

Body: Licensing Act Committee
Date: 15th October 2007
Subject: Proposed amendment to the Councils Licensing Policy Statement to describe the Licensing Authority's approach to nudity, striptease and other entertainment of an adult or sexual nature.
Report Of: Karen Plympton, Licensing Manager
Ward(s) All
Purpose To consider an amendment to the Councils Licensing Policy in relation to activities which involve entertainment comprising of nudity, striptease and other entertainment of an adult or sexual nature
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1.0 Introduction & Background

- 1.1 Under the Licensing Act 2003, in addition to completing the relevant sections relating to the provision of regulated entertainment, applicants must also notify the Licensing Authority of their intention to provide adult entertainment, services or activities, other entertainment or matters ancillary to the use of the premise that may give rise to concern in respect of children.
- 1.2 To this end, a number of premises licences have been sought where it is intended that the entertainment applied for is deemed to be adult in nature.

2.0 Review of Current Licensing Policy Statement

- 2.1 Licensing Guidance does not support censorship of regulated entertainment other than film classification. The Department of Culture Media and Sport sought opinion from Licensing Authorities relating to premises seeking to offer adult regulated entertainment for example, strip and lap dancing clubs. At the time of the consultation, Eastbourne Borough Council did not have any premises offering entertainment of an adult nature. However, this

position has now changed. The Borough currently has one lap dancing club and is fielding a number of enquiries from other premises looking to provide striptease, lap dancing and/or full nudity as part of its activities, hence the matter being brought to Full Licensing Committee.

- 2.2 Currently, there is nothing in the Licensing Act 2003 to enable Licensing Councillors ability to protect the character of localities and the proliferation of pole, lap and other forms of dancing or entertainment which can be considered as adult in nature.
- 2.3 Consideration is being given in neighbouring authorities to a Private Members Bill that cuts across the Licensing Act 2003 to cater for this eventuality. However, this process is protracted and costly.
- 2.4 It is recommended that the Licensing Policy Statement is developed further to strengthen the Licensing Authority's position relating to such activities.
- 2.5 It is proposed that the Licensing Policy Statement is revised to include the following.

3.0 Policy For Nudity, Striptease and other adult or sexual entertainment, excluding film exhibition

- 3.1 When considering applications within this policy, the Licensing Authority will have particular regard to whether the premises are in the vicinity of:
 - residential accommodation;
 - schools and English Language Schools;
 - places of worship;
 - other premises where entertainment of a similar nature takes place;
 - community centres; and
 - youth clubs.
- 3.2 Where appropriate, the Licensing Authority will also take into account the cumulative effect of a number of such premises on the character of the area.
- 3.3 Where such applications are made, the Licensing Authority will expect operating schedules to address the following matters and will include such conditions as are considered necessary to promote the licensing objectives.

- A. A code of conduct for dancers and appropriate disciplinary procedures, developed in consultation with Sussex Police and the Licensing Team of the Council.
 - B. Rules of conduct for customers, developed in consultation with the Police and the Licensing Team of the Council.
 - C. Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity, age and, where required, appropriate permission to work.
 - D. The exclusion of persons under 18 from the premises when such activities are taking place.
- 3.4 Conditions, which will form part of the Councils "Licensing Pool of Conditions," as a means to regulate such may include:
- Dressing room security
 - Restrictions on advertisement
 - Close circuit Television and appropriate recording equipment to a standard specification.
 - Prohibition of physical contact between customers and performers.

4.0 Recommendations

- 4.1 That the Full Licensing Committee endorse an amendment to the Councils Draft Statement Of Licensing Policy, including a section to describe the Licensing Authorities approach to nudity, striptease and other entertainment of an adult or sexual nature. This will then form part of the revised Council Licensing Policy Statement, effective from January 1st 2008.

5.0 Human Rights

- 5.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Committee when taking licensing decisions under the Licensing Act, 2003. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property. Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory.

6.0 Background Material

- Licensing Act 2003
- Revised Section 182 Statutory guidance to the Licensing Act 2003
- Brighton and Hove City Council – Cross Council Working
- Eastbourne Borough Council Licensing Statement 2005
- Human Rights Act 1998

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