



# Walsall Council

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## **REPORT OF THE HEAD OF PUBLIC SAFETY**

### **TO A MEETING OF THE LICENSING AND SAFETY COMMITTEE**

**WEDNESDAY 21<sup>ST</sup> JULY 2010 at 6.00PM**

### **POLICING AND CRIME ACT 2009, SECTION 27**

### **SEXUAL ENTERTAINMENT VENUES.**

#### **1.0 Purpose of Report**

- 1.1 To advise members of the introduction of Section 27 of the Policing and Crime Act 2009 which allows local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 19882. These premises will be known as sexual entertainment venues.

#### **2.0 Recommendations**

- 2.1 That Members consider the report and determine whether they wish to recommend to Council adoption of Section 27 of the Policing and Crime Act 2009.
- 2.2 If adoption is agreed, do the committee wish for formal consultation to be undertaken prior to any policy being formulated and subsequently recommended for approval to Council?

#### **3.0 Background**

- 3.1 Section 27 introduces a new category of sex establishment called a sexual entertainment venue.
- 3.2 Section 27 gives local authorities more powers to control the number and location of sexual entertainment venues. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the Licensing Act 2003.
- 3.3 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue and 'relevant entertainment'.

- 3.4 A sexual entertainment venue is defined as ‘any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer’.
- 3.5 The meaning of relevant entertainment is ‘any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience. An audience can consist of just one person (e.g. where the entertainment takes place in private booths)
- 3.6 It is expected that the definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood.
- Lap Dancing
  - Pole Dancing
  - Table Dancing
  - Strip shows
  - Peep shows
  - Live Sex shows
- 3.7 The relevant entertainment must be provided for the financial gain of the ‘organiser’ or ‘entertainer’. The organiser means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most cases this will refer to the manager of the premises.
- 3.8 The following are not to be considered as sexual entertainment venues:
- Sex shops and sex cinemas
  - Premises which provide relevant entertainment on an infrequent basis. These are defined as:
    - (a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period.
    - (b) no such occasion has begun within a period of one month beginning with the end of the previous occasions.
    - (c) no such occasion has lasted longer than 24 hours.
  - premises or types of performance exempted by the Secretary of State.
- 3.9 If the Council has not made a resolution to adopt the provisions introduced by section 27 within one year of it coming into force it must as soon as is reasonably practicable, consult local people about whether they should make a resolution.

#### **4.0 Legal Implications**

- 4.1 Legal Services consulted - Yes.
- 4.2 Section 27 of, and Schedule 3 to, the 2009 Act came into force on the 6<sup>th</sup> April 2010 along with the Policing And Crime Act 2009 (Consequential Provisions) (England) Order 2010.
- 4.3 Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 enables a local authority to adopt by resolution the provisions in Schedule 3 of the Act for the licensing of sex establishments. As from 1<sup>st</sup> January 1983 Part 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act was adopted by Walsall MBC.
- 4.4 Although the Council has 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 will have effect.
- 4.5 To adopt Schedule 3 as amended by Section 27 the Council must pass a resolution that amendments made by section 27 to that Schedule, shall apply and the day on which it shall come into force. The specified day must be more than one month after the day on which the resolution was passed.
- 4.6 If adopted the Council shall publish a notice stating that they have passed the resolution for two consecutive weeks in a local newspaper that is circulated within the area. The first publication shall not be later than 28 days before the day specified in the resolution.
- 4.7 Whilst there is no statutory duty to do so, prior to deciding whether to pass a resolution, local authorities may, as a matter of good practice, wish to seek the views of local people and businesses. The Secretary of State also encourages local authorities to engage with known sexual entertainment venues at the earliest possible opportunity once a decision to adopt the provisions has been made, to ensure affected businesses are aware of what action they will need to take in order to comply with the regime.
- 4.8 If the Council does not make a resolution to adopt the provisions introduced by section 27 within one year of it coming into force (6<sup>th</sup> April 2010) it must as soon as is reasonably practicable, consult local people about whether they should make such a resolution.

#### **5.0 Financial Implications**

- 5.1 If the provisions of the Act are to be adopted a fee will be required to be set.

**6.0 Policy Implications**

6.1 Within Council policy - No.

**7.0 Equal Opportunities Implications**

7.1 None arising from this report.

**8.0 Environmental Impact**

8.1 None arising from this report.

**9.0 Contact Officer:**

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