



Haringey Council

Agenda item:

[No.]

GENERAL PURPOSES COMMITTEE

On 23RD SEPTEMBER 2010

Report Title. Policy for the Licensing of sex Establishments	
Report of Niall Bolger – Director of Urban Environment	
Signed : <i>N Bolger</i> 2 nd Sept. 2010.	
Contact Officer : Robin Payne – Head of Enforcement Services	
Wards(s) affected: All	Report for: Key Decision
1. Purpose of the report 1.1. To inform the General Purposes Committee of a draft Sex Establishment Policy before it progresses to consultation.	
2. State link(s) with Council Plan Priorities and actions and /or other Strategies: 2.1. Haringey's Community Safety Partnership within the Strategic Partnership strategy 'Safer for All' seeks to reduce harm from antisocial behaviours and in particular to protect families and children. 2.2. Our Licensing Policy Statement currently reflects the legal position that venues can operate without licence 11 times a year without licence.	
3. Recommendations 3.1. That General Purpose Committee agree that the draft policy goes out to consultation	
4. Summary 4.1. This report sets out a draft Sexual Entertainments Venue Policy. This policy	

if approved will provide Members of the Miscellaneous Functions Committee with a framework for considering all future relevant applications. The policy identifies sensitive locations in the borough where the proximity of a sexual entertainment venue would be considered inappropriate. On this basis the policy recommends that there is no ward in the borough where a sexual entrainment venue is appropriate, although all applications must be considered on their merits, having regard to the policy.

- 4.2. The report seeks Members agreement for the progress of this policy to consultation and then to General Purposes Committee for adoption.

5. Chief Financial Officer Comment.

- 5.1. The costs of preparing this report and implementing the associated recommendations can be contained within existing budgets.

6. Head of Legal Services Comments

- 6.1 The amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009 permits more effective regulation of lap dancing clubs and similar venues. This amendment was adopted by Full Council on 19 July 2010. The adoption of a policy (upon which applications for sex establishments may be considered by the Miscellaneous Functions Sub-Committee of the General Purposes Committee) is optional. Paragraph 12(4) of Schedule 3 to the 1982 Act specifies that nil be the appropriate number for such establishments within a locality.

The licensing policy relating to sex establishments reflects the legal position that venues may provide "relevant entertainment" e.g. the display of nudity without a sex establishment licence up to 11 times a year.

The definition of a sexual entertainment venue excludes venues where relevant entertainment has been provided on no more than 11 occasions within a 12 month period. Operators of such venues should be aware that this "exemption" must not be abused and that effective monitoring will take place to ensure this is the case. Operating outside the exemption without a licence is a criminal offence and prosecution is an option that will be seriously considered.

7. Equalities & Community Cohesion Comments

- 7.1. The Government carried out an Equality Impact Assessment to see if there would potentially be some less favourable treatment of groups that would be affected and how this could be mitigated. No negative impact on equalities groups was predicted.

8. Consultation

Consultation will be undertaken across the borough as a whole and with partners for a 12 week period ending around the 16th December 2010. Comments will be taken back to General Purposes Committee for final agreement. The CAB and the Licensing Committee will be informed of the draft policy prior to the consultation being undertaken. This will be a borough wide consultation and will also include our Partners.

9. Service Financial Comments

The cost of consultation can be resourced within the Services budget. A fee of £2700.00 has been set for an application for a Sexual Entertainment venue under this legislation..

10. Local Government (Access to Information) Act 1985

- The Policing and Crime Act 2009
- The Local Government (Miscellaneous Provisions) Act 1982
- Home Office Guidance for Sexual Entertainment Venues dated 1 April 2010
- Equalities Impact Assessment

11. Background

11.1. The Policing and Crime Act 2009 ("the 2009 Act") amends Schedule 3 of the Local Government (Miscellaneous Provisions Act) 1982 to allow the licensing of "Sexual Entertainment Venues". Section 27 introduces a new category of sex establishment called a "sexual entertainment venue". A "sexual entertainment venue" is defined as "any premises, which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer." "Relevant entertainment" may take the form of a live performance or live display of nudity and must be of such a nature that, ignoring financial gain, it must reasonably be assumed to have been provided solely or principally for the purpose of sexually stimulating any member of the audience. The audience can consist of one person and would cover lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

11.2. Haringey Council resolved to adopt this legislation on 19th July 2010. By adopting powers relating to Sex Establishments (as amended) the Council, as the licensing authority, is now able to decide the number of sex establishments appropriate for any relevant locality. The Council cannot make a general declaration in respect of the entire borough. The relevant locality for each application would be an area close to or in the immediate vicinity of the premises concerned.

12. Draft Policy

12.1. As well as providing the Miscellaneous Functions Committee with a stronger basis for decision making, adopting a policy for sexual entertainment venues will provide all potential applicants will know in advance the criteria against which their applications would be considered.

12.2. The draft policy has provided a set of recommended criteria for assessing the suitability of an area and specifically a set of sensitive locations where proximity to a sexual entertainment venue may be determined as inappropriate. Sensitive venues will include (this is not considered to be exhaustive) -

- domestic dwelling, including any sheltered housing and accommodation for vulnerable persons,
- educational establishments,
- places of worship to the premises,
- main access routes to and from sensitive locations,
- schools, play areas, nurseries, children's centres or similar premises,
- shopping centres,
- community facilities / halls and public buildings such as libraries swimming pools, leisure centres,
- public parks, youth centres / clubs.

12.3. On this basis, and having assessed the borough by ward, the policy has established a nil limit for every ward in the borough. However, each application must still be considered on its own merits and we cannot refuse to receive an application.

12.4. It is significant that if such a policy were agreed, and an application refused, there would be no right of appeal against a refusal on the ground that the appropriate number of establishments in the relevant locality was nil or that the appropriate number had been reached.

12.5. Additional factors which can be considered will be:

- The suitability of the applicant or persons involved
- Benefit derived by a third party who would be refused a licence
- The layout, character or condition of the premises that may apply for such licences.
- Whether patrons are likely to leave together or disperse gradually.
- Admission arrangements and other factors which may impact on the locality, by the presence of such premises.

13. Timetable

13.1. The timescale for the adoption is as detailed below

- 23rd September 2010 – report goes to GPC to agree on consultation
- 11th January 2011 – report goes to GPC for feedback and adoption. Public notice to be given for 28 days

