

**Manchester City Council
Report for Resolution**

Report To: Licensing and Appeals Committee –29 November 2010

Subject: Proposed Regulation of Sexual Entertainment Venues

Report of: Head of Street Management and Enforcement

Summary

The report proposes the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions Act 1982) as amended by section 27 (of the Policing and Crime Act 2009) which will allow local authorities to regulate lap dancing clubs and similar venues.

Recommendations

1. That the Committee recommend that the Council adopts Schedule 3 of the Local Government (Miscellaneous Provisions Act 1982) as amended by section 27 (of the Policing and Crime Act 2009) with effect from 9 January 2011.
 2. If the Council adopts the above, that a further report be presented to the Licensing and Appeals Committee on 24 January 2011 setting out the proposed sexual entertainment draft policy for public consultation together with information regarding procedures and timescales relevant to the implementation of the adopted provisions.
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Wards Affected:

City-wide

Community Strategy Spine	Summary of the contribution to the strategy
Performance of the economy of the region and sub region	Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The adoption of the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 would allow the authority a greater level of control in order to prevent regulated premises being located in areas where they might have a detrimental impact. The appropriate location and responsible management of such premises play an essential role in enabling a positive contribution to the economy of the region and sub-region.
Reaching full potential in education and employment	
Individual and collective self esteem – mutual respect	
Neighbourhoods of Choice	The adoption of the legislation will allow greater control of licensed premises at a local level.

Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

None

Financial Consequences – Capital

None

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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

Manchester City Council Licensing Policy 2008-2011
Licensing Act 2003
Policing and Crime Act 2009
The Home Office Guidance for England and Wales in respect of Sexual
Entertainment Venues

1 Introduction

- 1.1 The Local Government (Miscellaneous Provisions) Act 1982 provides the legislative framework in relation to the licensing of sex establishments. The current definition of sex establishment includes sex shops and sex cinemas. Section 27 of the Policing and Crime Act 2009 introduces a new category of sex establishment called 'sexual entertainment venue', which will allow local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. The new powers do not have automatic effect and only apply where they have been adopted by the local authority.
- 1.2 Following adoption by the local authority Section 27 of the Policing and Crime Act gives local authorities more powers to control the number and location of lap dancing clubs and similar venues in their area. Adoption of the provisions allows local authorities to consider a wider range of issues than is permitted under the Licensing Act 2003 and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

2 Sexual Entertainment Venues and Relevant Entertainment

- 2.1 A sexual entertainment venue is defined as:-

"A premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer unless an exemption applies."

- 2.2 There are 2 categories of 'relevant entertainment':

- live performances, and
- live displays of nudity.

- 2.3 In each case, they must be of such a nature that, ignoring financial gain, they must be reasonably assumed to be provided solely or principally for the purposes of sexually stimulating any member of the audience whether by verbal or other means.

- 2.4 This category will primarily encompass lap dancing premises. However, the provisions would also include displays of striptease, topless bars, or other premises that provide entertainment intended for sexual stimulation.

3 The Process of Adoption

- 3.1 The adoption procedure is through a resolution of the authority and so is a matter for the full council. In considering such a resolution Council may wish to have regard to the recommendation of the Licensing and Appeals Committee.
- 3.2 If the Council adopts the new provision it must state the date upon which the regime is to come into effect. This date must be at least one month after the resolution.

- 3.3 Following any such resolution the Council is required to publish a notice in accordance with the Act. The notice must state the general effect of the provisions adopted i.e. explain that it will require sexual entertainment venues to apply for a licence, that there will be an opportunity for objection to grant, renewal and transfer of licences and that licences may be granted, granted with conditions or refused.
- 3.4 Should the Council approve the adoption of the new provisions on 8 December 2010, it is proposed that a further report be presented to the Licensing and Appeals Committee on 24 January 2011 to set out the proposed draft policy for public consultation. The Policy will outline the City Council's approach to considering applications for licensing sexual entertainment venues.
- 3.5 If the new provisions are adopted, a further report will be provided to the Licensing and Appeals Committee explaining the process and timescales for implementation.

4 Relevant Considerations to Adoption

- 4.1 Members will be aware that the Provisions of Services Regulations 2009, Regulation 14, provides that any requirement, which obliges a person or organisation to hold a licence or to obtain some sort of approval before providing a service, must meet certain conditions. The conditions are that:
- (a) the authorisation scheme does not discriminate against a provider of the service,
 - (b) the need for an authorisation scheme is justified by an overriding reason relating to the public interest, and
 - (c) the objective pursued cannot be attained by means of a less restrictive measure, in particular because inspection after commencement of the service activity would take place too late to be genuinely effective.
- 4.2 In respect of these points, the following may be relevant considerations in the decision as to adopting the provisions:
- Adoption would widen participation under the licensing/regulatory process beyond that currently allowed by the Licensing Act 2003, which confines participation to 'interested parties'.
 - It would broaden the grounds of debate from the narrow licensing objectives of the Licensing Act 2003 to a wider set of considerations allowed by the new legislation, in particular taking into consideration the area.
 - It permits the authority more spatial control than afforded by the planning regime.
 - It enables the authority to impose operational conditions on the premises for the protection of staff, customers and the wider community.

- If the Council chooses not to adopt the provisions by 6 April 2011, then it must as soon as is reasonably practicable consult local people about whether it should resolve to adopt the provisions.
- 4.3 On the other hand, adoption imposes extra regulatory burdens on operators and administrative burdens on the authority, for a system of control, which may or may not be sought by the wider community.
- 4.4 Having regard to the above, it is proposed that the Licensing and Appeals Committee makes a recommendation to Council to adopt Schedule 3 of the Local Government (Miscellaneous Provisions Act 1982) as amended by section 27 (of the Policing and Crime Act 2009) with effect from 9 January 2011. The minutes of the Licensing and Appeals committee will be reported to Council for approval and formal adoption.

5 Recommendations

1. That the Committee recommend that the Council adopt Schedule 3 (of the Local Government (Miscellaneous Provisions Act 1982) as amended by section 27 (of the Policing and Crime Act 2009) with effect from 9 January 2011.
2. If the Council adopts the above, that a further report be presented to the Licensing and Appeals Committee on 24 January 2011 setting out the proposed sexual entertainment draft policy for public consultation together with information regarding procedures and timescales relevant to the implementation of the adopted provisions.

6 Contributing to the Community Strategy

(a) Performance of the economy of the region and sub region

Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The adoption of the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 would allow the authority a greater level of control in order to prevent regulated premises being located in areas where they might have a detrimental impact. The appropriate location and responsible management of such premises play an essential role in enabling a positive contribution to the economy of the region and sub-region.

(b) Reaching full potential in education and employment

(c) Individual and collective self esteem – mutual respect

(d) Neighbourhoods of Choice

The adoption of the legislation will allow greater control of licensed premises at a local level.

7 Key Policies and Considerations

(a) Equal Opportunities

(b) Risk Management

(c) Legal Considerations

The adoption of the relevant provisions would be subject to the provisions in the Policing and Crime Act 2009 and the Local Government (Miscellaneous Provisions) Act 1982 and any relevant regulations.