

## Notice of meeting of

### Licensing Act 2003 Committee

- To:** Councillors Nimmo (Chair), Bartlett (Vice-Chair), D'Agorne, Sue Galloway, Hall, Horton, Hyman, King, Moore, Reid, Runciman, B Watson, I Waudby, Wilde and Evans
- Date:** Friday, 6 October 2006
- Time:** 2.00 pm
- Venue:** Guildhall

## AGENDA

### 1. **Declarations of Interest**

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda

### 2. **Minutes** (Pages 1 - 4)

To approve and sign the minutes of the meeting held on 7 July 2006.

### 3. **Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is Thursday 5 October 2006 at 10am.

**4. Operational Implications of the Licensing Act (Pages 5 - 10) 2003**

This report advises members of two operational implications of the Licensing Act 2003 in relation to (i) the performance of exotic dance and (ii) the holding of licensable activities on public land where a premises licence is in force.

**5. Any other business which the Chair decides is urgent under the Local Government Act 1972**

**If you require any further information, please contact Melanie Carr on Tel 01904 552061 or Fax 01904 551035 or email [melanie.carr@york.gov.uk](mailto:melanie.carr@york.gov.uk)**

If viewing this on the Council website, please click on this link: <mailto:melanie.carr@york.gov.uk>

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

City of York Council

Minutes

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MEETING	LICENSING ACT 2003 COMMITTEE
DATE	7 JULY 2006
PRESENT	COUNCILLORS NIMMO (CHAIR), D'AGORNE, HALL, HORTON, MOORE, REID, B WATSON, I WAUDBY AND EVANS
APOLOGIES	COUNCILLORS BARTLETT, SUE GALLOWAY, HYMAN, KING, RUNCIMAN AND WILDE

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### 1. DECLARATIONS OF INTEREST

At this point, Members were asked to declare any personal or prejudicial interests they had in the business on this agenda. No interests were declared.

### 2. MINUTES

Members noted the Officer update that the Veranda Coffee House licensing appeal was on 5<sup>th</sup> September 2006. The Applicant was challenging the Cumulative Impact Zone policy.

Members discussed the procedure for review of licenses and requested a copy of the guidance.

RESOLVED: That the minutes of the meeting held on 12<sup>th</sup> December 2005 be approved and signed as a correct record.

### 3. PUBLIC PARTICIPATION

It was reported that there were no registrations to speak under the Council's Public Participation Scheme.

### 4. GAMBLING ACT 2005 – CONSULTATION ON LICENSING POLICY

This report outlined the Council's responsibilities under the Gambling Act 2005 and the timescales for its implementation. Members approval was sought to consult on a draft statement of licensing policy and on those parties to be consulted. Members were also asked to approve a rearranged date for a future meeting of the committee to consider the responses to the consultation exercise. Members were presented with the following Options:

**Option 1:** To approve the draft policy for consultation without amendment.

**Option 2:** To make amendment to the draft policy prior to the consultation process.

**Option 3:** To agree or amend the proposed list of consultees.

The following was discussed:

- A policy of no casinos was discussed and it was agreed that this may be considered after responses from the consultation had been received.
- Members Support Group Officers were arranging training for Members and Officers, on the Gambling Act 2005.
- Personal licenses were issued by the Gambling Commission. Local Authorities were only responsible for issuing premises licences.
- There were no financial implications listed in the report, although the cost of consultation and of additional committee meetings could be considered a financial implication.
- It was noted that Ward Councillors could represent their ward without requiring a request from an interested party.
- Officers circulated draft proposals about the types of gambling machines permitted on different premises.
- It was clarified that applicants could not obtain a full premises licence until the premises was built, but could obtain a provisional statement in advance of this.
- With reference to pages 19 and 31, it was clarified it was not expected that the main activity of Local Authorities should be to ensure gambling was conducted in a 'fair and open way', but this could be considered.
- With reference to page 38, paragraph 6.2, it was clarified that the size of premises was relevant to ensure that there was enough space between gaming machines, to avoid jostling and overlooking.
- The delegations that applied were to be added as an annex.

