

Licensing and Safety Committee – 5th July 2010

Report of the Director of Corporate Resources

Licensing of Sex Establishments

Purpose of Report

1. For the Committee to consider the fee to be charged for a Sex Establishment Licence and to consider whether they wish to decide the number of sex establishments they consider appropriate for a particular locality.

Background

2. The Committee resolved at their meeting of the 27th of May 2010 that the Council be recommended to agree to the adoption with effect from the 1st of September 2010, of the amended Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982, as a consequence of the coming into force of Section 27 of the Police and Crime Act, 2009, on the 6th of April 2010, giving local authorities in England and Wales the power to regulate sexual entertainments venues as sex establishments and the Director of Corporate Resources be authorised to agree any consequential amendments to the Constitution and arrangements for the publication of the required notices to bring this matter into effect. It was also resolved that following consultation with interested parties regarding the appropriateness of sex establishments in particular localities and on clarification of the fee to be charged. There should be a special meeting of the Licensing and Safety Committee to consider these issues.
3. The current fee charged for sex establishments is £3810.00. On the 28th of May the Licensing Officer discussed the issue of the fees to be charged in relation to Sex Establishment Venues with the Group Accountant and the Director of Corporate Resources. It was agreed to propose that a Fee of £3810 should be set for the licence of Sex Establishments.
4. The adoption of the amended schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 allows the council to designate the number of Sex Establishments they would grant in a specific area of the Borough and that number may be nil.
5. Following the Committee meeting of the 27th of May 2010, the Licensing Officer wrote to Directorate of the Urban Environment (Planning and Environmental Health), The West Midlands Police, and Children's Services for their suggestions in relation to this issue.

6. Children's Services commented that the premises should not be situated near schools, places of worship and preferably not in a town centre as many young people congregate around at night particularly near precincts and places such as Kentucky Fried Chicken or in the vicinity of Castle Gate near Cinema's, Pizza Hut and Bowling. They also brought into question how vigorously the age of dancers at the premises would be vetted.
7. At the time of writing this report no further responses have been received from any other agencies
8. Currently there are two lap-dancing clubs in the Borough The Bandit Queen Gentlemen's Club, 93 King Street, Dudley and Heaven Night Club, Old Savoy Buildings, Lower High Street, Stourbridge.
9. This report has a direct link to the Council's priority for safety as the principal reason for submission is safeguarding the public.

Finance

10. The Council is only permitted to set licensing fees up to the amount that can be ascertained as being the cost of administering the licensing function. (This does not apply to liquor licensing fees, which are set by the Secretary of State for Culture, Media and Sport). The additional income to be received into the Council following the changes laid out in this report (£7,260 per annum) does not cause the Council to contravene this rule. It is not possible for the Council to substantiate individual fees in relation to time and costs incurred; therefore fees are set appropriately to the level of service provided. As described in paragraph 11, Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 states that an application for the grant, renewal, variations or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authority.
11. The budget for 2010/11 was presented to the Licensing and Safety Committee on 24th February 2010, where approval was given to an increase in respect of the fees for licences and consents (other than those where the fees are imposed by statute in respect of liquor licensing, gambling machine permits and lotteries and amusements) of 2%. This included an increase in the cost of renewing sex establishment licences from £3,734.85 to £3,810.00 (which is still significantly lower than the 09/10 renewal charges set by both Birmingham City Council and Sandwell MBC of £4,970 and £4,680 respectively).

Law

12. 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.
13. 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.

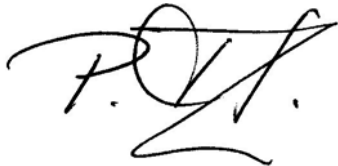
14. The council must publish a notice that it has passed a resolution to adopt the amendments made by Section 27 paragraph 2(2) to the Police and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 for two consecutive weeks in a local newspaper. The first publication 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.
15. Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 states that an application for the grant, renewal, variations or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authority.
16. Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 allow the licensing authority to refuse applications on grounds related to an assessment of the "relevant locality". A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.
17. The Home Office Guidance to Sex Establishments states it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not appropriate locations for a sex establishment or a particular number of establishments. Nevertheless, all applications must be considered on their individual merits.

Equality Impact

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

Recommendation

21. That the Committee consider the proposed fee in relation the licensing of sex establishments and whether it considers it is appropriate to designate the number of applications for a sex establishment it will grant in a relevant locality in the Borough.

A handwritten signature in black ink, appearing to be 'J. Elliott', written in a cursive style.

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DIRECTOR OF CORPORATE RESOURCES

Contact Officer: Mrs. J. Elliott 5377
Telephone: 01384 815377
Email: janetelliott@dudley.gov.uk

List of Background Papers