

REGULATION OF LAP DANCING CLUBS

Summary

1. This report advises members of the introduction of the Policing and Crime Bill which is currently being scrutinised by Parliament. It introduces a new category of sex establishment called 'sex encounter venue' that will allow local authorities to regulate lap dancing clubs and similar venues. It also seeks members views on the transitional procedure and time scales on the proposals set out in the consultation document.

Background

2. The increase in the number of lap dancing clubs in recent years has become an issue of concern for many local communities across England and Wales. York was no exception, a fact which was highlighted in a report to the Licensing Act 2003 Committee in October 2006 (Operational Implications of the Licensing Act 2003) with the establishment of two such clubs in Micklegate and a number of enquiries.
3. In June 2008 the Department for the Culture, Media and Sport, wrote to the chief executives of local authorities to clarify how they viewed the powers available to them under the 2003 Act and to seek their views on whether these, and other controls, were sufficient to address the concerns of local people and businesses. The majority of those who responded, including this authority, felt that additional legislation should be introduced to provide controls that are specific to lap dancing clubs and similar premises. This approach was also supported by a wide range of stakeholders including the Local Government Association, the National Organisation of Residents' Associations and the campaign groups Object and the Fawcett Society.
4. As a result of the consultation and support the Government announced on the 2nd December 2008 that they would introduce legislation to reclassify lap dancing clubs and other similar venues as 'sex establishments' under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. These provisions were included in the Policing and Crime Bill, which was introduced in Parliament on 19th December 2008.
5. Clause 26 of the Policing and Crime Bill introduces a new category of sex

establishment under Schedule 3 to the 1982 Act called a 'sex encounter venue'. This new category covers venues that provide 'relevant entertainment'. Relevant entertainment is defined as any live performance or display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience. Such venues will require a sex establishment licence, however, there is an exemption for premises which provide such entertainment infrequently and, even if premises do qualify as a sex encounter venue, the local authority still has the discretion to waive the requirement for a licence.

6. In summary Schedule 3 to the 1982 Act will, in particular:
 - Allow local authorities to adopt the legislation.
 - Allow local people to oppose an application for a sex establishment licence if they have legitimate concerns that a lap dancing club would be inappropriate given the character of an area because, for example, the area was primarily a residential area.
 - Require licences to be renewed at least yearly, at which point local people will have the opportunity to raise objections with the local authority.
 - Allow a local authority to reject a licence application if they believe that to grant a licence for a lap dancing club would be inappropriate given the character of a particular area.
 - Allow a local authority to set a limit on the number of sex encounter venues that they think appropriate for a particular area.
 - Allow a local authority to impose a wider range of conditions on the licences of lap dancing clubs than they are currently able to under the 2003 Act.

Proposals for Regulations

7. To implement the measures introduced by Clause 26 of the Policing and Crime Bill there will need to be a transitional period to allow existing lap dancing clubs and other venues falling within the definition of a sex encounter venue time to comply with the new legislation. The transitional period is the time that existing operators will be given to apply with the new legislation. A copy of the transitional period can be found at Annex 1 in the Home Office consultation document.

Existing Lap Dancing Clubs

8. Existing clubs would be required to apply for a new sex establishment licence in the manner set out in Schedule 3 to the 1982 Act, subject to the transitional arrangements.

Timescales – adopt legislation

9. The consultation on the transitional period closes on the 14th December 2009, then, subject to the Policing and Crime Bill receiving Royal Assent, the provisions on lap dancing are expected to be commenced in April 2010. However, the provisions will only take effect in any given area once the relevant local authority has passed a resolution to adopt them and appoints a day for the provisions to come in force in that area. Officers response to the consultation are set out at Annex 2.

Consultation

10. On 30th September 2009 the Head of Licensing wrote to the owners of the city's two lap dancing venues seeking their views on the consultation and the proposed transitional arrangements. (A copy of that letter can be found at Annex 3). To date no responses have been received.

Options

11. Option 1: To approve the officers response to the Home Office consultation.
Option 2: To amend the officers response the Home Office consultation.

Analysis

12. From a licensing authority perspective it is vital to have legislation specifically designed to effectively regulate sex encounter establishments, such as lap dancing clubs, that is not effectively addressed through either the Local Government (Miscellaneous Provisions) Act 1982 or the Licensing Act 2003. The statutory amendments would provide wider powers to control the proliferation of lap dancing establishments. These reforms will give local authorities the power to respond more effectively to the views of local people, who have become increasingly concerned about the number of lap dancing established in their communities. Furthermore, local authorities will have the power to set a cap on the number of lap dancing clubs that they think is appropriate for a particular area and impose a wider range of conditions on the licences.

Corporate Strategy

13. The effective exercise of the licensing legislation and guidance notes ensures the licensing function will impact on the council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

Implications

14. **Financial:** None.

Human Resources (HR): None.

Equalities: None.

Legal: In carrying out its licensing functions, the Licensing Authority must have regard to all legislation.

Crime and Disorder: The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authorities responsibility to co-operate in the reduction of crime and disorder in the city.

Information Technology (IT): None.

Property: None.

Other: None.

Risk Management

15. In compliance with the Council's risk management strategy any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.

Recommendation

16. Members are recommended to instruct officers to respond to the Home Office consultation as set out at option 1.

Reason: To reflect the view of City of York in respect to the consultation paper.

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Wards Affected:

All

For further information please contact the author of the report

Background Papers

The Licensing Act 2003.

The Licensing Act 2003 Committee report dated 9th October 2006 – Operational implications of the Licensing Act 2003

Annexes

Annex 1: Home Office publication – Regulation of Lap Dancing Clubs – Consultation on Transitional Arrangements.

Annex 2: Officers response to Home Office consultation – Lap Dancing Clubs.

Annex 3: Letter From Head of Licensing to Lap Dancing Club owners.