

Report to the Licensing Committee

Date of meeting: 14 April 2010



**Epping Forest
District Council**

Subject: Licensing of Sex Entertainment Venues

**Responsible Officer: Alison Mitchell
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Recommendation:

- (1) That the Committee considers adopting the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 made by Section 27 of the Policing and Crime Act 2009 to licence sexual entertainment venues.**
- (2) If the Committee decides to adopt the amendment, that officers prepare a draft policy for consultation regarding the regulation of such establishments and report back to committee prior to adoption of the licensing provisions.**

Report:

1. The Council has adopted the Local Government (Miscellaneous Provisions) Act 1982 so that sex cinemas and sex shops must be licensed. The Policing and Crime Act 2010 has amended the 1982 Act to allow the Authority to licensing of sexual entertainment venues where relevant entertainment is provided before a live audience for financial gain of the organiser or entertainer.

Reasons for Proposed Decision:

2. To permit the Authority to impose conditions on the licensing of venues providing sexual entertainment in the District.

Other Options for Action:

3. Not to adopt this legislation. If the Authority was mindful not to adopt the legislation it must within twelve months carry out a full public consultation before finally making that decision.

4. To adopt the provisions of the Act before agreement to the policy. This is an option as the Act does not require that the Council has a policy statement and can consider each application on its merits. However, applicants would not have any guidance when completing the application forms as to the Council's requirements. If the Committee were mindful to adopt this now it must specify a date at least one month from the date of the decision. This date must comply with the advertising provisions and therefore two months should be allowed

Background

5. There has been an increase in the number of lap dancing and similar types of entertainment nationally. At present this type of entertainment is regulated under the Licensing Act 2003 and objections can only be based on the four licensing objectives:

- The prevention of crime and disorder,
- Public Safety,
- The prevention of public nuisance, and
- The protection of children from harm.

6. This means that the Authority cannot consider objections of local people or businesses that are based on matters outside those objectives, such as whether a lap dancing club is appropriate in a particular neighbourhood.

New Powers to regulate Sex Establishments:

7. Section 27 of the Policing and Crime Act 2009 amends Section 3 of the Miscellaneous Provisions Act 1982 to allow the licensing of Sexual Entertainment Venues, where 'relevant entertainment' is provided before a live audience for the financial gain of the entertainer or organiser. 'Relevant entertainment' means 'any live display or entertainment of nudity', i.e.; striptease, lap dancing etc. There is an exemption from the requirement to register if there will be less than eleven events held each year at a venue.

8. The Act sets out mandatory reasons to object to a Licence. These are:

- The applicant is under eighteen years old,
- The applicant has previously had a Licence revoked,
- The applicant is not resident in the UK, or
- Has previously been refused a Licence at those premises

9. The Act allows the Authority powers to refuse a Licence or impose conditions than it would be permitted under the Licensing Act 2003 for example:

- The business would be managed for the benefit of a third party who would be refused a licence;
- The number of sex establishments in the locality equals or exceeds the number considered appropriate;
- Whether it would be inappropriate to grant a Licence having regard to:
 - The character of the locality;
 - The use of other premises in the locality, and
 - Layout, character, condition or location of the premises.

10. In order to implement these provisions, the Council will need to adopt the relevant provisions which have been inserted into the 1982 Act.

11. At present the Council does not have a policy in relation to the licensing of Sex Shops and cinemas and so it is proposed to prepare a draft policy which will cover sex shops, cinemas and sex establishments, carry out consultations and ask for approval by the Committee at its next meeting

Implementation:

12. Any operator who wishes to provide 'relevant entertainment' at the end of the transitional period set out below will have to apply for a Licence.

13. Existing operators will be permitted to continue to provide 'relevant entertainment' under their existing permission during the transitional period or until their application for a Sex Establishment Licence has been determined whichever is the later.

14. The transitional period will start on the date when Schedule 3 of the 1982 Act comes into force in the area (First Appointed Date) and will last for twelve months.

15. Applications made in the six months following the after the First Appointed Date will be considered together at the end of that period.

16. Applications made after the first six month period (the Second Appointed Date) cannot be considered until all applications made before the First Appointed Date have been determined.

17. Licences granted for sex encounter venues will not take effect until the conclusion of the twelve month transitional period (the Third Appointed Date).

18. Any pre-existing operator who has failed to submit a licence before the Third Appointed Date will not be permitted to provide relevant entertainment.

Fees:

19. The maximum fee which the Council is permitted to charge is that required to cover the cost of the licence.

Resource Implications:

Within existing budgets

Legal and Governance Implications:

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 Section 27 of the Policing and Crime Act 2009.

Safer, Cleaner and Greener Implications:

To create safe communities in Epping Forest District

Consultation Undertaken:

None

Background Papers:

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 Section 27 of the Policing and Crime Act 2009.

Impact Assessments:

Risk Management