

Report to Licensing
14 June 2012
Report of Head of citywide services
Subject Sexual entertainment venues

Item
7

Purpose

To consider the results of public consultation asking whether the council should adopt the provisions of section 27 of the Policing and Crime Act 2009, which provide for the regulation of sexual entertainment venues (e.g. lap dancing clubs).

Recommendation

That Members resolve to adopt with effect from 27 July 2012 the amendments made to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by section 27 of the Policing and Crime Act 2009 and to delegate to the Head of Law and Governance the power to take any such further or additional steps and decisions as may be necessary to implement the committee's decision.

Corporate and service priorities

The report helps to meet the corporate priority A safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

The financial consequences of this report are nil

Ward/s: All wards

Cabinet member: Councillor Driver – Environment and neighbourhoods

Contact officers

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Background documents

None

Background

1. At the meeting of the committee on 15 September 2011, members considered a report concerning carrying out public consultation on whether the provisions introduced by section 27 of the Policing and Crime Act 2009 should be adopted by the council.
2. Members resolved to:
 - consult with the public on whether the provisions introduced by section 27 of the Policing and Crime Act 2009 should be adopted by the council.
3. The public consultation was carried out in March and April via an online survey and was publicised in the spring edition of the council's Citizen magazine.

Consultation

4. The results of the online survey are attached at Appendix A. Written representations, including three petitions, requesting that controls of sexual entertainment venues be adopted were also received. These are attached at Appendix B.
5. A member raised concerns over the online consultation, specifically about the survey being completed more than once from a single computer, i.e. 'multiple responses'. This was investigated by the council's internet & intranet co-ordinator who advised that:

"I have looked at the results received so far and there does seem to be multiple responses received from the same computer IP address (ie a unique number which identifies an individual's computer. In the case of an organisation on a network, the IP address will be the same for each PC).

When multiple responses are received for a survey with the same IP address, it may be that a single person is responding multiple times, or that multiple people in an organisation are accessing the survey from within that organisation's computer network.

When a survey is set up there are two settings to choose from that manage how many times a survey can be responded to from a single computer:

1. *allows only one response per computer*
2. *allows multiple responses per computer.*

Option 1 solves the problem of someone wanting to respond multiple times from one computer, but would be too restricting in a house with one computer, a library, an internet cafe or in an office where there is hot-desking, for example.

So we use setting 2, allowing more than one person to respond from the same computer, but at least in the analysis of the results we can see from which IP addresses the responses have come from and therefore can make adjustments accordingly”.

6. Having analysed all of the ‘multiple responses’ received in respect of the survey, and removing these from the survey results, the outcome would be unaltered – the majority of respondents requested that the legislation be adopted.

Adoption

7. The city council has already adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 which provides for the licensing of sex shops and sex cinemas. However, a further resolution is necessary before the provisions to control sexual entertainment venues introduced by section 27 of the Policing and Crime Act 2009 will have effect.
8. Firstly, the authority must pass a resolution specifying that the amendments made to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by section 27 of the Policing and Crime Act 2009 shall apply to their area and the day on which it shall come into force. The specified date must be more than one month after the day on which the resolution was passed.
9. A public notice then has to be published for two consecutive weeks in a local newspaper confirming that a resolution has been passed. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force.
10. The council’s legal providers have advised that the specified date be six weeks from the day on which the resolution was passed, i.e. 27 July 2012.

Transitional provisions

11. The ‘transitional period’ period will last for 12 months beginning with the date that the local authority resolves that Schedule 3 as amended by the 2009 Act will come into force in their area. (‘the 1st appointed day’). Six months following the 1st 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’.

Existing operators

12. To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a 2003 Act licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later.

13. For the purposes of the transitional period a “2003 Act Licence” means a premises licence or club premises certificate under which it is lawful to provide relevant entertainment.

New applicants

14. New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence.

Determining applications received on or before the 2nd appointed day

15. Applicants will be able to submit their application for a sexual entertainment venue from the 1st appointed day onwards. As the appropriate authority is able to refuse applications having regard to the number of sex establishments they consider appropriate for a particular locality, all applications made on or after the 1st appointed day but on or before the 2nd appointed day shall be considered together. This will 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.
16. No applications shall be determined before the 2nd appointed day. After the 2nd appointed day the appropriate authority shall decide what if any licences should be granted. If a new applicant 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, up to which point they will be allowed to continue to operate under their existing premises licence or club premises certificate.

Determining applications received after the 2nd appointed day

17. Applications made after the 2nd appointed day shall be considered when they are made but only once all applications made on or before that date have been determined. However, reference to determination here does not include references to the determination of any appeal against the refusal of a licence.
18. As with applications received on or before the 2nd appointed day, licences granted to new applicants shall take effect immediately and licences granted to existing operators shall take effect from the 3rd appointed day or, if later, the date the application is determined.

Policy

19. While local authorities are not required to publish a licensing policy relating to sex establishments they can do so if they wish as long as it does not prevent any individual application from being considered on its merits at the time the application is made.
20. A licensing policy for sex establishments might include statements about where local authorities are likely to consider to be appropriate or inappropriate locations for such venues. This could be set out in general terms by reference to a particular type of premises, such as a school or place of worship, or more specifically, by reference to a defined locality.
21. Local authorities could also use a licensing policy to indicate how many sex establishments, or sex establishments of a particular kind, they consider to be appropriate for a particular locality.
22. Local authorities can also produce different policies or a separate set of criteria for different types of sex establishments. This might be appropriate to reflect distinctions between the operating requirements of different sex establishments or the fact that the location that a local authority considers appropriate for a sex shop may be different to that of a sexual entertainment venue.
23. A licensing policy relating to sex establishments will be prepared for members consideration at a future meeting of the committee.