

## LICENSING COMMITTEE 25 NOVEMBER 2009

*Present :-* Councillor Barrie Cook (Chairman)  
Councillors John Bouckley, Helen Chuah,  
Wyn Foster, Christopher Garnett, Mike Hogg,  
Margaret Kimberley, Michael Lilley, Philip Oxford,  
Ann Quarrie and Laura Sykes

### **16. Minutes**

The minutes of the meeting held on 11 November 2009 were confirmed as a correct record.

### **17. Gambling Policy Consultation**

The Committee considered a report by the Head of Environmental and Protective Services on the outcome of the consultation exercise on the Council's draft Gambling Policy Statement.

The Committee at its meeting on 7 October 2009 approved the draft gambling policy for the purposes of public consultation. The consultation period ran from 16 October to 13 November 2009 and during this period copies of the policy were sent out to specified consultees and those premises which already held a licence. In addition, licensed premises and other interested parties were advised that the policy was now available and how to obtain a copy and comment on it. A full list of the consultees was appended to the report. Only one response to the consultation was received from Councillor Spyvee and this was appended to the report. At the end of the consultation period the policy was referred to Counsel who has suggested a number of relatively minor amendments. The amendments to the policy recommended by Counsel together with the recommendations for amendments resulting from the response received were shown in the final policy document circulated with the agenda. The policy when finally approved would be reviewed periodically and published every three years.

RESOLVED that the Statement of Gambling Policy, as amended, be approved for recommendation to Council.

RECOMMENDED to Council that in exercise of its licensing function pursuant to Section 349 of the Gambling Act 2005, the Council adopts the Statement of Gambling Policy.

Councillor Cope joined the meeting at this point.

## **18. Regulation of Lap Dancing Clubs**

The Committee considered a report by the Head of Environmental and Protective Services on the Home Office consultation document entitled the "Regulation of Lap Dancing Clubs".

Lap dancing clubs were currently licensed under the provisions of the Licensing Act 2003 and as such were subject to the test of promoting the four licensing objectives which were the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm. At the time of application, an applicant for a premises licence who wished to provide lap dancing would be expected to indicate on the form the intention to provide 'adult' entertainment, what that entertainment would be, and how the four licensing objectives would be promoted. Representations made by responsible authorities or interested parties could only refer to those matters that were considered to be within the scope of the four licensing objectives.

The legislation governing the licensing of such venues was however going to change as the Government had announced that it intended to legislate to reclassify lap dancing clubs and other similar venues to place them into a new category of 'sex establishment' to be called a 'sex entertainment venue'. The legislation was likely to come into force in April 2010. The new category of 'sex establishment' would cover venues that were classed as providing 'relevant entertainment'. Relevant entertainment was defined as any live performance or display of nudity "which was of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (by verbal or other means). These venues would be licensed and controlled under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. The effect of bring such venues under Schedule 3 will be to permit local people to oppose an application for a sex establishment licence if they have legitimate concerns; require licences to be renewed at least yearly; allow the Council to reject a licence application if it believes that to grant a licence for a lap dancing club would be inappropriate given the character of a particular area; allow the Council to set a limit on the number of sex encounter venues that it thinks is appropriate for a particular area; and allow the Council to impose a wider range of conditions on the licences of lap dancing clubs than it is currently able to under the 2003 Act.

The Government has indicated its intention to implement the proposals for

both existing and new operators of lap dancing clubs or similar who wish to provide 'relevant entertainment' and who will be required to apply for a sex establishment licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This would mean that existing operators would not be able to grandfather any of the provisions of their previous licence no matter how long this licence had been held. There will be an exemption from licensing as a 'sex encounter venue' for premises that provide such entertainment infrequently, although the consultation document does not explain or qualify what is meant by "infrequently". Colchester currently has one venue that is specifically licensed as a club which intends to offer its customers 'adult' entertainment such as lap dancing or pole dancing on a regular basis and they will be required, under the proposed changes, to make a new application to enable them to continue to operate as a lap dancing club.

The Council's views were being sought on the introduction of the new proposals and the transitional arrangements for existing operators who wished to apply for a sex establishment licence. Specific questions on which the Council's views were sought were set out in the report together with the suggested response which had been prepared by the Licensing Manager for the Committee's consideration.

The Licensing Manager set out the implications of the proposed legislative and highlighted the increased amount of work for the Licensing Specialist Unit that was likely to occur as a result. There were a number of steps to be carried out to bring the provisions into force and it was suggested that for clarity each separate stage be identified and reported to the Committee for its consideration as appropriate. The Local Government (Miscellaneous Provisions) Act was adoptive legislation and it would be necessary for the matter to be referred to full Council for it to formally adopt the relevant schedules. The next stage would be to determine whether the Council wished to have a policy against which applications for a 'sex encounter venue' could be determined. The Council would need to have both adopted the relevant legislation and approved a policy before it would be able to accept applications. There was considerable discussion on the levels of public consultation and on the the possible options open to the Council in formulating its policy. It was however recognized that the first step was to respond to the consultation exercise and consideration was given to the suggested response prepared by the Licensing Manger and which was appended to the report.

RESOLVED that –

(i) the response to the Home Office Consultation on the regulation of Lap Dancing Clubs, prepared by the Licensing Manager and attached to the report at Appendix 2, be approved as the Council's response to the consultation document and sent to the Home Office.

(ii) the Licensing Manager be thanked for the excellent report and for his clear and comprehensive answers to the Committee's questions.