

Licensing and Safety Committee – 27th May 2010

Report of the Director of Corporate Resources

**Amendment to Local Government (Miscellaneous Provisions) Act 1982
Schedule 3**

Purpose of Report

- 1 For the committee to consider the adoption of the amended Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 - Regulation of Lap-Dancing and other Sexual Entertainments.

Background

2. Currently Lap Dancing and like entertainment are regulated by the Licensing Act 2003. There are two lap dancing clubs licensed in the Borough - The Bandit Queen Gentlemen's Club, 93 King Street, Dudley and Heaven Night Club, Old Savoy Buildings, Lower High Street , Stourbridge.
3. On the 15th of September 1982 the Council adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, to enable the council to licence 'sex cinemas' and 'sex shops' collectively known as 'sex establishments'
4. On the 6th of April 2010 Section 27 of the Police and Crime Act 2009 came into force. This section reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities in England and Wales the power to regulate such venues as sex establishments under an amended Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. These powers will only apply where a Council makes a further resolution to adopt the amended schedule 3 to the 1982 Act.
5. The Home Office have issued Guidance to Sexual Entertainment Venues and expect that the following forms of entertainment would fall under this provision:-
 - Lap Dancing
 - Pole Dancing
 - Table Dancing
 - Strip Shows
 - Peep Shows
 - Live Sex Shows

However if Sexual Entertainment Venues wish to sell alcohol and carry on other licensable activities in addition to requiring a licence under the above new

provisions they will also require a Premises Licence under the Licensing Act 2003.

6. Premises which provide sexual entertainment on no more than 11 occasions within a 12 month period and where no such entertainment has lasted longer than 24 hours would not fall within these provisions and will continue to be regulated under the Licensing Act 2003.
7. If the council pass a resolution that the amended Schedule 3 to the 1982 Act will come into force in the Borough there will be a transitional period lasting 12 months. This transitional period will commence on the day that the resolution is passed and be known as the first appointed day. Six months following the first appointed day will be known as the 2nd appointed day and the day on which the transitional period ends will be known as the 3rd appointed day.
8. The two premises in the Borough that are currently providing sexual entertainment under the Licensing Act 2003 are allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time. The council may refuse applications from existing operators, on grounds set out in paragraph 12 of Schedule 3 but when making such decisions they must take into account European Human Rights Protocols.
9. After the 1st appointed day any new applications for premises to be used for sexual entertainment will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment licence.
10. Applications can be made after the 1st appointed onwards. all applications made on or after the 1st appointed day but on or before the 2nd appointed day must be considered together. This is to ensure that applicants are given sufficient time to submit their application and all applications received on or before the 2nd appointed day are considered on their individual merit and not on a first come first serve basis.
11. After the 2nd appointed day the council shall decide what if any licences should be granted. If a new application is granted a licence it will take effect immediately. If an existing operator is granted a licence it will not take effect until the 3rd appointed day. Applications made after the 2nd appointed day shall only be considered once all applications made on or before that date have been determined.
12. Licences for sex establishments can be granted for up to one year and licence conditions and restrictions may be imposed on the licence specific to that licence or standard conditions applicable to all sex establishments.
13. Under the amended schedule the council is able to refuse applications having regard to the number of sex establishments they consider appropriate for a particular locality. Nil may be the appropriate number.
14. The committee reviewed the fee for sex establishments on the 10th of February 2010 and determined that the fee should be £3810 .00.from the 1st of April 2110.

15. This report has a direct link to the Council's key corporate priority that safety matters.

Finance

16. If the council decide to adopt the amended schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 it may set a fee for sex establishments which is reasonable.

Law

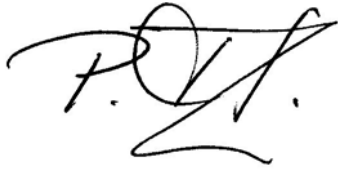
17. Section 27 of the Police and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities power such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
18. If the council wish to licence Lap Dancing Clubs as sexual entertainment venues they must pass a resolution that the amendments made by section 27 of the Police and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to the Borough of Dudley on a date of more than one month after the day on which the resolution was passed.
19. The council must publish a notice that it has passed a resolution to adopt the amendments made by Section 27 paragraph 2(2) to the Police and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 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 Borough. The notice shall state the general effect of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Equality Impact

20. This report takes into account the Council's policy on equal opportunities.
21. The licensing of premises for sexual establishments will not impact on children and young people as they will be unable to attend these premises.
22. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

23. That the Committee consider adoption of the amendment to Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

A handwritten signature in black ink, appearing to be 'J. Elliott', with a large, stylized flourish above the letters.

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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers