review of the operation of the Licensing Committee to provide feedback on its strengths and issues it may wish to refine or change.

The peer review was intended to cover the processes and operation of both Licensing Board and Licensing Committee, and the processes by which cases are developed and presented to the Board and Committee.

Specific questions that the Council asked the team to focus on were:

1. Does the range and quality of information being provided to the members of the Board/Committee focus on key Licensing considerations and enable members to make a balanced decision on appropriate issues?
2. Does the way any presentations by officers on each case, support appropriate decision making and reinforce the process as being about legitimate licensing considerations?

3. Does the way members debate the application, ensure the decision is made efficiently, effectively and based on key licensing considerations?
4. Does the interaction with the applicant/licensee ensure that balance and fairness is maintained and seen to be maintained. Does such interaction ensure a continued focus on core licensing considerations?
5. Is the overall “tone” of the Board/Committee meeting consistent with the values and aspirations of the Council?

The peer challenge process

It is important to stress that this was not an inspection. Peer challenges are improvement focussed and tailored to meet individual councils’ needs. They are designed to complement and add value to a council’s own performance and improvement. The process is not designed to provide an in-depth or technical assessment of plans and proposals. The peer team used their experience and knowledge of local government to reflect on the information presented to them by people they met, things they saw and material that they read.

The peer team prepared for the peer challenge by reviewing a range of documents and information in order to ensure they were familiar with the council and the challenges it is facing in the context of Covid-19. The team also viewed a number of the Council’s licensing committee meetings online. The team then spent 1 day meeting people remotely at RMBC, during which they:

- Spoke to more than 25 people including a range of council staff together with councillors and external partners and stakeholders.
- Gathered information and views from more than 10 remote meetings, and additional research and reading.

This report provides a summary of the peer team’s findings. It builds on the feedback presentation provided by the peer team on 23 October 2020. In presenting feedback to the council, the team has done so as fellow local government officers and members, not professional consultants or inspectors. By its nature, the peer challenge is a snapshot in time. We appreciate that some of the feedback may be about things you are already addressing and progressing.

4. Feedback

4.1 Does the range and quality of information being provided to the members of the Board/Committee focus on key Licensing considerations and enable members to make a balanced decision on appropriate issues?

It was made clear to the team that the council has made significant progress since 2015 when the Casey and Jay reports into Child Sexual Exploitation in Rotherham were published. One of the first parts of the council's operations to come out of the intervention was following the reports was the council's licensing function. The aspiration is for Rotherham's licensing function to be known for excellence and high standards by demonstrating that it owns not only the problems of the town's recent challenges but also the solutions.

Some of this progress is reflected in the council's policies having been completely re-written as well as some additional policies having been formulated to strengthen some specific elements of the council's taxi licensing regime for example. Some departments within central government – for example the Department for Transport – have held up Rotherham's policies, procedures and responsiveness to national guidance as being good practice nationally. Rotherham's Hackney carriage and private hire licensing is regarded nationally as being exemplary. In addition Rotherham MBC's policy and approach is cited in the national DfT guidance on taxi licensing. RMBC is also one of the very few authorities in the country who have implemented that large majority of recommendations in the national guidance, including mandatory CCTV and enhanced DBS for both drivers, and operators' back office staff. This reflects the focus and hard work of the councillors and officers holding true to the council's intentions to strengthen the licensing function and the team considers this should be recognised and commended. This dedication to the work shines clearly from the team of officers involved.

There is a recognition however that the council should continue to commit to ongoing improvement as part of the ambition to transform services positively on an ongoing basis. This means that work remains in train so that the council is able to challenge itself further on how it gathers information in order to support the process of good decision-making into the future. It is clear that the journey of the council includes some positive learning in this regard.

While the peer team did not have major concerns about the reports that going to the Board and Committee there were occasions where representations were poorly worded based on the examination of some of the recordings of meetings that the team watched. This was not limited to representations from the council internally and there would be some value in the council working with partners collaboratively to consider where improvement could be made. One key message from the team is for the Committee to ensure that representations are not only focused on the four licensing objectives but also on the contemporary evidence base. It is also the role of officers present to ensure that decision making is focused on the relevant considerations. While interventions in a remote meeting tend to be more formalized than in a face to face meeting, they must sometimes be made

to shape the discussion and the experienced officers serving the Committee are capable of doing that. Consider use of briefing sessions to anticipate issues and so prepare for better decision making.

4.2 Does the way any presentations by officers on each case, support appropriate decision making and reinforce the process as being about legitimate licensing considerations?

