

## DEPARTMENT OF REGENERATION AND ENVIRONMENT

ORIGINATING SECTION: PUBLIC PROTECTION SERVICE

REPORT TO: LICENSING COMMITTEE

28:09:10

TITLE : LICENSING OF SEXUAL ENTERTAINMENT VENUES

**1. PURPOSE**

For Members to make recommendations to the full Council on adopting the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 by Section 27 of the Policing and Crime Act 2009.

Adoption of the new law would introduce a Licensing regime for "sexual entertainment venues" such as lap dancing. Members will consider the feedback from the consultation and the draft policy for sex establishments.

**2. RECOMMENDATIONS**

That members consider the outcome of a consultation and the draft policy, and, if considered appropriate request the Council to adopt the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009, to allow the licensing of sexual entertainment venues.

**3. KEY ISSUES**

3.1 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to allow the Licensing Authority to licence "sexual entertainment venues", where "relevant entertainment" is provided before a live audience for the financial gain of the organiser or the entertainer.

3.2 This brings the licensing of lap dancing and pole clubs and other similar venues under the regime set out in the 1982 Act, which is currently used to regulate establishments such as sex shops and sex cinemas. Adoption of the Act will mean operators providing "relevant entertainment", such as lap dancing clubs will have to apply for a separate sex establishment licence. These premises are currently licensed under the Licensing Act 2003 as "regulated entertainment" whereby local people can only object on the grounds of the four licensing objectives. Under the new regime local people will be able to make representations on wider grounds and have greater say over the number and location of the establishments in their area. Licence holders will have to renew annually, at which point local people again will have the opportunity to raise objections.

3.3 There will be exemptions for premises where the sexual entertainment is provided infrequently, ie not more than eleven occasions in a twelve month period, they must be greater than one month apart and must not last for more than 24hours. These premises will still be regulated under the Licensing Act 2003 and would need to apply for Temporary Event Notices.

3.4 Existing Operators who hold a premises licence or a club premises certificate under the 2003 Act will not be given preferential treatment or be

automatically granted licences under the provisions of the schedule 3 of the 1982 Act. They will however be able to continue to operate over a 12month transitional period starting from when the new provisions are adopted to give existing operators time to adapt.

3.5 During the first six months of the transitional period existing and new operators can apply for a new licence. At the end of this period the licensing authority must consider all applications together and cannot grant any licences until all the applications have been considered. The number of licences maybe limited so it would be unfair to grant on a fist come first served basis. Once considered a licensing authority can grant as many licences as they see fit in accordance with the policy. After the first six months licences can still be applied for and each application must considered individually on its own merit.

3.6 The consultation period on whether the Council should adopt the new provisions ran from July 2010 to September 2010 and the following groups were consulted.

- Police Licensing Team
- Shared Neighbourhood teams
- Ward Councillors
- Businesses Licensed under the Licensing Act 2003
- Resident and Business Associations
- Faith Groups

3.7 A copy of the consultation questionnaire can be found at appendix 1 and results of that consultation at appendix 2, at the time of writing this report there had been 33 responses.

3.8 A draft policy can be found at appendix 3. The policy will be a guide for applicants and Members detailing procedural matters, including the mandatory reasons an application will be refused and the discretionary reasons a Council can refuse a licence ( ie location and locality of a premises)

#### 4. RATIONALE

Section 27 came into force on 6<sup>th</sup> April 2010. Local Authorities may now resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so it can have effect in their area. Adoption is a matter for the Council on recommendation from the Licensing Committee.

If the Local Authority fails to adopt Schedule 3 within 12 months of the new legislation taking effect, it must then carry out a full public consultation exercise before formally adopting.

Although many local authorities will have already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and cinemas, a further resolution is necessary before the provisions introduced by Section 27 will have effect in the local authority area.

The procedure for local authorities to adopt Schedule 3 as amended by Section 27 is set out in section 2 of the 1982 Act. Firstly, the local authority must pass a resolution specifying that the amendments made by section 27 to that Schedule, shall apply to their area and the day on which it shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed.

The local authority shall publish notice that they have passed the resolution referred to above for two consecutive weeks in a local newspaper. The first publication shall not be later than 28 days before day specified in the resolution for the provisions to come into force in the local authority's area.

## **POLICY**

The draft policy at appendix 3 for sexual entertainment venues details the following:

- Administrative matters such as application procedures, fees, hearing procedures
- The suitability of the applicant to hold a licence
- The locality and the number of sex establishments allowed
- The character of the relevant locality

## **5. POLICY IMPLICATIONS**

Approval of a sexual establishment policy will need to go through the council's decision making process.

## **6. FINANCIAL IMPLICATIONS**

The Licensing Committee will need to consider an appropriate fee level, the current annual fee for a sex establishment is £4170

## **7. LEGAL IMPLICATIONS**

Theoretical risk of legal challenge if recommendations are not followed.

## **8. RESOURCE IMPLICATIONS**

Existing staff in the public protection service will undertake the associated work implementing the new licensing regime.

## **9. CONSULTATIONS**

As detailed in Key Issues.

## **10 . CONTACT OFFICER**

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