

LICENSING OF SEX SHOPS, SEX CINEMAS AND SEXUAL ENTERTAINMENT VENUES POLICY

LICENSING COMMITTEE – 10 OCTOBER 2012

Report of the: Director of Community and Planning Services

Status: For Consideration

Also considered by: Licensing Committee – 30 January 2013

Council – 19 February 2013

Key Decision: No

Executive Summary: On 6 September 2012 the Committee's views were sought on whether to adopt powers relating to sexual entertainment venues, following changes the regulation of Sexual Entertainment Venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. It was decided to adopt the powers.

By adopting the policy, the Council will have a wider control on such premises and the Licensing Partnership will be consistent for all partners.

The changes introduced by the Policing and Crime Act 2009 will allow the Licensing Authority to refuse an application for the grant or renewal of a licence for a sexual entertainment venue on a number of specified grounds.

Prior to consultation the policy is being brought to the Licensing Committee for consideration. Following consultation it is expected the policy will return to the Licensing Committee in January 2013 for recommendation to full Council.

This report supports the Key Aim of Safe and Caring Communities and Dynamic and Sustainable Economy

Portfolio Holder Cllr Mrs. Bracken

Head of Service Head of Environmental and Operational Services – Mr. Richard Wilson

Recommendation: To AGREE that consultation be held on the policy.

Background

Activities covered by the new provisions -

1. A sexual entertainment venue is described as 'any premises at which relevant entertainment is provided before a live audience for financial gain of the organiser or the entertainer'. It is expected that this definition would apply to the following forms of entertainment – lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

How such venues are currently regulated

2. Venues that currently provide entertainment of this nature are able to do so under the authority of a premises licence granted under the Licensing Act 2003, and there are currently no venues within the District. However, any representations concerning the grant or variation of a premises licence can only be based upon one of the 4 licensing objectives i.e. the prevention of crime and disorder, the prevention of public nuisance, the protection of public safety and the protection of children from harm.
3. Licensing authorities cannot therefore consider representations on issues falling outside of the 4 licensing objectives e.g. whether a lap dancing club would be appropriate given the character and locality of the area in which it is proposed to be situated.

Proposed changes

4. The changes introduced by the Policing and Crime Act 2009 will allow the Licensing Authority to refuse an application for the grant or renewal of a licence for a sexual entertainment venue on a number of specified grounds, including:
 - That the grant or renewal would be inappropriate, having regard –
 - to the character of the relevant locality; or
 - the use to which any premises in the vicinity are put; or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
5. Objection on moral grounds cannot however be considered.
6. Licences granted for sexual entertainment venues will be renewable annually, rather than lasting for the life of the business as is the case under the Licensing Act 2003.
7. Furthermore, the authority will have a wider discretion when imposing conditions on a licence, and may apply different conditions for different types of venues. For example, it will be possible to regulate opening times, the display of advertisements and the visibility of the interior of the premises to passers-by.
8. Premises providing other licensable activities in addition to sexual entertainment will still also require a premises licence under the Licensing Act 2003. In practical

terms, this means that most sexual entertainment venues will require a licence under the 2003 Act as well as a sex establishment licence.

Exemptions

9. Premises which provide regulated entertainment on an infrequent basis i.e. on no more than 11 occasions within a 12 month period (subject to there being at least one month between events, and each event lasting no longer than 24 hours) will not need to be licensed as a sexual entertainment venue, and will instead continue to be licensed under the Licensing Act 2003.

Key Implications

Financial

10. The Council's budget for the licensing of Sexual Entertainment Venues is set on a cost recovery basis and the cost of this consultation is covered with the licensing administration budget.

Legal, Human Rights etc.

11. Decisions in relation to a licence are likely to amount to consideration of civil rights and obligations with the result that Article 6 (1) of the Human Rights Act 1998 is engaged.

Equalities implication and Community Impact

12. The policy applies to all operators across the Sevenoaks District whose activities may fall under the definition of 'relevant entertainment'. The policy will aim to prevent any adverse impact on disadvantaged groups.

Conclusions

13. By adopting the policy, the Council will have a wider control on such premises and the Licensing Partnership will be consistent for all partners.

Risk Assessment Statement

14. The Council will have reduced risks by adopting this policy as the Council will have more powers and a wider control on such venues and applications for venues as well as being able to use a wider range of reasons, not just the four Licensing Objectives from the Licensing Act 2003.

Background Papers: Policing and Crime Act 2009
Licensing Act 2003

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