



The Police and Crime Act 2009 Sex Entertainment Venues

Report by the Executive Head of Housing, Health & Community Safety

1. SUMMARY

- 1.1 This report is to provide members with a brief summary of the provisions of the Police and Crime Act 2009 and the amendments made to the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA) and Licensing Act 2003 (LA 2003) that are particularly relevant to the work of this committee.
- 1.2 The Police and Crime Act 2009 has introduced provisions to reclassify lap dancing, pole dancing clubs etc. as sex establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. The purpose of this report is to advise members of the legislative changes and to confirm whether they wish to adopt the new provisions and make recommendation to full Council for approval.

2. BACKGROUND

- 2.1 The Police and Crime Act (the Act) received Royal Assent on 12 November 2009. This Act amends several pieces of legislation and creates new law in other areas. Among its many measures the Act gives Local Authorities new powers to deal with lap dancing and pole dancing clubs and other sexual entertainment venues.
- 2.2 When the Licensing Act 2003 came into force in 2005, premises which offered lap dancing, pole dancing or similar entertainment were licensed in the same way as any other premises offering alcohol or entertainment. This was perceived by some to be a loophole in the L A 2003 allowing prospective sexual entertainment venues to take advantage of a regime established by the LA 2003 that was designed to regulate alcohol and general entertainment.
- 2.3 The Policing and Crime Act 2009 introduces a new category of sex establishment to those previously included in the LGMPA as a way of strengthening Local Government control over such sex entertainment venues.

3. CONSIDERATION

3.1 The Act amends Schedule 3 of the LGMPA, which until now dealt with sex shop and sex cinema licences, to create a new category of sex establishment called a Sex Entertainment Venue. This provision covers lap-dancing & pole dancing clubs etc. previously governed under the LA 2003. Under the new provisions of Schedule 3 the Local Authority must decide whether to pass a resolution to adopt the provisions. The new provisions came into effect on 6th April 2010.

3.2 Sexual entertainment venues are defined in the 2009 Act as those that provide relevant entertainment under Section 27 of the 2009 Act, which is:

- any live performance; or
- any live display of nudity;

which is of such nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)

3.3 Were the provisions of the schedule to be adopted the Licensing Authority will have the same powers when considering licensing such venues as they do for sex shops. These powers are wider than those under the LA 2003 and will, in particular:

- allow local people to oppose an application for a sex establishment licence if they have legitimate concerns that a sex encounter venue would be inappropriate given the character of an area, for example, if the area was primarily a residential area.
- require licences to be renewed at least annually, at which point local people will have the opportunity to raise objections with the authority if problems are occurring.
- allow the authority to reject a licence application if they believe that to grant a licence for a sex encounter venue (including a lap dancing club) would be inappropriate given the character of a particular area.
- allow the authority to set a limit on the number of sex encounter venues that they think is appropriate for a particular area.
- allow the authority to impose a wider range of conditions on the licences of sexual entertainment venues than they are currently able to under the LA 2003

- 3.4 The new legislation is adoptive so the authority must resolve to adopt Schedule 3 to the LGMPA as amended by the 2009 Act for it to have effect in the district. Adoption is a matter for Council on recommendation from the Licensing Committee.
- 3.5 Should the Council not make a resolution to adopt Schedule 3 of the LGMPA within one year of the legislation coming into force they must as soon as reasonably practical consult local people about whether they should make such a resolution.
- 3.6 Adur Council has adopted Schedule 3 to the LGMPA for the licensing of sex shops and sex cinemas. However, a further resolution is necessary before the provisions introduced by Section 27 can take effect in the district.
- 3.7 The procedure to adopt Schedule 3 as amended by Section 27 is set out in Section 2 of the LGMPA. Firstly, the authority must pass a resolution specifying that the amendments made by section 27 to that Schedule, shall apply to their area and the day on which it shall come into force in the area. The specified day must be more that one month after the day on which the resolution was passed.
- 3.8 The authority shall publish a notice that they have passed the resolution referred to above for two consecutive weeks in a local newspaper. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the authority's area.

4. OTHER IMPLICATIONS

- 4.1 There are no significant direct race relations or equal opportunities implications arising from this report. The issues detailed in this report will not have significant environmental, crime & disorder or community safety implications.

5. RECOMMENDATIONS

5.1 Members are asked to note the changes made by the Police & Crime Act 2009 with regard to the Local Government (Miscellaneous Provisions) Act 1982 and Licensing Act 2003.

5.2 Members are recommended to request full Council to adopt the following resolution and to instruct officers to place the relevant public notices: –

Adur Council resolves to adopt the amendments to the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 introduced by the Police and Crime Act 2009 in relation to the regulation of lap dancing and other sexual entertainment venues. These powers shall come into effect from 1 March 2011.

Paul Spedding

Executive Head of Housing, Health and
Community Safety

Principal Author and Contact Officer :

Simon Jones, Licensing Inspector,
David Bowen Environmental Health Manager (Food and Occupational
Health&Safety)

David.bowen@worthing.gov.uk

01273 263366

Background Papers :

- Local Government (Miscellaneous Provisions) Act 1982.

Schedule of other matters

1.0 Council Priority

1.1 Matter considered and no issues identified.

2.0 Specific Action Plans

2.1 Matter considered and no issues identified

3.0 Sustainability Issues

3.1 Matter considered and no issues identified

4.0 Equality Issues

4.1 Equality issues are brought to the attention of the committee within the report otherwise no issues identified.

5.0 Community Safety issues (Section 17)

5.1 Matter considered and no issues identified

6.0 Human Rights Issues

6.1 Human rights concerns are brought to the committee's attention within the report.

7.0 Reputation

7.1 Matter considered and no issues identified.

8.0 Consultation

8.1 Matter considered and no issues identified. .

9.0 Risk assessment

9.1 Matter considered and no issues identified.

10.0 Health & Safety Issues

10.1 No issues identified

11.0 Procurement Strategy

11.1 Matter considered and no issues identified.

12.0 Partnership working

12.1 Matter considered and no issues identified.