

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 13th September, 2010 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

Councillors Rhoda Bailey, T Beard, D Bebbington, H Davenport, S Davies,
L Gilbert, M Parsons, A Ranfield, C Tomlinson and J Wray

OFFICERS

Mrs K Khan, Licensing Solicitor
Mr T Potts, Community Safety Manager
Ms A Jackson, Licensing Enforcement Officer
Mrs R Graves, Democratic Services Officer

7 APOLOGIES FOR ABSENCE

Apologies were received from Councillors J Goddard and M Hardy.

8 DECLARATIONS OF INTEREST

No declarations of interest were made.

9 PUBLIC SPEAKING TIME/OPEN SESSION

Dr L Brown and Mrs M Charlton addressed the Committee in relation to
Item 6 – Sexual Entertainment Venues – Schedule 3 Local Government
Act (Miscellaneous Provisions) Act 1982.

10 MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 5 July 2010 be approved as a
correct record and signed by the Chairman.

11 MINUTES OF LICENSING SUB-COMMITTEES

RESOLVED:

That the minutes of the Licensing Act Sub Committees held on 7 July
2010, 2 August 2010, 25 August 2010 and 31 August 2010 and the
General Licensing Sub Committee held on 8 July 2010 and 20 August
2010 be received.

12 SEXUAL ENTERTAINMENT VENUES - SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED)

The Committee considered a report on the proposal to carry out a consultation exercise on the proposed adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, within the Borough of Cheshire East, and the proposal to carry out a consultation exercise in relation to the draft policy on the licensing of sexual entertainment venues and the relevant level of fees.

Schedule 3 of the Local Government Act (Miscellaneous Provisions) Act 1985 made provisions for the regulation of 'sex establishments'. A 'sexual entertainment venue' for the purposes of the 1982 Act was "any premises at which relevant entertainment is provided before an audience for the financial gain of the organiser or the entertainer." 'Relevant entertainment' means "any live performance or any live display of nudity which is such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose or sexually stimulating any member of the audience (whether by verbal or other means)".

If a local authority had resolved before 6 April 2010 that Schedule 3 of the 1982 Act was to apply within its area, then the amendments in relation to sexual entertainment venues within the 2009 Act do not apply to the area of the local authority, although the authority may resolve that Schedule 3, as amended, is to apply to its area. Each of the predecessor district Councils had made resolutions to adopt the original provisions of Schedule 3 of the 1982 Act. These resolutions had been preserved and apply to Cheshire East on the basis of regulation 4 of the Local Government Act (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008.

If the Council does not make a resolution to adopt the amended Schedule 3 of the 1982 Act within one year of the legislation coming into force (i.e. by 6 April 2011) then 'as soon as reasonably practicable' it must consult local people about adopting the legislation. Whilst it was not a statutory requirement to consult if adopting the legislation prior to April 2001, it was considered as good practice. Therefore authorisation was sought from the Committee to carry out a consultation exercise in relation to adoption of the amendments to Schedule 3 of the 1982 Act.

Similarly, there was no statutory requirement for a local authority to adopt a policy on the licensing of sex establishments, however, it is suggested that it would be best practice to consider such a policy. A policy on the licensing of sexual entertainment venues had now been drafted for Cheshire East, which would provide guidance to prospective applicants and members of the public and would assist with consistency of decision-making. The Committee was asked to approve, without prejudice to any decision in relation to adoption, consultation on the draft policy.

The Council was able to determine a 'reasonable fee' in relation to the grant, renewal or transfer of a sex establishment licence. Fees in relation to the grant and renewal of sex shop licences had been set in December 2008. The procedure relating to the processing of an application for a Sexual Entertainment Venue was the same as in relation to an application for a sex shop licence. It was therefore proposed that the fees for a Sexual Entertainment Licence should mirror those in relation to Sex Shops:-

- New application: £2,260
- Renewal: £1,130
- Transfer application: £500

RESOLVED:

That the Licensing Manager be authorised to

- (1) carry out a consultation exercise, as set out in the report, in relation to the proposed adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, within the Borough of Cheshire East;
- (2) without prejudice to any decision in relation to the adoption of the legislation, to carry out a consultation exercise, as set out in the report, in relation to (i) the draft policy on the licensing of sexual entertainment venues (including a set of draft conditions) set out in the Appendix to the Report; and (ii) the relevant fee levels.

13 REVIEW OF HACKNEY CARRIAGE SERVICE

The Committee considered a report which proposed a comprehensive review of the hackney carriage service across each of the three zones within Cheshire East Borough Council.

The Committee on 18 January 2010 had authorised the Licensing Manager to carry out a consultation exercise relating to the policy of limiting the number of hackney carriages within the Congleton zone of the Council's area. Since this decision a number of representations had been received from members of the hackney carriage trade associations and local MPs. Their concerns focused on the current policy within the zones of Macclesfield and Crewe of not imposing a numerical limit on hackney carriages. Also highlighted was the variety of fares charged to the public across the three zones; the existing licence terms and conditions in relation to hackney carriage vehicles and drivers across the three zones; and the accessibility and availability of the service for the public including rank provision and location.

Following discussions with representatives of the three hackney carriage associations, a proposal was formulated in relation to a wide-ranging

review of the hackney carriage licensing function. It was suggested that in order to address the disparities across the three zones and to develop a consistent approach within the Borough, a comprehensive review of the policies and procedures relating to hackney carriages should be undertaken. The issues which would be addressed as part of the review included:

- Service Levels
- Hackney Carriage Fares
- Existing Terms and Conditions
- Provision and location of taxi ranks

The Committee was asked to set aside its decision of 18 January 2010 and approval was sought for a comprehensive review of policies and procedures relating to hackney carriages in order to address the disparities across the three zones and to develop a consistent approach within the Borough.

RESOLVED:

That the decision of the Licensing Committee on 18 January 2010 be set aside and a review of the hackney carriage service, as set out within the report, be undertaken.

14 RENEWAL OF SEX SHOP LICENCE - 74, EDLESTON ROAD, CREWE, CHESHIRE

The Committee considered a report regarding an application for the renewal of the Sex Shop Licence relating to premises at 74 Edleston Road, Crewe.

The representative for Darker Enterprises Ltd had been unable to attend the hearing and had submitted written evidence in support of their application.

An objection had been received to the notice of renewal application. The objector was not present at the hearing.

After considering the application and in accordance with the rules of procedure, the Chairman reported that after taking into account all the evidence submitted, the following course of action had been agreed:

RESOLVED:

That the application to renew the Sex Shop Licence relating to premises at 74 Edleston Road, Crewe be granted as follows:

Use of premises as sex shop for the following days and hours:
Monday to Saturday 9.30 am to 8.00 pm
Sunday 10.00 am to 4.00 pm

The meeting commenced at 2.00 pm and concluded at 3.15 pm

Councillor P Whiteley (Chairman)