Members agreed that the following amendments should be made to the policy:

- The Club & Institutes Union, Trade Associations and Trades Council, Tenants and Residents Associations, CAMRA, Children and Young People's Champion, Clifton Moor Business Association and Mecca Bingo, should be added to the consultees listed in the report on page 7 of the agenda. It was also requested that Clifton Bingo Hall be included, if they were independent of the Bingo Association.
- It should be made clear in paragraph 11 of the report, that paper copies of the policy were available if requested.
- On page 25, there was a spelling correction on the fourth line of paragraph 8.5. This was altered to read 'responsibility under the Act *understand* and *comply* with the law'.
- On page 27, there was a spelling correction to the start of the third sentence in paragraph 10.2. It was altered to read '*Non-contentious* applications'.
- On page 28, paragraph 1.2 the end of the first sentence was altered to read 'in so far as it thinks *is*'.
- On page 29, at the last sentence of the first paragraph, the word 'drift' was changed to '*unintentionally enter*'.
- On page 35 and page 40, signage was referred to, and it was requested that signage on premises include details about and

contacts for the complaints procedure, and contact details of the licence holder.

- On page 37, paragraph 5.2 the word 'premise' on the third line should have read '*premises*'.
- On page 42, paragraph 8.3, the fourth line was amended to read 'land which crosses *its*'.
- On page 44, paragraph 10.2, the last sentence was replaced to read 'Where the Authority initiates a review this will be first agreed by the relevant Assistant Director in consultation with the relevant Executive Member'.
- On page 45 and 46, the references to the FEC should be given in full as 'Family Entertainment Centre'.

RESOLVED: That:

(i) the draft statement of the Gambling Act 2005 licensing policy, as amended above, be approved for consultation in line with above **Option 2**; and

(ii) the named consultees and process for consultation be approved as amended in line with above **Option 3**; and

(iii) a meeting of the Licensing Act 2003 Committee should take place after the period for consultation, which concludes on 6<sup>th</sup> October 2006, and before full council on 30<sup>th</sup> November 2006. This meeting should take place on Friday 3<sup>rd</sup> November 2006.

REASON: To meet legislative requirements.

G NIMMO  
Chair

The meeting started at 2.00 pm and finished at 3.15 pm.

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*Licensing Act 2003 Committee*

*6<sup>th</sup> October 2006*

Report of the Director of Neighbourhood Services

## ***Operational Implications of the Licensing Act 2003***

### **Summary**

1. This report advises members of two operational implications of the Licensing Act 2003 in relation to (i) the performance of exotic dance and (ii) the holding of licensable activities on public land where a premises licence is in force.

### **Background**

2. The Licensing Act 2003 (the Act) came into force on 24<sup>th</sup> November 2005 and provided a complete overhaul of legislation relating to the licensing of entertainment activities, sale of alcohol and the provision of late night refreshment. The Act focuses on the four licensing objectives: prevention of crime and disorder; public safety; prevention of public nuisance; and the protection of children from harm.
3. The Act sought to “ensure that premises which are causing problems within our communities can be dealt with appropriately but powers to deal with problematic premises whilst providing a much lighter touch for those businesses and community activities which benefit and enhance peoples lives by providing important opportunities for the enjoyment of leisure time” (Tessa Jowell , Secretary of State).
4. The Act allows public spaces to be licensed to enable a range of events to take place without individual performers and entertainers having to obtain separate permissions either as full licences or temporary event notices.
5. The Act also allows permitted premises, which were licensed under former legislation to be re-licensed under the new Act carrying forward their existing licence conditions by way of “grandfather rights”. New applications or applications to vary existing conditions would be subject to the full requirements of the new legislation.

### **Licensable activities on public land where a premises licence is in force**

6. The council’s licensing policy states, “The Licensing Authority wishes to continue to promote a broad range of entertainment within the city including live music, dancing, theatre and other entertainment. To promote this policy the Council will obtain premises licences for public spaces within the community.

This will include such spaces as city centre event areas, parks, and village greens. This will encourage these activities in that, at these venues, performers and entertainers will not need to acquire a licence to perform but would only need the permission of the licence holder. The City Council’s byelaws in relation to nuisance caused by buskers will still apply as will the Council policy on the prohibition of circuses involving animals.”

7. Currently there are nine such areas licensed in the city:

<u>Licensed area</u>	<u>Licence holder</u>
College Green Deans Park	Chapter of York Minster
Coppergate Shopping Centre	Land Securities Property Ltd
Museum Gardens	York Museum Trust
City Centre Streets	City of York Council (City Strategy)
Hull Road Park Rowntree Park Micklegate Stray Eye of York	City of York Council (Learning, Culture and Children’s Services)

All these applications, save for Micklegate Stray, were granted with no hearing being necessary.

