

Meeting	Licensing Committee
Date	26 November 2012
Subject	Sex Entertainment Venue Licensing
Report of	Interim Director of Environment, Planning and Regeneration
Summary	To report on the outcome of the formal consultation on whether to adopt Section 27 of the Policing and Crime Act 2009 and introduce a licensing regime for “Sexual Entertainment” Venues.

Officer Contributors	Emma Phasey – Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not Applicable
Function of	Council
Enclosures	Appendix 1 - Responses to consultation into adoption of Section 27 of the Policing and Crime Act 2009.
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1. RECOMMENDATIONS

- 1.1 That the Licensing Committee approve the adoption of Section 27 of the Policing and Crime Act 2009 and recommend its adoption by the Council at the meeting on 22nd January 2013

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decision by Council on 17th April 2012 to approve amendments to the council constitution including moving a number of functions (including functions relating to sex establishment functions) to the Licensing Committee
- 2.2 Decision of the Licensing Committee on 11 July 2012 to consult with local people in relation adoption of section 27 of the Policing and Crime Act 2009.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The regulation of sex entertainment venues is important in relation to the prevention of crime, disorder and public nuisance, protecting the vulnerable and public safety. These contribute to the corporate priority of 'A Successful London Suburb' and the strategic objective to "ensure that our town centres are vibrant places where business can thrive", thereby helping to ensure that the Borough is a prosperous place where people want to live and ensuring it remains clean and safe.

4. RISK MANAGEMENT ISSUES

- 4.1 Failure to adopt the legislation could mean that the Council will not have the appropriate controls in place to administer and enforce the specific regulations in relation to Sexual Entertainment Venues. Otherwise, such premises will only be regulated through the more general Licensing Objectives of the Licensing Act 2003.
- 4.2 Controls over the number or location of premises or conditions on the provision of Sexual Entertainment cannot be imposed without adopting the legislation.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 When considering applications and representations, only issues provided for in the Local Government (Miscellaneous Provisions) Act 1982 and the authorities' policy will be taken into account. This will ensure a consistent approach is adopted. Every application under the terms of the policy will be considered on its own merits regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Lap dancing venues are currently licensed under the provisions of the Licensing Act 2003 and as such fees are set by statute. If the Council adopts the provisions to licence Sexual Entertainment venues, fees will be set by the Council having regard to the cost of implementation, administration and enforcement of the legal requirements. The fee will be set by Council as part of the annual fee setting process.

7. LEGAL ISSUES

- 7.1 This Authority has adopted the provision of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (Licensing of sex shops and sex cinemas)
- 7.2 Section 27 of the Policing and Crime Act 2009 makes amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the Council has to consider whether to adopt the amendments to Schedule 3 of that Act.
- 7.3 Section 2 of Part II of the 1982 Act provides for the adoption of the provisions contained in schedule 3, which allows the Council to control sex establishments in their area, by way of a licensing regime. .
- 7.4 Where a Local Authority does not make a resolution under section 2 within the period of 1 year, beginning with the coming into force of the legislation, the Local Authority must, as soon as is reasonably practicable, consult local people about whether the local authority should make such a resolution. If the Local Authority does not make a resolution to adopt the new provisions then sexual entertainment venues would be able to operate without the requirement for any kind of Sexual Entertainment Licence.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution, Part 3 – responsibility for functions, section 2 responsibility for council functions.

9. BACKGROUND INFORMATION

- 9.1 The increase nationally in the number of lap dancing clubs since the implementation of the Licensing Act 2003 has become a concern for many local communities. Under this licensing regime any representations made against premises licence applications for venues providing lap dancing and similar entertainment can only be based on the four licensing objectives, namely:

- The prevention of crime and disorder;

- Public safety;
- The prevention of public nuisance
- The protection of children from harm.

As a result, licensing authorities cannot consider any objections made by local people and businesses that are based on matters outside the scope of the four objectives noted above. For example, such as whether a lap dancing club would be appropriate, given the character and locality of the area in which it is proposed to be situated.

- 9.2 Sex shops, in contrast, are licensed under the Local Government (Miscellaneous Provisions) Act 1982. This regime gives the Licensing Authority a wider discretion in determining whether to grant or refuse licences (including the statutory grounds for refusal), a power to set a limit on the number of premises that may be suitable for a particular locality, greater flexibility on applying licence conditions and the ability to accept representations from a wider scope of the community. Sex shop licences are only valid for up to a year at a time, meaning there is scope for regular review.
- 9.3 Currently there are no sex shops or sex cinemas in the London Borough of Barnet and there have not been any applications for premises licences for venues to provide lap dancing or similar entertainment
- 9.4 The Local Government (Miscellaneous Provisions) Act 1982 was amended through the Policing and Crime Act 2009, so as to create a new category of “sex entertainment venue” (SEV) licence that would include lap, table and pole dancing. This allows local authorities to have more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area
- 9.5 Section 27 of the Policing and Crime Act came into effect on 6th April 2010. Following this date Local Authorities had 1 year to resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in their area. Where a local Authority did not make a resolution within the period of 1 year the Local Authority must, as soon as is reasonably practicable, consult local people about whether the local authority should make such a resolution.
- 9.6 Although the London Borough of Barnet has already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by Section 27 Policing and Crime Act 2009 will have effect in this area.
- 9.7 In summary, the amendments to Schedule 3 to the 1982 Act will, in particular:
- allow local people to oppose an application for a Sex Establishment licence if they have legitimate concerns that a Sexual Entertainment Venue (SEV) would be inappropriate given the character of an area, for example, if the area was primarily residential.

