



PART B: RECOMMENDATION TO COUNCIL

REPORT TO: LICENSING COMMITTEE

DATE: 23 SEPTEMBER 2010

**REPORT OF THE: HEAD OF ENVIRONMENT
PHIL LONG**

**TITLE OF REPORT: REGULATION OF LAP DANCING AND OTHER SEXUAL
ENTERTAINMENT VENUES**

WARDS AFFECTED: ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 To consider adopting the amendment to the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 by Section 27 of the Policing and Crime Act 2009. This introduces a Licensing regime for “sexual entertainment venues”.

2.0 RECOMMENDATION

- 2.1 That Council is recommended to pass a resolution as authorised under Section 2 of the Local Government (Miscellaneous Provisions) Act 1982, to adopt Schedule 3 (as amended by Section 27 of the Police and Crime Act 2009) of the Local Government (Miscellaneous Provisions) Act 1982.

3.0 REASON FOR RECOMMENDATION

- 3.1 If the Authority adopts the amendment to Schedule 3 introduced by Section 27 of the Policing and Crime Act 2009, the Authority will have the same powers to consider the licensing of “sexual entertainment venues” e.g. lap dancing clubs as the Authority currently has for the licensing of “sex establishments” e.g. sex shops.

4.0 SIGNIFICANT RISKS

- 4.1 If the Authority does not adopt the amendment, it may allow prospective sexual entertainment venues to take advantage of a perceived loophole in the Licensing Act 2003.

REPORT

5.0 BACKGROUND AND INTRODUCTION

- 5.1 Currently lap dancing premises require a Premises Licence under Section 1 of the Licensing Act 2003. No special provisions are made in the 2003 Act for lap dancing type venues. Unless relevant representations are made to the Authority the licence must be granted subject only to certain mandatory conditions.
- 5.2 Sex establishments (sex cinemas and sex shops) are currently licensed under Section 2 and Schedule 3 of the Local Government (Miscellaneous provisions) Act 1983. The Council adopted powers for licensing such premises on 1 April 1983. The Act allows Councils to set fees, attach conditions and restrictions relating to Sex Establishments, which were adopted by the Community Services and Licensing Committee on 5 April 2007.
- 5.3 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government Act (Miscellaneous Provisions) Act 1982 to allow the Licensing Authority to licence “sexual entertainment venues” e.g. lap dancing under the 1982 Act.
- 5.4 The aim of this new legislative control is to bring the licensing of lap dancing type premises in line with other sex establishments and to recognise that local people have legitimate concerns about where such premises are located.
- 5.5 Currently, Ryedale has no licensed sex establishments or lap dancing type venues.

6.0 POLICY CONTEXT

- 6.1 The following Policies have informed this report:

Council Plan 2009–13 - Aim 4: to have active communities where everyone feels welcome and safe.

Ryedale District Councils Policy for the Licensing of Sex Establishments 2007

7.0 CONSULTATION

- 7.1 Not applicable

8.0 REPORT DETAILS

- 8.1 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 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 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 the audience (whether by verbal or other means). The following are not sexual entertainment venues for the purpose of this Schedule
- sex cinemas and sex shops
 - premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so

provided at that time:

- there have not been more than eleven occasions on which relevant entertainment has been so provided which fall(wholly or partly) within the period of 12 months ending with that time;
- no such occasion has lasted more than 24 hours;
- no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided(whether or not that previous occasion falls within the 12 month period mentioned above); and
- premises specified or described in an order made by the relevant national authority.

8.2 Lap dancing premises currently require a Premises Licence under Section 1 of the Licensing Act 2003. No special provisions are made in the 2003 Act for lap dancing type 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.

8.3 If relevant representations are made by an interested party (e.g. residents or local businesses) or a responsible authority (e.g. the police or fire service in the area) then the authority can, following a hearing, impose other conditions or reject the application. Even then, it will only be able to do so where such a step is necessary to promote one of the four licensing objectives set out in the Act:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

8.4 The new legislative controls available to the Licensing Authority will strengthen the role that local communities can play in deciding whether a lap dancing type premises is inappropriate for the locality. The Licensing Act 2003 has empowered local residents in general, 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.

8.5 The aim is to bring the licensing of lap dancing type premises in line 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.

8.6 If the amendment is adopted the Licensing Authority can apply prescribed standard conditions on grounds not covered by the Licensing Act 2003 e.g. location, hours, display of adverts, visibility of interior.

8.7 To not adopt the amendment and maintain the status quo would allow prospective sexual entertainment venues to take advantage of a perceived loophole in the Licensing Act 2003.

8.8 The resolution to adopt Schedule 3 (as amended) requires the authority of the Council. Following a resolution to adopt, the Council will have to publish a number of public notices and follow the procedures laid down in the Local Government (Miscellaneous Provisions) Act 1982. It is anticipated the resolution will take effect

from 1 March 2011.

9.0 IMPLICATIONS

9.1 The following implications have been identified:

a) Financial

The administrative arrangements for processing applications for “sexual entertainment venues” is the responsibility of the Licensing Team. It will be proposed the fees for “sexual entertainment venues” are the same as for “sex establishments”.

b) Legal

On the 25 November 1982, the Health and Works Committee resolved the adoption by the Council on the 1 of April 1983 of the provisions of Section 2 and Schedule 3 (Control of Sex Establishments) of the Local Government (Miscellaneous Provisions) Act 1982.

Section 27 of the Policing and Crime Act 2009 makes amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

The Council must resolve to adopt the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Following adoption of Schedule 3 (as amended) by Council, it is proposed a further report be submitted to the Licensing Committee on 27 January 2011, to adopt a procedure and fees in relation to the licensing of sexual entertainment venues.

PHIL LONG HEAD OF ENVIRONMENT

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Background Papers:

Local Government (Miscellaneous Provisions) Act 19882
Policing and Crime Act 2009
Licensing Act 2003
Ryedale District Councils Policy for the licensing of Sex Establishments 2007.