

**Report of the Assistant Director Corporate Services to the meeting of the Licensing Committee to be held on 30<sup>th</sup> March 2010.**

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**Subject:**

**Policing and Crime Act 2009 - Section 27**

**Summary statement:**

**This report seeks Members views on the adoption of amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in facilitating control of the licensing of lap dancing, pole dancing and similar entertainment under existing legislation controlling sex establishments.**

**The Assistant Director Corporate Services submits this report for the consideration of Members.**

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**Portfolio:**

**Corporate**

**Improvement Area:**

**Corporate Improvement Committee  
Safer and Stronger Communities**



2006-2007  
Improving Rural Services  
Empowering Communities



2006-2007  
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Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



1. **Summary**

- 1.1 Members are asked to consider the adoption of the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 which deals with sex establishments, such as sex shops and from 6<sup>th</sup> April 2010 will include lap dancing, pole dancing and similar establishments.

2. **Background**

- 2.1 When the Licensing Act 2003 (LA 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.
- 2.2 The Policing and Crime Act 2009 introduces a new category of sex establishment, called 'sexual entertainment venues' to those previously included in the Local Government (Miscellaneous) Provision Act 1982 - Schedule 3. The new provisions will come into effect on 6<sup>th</sup> April 2010.
- 2.3 Sexual entertainment venues are defined in the 2009 Act as those that provide relevant entertainment under section 27 of the 2009 Act, which is:
- (a) any live performance; or
  - (b) any live display of nudity;
- which is of such a 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).
- 2.4 If the Council resolves to adopt the new provisions this will allow the licensing authority to regulate lap dancing clubs and similar venues as sex establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 which regulate the licensing of such establishments as sex shops.
- 2.5 The existing provisions of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 were adopted by Bradford on 7<sup>th</sup> December 1982 and came into effect from 1<sup>st</sup> February 1983. (Minute Ref - General Services Sub Committee 48 1982/1983).
- 2.6 There are currently 3 sex shop licences issued under Schedule 3 within the Bradford District. There is currently only one venue in the District which offers lap dancing and pole dancing which would fall within the new provisions of Schedule 3.
- 2.7 If the Council were to resolve to adopt the new provisions, existing premises licence holders that wish to continue offering lap dancing etc, will be required to apply for a sex establishment licence. Guidance on how this might impact on Article 1 Protocol 1 of the Human Rights Act is awaited from government.
- 2.8 If the Council decides to adopt the new provisions, the transitional period will be for 12 months, starting on the day that the provisions come into effect in Bradford. During the first 6 months of the transitional period applications may be submitted to the Licensing Authority, although no licences will be granted. At the end of the 6 month period the Licensing Authority must consider all applications received.

- a) Applications received after the first 6 months will be dealt with individually.
- b) Licences granted to new applicants would take effect immediately whilst those granted to existing operators would take effect at the end of the 12 month period.
- c) Existing operators who do not apply or who are not granted a sex establishment licence may continue to provide lap dancing etc until the end of the 12 month period.
- d) The fee for a sexual entertainment venue licence is discretionary but should reasonably relate to the cost of administering and enforcement.

### **3. Financial and resource appraisal**

- 3.1 The cost of implementing this will be met from fees and charges.

### **4. Process for adoption**

- 4.1 The Local Authority must publish a notice stating that they have passed a resolution adopting the provisions of the Schedule in a newspaper circulating in the area on two consecutive weeks.
- 4.2 The first publication being no less than 28 days prior to the date on which the amended provisions of Schedule 3 are to come into force.

### **5. Legal Appraisal – Process for adoption**

- 5.1 The Miscellaneous Licences Panel would be responsible for dealing with all applications for sex establishment licences were the Council to decide to adopt the new provisions.
- 5.2 The decision to adopt the provisions should be made by full council.

### **6. Equal Rights**

There are no apparent equal rights implications.

### **7. Sustainability implications**

There are no apparent sustainability implications.

### **8. Community safety implications**

There are no apparent community safety implications.

### **9. Human Rights Act**

Guidance on human rights implications for existing licence holders is awaited from government.

10. **Trade Union**

There are no apparent trade union implications in respect of this report.

11. **Not for publication documents**

None

12. **Recommendation**

12.1 That the contents of this report be noted.

12.2 That officers carry out consultation with Responsible Authorities under the Licensing Act 2003 for their views on whether the new provisions should be adopted in the District.

12.3 That in due course a report be prepared for consideration by the Miscellaneous Licences Panel for a decision as to whether it wishes to recommend to Council that the new provisions facilitating the licensing of sex entertainment premises as sex establishments should be adopted.

13. **Background documents**

- a) Local Government (Miscellaneous Provisions) Act 1982 Schedule 3
- b) Policing and Crime Act 2009
- c) Licensing Act 2003
- d) Home Office: Regulation of Lap Dancing Clubs – Government response to consultation on transitional arrangements