Not unlike most organisations grappling with the post-Covid 19 impact on how virtual/online meetings are conducted, RMBC's may find value in further training on how members and officers can better shape and structure meetings of the Licensing Committee and Board. There is an opportunity of using the council's current provider for this to help with a refined focus on not only the legalities underpinning proceedings but also on a more qualitative focus on the 'how' of conducting effective hearings.

The Institute of Licensing provides guidance on conducting virtual meetings more effectively and can offer practical support in dealing with the difference between these and physical meetings. The LGA could also be of assistance in helping to signpost to other potential providers who could be of further assistance in this regard.

4.3 Does the way members debate the application, ensure the decision is made efficiently, effectively and based on key licensing considerations?

Consider the line of questioning; questions should be based on key licensing lines of enquiry and be relevant rather than making statements.

The team was not able to test the debate and decision making as these are held in closed session. However this review should be taken as an opportunity for members and legal officers who are present during the closed session, to reflect on this and that this should be a core part of any future training.

4.4 Does the interaction with the applicant/licensee ensure that balance and fairness is maintained and seen to be maintained? Does such interaction ensure a continued focus on core licensing considerations?

In considering this question the team felt that an appropriate starting place for considering the foundation on which the Committee might seek to build is the RMBC's Customer Access Strategy. Particularly striking was the section of this entitled 'Your Experience Matters' Under this section there is some clear messaging which summarises the driving principles the council is striving for in terms of customer experience.

- *'Regardless of the type of enquiry, or the way a customer accesses a service, we need to make sure their experience is a good one. Our customers should not need to know or understand how each Council department works. But they should be able to expect excellent customer service and things done right the first time.'*

- *Our services should be designed and built around the needs of our customers and communities. Which means involving our customers more and listening to their feedback so that wherever possible we continually develop and improve what we do’.*

Having reflected on a number of the hearings the team had opportunity to view ahead of the review, it was not always clear that applicants in the licensing regime were considered to be customers. Whilst written guidance is provided, applicants’ experience of formal settings is not uniform nor necessarily common so there may be some value in the council focusing further on helping applicants to be better prepared for what to expect in this quasi-judicial setting.

While councillors and officers involved have knowledge of the regime and procedures, each applicant may not (and on balance are more likely not to) and in this context the team felt that consideration should be given to shape an applicant’s experience to be ‘a good one’ as the council’s Customer access strategy advocates. This may involve inviting feedback from representative bodies.

Making this transition a reality will depend on all members on the committee taking a direct and shared responsibility for leading and championing this change. There would be some value in development opportunities through chairing meetings for example in order to bring to life what is required to drive the behaviors of the future.

4.5 Is the overall “tone” of the Board/Committee meeting consistent with the values and aspirations of the Council?

The council has a very clear message on the values it seeks to champion and this is quoted verbatim below:



Whilst there is no suggestion from the team that any part of the council can be accused of willfully departing from these values it was not always clear how all of these were outwardly reflected. In particular, the tone of the committee business is not consistent in relation to 'Respectful' and 'Ambitious'.

In terms of process and practice, the team feels strongly that hearing the applicant first would go a long way towards engendering a dynamic which is less adversarial than seems to be the case at a number of the hearings the team viewed. There is an opportunity for the benefits and potential positive development economic impact of some enterprises to be the starting point of the interaction with applicants. At the present time this is difficult to achieve in an order of proceedings where the first contributions from applicants is to respond to the input to proceedings from objectors.

In pushing forward a 'can-do' approach, and focusing more on what is positively achievable, suggesting alternatives to applicants as a means of exploring new and wider enterprise could be of significant value going forward. This would be potentially more in tune with a culture of treating applicants as customers of council services first and foremost.

The team would encourage the Committee to consider further the lines of questioning it deploys in hearings to ensure these are based on key licensing lines of enquiry and are relevant. This is in contrast to some of the committee contributions being less about posing questions and more about making statements.

Objectors should not automatically be anonymised as this puts the applicant at a disadvantage from the off. The Peer team would recommend that this is made to be the exception rather than the prevailing rule as reflective of the LA 03 Section 182 Guidance.,

4 Next steps

Immediate next steps

We appreciate the senior political and managerial leadership will want to reflect on the findings within this report in order to determine how the organisation wishes to take things forward.

To support you in your improvement journey the Peer Team have identified a number of key recommendations, some of which you may already have in hand. We welcome your response to these recommendations within the next three months through the development of an action plan.

Your Principal Adviser Mark Edgell will be in contact to assist the council going forward and to provide additional support, advice and guidance on any areas for development and improvement and he will be happy to discuss this. He can be reached on email at mark.edgell@local.gov.uk

In the mean time we are keen to continue the relationship we have formed with the Council throughout the peer challenge. We will endeavour to provide signposting to examples of practice and further information and guidance about the issues we have raised in this report to help inform ongoing consideration.