

GENERAL PURPOSES AND LICENSING COMMITTEE – 10 SEPTEMBER 2010

SEXUAL ENTERTAINMENT VENUE

1. Introduction

- 1.1 The purpose of this report is to consider the implications of section 27 of the Policing and Crime Act 2009.
- 1.2 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 to introduce a new category of sex establishment called 'sexual entertainment venue', which, if adopted by a local authority, will require premises in that area who provide 'relevant entertainment', such as lap dancing or hostess bars etc., to obtain a sex establishment licence.

2. Background

- 2.1 The purpose of the new legislation is to address concerns from certain pressure groups and local communities about the increase in the number of lap dancing style establishments and the lack of effective controls available under existing legislation.
- 2.2 Under the new regime, local people will be able to oppose applications for sexual entertainment venues on wider grounds than is currently allowed, such as that it would be inappropriate given the character of an area or the use to which other premises in the vicinity are put.
- 2.3 Where adopted, local authorities will also be able to set a limit on the number of lap dancing clubs they consider appropriate for a particular locality.
- 2.4 The Home Office has published relevant guidance pertaining to Sexual Entertainment Venues.

3. Sexual Entertainment Venue

- 3.1 A sexual entertainment venue is defined as '*any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.*'
- 3.2 The meaning of relevant entertainment is '*any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).*' An audience can consist of just one person (e.g. where the entertainment takes place in private booths).
- 3.3 While local authorities should judge each case on its merits, it is expected that the following forms of entertainment would be included:
 - Lap dancing
 - Pole dancing
 - Table dancing

- Strip shows
- Peep shows
- Live sex shows

3.4 There is an exemption for premises that provide relevant entertainment on an infrequent basis. These are defined as 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. Or any other premises or types of performances or displays exempted by an order of the Secretary of State.

4. Amendments to the Licensing Act 2003

4.1 The Licensing Act 2003 has been amended accordingly to ensure that premises for which a sexual entertainment venue licence is required or held do not also require a premises licence, club premises certificate or permitted temporary activities notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act.

4.2 This also includes any live or recorded music which is integral to the provision of relevant entertainment for which a sexual entertainment licence is required. Therefore a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays live or recorded music for a performer to dance to.

4.3 If, however, the premises also carry on other licensable activities, such as the sale or supply of alcohol or the provision of regulated entertainment that is not relevant entertainment, an authority under the Licensing Act will be required.

4.4 In practice, this will mean that the vast majority of these establishments will require both a sexual entertainment venue licence and an authority under the Licensing Act.

4.5 Premises which fall under the exemption created for infrequent entertainment and therefore do not require a sexual entertainment venue licence will need the appropriate authorisation under the Licensing Act. The exemption from requirements of the 2003 Act for live or recorded music or the performance of dance which is integral to relevant entertainment will not apply to such venues.

5. Procedure for Adopting the Provisions

5.1 Section 27 of the Policing and Crime Act 2009 came into effect on the 6th April 2010. Local authorities may now resolve to adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the 2009 Act.

5.2 Although New Forest District Council has already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by section 27 will have effect in this administrative area.

- 5.3 The procedure for local authorities to adopt Schedule 3 as amended by section 27 is set out in section 2 of the 1982 Act.
- 5.4 This states that the relevant local authority must pass a resolution specifying that the amendments made by section 27 to Schedule 3, shall apply to their area and the date said shall come into force. The specified date must be more than 28 days after the day on which the resolution is passed.
- 5.5 The local authority has to publish a notice that they have passed the resolution adopting the amendments made by section 27 to Schedule 3 for two consecutive weeks in a local newspaper that is circulated in this administrative area. The notice should state the general effect of Schedule 3.

6. Conclusion

- 6.1 From 6 April 2010 local authorities are able to adopt additional powers to regulate lap dancing clubs and similar venues.
- 6.2 The legislation is not mandatory for local authorities. Therefore, local authorities have the flexibility to decide whether and, if so, when the new provisions should come into force in their area. Any local authority that has not adopted the new regime by 6 April 2011 must consult the local community whether they should do so thereafter.

7. Financial Implications

- 7.1 There would be a fee incurred for adopting the provisions associated with the publishing of any notice. The current fee for a sex establishment licence is £6,955. There are, however, currently no such establishments meeting the description of being classed as a sexual entertainment venue within the New Forest District area.

8. Environmental Implications

- 8.1 There are no environmental issues directly arising from this report.

9. Crime and Disorder Implications

- 9.1 There are no crime and disorder issues directly arising from this report.

10. Equality and Diversity Implications

- 10.1 There are no equality and diversity issues directly arising from this report.

11. Recommendations

- 11.1 The Committee is asked to consider the implications of section 27 of the Policing and Crime Act 2009 and thereafter decide whether to resolve to adopt the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Further information:

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Background Papers:

None.