

**Name of meeting and date: Licensing & Safety Committee
 16 September 2010**

Title of report: Control of Sexual Entertainment Venues

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|---|----------------|
| Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards? | Not Applicable |
| Is it in the Council's Forward Plan ? | ?? |
| Is it eligible for "call in" by Scrutiny ? | Not Applicable |
| Cabinet member portfolio | ?? |

Electoral [wards](#) affected and ward councillors consulted: ALL

Public or private: Public

1. Purpose of report

To determine the application

2. Summary

Section 27 of the Policing and Crime Act 2009 has introduced a new category of sex establishment called 'sexual entertainment venue.' Such venues can provide lap dancing or other sexual entertainment. The Council currently has limited powers under the Licensing Act 2003 to control such entertainments. If the Council wishes to take advantage of the same powers it has in relation to sex shops and other such premises the new powers have to be adopted. Section 27 came into force on the 6th April 2010. Following this date the Council may resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in the Kirklees Council District.

Where adopted, these provisions will give the Council greater control of such premises including the ability, where appropriate, to refuse an application on potentially wider grounds than is permitted under the Licensing Act 2003.

3. Background

3.1 The powers the Council has to regulate sex establishments are contained in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. In order to be able to use these powers the Council has to formally adopt them through a prescribed process. The Council adopted these powers in the late 1980's.

3.2 The Policing and Crime Act 2009 has now amended Schedule 3, referred to above, and has broadened the definition of sex establishment. As the Council's adoption of Schedule 3 pre-dates the amendment it is appropriate for the Council to consider whether it should now adopt the revised Schedule in order to be able to control the full range of possible proposed sex establishments.

3.3 There are measures in place in the Council's Licensing Policy (Section 7), made under the Licensing Act 2003, regarding Adult Entertainment and in the existing 1982 Act as to their location and content, but the proposed amendments to the 1982 Act provide a more specified approach to Sexual Entertainment Venues and their control.

4. The meaning of Sexual Entertainment Venue

4.1 The Policing and Crime Act 2009 has now included "sexual entertainment venues" into the definition of a sex establishment. 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.

4.2 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).

4.3 While the Council should judge each case on its merits, it is expected that the definition of relevant entertainment would apply to the following forms of entertainment:

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

(The above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should only be treated as indicative.)

5. Premises that are not sexual entertainment venues

5.1 The revision not only sets what is a sexual entertainment venue but also what is not. The following are not sexual entertainment venues:

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. 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 occasions; and
- no such occasion has lasted longer than 24 hours

- other premises or types of performances or displays exempted by an order of the Secretary of State.

5.2 If the Council resolves that the revised Schedule 3 is to apply to its area, the Schedule comes into force in their area on the day specified in the resolution. That date must not be sooner than one month from the date of the resolution.

5.3 The legislation requires a notice to be published for two consecutive weeks in a local newspaper circulating in the area that a resolution under this section has been passed.

5.4 If the Council decides not to make such a resolution as mentioned above within one year of this power coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution. The purpose of this duty is to ensure that local authorities consider the views of local people where, for whatever reason, they have not adopted the provisions.

5.5 The 2009 Act is not prescriptive about how the Council should consult with local people in order to comply with this duty. The Secretary of State expects that any consultation exercise carried out under this duty will be fair and meaningful. The Council should seek to make any relevant information available to local people in order to inform their understanding and publish the outcomes of the consultation on the internet.

5.6 For the purposes of this duty "local people" is defined as anyone who lives or works in the local authority's area.

6. OPTIONS

6.1 The Council resolves that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) will apply to the Council's area as soon as practicable on the date to be decided by the Assistant Director of Public Protection

6.2 The Council resolves not to make a resolution applying Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) at this time.

6.3 The Council resolves not to make such a resolution as mentioned above within one year of this power coming into force but will, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.

7. PREFERRED OPTION

7.1 The preferred option is option 1 at 6.1 . There are already a few premises in the Kirklees Council district which offer such entertainment and currently there is little control over the forms of entertainment that are the target of this revision. If this option is chosen it would give the Council as much control as possible and the community as much protection as possible.

7.2 The alternative options leave the Council, and therefore the community, unprepared and to some extent unprotected.

8. Financial and Risk Implications

8.1 The cost of advertising for two consecutive weeks would be in the region of £950. This does not include the officer time and the inclusion of any results on the Council's web pages.

9. Consultees:

Regeneration, Environment & Transport Panel

9. Contact officer

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