

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 10th January, 2011 at Committee Suite 1, 2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)
Councillor B H Dykes (Vice-Chairman)

Councillors C Andrew, Rhoda Bailey, D Bebbington, H Davenport,
W S Davies, L Gilbert, J Goddard, M Parsons, C Tomlinson and J Wray

OFFICERS IN ATTENDANCE

Mrs K Khan, Solicitor
Mrs J Zientek, Democratic Services Officer

Apologies

Councillors W T Beard, M Hardy and A Ranfield

21 DECLARATIONS OF INTEREST

There were no declarations of interest.

22 PUBLIC SPEAKING TIME/OPEN SESSION

In accordance with Procedure Rules 11 and 35, Dr L Brown and Mrs Fielding addressed the Committee in relation to Item 6: Sexual Entertainment Venues – Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Note: With the agreement of the Chairman, Dr Brown and Mrs Fielding spoke following the Solicitor's introduction of the relevant report.

23 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meeting held on 8 November 2010 be approved as a correct record and signed by the Chairman.

24 MINUTES OF LICENSING SUB-COMMITTEES

RESOLVED – That the minutes of the Licensing Act Sub-Committee meetings held on 1 November 2010, 26 November 2010, 8 December 2010, 17 December 2010 & 20 December 2010, and the General Licensing Sub-Committee meeting held on 2 December 2010 be received.

25 SEXUAL ENTERTAINMENT VENUES – SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED)

The Committee considered a report regarding the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') made by section 27 of the Policing and Crime Act 2009 and the statutory provisions in relation to the adoption of the power to regulate 'sexual entertainment venues' within the amended Schedule. The report also detailed the consultation responses received in relation to both the principle of adoption of the amendments to Schedule 3 of the 1982 Act and a draft policy on the licensing of sexual entertainment venues. In addition, the Solicitor reported four further responses which had been received following the end of the consultation period. Based on the consultation responses received, the Committee made a number of changes to the draft policy on the licensing of sexual entertainment venues, to reflect some of the observations made.

RESOLVED

- (a) That the responses received in relation to the consultation exercise on the principle of adoption of the amendments to Schedule 3 of the 1982 Act be noted.
- (b) That it be recommended to Council that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, be adopted and shall apply within the Borough of Cheshire East; and
- (c) That it be recommended to Council that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, shall come into force in the Borough of Cheshire East on 4th April 2011.
- (d) That the responses received in relation to the consultation exercise on the draft policy on the licensing of sexual entertainment venues be noted.
- (e) That the draft policy on the licensing of sexual entertainment venues be amended as follows:
 - (1) that "or an entire town" in the last sentence of paragraph 3.6 be deleted.
 - (2) that the requirements in relation to the submission of plans be expanded to include a statement to the effect that these must show the layout of the premises including: (i) performers changing facilities; (ii) those areas to which the public are to be admitted (shown outlined in red); (iii) toilets; (iv) entrances and exits from the premises (including emergency exits); (v) any

stage area (including an annotation as to the height of the stage); (vi) the location of any fixed structures (such as bar area or fixed tables/seating or private booths); (vii) the area to be used for customer seating, and that plans should be large enough to be easily read.

- (3) that the warning about false statements which is set out before the declaration on the final page of the application form be included in the policy.
- (4) that a reminder about the planning regime be included within the policy.
- (5) that the second sentence in paragraph 4.1 be amended to read: "The following must be submitted with the completed application form in order to form a valid application:..."
- (6) that the application form be amended as follows: (i) the inclusion of a question about the form of 'relevant entertainment' and level of nudity which is proposed to be provided at the premises; and (ii) an amendment which would enable the form to be utilised for renewal, variation and transfer applications in addition to applications for grant.
- (7) that paragraph 4.1 be amended to state that applicants (including directors/the company secretary where the applicant is a company and each of the partners if the applicant is a partnership) are required to submit a basic CRB disclosure.
- (8) that notices must be no smaller than A4, printed on white, with black font of a size equal to or larger than 16.
- (9) that the form of notice at Appendix 2 of the draft policy be amended to set out which forms of relevant entertainment and level of nudity the application proposes to operate at the premises.
- (10) that the application process within the policy be amended and a new condition added to provide that the Council requires applicants for variations to the terms, conditions or restrictions on a licence to comply with the same notice requirements as those which apply to an application for the grant or renewal of a licence.
- (11) that paragraph 3.10 of the draft policy be amended to clarify that the Council would seek to consult the Police in relation to any application for a waiver, and that the Council would require applicants to supply all of the information requested within the application form appended to the draft policy.

