

Licensing Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ**

Wednesday, 19 October 2016 at 18:00

The Licensing Committee deals with policy issues relating to licensing matters and applications and appeals concerning hackney carriage and private hire vehicles and drivers and other appeals.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground floor.

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COLCHESTER BOROUGH COUNCIL
Licensing Committee
Wednesday, 19 October 2016 at 18:00

Member:

Councillor Nick Cope
Councillor Dave Harris
Councillor Roger Buston
Councillor John Elliott
Councillor Mike Hogg
Councillor Darius Laws
Councillor Patricia Moore
Councillor Philip Oxford
Councillor Lee Scordis
Councillor Jessica Scott-Boutell

Chairman
Deputy Chairman

Substitutes:

All members of the Council who are not Cabinet members or members of this Panel.

AGENDA - Part A
(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
 - action in the event of an emergency;
 - mobile phones switched to silent;
 - the audio-recording of meetings;
 - location of toilets;
 - introduction of members of the meeting.

2 Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3 Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

4 Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

5 Have Your Say!

a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter relating to the terms of reference of the Committee/Panel not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter relating to the terms of reference of the Committee/Panel not on this agenda.

6 Minutes

To confirm as a correct record the minutes of the meeting held on 25 May 2016

25-05-16 Minutes

7 - 8

7 House of Lords' Select Committee - Licensing Act 2003

9 - 14

See report by the Head of Professional Services.

8 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Part B

(not open to the public including the press)

9 Minutes - Part B

To approve the not for publication minutes of the Licensing Sub-Committee meeting of 4 October 2016

LICENSING COMMITTEE
25 May 2016

Present:- Councillors Buston, Cope, Elliott, Harris, Hogg, Laws,
Moore, Oxford P, Scott-Boutell J

Substitutes:- Councillor Pearson for Councillor Scordis

1. Chairman

RESOLVED that Councillor Cope be appointed Chairman for the forthcoming Municipal Year.

2. Deputy Chairman

RESOLVED that Councillor Harris be appointed Deputy Chairman for the forthcoming Municipal Year.

19 October 2016

Report of	Head of Professional Services	Author	Jon Ruder
			☎ 282840
Title	House of Lords' Select Committee / Licensing Act 2003		
Wards affected	Not applicable		

This report concerns the Council's response to the House of Lords' request for information on the operation of the Licensing Act 2003

1. Decision(s) Required

- 1.1 To note the response submitted by the Licensing, Food Safety Manager to the House of Lords' Select Committee on the Licensing Act 2003 request for information.

2. Alternative Options

- 2.1 The alternative option was not to respond to the request for information.

3. Supporting Information and Proposed Response

- 3.1 The House of Lords set up a Select Committee in May 2016 to look at the effectiveness of the Licensing Act 2003. Local Authorities were requested to submit their views by way of written evidence and set out at Appendix 1 is an outline of the response sent by the Licensing, Food Safety Manager; the original was submitted by way of an online form. The consultation links were sent to Members of the Committee on 9 August 2016 together with an invitation to submit their own views should they wish. The Select Committee is expected to report in March 2017.
- 3.2 The intention of the Licensing Act 2003 was to provide greater freedom to the hospitality and leisure industry, as well as giving consumers more choice. At the same time the legislation was intended to grant authorities the appropriate powers to deal with misuse of these freedoms.
- 3.3 The Select Committee is gathering evidence in relation to the following specific areas –
 - the balance between rights and responsibilities of both the industry and the public;
 - the powers of enforcement authorities, including the police;
 - the impact that any greater availability of alcohol has had on the health of the population;
 - whether the Act has made it easier or harder for communities to enjoy activities that have to be licensed under the Act;
 - the role of licensing in shaping local areas, for the benefit of the economy and the local community;
 - minimum unit pricing and its potential impact; and
 - fees and costs associated with the Act.

4. Strategic Plan References

- 4.1 The Council's response was made having full regard to its Strategic Plan as the findings and recommendations of the Select Committee may change the laws which currently govern licensing. The Council adopted a new Licensing Policy which came into effect on 1 January 2016. This Policy aims to contribute to the Council's vision of creating a vibrant, prosperous, thriving and welcoming borough through promoting a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the Borough. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy.

5. Standard References

- 5.1 There are no publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.

House of Lords Select Committee on the Licensing Act 2003

1. Are the existing four licensing objectives the right ones for licensing authorities to promote?

Yes

2. Should the protection of health and wellbeing be an additional objective?

Yes.

3. Should the policies of licensing authorities do more to facilitate the enjoyment by the public of all licensable activities?

The Council is already doing this in its new policy. The Policy aims to promote a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. The Council's Policy sets out clearly what the Council wishes to encourage and identifies how we want the town to grow and diversify

4. Should access to and enjoyment of licensable activities by the public, including community activities, be an additional licensing objective?

No

5. Should there be any other additional objectives?

No

6. Has the Live Music Act 2012 done enough to relax the provisions of the Licensing Act 2003 where they imposed unnecessarily strict requirements?

Yes

7. Are the introductions of late night levies and Early Morning Restriction Orders effective, and if not, what alternatives are there?

