

## LICENSING COMMITTEE 6 OCTOBER 2010

*Present :-* Councillor Barrie Cook (Chairman)  
Councillors Mary Blandon, John Bouckley, Nick Cope,  
Mark Cory, Wyn Foster, Christopher Garnett,  
Dave Harris, Margaret Kimberley, Michael Lilley and  
Ann Quarrie

### **10. Licensing of Sexual Entertainment Venues (Sex Establishment Licence).**

The Committee considered a report by the Head of Environmental and Protective Services on proposed changes to the licensing of sexual entertainment venues which would give the local authority and local people a greater influence on the granting of these licences. The aim of the new legislation was to bring the licensing of sexual entertainment venues in line with other sex establishments such as sex shops and sex cinemas and to recognise that local people had concerns about where such premises were located and may wish to play an active part in any debate and decision made about their location. The proposed changes would not have any effect however on the licensing of sex shops and sex cinemas which would continue to be licensed separately in their own right.

Adult entertainment such as lap dancing was currently licensed under the provisions of the Licensing Act 2003 and representations concerning such applications had to demonstrate how the proposed activities would either undermine or promote the four licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. Refusal of applications also had to relate to the licensing objectives.

The adoption of the amendments made to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009 would enable the Council to grant a sex entertainment licence to a sexual entertainment venue where relevant entertainment was being provided before a live audience for the financial gain of the organiser or the entertainer. The amended legislation would permit representations to be made on a much wider basis by local people than was currently possible under the Licensing Act 2003. It would also enable the local authority to consider other factors such as whether the applicant was a 'fit and proper' person to hold such a licence and the Committee would be able to consider the character of the relevant locality in determining whether to grant a licence. Premises holding a sex entertainment licence would still need to be licensed under the Licensing Act 2003 if they wished to sell alcohol or carry out other regulated entertainment such as the provision of hot food after 23.00.

The report outlined the work that would be required in the adoption of the legislation and further consideration would need to be given to the design and issue of applications forms and setting of fees which were not prescribed. The Licensing

Manager sought the Committee's views on the establishment of a policy in respect of such applications and in particular the grounds on which the Committee might wish to refuse an application. The Committee discussed the matter at length having particular regard to the issue of limiting the number permitted and examined that inherent contradiction that in setting a limit on the overall number permitted in a locality it may encourage such businesses to come into the area. There was currently one venue in the Council's locality that would require a licence under the amended legislation. The Committee concluded that further work should be done to create a draft policy for consideration by the Committee at a later date.

*RECOMMEND to COUNCIL that –*

(i) The amendments made to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as introduced by Section 27 of the Policing & Crime Act 2009 be adopted and that the amendments shall apply within the Borough of Colchester and come into force not more than one month after the day on which the resolution was passed.

*RESOLVED that -*

(i) The Head of Environmental and Protective Services be requested to formulate a licensing policy in respect of how applications for sex establishment licenses (sexual entertainment venues, sex shops and sex cinemas) will be considered by the licensing authority in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

(ii) The Head of Environmental and Protective Services be Instructed to prepare a report and draft policy for consideration by the Licensing Committee in order that the draft policy can be discussed and amended as appropriate by the Committee, prior to it being subject to public consultation and scrutiny.

## **11. Council's Response to Home Office consultation document – "Rebalancing the Licensing Act".**

The Committee noted a report by the Head of Environmental and Protective Services on the Council's response to the Home Office consultation document 'Rebalancing the Licensing Act'. Appended to the report were the consultation document and a list of proposed amendments to the Licensing Act on which the Licensing Manager had commented on behalf of the Council due to the tight deadline for the submission of responses. The areas covered included such matters as making local authorities responsible authorities, reducing the burden of proof for licensing authorities and repealing mandatory conditions.

The Committee welcomed the comments that had been submitted whilst noting that

there was unlikely to be any changes in the immediate future and that the final 'rebalancing' may be different to the proposals outlined in the consultation document. The Chairman and Members of the Committee thanked the Licensing Manger for his excellent response.

*RESOLVED* that the report be noted.