



Leicester
City Council

WARDS AFFECTED
City Wide

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Cabinet
Licensing Committee

7 March 2011
10 February 2011

Licensing of Sexual Entertainment Venues

Report of the Director for Environmental Services

1 Purpose of Report

- 1.1 To advise Cabinet of the outcome of consultation and ask Cabinet to agree the Council's policy on the licensing of sexual entertainment venues.

2 Recommendations

- 2.1 Cabinet is asked to:
- a) approve the proposed policy on the licensing of sexual entertainment venues;
 - b) note that applications for licensed premises that do not exceed the limits set out in the policy will be determined by Licensing Committee;
 - c) delegate responsibility for refusal of applications that would exceed the limits set in the policy to the Divisional Director for Environmental Services;
 - d) delegate responsibility to review and amend the standard conditions attached to licences to the Divisional Director for Environmental Services, in consultation with the Cabinet Member;
 - e) delegate responsibility to review and amend annual fees for licences to the Divisional Director for Environmental Services, in consultation with the Cabinet Member
- 2.2 Licensing Committee is asked to provide comments to cabinet on the proposed policy on the licensing of sexual entertainment venues.

3 Summary

- 3.1 Public consultation was carried out in summer 2010.
- 3.2 In November 2010, the full Council agreed to adopt the provisions that enable the Council to control sexual entertainment venues, which will begin to take effect on 1 April 2011.
- 3.3 A formal policy is required setting out the Council's approach to the licensing of sexual entertainment venues, including:
- any limit on the number of venues that may be licensed

- the suitability or otherwise of particular types of location
- the application and determination process
- standards required
- any pre-licensing requirements
- expectations the Council has of any operators who are granted a licence.

4 Report

Consultation

4.1 Public consultation was carried out in July, August and September 2010. The aim was to establish the need for the introduction of a licensing regime for sexual entertainment venues in Leicester, and to seek views on what the content of any supporting policy should be.

4.2 A questionnaire was made available online and in paper format to the consultees shown in Appendix 1. Other steps taken to promote the consultation were:

- Press release
- An article in the Leicester Mercury
- Article in Leicester Link
- Information on our website
- Twitter

4.3 80 responses were received, 76 of which were made via the consultation document. The four letters we received are attached at Appendix 2. The statistical analysis of the responses are shown on the consultation document at Appendix 3. The specific comments received are summarised in the document shown at Appendix 4, together with our response to the specific comments made.

4.4 The main features of the consultation were as follows:

- Written comments tended to be polarised either against sexual entertainment venues from a moral perspective, or have a more permissive attitude
- The main area that was suggested for locating sexual entertainment venues was the City Centre and other areas associated with the night time economy such as Braunstone Gate.
- The most popular number for the limit on premises in these areas, other than none, were 3 for the City Centre and 1 for Braunstone Gate
- It was recognised that locating a sexual entertainment venue near to a place of worship, school or community premises was unsuitable.
- There was considerable support for all of the conditions being considered to control sexual entertainment venues, with the exception of preventing performers touching each other.

Other research

- 4.5 Dr Sanders and Ms Hardy of Leeds University have undertaken research on lap dancing in England. Their preliminary findings are attached at Appendix 5.

Adoption of Schedule 3

- 4.5 In November 2010, the full Council agreed to adopt schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009). The effect of this is to enable the Council to control sex establishments, such as lap dancing clubs, within the city of Leicester. Schedule 3 shall come into effect in Leicester on 1 April 2011. There will follow a transition period of 12 months to enable operators to apply for and, if appropriate, be granted a licence.

Policy

- 4.6 A draft policy has been prepared in light of the consultation responses, and is attached at Appendix 6.
- 4.7 The key aspects of the policy are:
- Limiting the number of sexual entertainment venues within the inner ring road and the Braunstone Gate area to five in total.
 - Limiting the number of sexual entertainment venues outside the inner ring road and Braunstone Gate areas to nil. This effectively means that none will be allowed.
 - Setting a list of standard conditions, which will apply to all licences, aimed at ensuring that premises are properly run, that workers are not exploited and that premises do not give rise to offence to members of the public and local residents.
- 4.8 There are four existing sexual entertainment premises inside the inner ring road and one in the Braunstone Gate area. The policy therefore maintains the status quo in terms of numbers. There is no evidence that there is a concentration of these premises that has caused substantial problems either to members of the public or local residents or businesses. On this basis it was felt appropriate to set a limit of four premises in this area. This limit will be kept under review. However, the fact that the proposed limit is five by no means guarantees that the existing premises will be granted a licence, see Paragraph 4.10 below.
- 4.9 The effect of the policy to limit the number of premises outside the inner ring road and Braunstone Gate area to five will not have any effect on existing premises that are entirely used as sexual entertainment venues. One premises licensed as a public house came to light during the consultation as providing occasional regular performances. There is however, an exemption in the legislation for premises to be used as sexual entertainment venues up to 11 occasions in any 12 month period, without the requirement for a licence.

