

**Report of the Assistant Director Corporate Services to the meeting of the Miscellaneous Licences Panel to be held on 26<sup>th</sup> October 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, relating to 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



CONSTITUTION OF THE CITY OF BRADFORD

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 now includes lap dancing, pole dancing and similar establishments.
- 1.2 If Members are minded to recommend to Council that the provisions be adopted, they are also asked to consider whether:
  - a) the draft standard sexual entertainment venue conditions at Appendix 1 should be approved;
  - b) that the proposed fee of £5658 should be approved.

## 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 came into effect on 6<sup>th</sup> April 2010 and from that date licensing authorities could decide whether to adopt the new provisions by resolution of full Council.
- 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 provisions of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 relating to the licensing of sex shops were adopted by this Council 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 licensed under the Licensing act 2003 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.
- 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.
- 2.9 The Council, if it decides to adopt the new provisions, may also decide to adopt a policy on how it intends to deal with such applications. It can, for example, define the number of such licences it deems appropriate in various defined localities within the district. However, it is not mandatory to adopt such a policy and the Council can chose to deal with each application on its merits.

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

- 3.1 The cost of implementing the new provisions will be met from fees and charges.

### 4. **Options**

- 4.1 Members may recommend to Council that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 be adopted.
- 4.2 Alternatively members may decide not to recommend adoption of the new provisions at this time. If members decide not to recommend adoption of the new provisions, sexual entertainment venues will continue to be licensed under the Licensing Act 2003 in the District. However, if the Council has not adopted the new provisions by 6<sup>th</sup> April 2011 it must consult local people living or working in the District as soon as reasonably practicable on whether the provisions should be introduced.

**5. Process for adoption**

5.1 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. 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.

5.2 Suggested timetable for implementation of the provisions:

- a) 26<sup>th</sup> October 2010 – Miscellaneous Licences Panel resolve to recommend to Council that the amended provisions of Schedule 3 be adopted.
- b) 14<sup>th</sup> December 2010 – Resolution of full Council.
- c) 3<sup>rd</sup> January 2011 – First public notice in local newspaper that the resolution has been passed.
- d) 10<sup>th</sup> January 2011 – Second public notice in the local newspaper that resolution has been passed.
- e) 1<sup>st</sup> February 2011 – Amended provisions of Schedule 3 come into effect.

**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 Panel considers whether it wishes to recommend that Council adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, and authorise the Assistant Director Corporate Services (City Solicitor) to complete all necessary legal procedures to formalise and advertise such adoption.
- 12.2 That if Council resolves to adopt the new provisions, Members are asked to authorise the Assistant Director Corporate Services (City Solicitor) to:
- a) adopt on behalf of the Council proposed standard conditions for sexual entertainment venues attached at Appendix 1; and
  - b) implement the proposed licence fee of £5658 for sexual entertainment venues and from time to time increase that fee in line with inflation where deemed necessary.

**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.

**14. Appendix**

- 1. Proposed standard conditions for Sexual Entertainment Venues

**City of Bradford Metropolitan District Council**  
**Local Government (Miscellaneous Provisions) Act 1982 - Schedule 3**

**Control of Sexual Entertainment Venues – Proposed Standard Conditions**

1. There shall be no advertisements, placards, posters or displays which are visible from outside the premises except as expressly permitted in writing by the Council's Licensing Authority.
2. There shall be no attempt outside the premises to solicit people to enter or to tout for business.
3. No person shall be employed at these premises until such time as a satisfactory police check has been submitted to the Council's Licensing Authority and written confirmation has been obtained from the Council's Licensing Authority confirming its satisfaction.
4. No person under the age of 18 shall be permitted onto the premises.
5. The licensee shall not employ any person under the age of 18 years in the business of the establishment.
6. Performers shall be aged 18 or over.
7. The licensee shall operate a Challenge 25 age verification policy and people under the age of 25 shall be required to show proof of ID.
8. There shall be a notice displayed at each entrance to the premises which states the following: STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE. THIS PREMISES OPERATES A CHALLENGE 25 POLICY. PERSONS UNDER THE AGE OF 25 WILL BE REQUIRED TO SHOW PROOF OF AGE.
9. Lap dancing may only take place in the area of the licensed premises which the Council's Licensing Authority designates as being suitable for such purpose.
10. There shall be no physical contact between performers and patrons before, during or after a performance of lap dancing.
11. The Licensee shall ensure that any performers shall not perform any obscene or indecent acts.
12. The Licensee shall ensure that no cubicles or private areas shall be used for any private performance.
13. CCTV equipment shall be installed to the written satisfaction of the Council's Licensing Authority and shall be maintained in good working order and recordings, be retained for 30 days and supplied to the Council's Licensing Authority or West Yorkshire Police on request.

14. At least two SIA (Security Industry Authority) registered door staff shall be employed at all public entrances/exits during the hours of licensable activities.
15. Within 28 days of the issue of the licence, the licensee shall provide and have obtained the written approval of the Council's Licensing Authority, a code of conduct for entertainers and rules of conduct for customers. Any such code that is approved shall be effectively implemented throughout the duration of the licence.
16. The Licensee shall ensure suitable and sufficient training is provided to all employees on the requirements of these conditions, relevant licensing and legal requirements and on the need to comply with the code of conduct referred to above. Training of all staff is to be recorded and these documents to be made available to the Council's Licensing Authority or West Yorkshire Police on request.
17. Price lists shall be clearly displayed at each table and at each entrance to the premises.
18. The licence, or a clear copy, shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the Police, the Fire Authority and authorised officers of the Council. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the Council, the Police or Fire Authority.
19. Entertainers shall only perform on any defined stage area, to seated and segregated customers or in such other areas of the licensed premises as may be agreed in writing with the Council's Licensing Authority.
20. Relevant entertainment shall only be performed by the entertainer. There must be no audience participation.
21. There must be no physical contact between entertainers.
22. Whilst entertainers are performing there shall be a minimum distance of one metre between the entertainer and the audience.
23. The Licensee shall not permit any photography on the premises during performances and shall ensure prominent signs are displayed confirming this prohibition.
24. The entrance, windows and any form of openings to the premises shall be of a material or covered in a material which will render the interior of the premises obscured and not visible to passers-by whilst relevant entertainment is being performed.
25. No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of an emergency.
26. No alterations, including temporary alterations, except routine repair or maintenance, shall be made to the structure and installations on the premises, without the prior written consent of the Council's Licensing Authority.
27. The licensee, or a responsible person nominated by him for the purpose of managing the venue ("the manager") shall have personal responsibility for and be present on

the premises whilst relevant entertainment is being performed. Any such nomination shall be produced on request to an authorised officer of the Council or the Police.

28. The licence holder shall ensure that any person nominated by him under the above:
  - a. has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
  - b. is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
29. The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
30. Where the licensee is a body corporate, or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council's Licensing Authority within 14 days of such a change.
31. The licensee shall ensure that the public is not admitted to any part or parts of the premises that has not been approved by the Council's Licensing Authority.
32. At all times that the premises are open to the public there shall be a member of staff on duty who is conversant with operating the CCTV system and who is able to download immediately any footage requested by an officer from the Council's Licensing Authority or West Yorkshire Police.
33. No mobile, motor or other vehicle shall be used to display advertisements for the premises unless it has received the written approval of the Council's Licensing Authority.