

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT, CULTURE AND SPORT

TO:	LICENSING APPLICATIONS COMMITTEE		
DATE:	27 OCTOBER 2010	AGENDA ITEM:	4
TITLE:	REGULATION OF SEXUAL ENTERTAINMENT VENUES		
LEAD COUNCILLOR:	COUNCILLOR SWAINE	PORTFOLIO	ENVIRONMENT & SUSTAINABILITY
SERVICE:	ENVIRONMENT AND CONSUMER SERVICES	WARDS:	BOROUGHWIDE
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To review and approve the final policy, terms, fees and conditions regarding the licensing of Sexual Entertainment Venues.

2. RECOMMENDATION

- 2.1 That the proposed policy, terms, fees and conditions be adopted as detailed in the report.
- 2.2 That the power to determine applications for Sexual Entertainment Licences be delegated to the Head of Environmental Services for renewal applications when no objections have been received.

3. POLICY CONTEXT

- 3.1 Reading Borough Council adopted Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982, which came into effect on the 1 April 1983. This permitted the Council to regulate the number, location, operating terms and conditions for sex establishments (sex shops & sex Cinemas).
- 3.2 At present there are three licensed Sex Shops in Reading, two located on the Oxford Road and one located on Southampton Street.

3.3 Reading Borough Council has adopted the amendment to Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982, which came into force on the 1 September 2010. This permitted the Council to regulate the number, location, operating terms and conditions for Sexual Entertainment Venues

4. BACKGROUND

4.1 Section 27 of the Policing and Crime Act 2009, amends Schedule 3 to the Local Government (Miscellaneous Provisions) 1982, to allow the Licensing Authority to licence “Sexual Entertainment Venues” where “relevant entertainment” is provided before a live audience, for the financial gain of the organiser or the entertainer. “Relevant entertainment” means, “any live performance or any live display of nudity”, provided solely or principally for the purpose of stimulating any member of the audience.

4.2 Currently, the only control over sex encounter premises is the requirement to obtain a Premises Licence under the Licensing Act 2003, in the same way that a pub or nightclub must be licensed to sell alcohol and provide entertainment. No special provisions are made in the 2003 Act for Sexual Entertainment Venues. If an application is submitted to the licensing authority for a Premises Licence, the authority must grant the licence, subject to certain mandatory conditions.

4.3 If relevant representations are made by interested parties, e.g. residents or local businesses or a responsible authority, e.g. the Police or Fire Service of the area, then the authority can, following a hearing, impose other conditions or reject the application. Even then, under the current regime, it will only be able to do so where such a step is necessary to promote one of the four licensing objective set out in the Act as outlined below.

Licensing Objectives:

- Prevention of public nuisance;
- Prevention of crime and disorder;
- Public safety;
- Protection of children from harm.

4.4 The Licensing Act 2003 has already empowered local residents in general terms, but it is hard to make an effective objection against an adult entertainment venue, unless its operation can be shown to be undermining one of the four licensing objectives.

4.5 The new legislative controls available to the Licensing Authority will strengthen the role that local communities can play in deciding whether a Sexual Entertainment Venue is inappropriate for the locality.

4.6 The aim is to bring the licensing of sex encounter venues inline with other “Sex Establishments” such as “Sex Shops” and “Sex Cinemas” and to recognise that local people have legitimate concerns about where such premises are located.

5. THE PROPOSAL

5.1 Current Position

There is only one premises that currently operates as a full time lap-dancing club (Sugar Lounge), located in St Mary Butts. A number of other premises have also indicated on their original premises licence applications, that on occasions they would have some performance of nudity during some events.

5.2 The amendments to the Policing and Crime Act 2009, will permit licensed premises to hold some events without being licensed. Sub -paragraph (3) specifies that the following are not sexual entertainment venues for the purpose of the schedule.

- I) Sex shops and Sex cinemas.
- II) Any premises that at the time in question
 - (a) has not provided relevant entertainment on more than 11 occasions within the previous 12 months;
 - (b) no such occasion has begun within the period of one month beginning with the end of any previous occasion; and
 - (c) no such occasion has lasted for more than 24 hours.

5.3 Consultations have been carried out regarding the proposed policy, terms and conditions, a copy of which are attached at **Appendix I** to this report. A total of three responses were received regarding the proposals as outlined below:

- I) Royal Berkshire Fire and Rescue. Has commented on “**Schedule A, Regulations for Sex Establishments**”. The fire service are concerned that each premises owner, complies with the Regulatory reform (Fire Safety) Order 2005 (RRO). Schedule A, paragraph 20 has be amended accordingly. A copy is attached at **Appendix II** to this report
- II) Councillor Tickner has commented on “**The Sex Establishment Policy**”, requesting that two extra objectives be added paragraph 8.2. Public Safety and Prevention of Public Nuisance. Paragraph 8.2 has been amended incorporating these objectives. A copy of the representation is attached at **Appendix III** to this report.
- III) The Jazz Club (Abattoir Rd), has commented on:
 - (a) “**The Sex Establishment Policy**”, requesting that the policy should permit licences to be longer than one year. However, the Local Government (Miscellaneous Provisions) Act 1982 does not permit a licence to extend beyond one year.

