

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

Date 26TH JULY 2010

LICENSING - REGULATION OF SEXUAL ENCOUNTER VENUES UNDER SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

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| Relevant Portfolio Holder | Councillor. P. Whittaker |
| Relevant Head of Service | Steve Jordan – Head of Worcestershire Regulatory Services. |

1. SUMMARY OF PROPOSALS

- 1.1 The Policing and Crime Act 2009 reclassifies lap dancing clubs as Sexual Encounter Venues and gives Local Authorities in England and Wales the power to regulate them as Sex Establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 These new measures took effect on the 6th April 2010 in England and when adopted by the Council will give local people a greater say over where, and how many, lap dancing clubs open and operate in their neighbourhoods.

2. RECOMMENDATIONS

2.1 The Committee is asked to recommend that Council

- a) **Re-affirm the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, and adopt Section 27 paragraph 2(2) of Schedule 3 to the Policing and Crime Act 2009 with effect from (no more than 1 month after the day on which the resolution was passed).**
- b) **To set a fee for a Sex Shop and/or a Sexual Encounter Venue Licence and include that fee within the Council's Fees and Charges register:-**
- | | |
|------------|---------|
| • Grant | £920.00 |
| • Renewal | £890.00 |
| • Transfer | £135.00 |
- c) **To delegate to the Head of Worcestershire Regulatory Services all powers under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, and section 27 paragraph 2(2) of Schedule 3 to the Policing and Crime Act 2009.**

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3. BACKGROUND

3.1 The Council has adopted the Local Government (Miscellaneous) Act 1982 and, under Schedule 3 can regulate the licensing of Sex Shops.

3.2 The Policing and Crime Act 2009 came into force on 6th April 2010 and introduced a new category of sex establishment called a "Sexual Encounter Venue" which will allow Local Authorities to regulate lap dancing clubs and similar venues as an amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) 1982.

3.3 Such venues offer entertainment commonly described as:

- Lap dancing
- Pole dancing
- Table dancing
- Strip Shows
- Peep shows
- Live sex show

3.4 A full definition of Relevant Entertainment is attached at Appendix 1.

3.5 Premises that are not sexual encounter venues include:

- Sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act).
- Premises which provide 'Relevant Entertainment on an infrequent basis.

3.6 It also includes premises where:

- No 'Relevant Entertainment' has been provided on more than 11 occasions within a 12 month period.
- No such occasion has begun within a period of one month beginning with the end of the previous occasion; and
- No such occasion has lasted longer than 24 hours
- Other premises or types of performances or displays exempted by the Secretary of State.

3.7 These premises will continue to be regulated under the Licensing Act 2003.

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4. KEY ISSUES

- 4.1 Local Authorities are not required to publish a licensing policy relating to Sex Establishments but can produce a different policy or criteria for different types of sex establishments. This might be appropriate to reflect distinctions between the operating requirements of different Sex Establishments or the fact that the location deemed appropriate for a Sex Shop may be different to that of a Sexual Encounter Venue. A draft Policy statement is attached at Appendix 2.

5. FINANCIAL IMPLICATIONS

- 5.1 Schedule 3 to the 1982 Act states that an application for the grant, renewal or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authorities, but does not expand on what would be considered to be reasonable.

- 5.2 The suggested fee for a Sexual Encounter Venue is as follows:

| | |
|------------|---------|
| • Grant | £920.00 |
| • Renewal | £890.00 |
| • Transfer | £135.00 |

6. LEGAL IMPLICATIONS

- 6.1 Licenses for Sexual Encounter Venues can be granted for up to one year and most Sexual Encounter Venues will also require a 2003 Act Licence.

- 6.2 The Council is able to impose conditions and restrictions on a Licence, in the form of Conditions and may address such matters as:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another.

- 6.3 When considering an application for grant, renewal or transfer of a licence, the appropriate authority should have regard to any observations submitted to it by the Chief Officer of Police and any objections that they have received from anyone else within 28 days of the application.

- 6.4 Objections should not be based on moral grounds or values.

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- 6.5 Objectors must give notice of their objection in writing, stating the terms of the objection.
- 6.6 In the event that the appropriate authority refuses an application for the grant, renewal or transfer of a Sexual Encounter Venue, the applicant may appeal the decision in a Magistrates' Court.
- 6.7 Authorities may refuse an application on grounds related to an assessment of the 'relevant locality'
- 6.8 Where adopted, these provisions will allow Local Authorities to refuse an application on potentially wider grounds that is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.
- 6.9 A licence can be refused if either at the time, the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put, or the layout, character or condition of the premises.
- 6.10 Nil may be the appropriate number.

7. POLICY IMPLICATIONS

- 7.1 Please refer to 4.1 and Legal implications.

8. COUNCIL OBJECTIVES

- 8.1 This proposal contributes to the Council's objective "One Community"

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 9.1 The main risk associated with the detail included in this report is:
- Entertainment as described in 3.3 being conducted without the necessary licence or safeguards in place.
- 9.2 This risk is being managed as follows:

Risk register: Planning and Environment Services

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Key Objective Ref No. 7

Key Objective: Effective, efficient and legally compliant Licensing Service

10. CUSTOMER IMPLICATIONS

10.1 None

11. EQUALITIES AND DIVERSITY IMPLICATIONS

11.1 None

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

12.1 None

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

13.1 None

14. HUMAN RESOURCES IMPLICATIONS

14.1 These changes will be incorporated within the current licensing workforce.

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

15.1 None

16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998

16.1 None

17. HEALTH INEQUALITIES IMPLICATIONS

17.1 None

18. LESSONS LEARNT

18.1 None

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

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19.1 Consultation with Local People; while there is not statutory duty to do so, prior to deciding whether to pass a resolution, Local Authorities may, as a matter of good practice, seek the views of local people and businesses.

19.2 Each application for a Sex Encounter Venue will be consulted upon within its location and in line with local policy.

20. OTHERS CONSULTED ON THE REPORT

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| Portfolio Holder | Yes |
| Chief Executive | No |
| Executive Director (S151 Officer) | No |
| Executive Director – Leisure, Cultural, Environmental and Community Services | No |
| Executive Director – Planning & Regeneration, Regulatory and Housing Services | Yes |
| Director of Policy, Performance and Partnerships | No |
| Head of Service | Yes |
| Head of Resources | No |
| Head of Legal, Equalities & Democratic Services | Yes |
| Corporate Procurement Team | No |

21. WARDS AFFECTED

All Wards are affected by this report

22. APPENDICES

- Appendix 1 - Definition of relevant entertainment
- Appendix 2 - Draft Policy Statement

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23. BACKGROUND PAPERS

Local Government (Miscellaneous Provisions) Act 1982
Policing and Crime Act 2009 (Web based)
Home Office Guidance for England and Wales (Web based)

AUTHOR OF REPORT

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