- (12) that the second paragraph of 4.4 in the draft policy be replaced with the following:

Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities are not in a position to consider objections which are not relevant to the grounds set out in paragraph 12.

- (13) that the hearing procedure be amended in order to clarify that objectors have the opportunity, having been asked questions by the other parties to the hearing, to clarify anything which may have been misunderstood.

- (14) that a further definition be added to condition 1 as follows (and subsequent amendments made throughout the following conditions to reflect the defined term):

‘Employee’ means all persons working on the premises including not only those directly employed by the management of the premises but the self-employed, contractors or their staff promoting or providing any service or Relevant Entertainment; and the term ‘employed’ shall be read in the same context.

- (15) that condition 9 be deleted.

- (16) that conditions 7 and 38 be amended to state that performers should be required to provide their names, home addresses and National Insurance Numbers.

- (17) that condition 21 be amended to state that, for the purpose of this condition, ‘performers’ include any employees on the premises who work in a state of nudity and that they shall not be in any public part of the Premises in a state of undress when not ‘on duty.’

- (18) that the following additional condition be included in the draft policy (as amended to ensure consistency with the existing conditions within the policy):

- A management operation manual detailing all aspects of procedure when the Premises is operating relevant entertainment shall be produced and approved by Cheshire Police. This document shall be on going and under constant review. The management operation manual should be always available for public inspection and the first version should be publicly available for scrutiny with the application for a licence.

- The premises must provide a copy of its Club Rules to the Council and Cheshire Police. The Club Rules should be always available for public inspection and the first version should be publicly available for scrutiny with the application for a licence.
 - All performers and staff shall be aware of the Club Rules.
 - All dancers, staff and door supervisors shall read a copy of the rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the premises as part of their due diligence.
- (f) That the Legal Team Leader (Regulatory) be authorised to carry out a further consultation exercise in relation to the proposed amendments to the draft policy on the licensing of sexual entertainment venues and submit a further report to this Committee for approval in accordance with the Terms of Reference of this Committee.
- (g) That consideration of the fee levels to apply in relation to sexual entertainment venue applications be deferred to the next meeting of the Committee, to be held on 7 March 2011.
- (h) That the Legal Team Leader (Regulatory) be requested to provide the Committee with a detailed breakdown of the costs involved in the processing of applications for sexual entertainment venue licences.
- (i) That the Constitution Committee be requested to recommend to Council that the Constitution be amended in order to make the amendments to the Licensing Committee's terms of reference and the officer delegations in relation to the exercise of functions in relation to the licensing of sexual entertainment venues, as set out in Appendix E of the report.

26 INFORMATION REPORT: POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

The Committee considered a report regarding the content of the Police Reform and Social Responsibility Bill which would, if enacted, make a number of amendments to the Licensing Act 2003.

RESOLVED – That the provisions in the Police Reform and Social Responsibility Bill which relate to the amendment of the Licensing Act 2003 be noted.

27 AMENDMENTS TO LICENSING DELEGATIONS

The Committee considered a report regarding proposed amendments to the licensing delegations, to clarify those functions which stand referred to the General Licensing Sub-Committee and those which stand referred to the Licensing Act Sub-Committee.

RESOLVED – That the Constitution Committee be requested to recommend to Council that the Constitution be amended as follows:

- (a) that references to the Licensing Sub-Committee within paragraph 25.3 of the Officer Management Arrangements within Part III of the Constitution be amended to “the General Licensing Sub-Committee;” and
- (b) that references to the Licensing Sub-Committee within paragraph 25.4 of the Officer Management Arrangements within Part III of the Constitution be amended to “the Licensing Act Sub-Committee.”
- (c) that references to the Licensing Sub-Committee within sub-paragraphs (i) to (iii), (v) and (vi) in relation to the General Licensing Functions at pages 160 and 161 of the Constitution be amended to “the General Licensing Sub-Committee;” and
- (d) that references to the Licensing Sub-Committee within sub-paragraphs (ii) to (xi) in relation to licensing functions under the Licensing Act 2003 and Gambling Act 2005 at page 161 of the Constitution be amended to “the Licensing Act Sub-Committee.”

The meeting commenced at 2.00 pm and concluded at 4.55 pm

Councillor P Whiteley (Chairman)