

Licensing Committee
Wednesday, 8 November 2023

Present:

- Councillor Appleton
- Councillor Michelle Burrows (Deputy Chair)
- Councillor Roger Buston
- Councillor Jeremy Hagon
- Councillor Dave Harris (Chair)
- Councillor Mike Hogg
- Councillor David King
- Councillor Roger Mannion
- Councillor Sam McLean
- Councillor Carl Powling
- Councillor Michael Spindler

Substitutes:

- Councillor Tim Young for Councillor Molly Bloomfield

Also in attendance:

180. Minutes of the previous meeting

RESOLVED that: the minutes of the meeting held on 14 June 2023, the meeting of the Licensing Sub-Committee held on 9 August 2023 at 11.00am and the meeting of the Licensing Committee Driver Appeal Hearing held on 9 August 2023 be confirmed as a correct record.

181. Licensing Enforcement Policy

The Committee considered a report requesting that it approve for use a new stand-alone Licensing Enforcement Policy document.

Paul Donaghy, Licensing, Community Safety and Safeguarding Manager, attended the meeting to present the report and assist the Committee with its deliberations. The Committee heard that a review of the Council's Policies following the Licensing, Community Safety and Safeguarding Manager having taken up his post had revealed that the Licensing Enforcement Policy had been entwined with the Policies of other areas of Public Protection, and it was considered more appropriate that a stand-alone Licensing Enforcement Policy was created. Although the substance of the proposed Policy remained unchanged, its length had been reduced from 55 pages to 27, and it was hoped that this would make the Policy more transparent and easier to understand for all who used it. The Committee was asked to approve the proposed Policy for use.

In response to a question from the Committee, the Licensing, Community Safety and Safeguarding Manager confirmed that Officers were diligent in ensuring that their knowledge of changes to legislation or national policy was up to date. The proposed Licensing Enforcement Policy would be kept under review, and modified whenever necessary to ensure that changes to the Council's Strategic Priorities were reflected in it.

RESOLVED that: the Licensing Enforcement Policy be adopted and made publicly available.

182. Pavement Licence Policy Update

The Committee considered a report which presented an amended Pavement Licence Policy to it, and which requested that the amended Policy be approved.

Alison Chapman, Licensing Officer, attended the meeting to present the report and assist the Committee with its enquiries. The Committee heard that the Council's Pavement Licence Policy had first come into force during the Coronavirus pandemic, as a result of the implementation of the Business and Planning Act 2020 (the Act) which aimed to encourage the use of outdoor facilities. The Act had been updated a number of times, and it was considered appropriate to review the Council's Policy in the light of the most recent extension of the provisions within it.

The proposed amended Policy provided greater clarity for applicants, and included more information to assist with the application process, including detailing the requirement for the submission of suitable scale plans with applications. The proposed Policy was written in such a way that it would no longer carry a requirement to be reviewed annually, and would remain effective should the provisions in the Act be extended further. The Committee was invited to approve the proposed amended Policy for use.

A Committee member supported the proposed Policy, but wondered whether the Council was being proportionate in the level of fees being charged? It was important to try to encourage a café style culture in Colchester, could the fee charged for the licence be related to the size of the business of the applicant? The Licensing Officer confirmed to the Committee that the Act set a maximum fee of £100 for each application for a pavement licence, whether the licence was to cover 1 chair or 20. It was possible to apply for a pavement permit under the Highways Act, however, the cost of such an application would be very significantly higher than the proposed £100 fee for a pavement licence, and it was hoped that the lesser fee would encourage the safe culture which had been mentioned.

In discussion, the Committee supported the proposed Policy and accepted that £100 was not a large fee, although would potentially be more significant for a small business. It wondered whether any consideration could be given to providing some more flexibility in the fee which was charged based on the scale of the business which was applying. Paul Donaghy, Licensing, Community Safety and Safeguarding Manager, confirmed that the level of fee could be considered.

A Committee member asked about the safety of the furniture which would be placed on the street, and sought assurance that adequate insurance would be provided by the licence holder to indemnify the owner of the land on which furniture would be placed. The Licensing officer confirmed that it was only possible for a pavement licence to be issued on land controlled by Essex County Council as the Highway Authority, and no licence would be issued on private owned land. Essex County Council had raised the requirement for liability insurance up to £10m to ensure that adequate cover was provided in the event of an accident.

A Committee member considered that the proposed fee of £100 was not significant, however, did believe that the carrying out of an equality impact assessment (EIA) would be helpful in relation to the proposed Policy to ensure that equality legislation was being adequately supported. The Licensing, Community Safety and Safeguarding Manager confirmed that he would undertake such an assessment.

In response to questions asked by a Committee member in relation to potential ease of access issues associated with a pavement licence, it was confirmed to the Committee that the Act provided that a minimum space had to be maintained between any licenced area and the kerb, and that the Highway Authority was consulted to ensure that sufficient space was available.

The Committee again discussed the fee associated with an application for a pavement licence, and although opinions were divided as to the correct amount to be charged, it was suggested that consideration be given to drawing a distinction between larger and smaller businesses when setting the fee. It was, however, noted that even the highest fee of £100 per year equated to approximately 30p a day, which was not considered to be a high amount compared to the benefits that even a single extra table outside could bring to a business. The Licensing, Community Safety and Safeguarding Manager would consider whether there was any potential to vary the fees which were charged.

RESOLVED that: the updated Pavement Licensing Policy be approved.

183. Work Programme

The Committee considered a report setting out its work programme for the forthcoming municipal year.

In answer to a question from the Committee, Paul Donaghy, Licensing, Community Safety and Safeguarding Manager, confirmed that the requirement for all licensed vehicles to be able to accept card payments had been in force since October 2023. Officers were still awaiting deliver of stickers to be placed in vehicles advising customers that card payments could be taken, but this issue was expected to be resolved in the near future.

The question of the provision of closed circuit television (CCTV) in licensed vehicles was raised by the Committee, and an update on the current position was requested at either the January or March meetings of the Committee.

The Licensing, Community Safety and Safeguarding Manager assured the Committee that policy review work was ongoing, and it was anticipated that reports on a number of issues would be forthcoming over the coming year.

RESOLVED that: the contents of the work programme be noted.