



Executive
14 September 2010

**Report from the Director of
Environment and Culture**

Wards Affected:
ALL

**Adoption of the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 (as amended by The Policing and Crime Act 2009)
Licensing of Sexual Entertainment Venues**

1.0 Summary

- 1.1 Pole dancing, lap dancing, striptease and similar forms of entertainment have until recently been controlled by the licensing Act 2003. They have been subject to the same rules and regulations as music and dancing generally.
- 1.2 Because some Authorities have seen a proliferation of this type of entertainment the legislation has been amended to allow Councils to licence “sexual entertainment venues” separately.
- 1.3 Section 27 of the Policing and Crime Act 2009 requires the Council to either adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 or to hold full community consultations to decide whether to adopt.

2.0 Recommendations

- 2.1 This report recommends Members adopt Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Police and Crime Act 2009 and appoint 12th October 2010 as the first appointed day.

3.0 Detail

3.1 Background

- 3.1.1 Establishments such as lap dancing clubs have, until now, been licensable under the Licensing Act 2003. Their licensing has therefore been determined in accordance with the four “licensing objectives”. The four objectives are:

- i) The prevention of crime and disorder.
- ii) The prevention of public nuisance.
- iii) Ensuring public safety.
- iv) The protection of children from harm.

3.1.2 A resolution to adopt the new provisions would take lap dancing clubs outside the regulation of the Licensing Act 2003 (except in respect of “licensable activities” under that Act). i.e. The sale of alcohol or the provision of late night refreshments.

3.1.3 Adoption of the new powers is not a mandatory requirement, although if local authorities do not adopt the provisions by April 2011, they will be obliged to consult to decide if they should.

3.1.4 Section 27 of the Policing and Crime Act 2009 reclassifies lap dancing, and similar clubs, as “sexual entertainment venues” and gives local authorities in England and Wales the power to regulate such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. These new measures took effect on 6th April 2010 in England.

3.1.5 Sexual entertainment venues are premises at which there is any live performance or display of nudity provided solely or principally for the purpose of sexually stimulating any member of the audience and can include lap dancing, pole dancing, table dancing, strip shows, peepshows, and / or live sex shows.

3.1.6 Sexual entertainment venues that operate less than one day in any calendar month are not classified as sexual entertainment venues. Sex cinemas and sex shops are sex establishments and dealt with separately under the Local Government (Miscellaneous Provisions) Act 1982.

3.2 **Transitional Period**

3.2.1 The transitional period is one year and commences on the first appointed day (“being the day the Act is formally adopted)

3.2.2 The second appointed day falls 6 months after the first appointed day and it is during this six month period that applications for a sexual entertainment venue licence may be made. All applications received during this six month period are determined at the same time. All further applications are determined in chronological order.

3.2.3 The third appointed day falls six months after the second appointed day and this is the day when licences will take effect if granted.

3.3 **Transitional Arrangements**

3.3.1 If the Council agrees to adopt and agrees 12th October 2010 as the first appointed day, the Authority must place a notice in a local newspaper two weeks running confirming the adoption and appointed day. The first notice must appear within 28 days of the adoption.

- 3.3.2 The second appointed day will be 12th April 2011 and the third appointed day 12th October 2011.
- 3.3.3 Any person currently using or undertaking preparatory work to use a premise as a sexual entertainment venue may continue to do so until the third appointed day or until any appeal against the refusal of a licence has been determined.
- 3.3.4 On the second appointed day applications for existing licences and any new applications are determined and granted where appropriate. The start date will be the third appointed day (12th October 2011).

3.7 **General**

- 3.7.1 Sex establishments include sexual entertainment venues, sex shops and sex cinemas. Only sexual entertainment venues are covered by this part of the legislation, shops and cinemas are covered by other parts of the Local Government (Miscellaneous Provisions) Act 1982 and already form part of the Council's existing licensing regime.
- 3.7.2 In Brent sex venues were licensed under the legislation that controlled premises used for public entertainment. e.g. music and dance.
- 3.7.3 Additional conditions applicable to striptease and nudity were attached to these licences.
- 3.7.4 The Licensing Act 2003 reduced the Council's ability to put conditions on a licence and in theory any premises with music and dance on their licence could introduce lap dancing or striptease.
- 3.7.5 Adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 will take pole dancing, lap dancing, striptease and similar entertainments away from the Licensing Act 2003 and allow the Council to licence them separately.
- 3.7.6 Separate licensing will allow the Council when determining an application to refuse a licence on the grounds that:
- (a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
 - (b) if the licence were granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - (c) the number of sex establishments in the relevant locality at the time the application is made [determined] is equal to or exceeds the number which the Council considers is appropriate for that locality; (nil may be an appropriate number for these purposes)

- (d) the grant or renewal of a licence would be inappropriate, having regard-
 - (i) to the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.7.7 The Council may from time to time and in its absolute discretion set an appropriate number as the maximum number of sex entertainment venues for a relevant location. (see paragraph 3.7.6 (c)). When determining a locality it may not be necessary to show the exact boundary on a map but the whole of Brent or even an entire town would be too large an area to be considered a relevant locality within the meaning of the Act.

3.7.8 The use of powers to restrict numbers in relevant localities should only be used where there are problems with the proliferation of establishments, or, there is or is likely to be crime and disorder, or vulnerable persons may be affected. In other cases the powers listed in Paragraph 3.7.6 (d) should be used.

3.8 **Present Situation**

3.8.1 Currently there are no sex entertainment venues in Brent.

3.8.2 Over the past few years the numbers have varied and at their peak there were 4 clubs in total.

3.8.3 No clubs have survived very long with the exception of For Your Eyes Only (later changed to Route 66). This club was situated on the Park Royal industrial Estate and operated for about 10 years.

3.8.4 None of the clubs that have operated within Brent have given cause for concern from the way they have been run but some have attracted complaints purely because of their location and or on moral grounds.

3.9 **Failure to Adopt**

3.9.1 The legislation requires Councils that fail to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 to hold a full consultation exercise with residents and businesses on whether to adopt the Schedule.

3.9.2 Consultations on whether to adopt must start one year after the commencement of the Act and would therefore begin in April 2011.

3.9.3 It is very likely that any consultation would result in the Council being asked to adopt the legislation as this is an emotive subject and would almost certainly attract strong lobbying from residents.

4.0 Financial Implications

- 4.1 If the Schedule is adopted licence fees will be set and reviewed using the Council's existing regime for setting fees.
- 4.2 It is envisaged that fees will be the same as those for other sex establishments and are currently set at £10,984 for the application of a new licence and £9,345 for the renewal of an existing licence.
- 4.3 Fees are set to take account of the cost of consulting and holding a hearing for opposed applications. They also take account of the possible need for appeals through the Courts and for the more intensive inspection regime.

5.0 Legal Implications

- 5.1 None specific other than those covered in the body of the report.

6.0 Diversity Implications

- 6.1 Although there are no sexual entertainment venues in Brent at present, adoption of the Act will allow greater and more effective control of such premises should they be proposed in future. Such premises clearly have the potential to be exploitative of performers working in them, predominantly women, and greater and more effective control is to be welcomed.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 None specific to this report.

Background Papers

FILE	LOCATION
Sexual Entertainment Venue File	HSL Offices

Contact Officers

Alan Howarth
Licensing Manager
Health Safety & Licensing
Brent House
High Road
Wembley
Middlesex HA9 6BZ Tel: 020 8937 5369

Richard Saunders
Director of Environment and Culture