8. The licence holder can authorise any other person to hold licensable activities on the relevant land within the limitations and conditions of the licence. The licence holder is responsible in law for ensuring compliance with licence conditions. As far as Learning, Culture and Children’s Services are concerned they have adopted a protocol to use in relation to the letting of their land for licensed events.
9. Licensing controls relate solely to seeking compliance with the licensing conditions and not to assessing the suitability of any particular activity authorised within that licence. That responsibility rests with the licence holder. As with all premises licences the Licensing Authority is legally bound to grant licences as applied for unless relevant representations are received through the consultation process.

**The Performance of Exotic Dance**

10. The relaxation of the licensing laws has seen a number of enquiries from businesses interested in opening venues which provide exotic dancing. This



has resulted in the opening of a lap-dancing club in the Micklegate area of the city.

11. A particular concern is that city has not had entertainment of this nature since the early 1970's and the effects the possible increase of these types of venues could have on the reputation of the city.
12. Exotic dancing is defined in public entertainment/health and safety statutes as "any type of dancing that arouses or intends to arouse sexual desire or sexual pleasure and specifically includes striptease, lap dancing, table-side dancing, pole dancing and similar".
13. Whilst the Licensing Authority cannot object on moral grounds it can alongside statutory bodies and interested parties take into account the increased risk to the licensing objectives and the statement of licensing policy set out below.
14. **Licensing Objectives:**
  - *The prevention of crime and disorder*
  - *Public safety*
  - *The prevention of public nuisance*
  - *The protection of children from harm*

### **Entertainment of a Sexual Nature – policy**

15. The Licensing Authority and the relevant responsible authority will not normally grant licences where operating schedules involve entertainment of a sexual nature in the vicinity of schools, churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend.
16. Where such licences are granted the Licensing Authority will impose conditions designed to ensure that children are not admitted to and cannot witness these activities, and to control crime and disorder problems.
17. All new applications for the granting or variation of existing conditions to include 'Entertainment of a Sexual Nature' would be subject to the full requirements of the new legislation.
18. Those premises that held licences under the previous Public Entertainment Licences which permitted striptease and exotic dancing were allowed to convert them to the new system under the principles of grandfather rights subject to the Rules for the Management of Places of Public Entertainment which state, 'No performance of strip-tease, exotic dancing or lap dancing may be given without the prior written consent of the City Council having been obtained. An application for consent shall normally be made in writing not less than 28 days in advance of such a performance. This period may be reduced at the discretion of the Council. In the event that consent is given any additional conditions deemed necessary by the Council in relation to the event must be adhered to'.

19. This will allow the authority to request from the applicant an operating schedule which will specify how they intend to operate entertainment activities of this nature.
20. Suggested conditions could include:
  - *a requirement that no exotic dancing will take place before 9pm*
  - *performers are required to be over 18 years of age*
  - *CCTV cameras must be installed maintained and operated in all area where dancing takes place*
  - *there will be no display of photographs or images outside the premises to indicate that entertainment involving nudity or sexual performances takes place there*
  - *whilst the performances are taking place, no one under the age of 21 will be allowed to enter that part of the premises.*
  - *performers will be provided with separate dressing/changing rooms located away from and apart from the public facilities*

### **Review of premises licence**

21. The proceeding set out in the 2003 Licensing Act for reviewing premises licences represent a key protection for the community where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.
22. The Act provides a range of powers for the licensing authority on determining a review that it may exercise. Where the licensing authority considers that action under its statutory powers are necessary it may take any of the following steps:
  - *to modify the conditions of the premise licence*
  - *to exclude a licensable activity*
  - *to remove the designated premises supervisor*
  - *to suspend the licence for a period not exceeding three months*
  - *to revoke the licence*

### **Consultation**

23. Information only.

### **Options**

24. Information only.

### **Analysis**

25. Information only.

### **Corporate Priorities**

26. Information only

### **Implications**

27. Financial: None  
Human Resources (HR) : None  
Equalities : None  
Legal : None  
Crime and Disorder : None  
Information Technology (IT) : None  
Other: None

### **Risk Management**

28. There are no known risks associated with this report.

### **Recommendations**

29. Members are requested to note the contents of this report.

### **Contact Details**

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**Chief Officer Responsible for the report:**

Andy Hudson  
Assistant Director (Neighbourhoods)  
Neighbourhood Services

**Report Approved**



**Date**

20<sup>th</sup> September  
2006

**Wards Affected:**

**All**



**For further information please contact the author of the report**

### **Background Papers:**

***All relevant background papers must be listed here.***

Licensing Act 2003  
CYC Licensing Policy 2005-2008

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