- require licences to be renewed at least annually, at which point local people will have the opportunity to raise objections (if any) with their local authority.
 - allow a local authority to reject a licence application if they believe that to grant a licence for a SEV (including a lap dancing club) would be inappropriate given the character of a particular area.
 - allow a local authority to set a limit on the number of SEVs that they think is appropriate for a particular area.
 - allow a local authority to impose a wider range of conditions or to refuse an application on wider grounds than they are currently able to under the Licensing Act 2003.
- 9.8 At its meeting on 11 July 2012, the Licensing Committee instructed the Interim Director of Environment, Planning and Regeneration to consult in relation to the adoption of the above legislation.
- 9.9 The consultation document was sent to the police, all Members, a number of local residents groups and was available on the Council's web site.

Consultation response

- 9.10 Consultation commenced in July and closed on the 23 October. A total of 46 responses were received. 68% were in favour of the adoption and 17% were not. 15% of respondents were unsure. It should be noted that of those who were not in favour there is some evidence in the comments of confusion over what not adopting would mean. E.g. the comments suggest the consultee thought that not adopting Section 27 would mean no such venues could be within the London Borough of Barnet.
- 9.11 Attached as Appendix 1 is the full set of consultation comments received. In summary, those supporting the proposal believe it will give the London Borough of Barnet more power to regulate these premises and local residents more of a say.
- 9.12 Should the London Borough of Barnet choose to adopt Schedule 3 as amended by section 27, the procedure is as follows:
- Firstly, the local authority must pass a resolution specifying that the amendments made by section 27 to Schedule 3 shall apply to their area and the day on which it shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed. The proposed date for the adoption to take effect is 1st March 2013.
 - The local authority shall also publish a notice that they have passed the resolution for two consecutive weeks in a local newspaper that is circulated in their area. 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 local authority's area and the notice should state the general effect of Schedule 3.

10. LIST OF BACKGROUND PAPERS

- 10.1 Sexual Entertainment Venues, Guidance for England and Wales
Home Office – March 2010

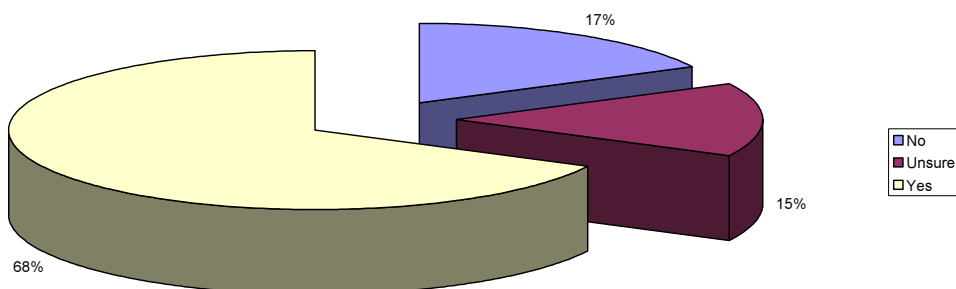
Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	BH

Appendix 1

Responses to consultation into adoption of Section 27 of the Policing and Crime Act 2009.

Question 1. Are you in favour of the Council adopting Section 27 of the Policing and Crime Act 2009?	
No	8
Unsure	7
Yes	31

Are you in favour of the Council adopting Section 27 of the Policing and Crime Act 2009?



Q2. Please could you provide an explanation for your response

Are you in favour of the Council adopting Section 27 of the Policing and Crime Act 2009?	Please could you provide an explanation for your response:
Yes	Communities should have more power over their environment
Yes	
Yes	I am in favour of the council having more powers to control these establishments
Yes	Surely lap dancing clubs are sex entertainment venues.
Yes	I feel that this is not a suitable premises to have on any "High Street", and would be opposed to any such premises opening up there.
Yes	
Yes	
Yes	

