

## **REPORT OF THE DIRECTOR OF CITY SERVICES**

### **LICENSING COMMITTEE – 2 NOVEMBER 2009**

#### **POLICING AND CRIME BILL - REGULATION OF LAP DANCING CLUBS – CONSULTATION ON TRANSITIONAL ARRANGEMENTS**

##### **1.0 PURPOSE OF THE REPORT**

- 1.1** To seek the views of Members with regard to a consultation document concerning transitional arrangements for the regulation of lap dancing clubs.

##### **2.0 DESCRIPTION OF DECISION (RECOMMENDATION)**

- 2.1** Members are requested to note the contents of the report and to authorise the Director of City Services to respond to a consultation document concerning transitional arrangements for the regulation of lap dancing clubs in accordance with their views.

##### **3.0 INTRODUCTION/BACKGROUND**

- 3.1** Members may recall that, at a meeting of the Licensing Committee on 4 August 2008, they heard a report concerning a consultation document issued by the Department of Culture, Media and Sport. This outlined the perceived problem that premises licensed under the Licensing Act 2003 (the “2003 Act”) for the performance of dance and the playing of recorded music were being used, lawfully, as lap dancing establishments. Members authorised officers to respond to the effect that such establishments should be brought under the control of the Local Government (Miscellaneous Provisions) Act 1982 (the “1982 Act”). This Act requires the licensing of certain types of premises as sex establishments.
- 3.2** On 2 December 2008 the Government announced that they would introduce legislation to classify lap dancing clubs and other similar venues as ‘sex establishments’ under the 1982 Act. Such premises would be defined as ‘sex encounter venues’. The relevant provisions were included in the Policing and Crime Bill, which was introduced in Parliament on 19 December 2008.
- 3.3** These provisions would:
- Allow local people to oppose an application for a sex establishment licence if they have legitimate concerns that a lap dancing club would be inappropriate given the character of an area. For example, because an area is primarily residential in nature;
  - Require licences to be renewed at least yearly; at which point local people would have the opportunity to raise objections with their local authority;

- Allow a local authority to reject a licence application if they believe that to grant a licence for a lap dancing club would be inappropriate given the character of a particular area;
- Allow a local authority to set a limit on the number of sex encounter venues that they think is appropriate for a particular area; and
- Allow a local authority to impose a wider range of conditions on the licences of lap dancing clubs than is currently possible under the Licensing Act 2003.

**3.4** The Home Office have now published a consultation document seeking views upon their proposals for transitional arrangements with regard to the regulation of such clubs. Descriptions of these proposals and associated questions raised by the Home Office are set out in Section 4 below. Members are requested to offer their views in response to these questions. Responses must be submitted no later than 14 December 2009.

## **4.0 CURRENT POSITION**

### **4.1 How will the 1982 Act apply to existing operators?**

The Government has received representations from existing operators requesting that they be given 'grandfather rights' similar to those that were available when the Licensing Act 2003 and Gambling Act 2005 were introduced. This could mean either that licences under the new regime would be available automatically to existing premises or that they should receive preferential treatment in the licensing process. However, the Government propose that no such rights should be available. So, subject to certain transitional provisions, all current operators wishing to remain in the business would need to apply for a sex establishment licence as if they were a new operator.

**QUESTION 1 - What are your views on the proposal that the new regime should apply to existing operators and that the transitional provisions should not provide for them to be given preferential treatment when their application for a sex establishment licence comes to be determined?**

### **4.2 Transitional Period**

The Government propose that there should be a transitional period to allow time for existing operators to comply with the new legislation. For this purpose there would be three appointed dates. The first will be the date that the Policing and Crime Bill comes into force in a particular local authority area. The second would be six months later. It is proposed that applicants would be able to submit their applications to the relevant local authority between these two dates. After the second appointed date local authorities would consider all of the applications received during this period. This would ensure that, where local authorities have set a limit on the number of premises they consider appropriate for a particular locality, all applications submitted would be considered before the local authority decides who should be granted a

licence. Any applications received after the second appointed date would be considered individually by local authorities. The third appointed date, which is proposed to be six months after the second appointed date, would be the date by which all venues would have to be compliant with the new legislation. Thus, the transitional period would last twelve months.

Under these proposals existing operators would be able to provide lap dancing under their existing licence issued under the Licensing Act 2003 until their application for a sex establishment licence has been determined or the third appointed date, whichever is the later.

**QUESTION 2 - What are your views on the proposed time periods between the first, second and third appointed dates and do you believe that a transitional period of twelve months in total is appropriate?**

For purposes of these transitional arrangements, it is proposed that an 'existing operator' is defined as a person operating any premises that on the first appointed day is authorised under an existing premises licence or club premises certificate, either explicitly or implicitly, to provide entertainment that would be defined as 'relevant entertainment' by the Policing and Crime Bill. Persons who are not existing operators would not be entitled to provide such entertainment after the first appointed day.

**QUESTION 3 - Do you agree with the proposed approach for identifying existing operators?**

**4.3 Existing Conditions**

Where existing operators have sought explicit permission, when applying for a premises licence or club premises certificate under the 2003 Act, to provide 'relevant entertainment' as defined in the Policing and Crime Bill, it is likely that they will be subject to licence conditions that apply directly to the provision of that entertainment. For example, where a lap dancing club has explicit permission to provide nude entertainment, they may have licence conditions that prohibit physical contact between performers and customers.

It is proposed that where such licence conditions are present on either an existing premises licence or clubs premises certificate, these conditions will be read as though they have been deleted from the premises licence or club premises certificate from the third appointed day onwards. Where existing lap dancing clubs and similar venues are granted sex establishment licences for the provision of relevant entertainment, any conditions relating to the provision of that entertainment will be regulated by that licence alone.

**QUESTION 4 - What are your views on the proposal for dealing with conditions on existing premises licences/club premises**

**certificates that relate specifically to the provision of ‘relevant entertainment’?**

#### **4.4 Timescales – Next Steps**

Subject to the Policing and Crime Bill receiving Royal Assent, the provisions on lap dancing are expected to be commenced in April 2010.

**QUESTION 5 - What are your views on the proposal to commence these provisions in April 2010?**

#### **5.0 REASONS FOR THE DECISION**

**5.1** To allow Members to submit their views in response to the above-mentioned questions to the Government.

#### **6.0 ALTERNATIVE OPTIONS**

**6.1** None submitted.

#### **7.0 RELEVANT CONSIDERATIONS**

**7.1** None.

#### **8.0 GLOSSARY**

**8.1** No acronyms or abbreviations have been used in this report.

#### **9.0 APPENDICIES**

**9.1** None.

#### **10.0 BACKGROUND PAPERS**

**10.1** Policing and Crime Bill.

**10.2** Home Office consultation document on the Transitional Arrangements for the Regulation of Lap Dancing Clubs.