- (b) **“Schedule A, Regulations for Sex Establishments”** requesting:
Within paragraph 2, that premises should be permitted to open until 6am on Fridays and Saturdays. Schedule A paragraph 2, has been amend incorporating the amended hours.
- (c) **“Schedule A, Regulations for Sex Establishments”** Within paragraph 3, that premises should be able to be used for other purposes when they are not being used as a Sexual Entertainment Venues. Schedule A, paragraph 3 has been amended accordingly.
- (d) **“Schedule A, Regulations for Sex Establishments”** Within paragraph 7, that DVD’s be permitted for entertainment as long as they do not show any form of nudity. Schedule A, paragraph 7 has been amended permitting the showing of recordings or broadcasts as long as no nudity or sexual acts are depicted.
- (e) **“Schedule A, Regulations for Sex Establishments”** Within paragraph 10, that the name of the licence holder not be available on a notice at the front door for customers to view. Schedule A, paragraph 10 has been amended removing this requirement.
- (f) **“Schedule A, Regulations for Sex Establishments”** Within paragraph 14, that the entrance or lobby, not form part of the restricted area. Schedule A paragraph 14 has been amended

The full details of the Jazz Club representation are attached at **Appendix IV** to this report.

5.4 The proposed fees are, £2,500 for an application for a grant or variation of a Sexual Entertainment Licence, and £2,000 for an application to renew a Sexual Entertainment licence. These fees have been calculated to recover the cost of implementing, licensing and enforcing the changes to the amendment to Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982.

5.5 Options Proposed

- i) That the Licensing Committee approve the policy, terms and conditions for Sexual Entertainment Venues.
- ii) That the Licensing Committee delegate to the Head of Environmental services power to renewal applications for Sexual Entertainment Venues when no objections have be received.
- iii) That the Licensing Committee approve the proposed fees for Sexual Entertainment Venues. £2,500 for an application to grant or vary and £2,000 for the an application to renew an existing licence

6. CONTRIBUTION TO STRATEGIC AIMS

6.1. Community Safety Implications

6.1.1 The Local Government (Miscellaneous provisions) Act 1982 permits the Authority to control the location, terms, and conditions, of premises that require a Sex Establishment Licence and when considering applications, the Authority can take into consideration matters such as:

- (i) The suitability of the applicant;
- (ii) The location of the proposed premises;
- (iii) The number and character of premises in a locality;
- (iv) The layout of the proposed premises;

6.2 Sustainability

6.2.1 Persons may apply for Sex Establishment Venue Licences as such premises do serve a section of the community. However, it is vital that mechanisms are available to allow control of such venues, in order to protect people and businesses, which are located in the vicinity.

7. COMMUNITY ENGAGEMENT AND INFORMATION

7.1 Community engagement in respect of licensing matters occurs on an ongoing basis through the NAGs, Pubwatch and Antisocial Behaviour Action Groups.

8. LEGAL IMPLICATIONS

8.1 Local Authorities have the ability to control the licensing of Sex Establishments by adopting Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982. Reading Borough Council has adopted Schedule 3 and has been licensing Sex Shops for some considerable time.

8.2 Paragraph 8, of Schedule 3 to the Act, provides that a Local Authority may grant or renew a licence for a Sex Establishment, on such terms and conditions and subject to such restrictions as may be specified.

8.2.1 Paragraph 9, of Schedule 3 to the Act, provides that a Local Authority may grant a licence for a period of one year or such shorter periods as it considers appropriate.

8.2.2 Paragraph 10, of Schedule 3 to the Act, provides that a Local Authority require an applicant to publish the fact of an application for a Sex Encounter Venue, in a local newspaper, not less than seven days after the day of application and notice of the application shall also be displayed for 21 days, beginning with the date of application, on or near the premises.

8.3 Paragraph 12 (3) of Schedule 3 to the Act, allows a Local Authority to refuse to renew or grant an application for a licence, on any one or more of the grounds (a) to (d) below.

- (a) That the applicant is unsuitable to hold the licence, by reason of having been convicted of an offence or for any other reason;
- (b) That if the licence were to be granted, renewed or transferred, the business to which it refers would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he had made the application himself;
- (c) That the number of Sex Establishments in the relevant locality at the time the application is made is equal to or exceeds the number, which the authority considers appropriate for that locality;
- (d) That the grant or renewal of the licence would be inappropriate having regard;
 - i) to the character of the relevant locality
 - ii) to the use to which any premises in the locality are put or
 - iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

8.4 Paragraph 12 (4) of Schedule 3 to the Act, allows a Local Authority to determine that it might be inappropriate to have any Sex Establishments at all in a given relevant locality.

8.5 Paragraph 13 of Schedule 3 to the Act, enables a Local Authority to attach standard conditions to a licence for sex establishments.

8.6 The power to licence Sex Shops and Sex Establishments under Section 2 and schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, is a function which cannot be the responsibility of an Authority's Executive, under the Local Authorities (Functions and responsibilities) Regulations (England) Regulations 2000. As set out in Part 3(2), of the Council's constitution, the Council has delegated this function to the Licensing Applications Committee to exercise, and that Committee in turn, has delegated it to the Head of Environment and Consumer Services.

9. FINANCIAL IMPLICATIONS

9.1 The costs associated with proposed amendment will be covered by the application fee and renewal fee.

10. BACKGROUND PAPERS

Appendix I A copy of the proposed Sex Establishment Policy, Regulations and Conditions relating to Sexual Entertainment Venues.

Appendix II Letter from the Royal Berkshire Fire and Rescue.

Appendix III E-Mail from Councillor Tickner.

Appendix IV E-Mail from Mr J Ratip (The Jazz Club).