Yes	Lapdancing etc venues plainly are 'sex entertainment' venues, and I'm uncomfortable with many aspects of this. I would be strongly in favour of certain strategies which sought to enliven the evening economy in the borough - most High Streets and town centres in Barnet are currently disappointingly dull after office hours. We need to get people of all types out of their houses: children, families, old people, women. Yes, most of Barnet is pretty residential, but I don't see this as contradicting a goal of vibrancy etc; enlivening places doesn't have to revolve exclusively around alcohol (though boozing is also tremendous fun, and has its place). In the evening, there simply aren't enough people around, and so our public areas become rather intimidating for certain social groups. We currently fail, in other words, to foster social inclusivity in public space at these times. Sex entertainment venues, I believe, would only amplify the problem of the exclusivity of the local evening economy. So, I'll back any move to give councils the power to regulate their presence further. There may be some suitable locations for such establishments, and this needs careful consideration; at the very least, the default position shouldn't be that they can simply open wherever they like.
Yes	The Sex industry notoriously is involved in human trafficking, crime and degradation of a healthy community lifestyle. Women are objectified as sex slaves as it is overwhelmingly women who work in these industries. It destroys communities, it is inappropriate for many people because they have families, morals and do not want this kind of filth on their door step.
Yes	The proposal is to adopt a power to licence Sexual Entertainment venues. That seems entirely appropriate in a residential Borough such as Barnet. The power itself does not prevent a proposed operator from applying for a licence, but sets out the criteria on which objections may be based, which is a balanced approach.
Yes	We need to ensure Barnet council have all the powers it needs to ensure such "businesses" can be stopped and criminalised asap. We already have some high profile raids which were uncovered by the police in Barnet and in particular Hendon where they closed down brothels, and we need to ensure the Council has all the tools available to it to ensure such businesses are not conducted within Barnet which is a highly dense and family oriented residential suburb.
Yes	To ensure maximum local authority control, & resident input, to prevent establishments opening in unsuitable areas
Yes	Because I think they should have greater power to control whether we have 'sexual entertainment' in the Borough.
Yes	It would provide effective safeguarding protection for those that are vulnerable in society, such as children, young people and those who at risk of sexual exploitation.
Yes	I believe that lap-dancing clubs are bad for the high street and its local area so it would be a good thing if locally accountable council members were able to restrict their existence and location.
Yes	
Yes	
Yes	
Yes	
Yes	I think these kind of establishments should be regulated more thoroughly.
Yes	Because I would like to live in a safer environment, borough with my family and neighbours free from crime and prostitution.
Yes	I feel the Council need additional powers to ensure that these venues do not change the safety levels of residential communities

Yes	I do not believe that sex establishments / lap dancing clubs etc are appropriate to a borough such as barnet which is a highly family / residential area with many schools. Additionally the presence of these venues can make women and children feel uncomfortable in their own communities.
Yes	Provides flexible means of controlling venues in the light of local concerns so long as applications are considered in the light of all available evidence and moral objections are considered only in so much as they might influence feelings of safety around venues
Yes	I am deeply concerned by the sexualisation of our society. Many girls involved in the sex industry are trafficked into this country and engaged in such activities against their will. Even where the girls are choosing to work in such establishments freely, their performances bring out the worst in those watching. The fewer of such venues the better.
Yes	I think it would give the council greater powers to regulate and control SEVs. It also allows local opinion to be heard and represented in the decision making process in a clearer way.
Yes	
Yes	It is a different category of entertainment and has an impact on communities and family life, it should be more closely regulated than normal entertainment venues
Yes	Barnet does not need sex-clubs or lap-dancing clubs. They exist a tube ride away in the centre of the city.
Yes	We note that the proposal is to adopt a power to licence Sex Entertainment Venues. This seems to us entirely appropriate in a residential borough such as the London Borough of Barnet, and particularly relevant to the wholly residential conservation area that we represent; and that the power itself does not prevent a proposed operator from applying for a licence but sets out the criteria on which objections may be based. This is a proportional approach which we wholly support.
Unsure	don't understand enough about it to make that decision. the blurb at the beginning is insufficient.
Unsure	
Unsure	The information you have given does not explain at all what the consequence of the Council "adopting Section 27" would be. Does it mean it's easier to control sex entertainment venues, or that there may be more of them? I have no idea!
Unsure	
Unsure	
Unsure	I'm not clear what Schedule 3 which you mentioned on the previous page offered. If adopting this new policy implies that there is more likelihood of having (more) lap dancing in the area then I am very opposed to it. Allowing more choice will eventually allow more liberal attitudes towards sex shops and lap dancing as young people see sex more and more as a sport or commodity and have not made a connection to a potential link (and strong link in my opinion) between sexual liberalism and a decay in the moral fabric of society.. I think the government is right to include lap dancing as sexual entertainment. As a psychotherapist I am concerned by the marginalisation of virtual sex activities such as lap dancing and its effect on people's ability to commit to healthy relationships.
Unsure	
No	
No	
No	Wouldn't like sex entertainment in this area
No	not necessary. Council are not moral guardians.

No	Barnet has several 'town centres' NONE of them would be suitable for Sex Establishments. Barnet is a conservative, family area. Have you completely lost your senses? We live here because we want to live in a nice family area not so our children and elderly family members can be subject to the intrusion of sex shops or bars.
No	I am not in favour of any form of sex entertainment, as this supports women exploitation and deforms healthy approach to sexuality in general.
No	
No	

** Please note the three comments highlighted in bold.

These all have stated that they do not want the London Borough of Barnet to adopt the legislation but have commented that they are not happy at all with sex entertainment venues. This suggests they may have answered "No" in Question 1 as they thought this meant no venues will be allowed.