
MEETING	GAMBLING & LICENSING ACTS COMMITTEE
DATE	20 NOVEMBER 2009
PRESENT	COUNCILLORS MERRETT (CHAIR), AYRE, FUNNELL, SUE GALLOWAY, HORTON, HYMAN, LOOKER, ORRELL, PIERCE, REID, TAYLOR, B WATSON AND WISEMAN (VICE-CHAIR)
APOLOGIES	COUNCILLORS MOORE AND RUNCIMAN

9. DECLARATIONS OF INTEREST

At this point in the meeting members are asked to declare any personal or prejudicial interests they may have in the business on the agenda. None were declared.

10. MINUTES

RESOLVED: That the minutes of the last meeting held on 7 August 2009 be approved and signed by the Chair as a correct record.

11. PUBLIC PARTICIPATION

It was reported that there was no registered speakers for this meeting.

12. GAMBLING ACT 2005 - TRIENNIAL REVIEW OF THE STATEMENT OF POLICY

[See also under Part B Minutes]

Members considered a report which advised them of the review of the Council's Statement of Gambling Policy, of the consultation undertaken and the changes made as a result and revised guidance. Members were asked to recommend the revised policy to Council for approval.

Section 349 of the Gambling Act 2005 (the Act) requires licensing authorities to keep their statements of Gambling Policy under review and to be reviewed before each successive period of three years. The current policy is due to expire on 31 January 2010. The template suggested by the Department of Culture Media and Sport has been used and comments made during the consultation, which ended on the 9 October 2009 have been incorporated.

Members made the following comments:

- Officers were requested to point out what is local policy as Members felt it was difficult to distinguish what is narrative, prescriptive and

what is local policy. Officers advised that the whole document will be council policy but that the majority of the document was not subject to local discretion. It was pointed out that page 22 paragraph 19.5 and page 23 paragraph 21.2 outlined City of York Council's Statement of Principles.

- Members queried whether there is scope to require operators of Licensed Family Entertainment Centres to ensure staff are Criminal Records Bureau checked. Officers advised that no other authority have introduced this and City of York Council would be open to challenge if it was introduced.
- Members expressed concern over the lack of power to attach conditions to Gaming Permits. Officers advised that the Code of Practice covers all expected controls such as location and operation of machines and the protection of children from harm.

Members then made the following changes to the policy, detailed by reference to the page number of the policy:

Page 8 – Decision Making – paragraph 9.3 – wording to be adjusted as it is unclear if Members can reject applications due to moral reasons.

Page 20 – Reviews – paragraph 18.1 does not link with the wording inside the box and at the end of paragraph 18.2, the words ' and there has been no change in circumstances' to be added to the end of the sentence.

Officers advised they would correct any typing errors.

RESOLVED: That Members recommend the Statement of Gambling Policy for approval by Council, subject to the amendments outlined.

REASON: To satisfy the requirements of Section 349 of the Gambling Act 2005.

13. LICENSING ACT 2003 - PROBLEM PREMISES

Members considered a report which advised them of recent advice from the Department of Culture Media and Sport (DCMS) in respect of the adoption of a 'Yellow and Red' card approach to Licensing reviews.

Under section 51 of the Licensing Act 2003 (section 87 for clubs) where problems exist at a licensed premises a responsible authority or interested party may call for the licensing authority to hold a hearing and review the licence. The DCMS has suggested that in some areas of the country there was a reluctance among responsible authorities to review licences without any strong evidence. The DCMS has been encouraging, via regional seminars, that responsible authorities be more pro-active in seeking early reviews. They have suggested that licensing committees adopt a red card/yellow card approach where premises are found to be failing to promote one or more of the licensing objectives.

A yellow card would involve the imposition of tough new conditions that are appropriate to the problems at a specific premises, along with a warning that if a further review is necessary and matters have not improved, then the licence would be revoked, which would be considered the red card.

In answer to members questions, officers advised that the notices could be required to be displayed on the premises detailing the results of the review. They would be A4 sized and to be displayed in a prominent place to advise the public that action is being taken against irresponsible alcohol retailers. They advised that responsible authorities in York had indicated they would welcome the approach.

RESOLVED: That the yellow card/red card approach when conducting reviews be adopted and where appropriate attach a condition requiring premises to display a notice on their premises detailing the outcome of the review.

REASON: To assist with the effective implementation of the Licensing Act 2003 in the City.

14. REGULATION OF LAP DANCING CLUBS

Members considered a report which advised them on the introduction of the Policing and Crime Bill which is currently being scrutinised by Parliament. It introduces a new category of sex establishment called 'sex encounter venue' that will allow local authorities to regulate lap dancing clubs and similar venues. It also seeks members views on the transitional procedure and time scales on the proposals set out in the consultation document.

Following an increase in the number of lap dancing clubs in recent years, The Department for Culture, Media and Sport wrote to Chief Executives of Local Authorities to clarify how they viewed the powers open to them under the Licensing Act 2003 and to seek whether the controls were sufficient in respect of such premises. The Government has now introduced legislation under Schedule 3 of the Local Government Act to reclassify such venues as 'sex establishments'. These provisions were included in the 'Policing and Crime Bill' which was introduced in Parliament on 19th December 2008. Clause 26 of this Bill introduces a new establishment under Schedule 3 to the 1982 Act called a 'sex encounter venue'. Such venues will require a sex establishment licence, but there will be an exemption for venues which provide such entertainment infrequently.

In summary, Schedule 3 to the 1982 Act will:

- Allow local authorities to adopt the legislation.
- Allow local people to oppose an application for a sex establishment licence if they have legitimate concerns that a lap dancing club would be inappropriate for the area.
- Require licences to be renewed at least yearly at which point local people will have the opportunity to raise objections.

- Allow a local authority to reject an application if a lap dancing club would be inappropriate given the character of a given area.
- Allow a local authority to set a limit on the number of sex encounter venues that they think appropriate for a particular area.
- Allow a local authority to impose a wider range of conditions on the licence of lap dancing clubs than they are currently able to under the 2003 Act.

Members queried whether there would be financial implications for such venues under the new legislation. Officers advised that there would be two fees for the Premises but no cost to the Council. Members also raised concerns regarding how it would be decided how many establishments could open in specific areas. Officers advise it is something that will need further consideration.

RESOLVED: That Members approve the officers response to the Home Office Consultation.

REASON: To reflect the view of the City of York in respect to the consultation paper.

PART B MATTERS REFERRED TO COUNCIL

15. GAMBLING ACT 2005 - TRIENNIAL REVIEW OF THE STATEMENT OF POLICY

[See also under Part A Minutes]

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Officers advised they would correct any typing errors.

RESOLVED: That Members recommend the Statement of Gambling Policy for approval by Council, subject to the amendments outlined.

REASON: To satisfy the requirements of Section 349 of the Gambling Act 2005.

Councillor Merrett, Chair

[The meeting started at 2.00 pm and finished at 2.40 pm].