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## Licensing and Regulatory Committee

5 November 2010

Report of the Director of Communities and Neighbourhoods

### LICENSING OF SEX ESTABLISHMENTS

#### Summary

1. The introduction of section 27 of the Policing and Crime Act 2009 provided adoptive provisions to allow local authorities to regulate lap dancing clubs and similar venues under the same regime as sex shops and sex cinemas. This report seeks members approval of standard conditions to apply to licences for sex establishments in the city, and policy guidance with respect to the issue of new licences.

#### Background

2. On the 6 April 2010 section 27 of the Policing and Crime Act 2009 became operative. This legislation reclassified lap dancing clubs and other similar venues as “sexual entertainment venues”, a sex establishment under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
3. Sexual entertainment venues are defined as “any premises at which relevant entertainment is provided for a live audience for the financial gain of the organiser or performer” The meaning of relevant entertainment is “any live performance or live display of nudity which is of such a nature that, it must be 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)”.
4. In summary Schedule 3 to the 1982 Act :
  - Allows local authorities to adopt the legislation.
  - Allows 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 primary a residential area. (There is an exemption for premises that provide such entertainment on an infrequent basis).
  - Requires licences to be renewed at least yearly, at which point local people will have the opportunity to raise objections with the local authority.

- Allows 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.
  - Allows a local authority to set a limit on the number of sexual entertainment venues that they think appropriate for a particular area.
  - Allows 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 Licensing Act 2003.
5. At the meeting of this committee on 2 July 2010 members resolved to adopt this provision for the licensing of sexual entertainment venues to be applied from 1 December 2010 subject to approval of full council. Full council approved this resolution on the 7 October 2010.
  6. In order to operate this legislation best practice dictates that the council adopt a policy for issue and maintenance of sex establishments and approve a set of standard conditions to be applied to each licence.
  7. A proposed policy is attached at Annex 1 and proposed standard conditions at Annex 2. Members should be aware that additional specific conditions can be attached to an individual licence if required.

## **Consultation**

8. No consultation has been undertaken.

## **Options**

9. Option 1: To adopt the policy as set out in Annex 1 for the operation of the licensing of sex establishments.
10. Option 2: To adopt the standard conditions set out in Annex 2 to be attached to sex establishment licences.
11. Option 3: To make amendments to the policy and/or standard conditions as set out in Annexes 1 & 2.

## **Analysis**

12. York has three established licensed sex shops and two premises that would require licensing as sexual entertainment venues (both in Micklegate). All premises have operated without problems since opening.
13. Standard conditions already exist for the licensed sex shops and the council has procedures for the granting of licences. The proposed policy and conditions as set out in Annexes 1 and 2 reflect the existing arrangements but are

extended to include sexual entertainment venues. The lack of problems from the existing licensed premises indicating that these provide sufficient safeguards.

## **Corporate Strategy**

14. 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**

15. **Financial:** The cost of administering the licensing scheme can be recovered through licence fees. There would be no additional cost to the council.
16. **Human Resources (HR):** None.
17. **Equalities:** None.
18. **Legal:** In carrying out its licensing functions, the Licensing Authority must have regard to all legislation.
19. **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.
20. **Information Technology (IT):** None.
21. **Property:** None.
22. **Other:** None.

## **Risk Management**

23. 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**

24. That members approve the policy statement and standard conditions in relation to the licensing of sex establishments in the City as set out in Annexes 1 & 2.
25. Reason: To provide appropriate controls for the licensing of lap dancing clubs and other sex establishments in respect to existing and any potential new establishments.

## Contact Details

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**Report Approved**



**Date**

20 Oct 2010

Specialist Implication Officer: Martin Blythe

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**Wards Affected:**

All



**For further information please contact the author of the report**

## Background Papers

Policing and Crime Act 2009

Local Government (Miscellaneous Provisions) Act 1982

## Annexes

Annex 1 Proposed statement of policy on the issue of sex establishment licences.

Annex 2 Proposed standard conditions for the licensing of sex establishments.