- 4.10 Although the existing policy retains the status quo in terms of the number of premises, there is no guarantee that the premises will be considered suitable to be given a licence. This will depend on their location, whether the applicants are suitable, and whether they are willing and able to conform to the conditions controlling the premises that will be applied to their licences. The response to the consultation showed a high degree of support for the proposed conditions. The exception to this is in relation to a prohibition on physical contact between performers. This condition would restrict the type of performances that could be provided. However, the proposed conditions still include this and Cabinet may wish to decide whether they believe it is appropriate. It is intended, prior to the implementation of the licences to consult further with existing operators on their views of the proposed conditions.
- 4.11 The requirement for a licence to operate a sexual entertainment venue comes into force in Leicester on 1 April 2011. However, existing premises which are operating or preparing to operate as a sexual entertainment venue and have a premises licence under the Licensing Act 2003, are granted transitional relief to continue to operate until 31 March 2012. This will apply to the premises both inside and outside the inner ring road mentioned in the paragraphs above.

Fees

- 4.12 The level of fees for sexual entertainment venue is set by the local authority and must not exceed the level required to cover the cost of the licensing system. Initially it is proposed to set the fee at the slightly above the level for sex shops, to take into account the expected increased complexity of these premises. This would mean that from 1 April 2011 the fee will be £6,000 for a new licence and £3,000 for a renewal. This will be reviewed following experience of the costs involved for the first year of scheme.

5 FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1 Financial Implications

The policy proposes a limit on the number of premises which could be licensed of five. This would produce a maximum income of £30,000 in financial year 2011/12 and £15,000 in subsequent years. The cost of implementing the licensing of sexual entertainment venues, including administration and enforcement, will be met by this fee income.

Martin Judson, Head of Finance, extension 7390

5.2 Legal Implications

The amendments introduced in the Policing and Crime Act 2009 will apply in Leicester from 1 April 2011 and therefore the City Council must have a Policy setting out how it will administer the Licensing scheme for Sexual Entertainment Venues. In the absence of such a Policy the City Council could face challenges with regard to the granting of Licences and it could even impact upon the ability to take any enforcement action, should it become necessary.

Sarah Khawaja
Senior Solicitor / Regulatory Team Leader

The new legislation enables local authorities to set limits on the number of Sexual Entertainment Venues within a certain locality. Applications can then be refused on the basis that at the time the application is determined the number of sex establishments is equal to or exceeds the number which the authority considers appropriate for that locality. The decision to set a particular limit (as with any decision) could be challenged by Judicial Review. Judicial Review applications must be submitted as soon as possible and in any event within 3 months of the decision. If the decision to set a limit has a basis and is supported by evidence then it will be defensible. The Licensing Committees recommendation was based upon the results of the consultation.

Caroline Gutteridge
Solicitor

5.3 **Climate Change Implications**

There are no climate change implications in this report.

6 **Other Implications**

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within Supporting information
Equal Opportunities	No	Appendix A
Policy	Yes	2.1, 4.3, 4.4
Sustainable and Environmental	No	
Crime and Disorder	Yes	4.4, Appendix A
Human Rights Act	No	4.4, Appendix A
Elderly/People on Low Income	Yes	
Corporate Parenting	Yes	4.4, Appendix A
Health Inequalities Impact	No	

7 **Background Papers – Local Government Act 1972**

7.1 Council report 'Licensing of sexual entertainment venues' – 25 November 2010

7.2 Cabinet report 'Licensing of sexual entertainment venues' – 21 June 2010

7.3 Licensing Committee report 'Licensing of sexual entertainment venues' - 23 February 2010

7.4 Cabinet report 'Policy on Licensing of Sex Shops' - 27 January 2003

8 Consultations

8.1 See paragraph 4.3 of this report.

9 Report Author

9.1 Mike Broster – Head of Licensing and Pollution Control

To be annexed:

Appendix 1 – consultees

Appendix 2 – letters

Appendix 3 - statistical analysis

Appendix 4 – specific comments and responses

Appendix 5 – Research on Lap Dancing in England (Leeds University)

Appendix 6 - draft policy

Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)