

**MINUTES OF A MEETING OF THE LICENSING COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 29 NOVEMBER 2010**

Present: Councillor Allen (Chair), Thacker (Vice Chair), Dobbs, Todd, Swift, Saltmarsh, Khan and Stokes

Officers in attendance: Adrian Day, Licensing Manager
Darren Dolby, Regulatory Officer
Gemma George, Senior Governance Officer

1. Apologies for Absence

Apologies were received from Councillors Peach, Winslade and Nawaz.

Councillor Stokes attended as substitute.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of the Meeting held on 22 June 2010

The minutes of the meeting held 22 June 2010 were approved as an accurate and true record.

4. Licensing of Sexual Entertainment Venues

The Committee received a report which outlined changes to the law relating to the licensing of sexual entertainment venues.

There had been recent changes in legislation brought about by Section 27 of the Policing and Crime Act 2009 which introduced a new category of sex establishment called a 'sexual entertainment venue'. These changes would allow local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the 1982 Act.

Section 27 gave local authorities more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers were not mandatory and would only apply where they were adopted by local authorities. Where adopted, these provisions would allow local authorities to refuse an application on potentially wider grounds than was permitting under the Licensing Act 2003 and would give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

From April 2010, a change in the law was introduced by the Policing and Crime Act 2009. This change gave local communities a stronger say over the establishment and location of lap dancing clubs and similar establishments in their area. It also gave local authorities more power to reject applications for lap dancing clubs in line with other sex establishments, such as sex shops and sex

cinemas. This change in legislation was aimed at recognising that local people had legitimate concerns about where lap dancing clubs were located.

Lap dancing clubs were, at the current time, regulated under the Licensing Act 2003 and required a Premises Licence under Section 1 of the 2003 Act. There were no special provisions made within the 2003 Act for lap dancing clubs and therefore applications were submitted in the same way as a pub or a restaurant. If an application was submitted to the Licensing Authority for a Premises Licence, the only mandatory conditions that applied related to the sale of alcohol. It was only if relevant representations were made by either an interested party or a responsible authority that the Authority could, either following mediation or a hearing, impose other conditions or reject the application.

The powers available to local authorities to control the establishment of lap dancing premises or to impose conditions on their licences was therefore very limited. Following a Department of Culture, Media and Sports (DCMS) Consultation with local authorities, the majority of respondents felt that their current powers to regulate lap dancing clubs were inadequate and they therefore wanted the Government to intervene.

Going forward, lap dancing venues were to be regulated under the Local Government (Miscellaneous Provisions) Act 1982. It would be up to each local authority to decide whether the provisions of the 1982 Act should apply in their area, so it would therefore be possible that the new legislation would not apply all over England and Wales. However, those local authorities that did resolve to adopt Schedule 3, as amended, would be able to impose a wider range of conditions on lap dancing clubs. For example, opening hours, adverts and the visibility of the interior to passers by.

Whilst Peterborough City Council had already adopted Schedule 3 to the 1982 Act for the licensing of sex shops, a further resolution was necessary before the provisions introduced by Section 27 would have any effect in the local authority area.

Members were invited to comment on the report and the proposals contained therein and the following issues and observations were highlighted:

- Members sought clarification as to whether, at the current time, the number of lap dancing clubs in Peterborough could be limited. Members were advised that at the current time the numbers could not be limited, however, if the legislation was adopted, the local authority may decide on the number of sex establishments or the number of a particular kind of sex establishment it considered appropriate for the local authority area or specified area e.g. the city centre.
- Members questioned what the current licence fee was for sex shops. Members were advised that, at the current time, the licence fee for sex shops was £2080 per annum. Members were further advised that if the legislation was adopted then the local authority would have the ability to set the licence fees for sexual entertainment venues, as they did for sex shops.
- A query was raised regarding whether lap dancing venues and sex shops were subject to site visits and inspections. Members were

informed that if a complaint was received with regards to a specific site than a visit would be undertaken and the premises inspected.

- Clarification was sought as to the current process for issuing a licence to a lap dancing club. Members were advised that currently, lap dancing premises were regulated under the Licensing Act 2003 and therefore if an application was submitted it would be looked at in the same way as a pub or restaurant. The changes in legislation would allow for greater regulating powers and the local authority would be able to refuse to grant or renew a licence on the grounds that such a club would be inappropriate having regard to the character of the area, the use of other premises in the area, e.g. schools and churches, and they may also have regard for the number of similar premises in the area if the application is equal or exceeds the number that the local authority considers to be appropriate. Local residents would also be able to make written representation to the local authorities on these grounds, rather than being limited to make representations based on the four licensing objectives found in the Licensing Act 2003. Any contested application would be considered before the Licensing Committee.
- Members sought clarification as to the meaning of 'grandfather rights'. Members were informed that this simply meant that any existing premises would have to apply for a licence under the new regime if they wished to continue trading. A transitional period of 12 months would be given to existing lap dancing clubs to apply for a new licence. Premises which failed to apply for a licence within this timeframe would face closure.

After further debate, the Committee positively commented on the proposed amendments.

RESOLVED

The Committee received the report on the Licensing of Sexual Entertainment Venues and recommended:

1. to Full Council to resolve to formally adopt the amendments to the provisions of the Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009;
2. to Full Council to approve the delegation of functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to the Licensing Committee or the Executive Director of Operations as outlined in Appendix A to the committee report; and
3. in recommending the adoption of the amendment, officers to prepare a draft policy for consultation regarding the regulation of such establishments and report back to the Licensing Committee prior to the adoption of the licensing provisions

Reasons for the Decision:

To not adopt the amendment and maintain the current status quo would allow prospective sexual entertainment venues to take advantage of the perceived loophole in the Licensing Act 2003. The Authority would also have no legal powers to enforce or charge a licence fee for sexual entertainment venues.

The adoption of the provisions introduced by Section 27 would give local authorities more powers to control the number and location of lap dancing clubs

and similar venues in their area. These powers were not mandatory and would only apply where they were adopted by local authorities. Where adopted, these provisions would allow local authorities to refuse an application on potentially wider grounds than was permitted under the Licensing Act 2003 and would give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

7.00pm – 7.20pm
Chairman