

Report to the Licensing Committee

Report Reference: LSC-002-2010/11.

Date of meeting: 13 October 2010



**Epping Forest
District Council**

Portfolio: Safer & Greener.

Subject: Licensing of Sex Entertainment Venues.

Responsible Officer: Alison Mitchell (01992 564017).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations:

That the Committee recommends to Council:

- (1) That 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 be adopted;**
- (2) That consultation proceed on the draft policy and standard conditions which will regulate sex shops, sex cinemas and sexual entertainment venues with a view to report backing to committee to consider any representations prior to adoption by the Council;**
- (3) That the Council should immediately adopt the schedule of delegations that are attached to the draft policy; and**
- (4) That the fees in respect of the issue of a Sexual Entertainment Venue licence be set at £1,500 and £750 on renewal.**

Executive Summary:

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 Local Government (Miscellaneous Provisions) 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.

This matter was reported to the previous meeting of the Licensing Committee but the adoption of the powers needed to be made by full Council. The Council had not adopted a formal policy or standard conditions for the regulation of sex establishments in its District and the new draft policy will regulate sex cinemas, sex shops and sexual entertainment venues.

Reasons for Proposed Decision:

To recommend the adoption of the licensing provisions for sexual entertainment venues.

To allow the consultation to be carried out on the draft policy and conditions as this will relate to all sex establishments in the District.

Other Options for Action:

- If the Authority decides not to adopt this legislation then it must within twelve months carry out a full public consultation before finally making that decision.

- The Authority could decide that it would not wish to have a Policy. The advantage of having a policy is that it guides both applicants and objectors as to the types of application that the Authority is likely to grant.
- Not to adopt any standard conditions and impose conditions as each case is decided, if necessary.
- To recommend that the Licensing Sub-committee decides all applications for this type of licence.
- To agree a different licence fee for sexual entertainments venues.

Report:

1. 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:

- (i) The Prevention of Crime and Disorder;
- (ii) Public Safety;
- (iii) The Prevention of Public Nuisance; and
- (iv) The Protection of Children from Harm.

2. 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

3. 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.

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

- (a) the applicant is under eighteen years of age;
- (b) the applicant has previously had a Licence revoked;
- (c) the applicant is not resident in the UK; or
- (d) the applicant has previously been refused a Licence at those premises.

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

- (a) the business would be managed for the benefit of a third party who would be refused a licence;
- (b) the number of sex establishments in the locality equals or exceeds the number considered appropriate; and
- (c) whether it would be inappropriate to grant a Licence having regard to:

- (i) the character of the locality;
- (ii) the use of other premises in the locality; and
- (iii) the layout, character, condition or location of the premises.

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

7. 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

8. 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.

9. 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.

10. 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.

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

12. 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.

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

14. 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

15. The fees are not prescribed by statute but the 1982 Act allows the Council to set a reasonable fee. This has been set to cover the costs of issue and regulation but will be kept under review.

Licensing Policy and Conditions

16. A draft policy and conditions have been attached to cover all Sex Establishments. These will be sent out to consultation to those persons and bodies listed in the policy as consultees. Members are invited to suggest any other person or body who should be consulted.

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 but consultation on the draft policy and conditions recommended.

Background Papers:

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

Impact Assessments:

Risk Management
N/A.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?
No.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
None.