

Licensing Committee

Grand Jury Room, Town Hall
26 February 2010 at 10.00am

The Licensing Committee deals with licensing applications for public entertainments, hackney carriages and private hire vehicles, sex establishments, gaming and lotteries, door registration scheme 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.

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 meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at www.colchester.gov.uk.

Private Sessions

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.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call, and we will try to provide a reading service, translation or other formats you may need.

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Toilets are located on the second floor of the Town Hall, access via the lift. A vending machine selling hot and cold drinks is located on the ground floor.

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**COLCHESTER BOROUGH COUNCIL
LICENSING COMMITTEE
26 February 2010 at 10:00am**

Members

Chairman : Councillor Barrie Cook.
Councillors Helen Chuah, Nick Cope, Wyn Foster and Ann Quarrie.

Agenda - Part A

(open to the public including the media)

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

Pages

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 off or to silent;
- 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 and to give reasons for the urgency.

4. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

5. Minutes

1 - 3

To confirm as a correct record the minutes of the meeting held on 25 November 2009.

6. 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 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 not on this agenda.

7. Exclusion of the public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) 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).

**COLCHESTER BOROUGH COUNCIL
LICENSING COMMITTEE
26 February 2010 at 10:00am**

Agenda - Part B

(not open to the public or the media)

Pages

8. Hackney Carriage Licensing Appeal

The following report contains exempt information (information relating to an individual) as defined in paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

See report by the Head of Environmental and Protective Services.

LICENSING COMMITTEE

25 November 2009

Present: - Councillor Cook (Chairman)
Councillors Bouckley, Chuah, Foster, Garnett, Hogg,
Kimberley, Lilley, P.Oxford, Quarrie and Sykes

16. Minutes

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

17. Statement of Policy of the Licensing of Gambling// Results of 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 bringing 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.

e-mail: licensing.committee@colchester.gov.uk
website: www.colchester.gov.uk