
Licensing Act 2003 Committee

6th October 2006

Report of the Director of Neighbourhood Services

Operational Implications of the Licensing Act 2003

Summary

1. This report advises members of two operational implications of the Licensing Act 2003 in relation to (i) the performance of exotic dance and (ii) the holding of licensable activities on public land where a premises licence is in force.

Background

2. The Licensing Act 2003 (the Act) came into force on 24th November 2005 and provided a complete overhaul of legislation relating to the licensing of entertainment activities, sale of alcohol and the provision of late night refreshment. The Act focuses on the four licensing objectives: prevention of crime and disorder; public safety; prevention of public nuisance; and the protection of children from harm.
3. The Act sought to “ensure that premises which are causing problems within our communities can be dealt with appropriately but powers to deal with problematic premises whilst providing a much lighter touch for those businesses and community activities which benefit and enhance peoples lives by providing important opportunities for the enjoyment of leisure time” (Tessa Jowell , Secretary of State).
4. The Act allows public spaces to be licensed to enable a range of events to take place without individual performers and entertainers having to obtain separate permissions either as full licences or temporary event notices.
5. The Act also allows permitted premises, which were licensed under former legislation to be re-licensed under the new Act carrying forward their existing licence conditions by way of “grandfather rights”. New applications or applications to vary existing conditions would be subject to the full requirements of the new legislation.

Licensable activities on public land where a premises licence is in force

6. The council’s licensing policy states, “The Licensing Authority wishes to continue to promote a broad range of entertainment within the city including live music, dancing, theatre and other entertainment. To promote this policy the Council will obtain premises licences for public spaces within the community.

This will include such spaces as city centre event areas, parks, and village greens. This will encourage these activities in that, at these venues, performers and entertainers will not need to acquire a licence to perform but would only need the permission of the licence holder. The City Council’s byelaws in relation to nuisance caused by buskers will still apply as will the Council policy on the prohibition of circuses involving animals.”

7. Currently there are nine such areas licensed in the city:

<u>Licensed area</u>	<u>Licence holder</u>
College Green Deans Park	Chapter of York Minster
Coppergate Shopping Centre	Land Securities Property Ltd
Museum Gardens	York Museum Trust
City Centre Streets	City of York Council (City Strategy)
Hull Road Park Rowntree Park Micklegate Stray Eye of York	City of York Council (Learning, Culture and Children’s Services)

All these applications, save for Micklegate Stray, were granted with no hearing being necessary.

8. The licence holder can authorise any other person to hold licensable activities on the relevant land within the limitations and conditions of the licence. The licence holder is responsible in law for ensuring compliance with licence conditions. As far as Learning, Culture and Children’s Services are concerned they have adopted a protocol to use in relation to the letting of their land for licensed events.
9. Licensing controls relate solely to seeking compliance with the licensing conditions and not to assessing the suitability of any particular activity authorised within that licence. That responsibility rests with the licence holder. As with all premises licences the Licensing Authority is legally bound to grant licences as applied for unless relevant representations are received through the consultation process.

The Performance of Exotic Dance

10. The relaxation of the licensing laws has seen a number of enquiries from businesses interested in opening venues which provide exotic dancing. This

has resulted in the opening of a lap-dancing club in the Micklegate area of the city.

11. A particular concern is that city has not had entertainment of this nature since the early 1970's and the effects the possible increase of these types of venues could have on the reputation of the city.
12. Exotic dancing is defined in public entertainment/health and safety statutes as "any type of dancing that arouses or intends to arouse sexual desire or sexual pleasure and specifically includes striptease, lap dancing, table-side dancing, pole dancing and similar".
13. Whilst the Licensing Authority cannot object on moral grounds it can alongside statutory bodies and interested parties take into account the increased risk to the licensing objectives and the statement of licensing policy set out below.
14. **Licensing Objectives:**
 - *The prevention of crime and disorder*
 - *Public safety*
 - *The prevention of public nuisance*
 - *The protection of children from harm*

Entertainment of a Sexual Nature – policy

15. The Licensing Authority and the relevant responsible authority will not normally grant licences where operating schedules involve entertainment of a sexual nature in the vicinity of schools, churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend.
16. Where such licences are granted the Licensing Authority will impose conditions designed to ensure that children are not admitted to and cannot witness these activities, and to control crime and disorder problems.
17. All new applications for the granting or variation of existing conditions to include 'Entertainment of a Sexual Nature' would be subject to the full requirements of the new legislation.
18. Those premises that held licences under the previous Public Entertainment Licences which permitted striptease and exotic dancing were allowed to convert them to the new system under the principles of grandfather rights subject to the Rules for the Management of Places of Public Entertainment which state, 'No performance of strip-tease, exotic dancing or lap dancing may be given without the prior written consent of the City Council having been obtained. An application for consent shall normally be made in writing not less than 28 days in advance of such a performance. This period may be reduced at the discretion of the Council. In the event that consent is given any additional conditions deemed necessary by the Council in relation to the event must be adhered to'.

19. This will allow the authority to request from the applicant an operating schedule which will specify how they intend to operate entertainment activities of this nature.
20. Suggested conditions could include:
 - *a requirement that no exotic dancing will take place before 9pm*
 - *performers are required to be over 18 years of age*
 - *CCTV cameras must be installed maintained and operated in all area where dancing takes place*
 - *there will be no display of photographs or images outside the premises to indicate that entertainment involving nudity or sexual performances takes place there*
 - *whilst the performances are taking place, no one under the age of 21 will be allowed to enter that part of the premises.*
 - *performers will be provided with separate dressing/changing rooms located away from and apart from the public facilities*

Review of premises licence

21. The proceeding set out in the 2003 Licensing Act for reviewing premises licences represent a key protection for the community where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.
22. The Act provides a range of powers for the licensing authority on determining a review that it may exercise. Where the licensing authority considers that action under its statutory powers are necessary it may take any of the following steps:
 - *to modify the conditions of the premise licence*
 - *to exclude a licensable activity*
 - *to remove the designated premises supervisor*
 - *to suspend the licence for a period not exceeding three months*
 - *to revoke the licence*

Consultation

23. Information only.

Options

24. Information only.

Analysis

25. Information only.

Corporate Priorities

26. Information only

Implications

27. Financial: None

Human Resources (HR) : None

Equalities : None

Legal : None

Crime and Disorder : None

Information Technology (IT) : None

Other: None

Risk Management

28. There are no known risks associated with this report.

Recommendations

29. Members are requested to note the contents of this report.

Contact Details

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Report Approved



Date 20th September
2006

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

All relevant background papers must be listed here.

Licensing Act 2003
CYC Licensing Policy 2005-2008