

Report considered by the Licensing Committee – 13 January 2010

REGULATION OF LAP DANCING AND OTHER SEXUAL ENTERTAINMENT VENUES

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1. Purpose

- 1.1 To consider adopting the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 by Section 27 of the Policing and Crime Act 2009. This introduces a Licensing regime for “sexual entertainment venues”.

2. Recommendation

- 2.1 That the Council adopts the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009.

3. Issues and Choices

- 3.1 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 Local Government (Miscellaneous Provisions) 1982 to allow the Licensing Authority to license “sexual entertainment venues”, where “relevant entertainment” is provided before a live audience for the financial gain of the organiser or the entertainer. “Relevant entertainment” means “any live performance or any live display of nudity” i.e. striptease, lap dancing etc.
- 3.2 Lap dancing premises currently require a Premises Licence under Section 1 of the Licensing Act 2003. No special provisions are made in the 2003 Act for lap-dancing venues. If an application is submitted to the licensing authority for a Premises Licence the authority must grant the licence subject to certain mandatory conditions.
- 3.3 If relevant representations are made by an interested party (e.g. residents or local businesses) or a responsible authority (e.g. the police or fire service in the area) then the authority can, following a hearing, impose other conditions or reject the application. Even then, it will only be able to do so where such a step is necessary to promote one of the four licensing objectives set out in the Act:

Licensing objectives:

- Prevention of public nuisance
- Prevention of crime and disorder
- Public safety
- Protection of children from harm

- 3.4 The new legislative controls available to the Licensing Authority will strengthen the role that local communities can play in deciding whether a lap dancing premises is inappropriate for the locality. The Licensing Act 2003 has empowered local residents in general, but it is hard to make an effective objection against an adult entertainment venue unless its operation can be shown to be undermining one of the four licensing objectives.
- 3.5 The aim is to bring the licensing of lap-dancing premises in line with other “sex establishments” such as “sex shops” and “sex cinemas” and to recognise that local people have legitimate concerns about where such premises are located.
- 3.6 If the amendment is adopted the Licensing Authority can apply prescribed standard conditions on grounds not covered by the Licensing Act 2003 e.g. location, hours, display of adverts, visibility of interior.
- 3.7 To not adopt the amendment and maintain the status quo would allow prospective sexual entertainment venues to take advantage of a perceived loophole in the Licensing Act 2003.

4.0 Implications

4.1 Policy

- 4.1.1 There is currently no Council policy covering “relevant entertainment” (live performances or live display of nudity) at “sexual entertainment venues” as defined by Section 27 of the Policing and Crime Act 2009. If the legislative amendment is to be adopted a policy will be required. This could be achieved by amending the existing “sex shops” policy to include “sexual entertainments venues”. This policy currently precludes “sex establishments” from all “sensitive” locations. A draft policy is being taken to the Licensing Committee.

4.2 Resources and Risk

- 4.2.1 The administrative arrangements for considering and processing applications made by existing and prospective applicants for “sexual entertainment venues” falls to the Environmental Health Licensing Team.

4.2.2 The 2009/10 'Sex Establishment' fee structure is as follows:

- (a) For new application to grant a licence - £3,880
- (b) For annual renewals - £2,350
- (c) For transfers - £1,195

The fees are currently under revision for 2010/11. All fees go to Licensing revenue account from which all administrative and enforcement costs are taken

4.3 Legal

4.4.1 On 19th January 1983, the Licensing Panel of the Policy and Resources Committee resolved to adopt the provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) 1982 and recommended that decision to the Full Council with an effective date of 1st April 1983 (Minute LP3/83 refers)

Section 27 of the Policing and Crime Act 2009 makes amendments to Schedule 3 of Local Government (Miscellaneous Provisions) 1982.

The Council must resolve to adopt the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) 1982.

5.0 Other Implications – None

5.1 Crime and Disorder – None

Background Papers: Local Government (Miscellaneous Provisions) Act 1982
 Policing and Crime Act 2009
 Licensing Act 2003
 Course Notes: Institute of Licensing: Sex Establishment Licensing, London 17/11/09
 Minutes of MK Licensing Committee held 18/3/9
 Minutes of MK Licensing Committee 2002 LP3/83
 The Home Office Impact Assessment on the regulation of lap dancing clubs
 Sex Shops Policy April 2003