No, the Council would wish to see the introduction of area specific late night levy to enable the Council to target those areas of the borough where there are problems such as the town centre.

8. Does the Licensing Act now achieve the right balance between the rights of those who wish to sell alcohol and provide entertainment and the rights of those who wish to object?

The power to call a review is poorly used by the general public in our area and therefore doesn't operate as a check on the system in the way that it was designed to do.

The processes need to be more easily understood by the public who interact with licensing relatively rarely as opposed to businesses who can afford to employ professionals to do their application work and who use it more frequently and are therefore more familiar with the process.

9. Do all the responsible authorities (such as Planning, and Health & Safety), who all have other regulatory powers, engage effectively in the licensing regime, and if not, what could be done?

The Council hosts a responsible authority meeting where all the responsible authorities are represented, although some more frequently than others. There is a lack of involvement from the Children's Safeguarding Service in responding to enquires. The Fire Service play an active role in our enforcement group but there is a lack of meaningful information from the service in relation to applications. The Council receives useful data from the Ambulance Service in relation to Ambulance call outs and receives some A&E data although this needs to be improved in order for it to be useful.

10. Do other stakeholders, including local communities, engage effectively in the licensing regime, and if not, what could be done?

No, there is a problem with local communities being aware of applications. They also fail to use the tools available to them such as making representations and asking for reviews possibly because of a fear of the cost implications of doing so. Clarity in relation to the issue of awarding costs may encourage local communities to take a more active role.

11. Licensing is only one part of the strategy that local government has to shape its communities. The Government states that the Act “is being used effectively in conjunction with other interventions as part of a coherent national and local strategy.” Do you agree?

Yes. Licensing forms one part of the strategic plan for the Authority.

12. Should licensing policy and planning policy be integrated more closely to shape local areas and address the proliferation of licensed premises? How could it be done?

It would be of benefit to integrate the systems so that there was consistency of hours across the two regimes and for the Licensing to be able to have regard to the local plan. However, it would be from planning to determine the specifics of where a premises is permitted.

13. Are the subsequent amendments made by policing legislation achieving their objects? Do they give the police the powers they need to prevent crime and disorder and promote the licensing objectives generally? Are police adequately trained to use their powers effectively and appropriately?

The Police play an active part in our Licensing Enforcement Group. However generally we are concerned at the lack of licensing knowledge in the wider police force.

14. Should sales of alcohol airside at international airports continue to be exempt from the application of the Act? Should sales on other forms of transport continue to be exempt?

We cannot see a good reason why they are exempt. There may be difficulties in licensing moving transport, but not at terminals/transport hubs.

15. The Act was intended to simplify licensing procedure; instead it has become increasingly complex. What could be done to simplify the procedure?

Deregulation has made the entire system more complicated for all parties including applicants. The process itself if followed correctly is relatively straightforward, it is the deregulation which has introduced complexity into the process. We would also recommend removal of the newspaper advert for new and variation licence applications. Anecdotal evidence suggests these are not useful to members of the public.

16. What could be done to improve the appeal procedure, including listing and costs? Should appeal decisions be reported to promote consistency? Is there a case for a further appeal to the Crown Court? Is there a role for formal mediation in the appeal process?

The reporting of appeal decisions would be helpful to ensure consistency. Mediation is at the heart of the licensing process in the authority and mediation within the appeal environment would be useful enabling both sides to come to an agreement. The current delay in getting a court date can mean the position changes significantly by the time of the hearing. There should not be any further appeal to the Crown Court as this would involve additional cost and work for all parties involved.

17. Given the increase in off-trade sales, including online sales, is there a case for reform of the licensing regime applying to the off-trade? How effectively does the regime control supermarkets and large retailers, under-age sales, and delivery services? Should the law be amended to allow licensing authorities more specific control over off-trade sales of “super-strength” alcohol?

There is a case for reform as the current legislation doesn’t deal with off sales adequately and contributes to the problems of pre loading etc. The council has voluntary agreements in place

with premises concerning the sale of super strength alcohol and would welcome changes to make these legally enforceable.

18. Should alcohol pricing and taxation be used as a form of control, and if so, how? Should the Government introduce minimum unit pricing in England? Does the evidence that MUP would be effective need to be “conclusive” before MUP could be introduced, or can the effect of MUP be gauged only after its introduction?

Pricing is only one component in a person’s decision to drink and therefore its effectiveness as a form of control is constrained. We do not believe the introduction of a MPU will have a significant impact; the mandatory conditions are sufficient although they need to be made easier to interpret and use. There is no need for further control which would place additional burdens on already stretched service areas.

19. Do licence fees need to be set at national level? Should London, and the other major cities to which the Government proposes to devolve greater powers, have the power to set their own licence fees?

No, the costs everywhere are different and should be set locally. Major cities don’t merit special consideration.

20. Are there any elements that could be borrowed from other licensing regimes abroad?

Patterns of drinking would seem to be embedded in national identities rather than established by licensing regimes and therefore we don’t believe a regime borrowed from another country is likely to be successful in the UK. The introduction of the Licensing Act 2003 was intended to encourage a European café culture. The outcome however, was in general only to move opening hours later into the evening with little or no move to diversification and a café culture.

