

Consultation Report

Statement of Licensing Policy

Local Government (Miscellaneous Provisions) Act 1982
as amended by the Policing and Crime Act 2009

Contents

Executive Summary	3
Introduction	4
Consultation Methodology	6
Main Themes	8
Fee Review	10
How to respond	12
Annex A - List of consultees	13
Annex B - BRE Code of Practice on Consultation	15

Executive Summary

This report details the development of Leeds City Council's Licensing of Sex Establishments Statement of Licensing Policy and the findings of the public consultation.

In April 2010 The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 s2 and Sch 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brought lap dancing, pole dancing and other "relevant entertainment" into a new licensing regime.

The Home Office has released guidance on Sexual Entertainment Venues. In the Ministerial Foreword Alan Campbell, Parliamentary Under-Secretary of State for Crime Reduction explains:

"In September 2008 the Home Secretary announced the Government's intention to give local people greater say over the number and location of lap dancing clubs in their area. This followed a consultation with local authorities which highlighted concerns that existing legislation did not give communities sufficient powers to control where lap dancing clubs were established.

In order to address these concerns, section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities in England and Wales the power to regulate such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

These new measures, which took effect on 6th April 2010 in England will, if adopted by local authorities, give local people a greater say over where and how many lap dancing clubs open and operate in their neighbourhoods."

Introduction

Background

In April 2010 The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 s2 and Sch 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brought lap dancing, pole dancing and other "relevant entertainment" into the sex establishment licensing regime. This regime has been in place since 1982 in Leeds, and currently licences sex shops and sex cinemas.

Adopting the Provisions

The Local Government (Miscellaneous Provisions) Act 1982 is adoptive legislation which means that the council will need to resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in this area. The process involves the council passing a resolution, then advertising the decision in a local paper.

The legislation requires that should the council decide not to adopt the provisions by April 2011, they shall seek the views of local people about whether they should make such a resolution.

In January 2011 Leeds City Council resolved that Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 shall apply to the Leeds metropolitan district and that Schedule shall come into force in this area on 1st October 2011.

Policy and Standard Conditions

The council has decided to adopt a policy and standard conditions which will cover sexual entertainment venues, sex shops and sex cinemas. The Licensing Committee formed a working group which included members and officers of the council to develop a policy and standard conditions.

Definition of Sexual Entertainment Venue

A sexual entertainment venue is defined as "*any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.*"

The meaning of 'relevant entertainment' is "*any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether verbal or other means).*" An audience can consist of just one person (e.g. where the entertainment takes place in private booths).

It is expected that the definition of relevant entertainment would apply to lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

Purpose of the Statement of Licensing Policy

The purpose of the policy is to set out the principles upon which the council will exercise its functions under the Local Government (Miscellaneous Provisions) Act 1982 as

amended. Applicants are expected to read the policy before making their application and the Council will refer to the policy when making decisions.

Purpose of the consultation

Although there is no specific requirement that the council consult with people affected by the policy it is the council's practice to do so. This is to ensure that people affected by the policy, and the wider general public, has a say in the principles stated in the policy.

Consultation Methodology

In order to ensure that a wide range of people are consulted the council has undertaken the following steps:

1. Formed a working group of members of the Licensing Committee and officers from Entertainment Licensing who:
 - Attended seminars and workshops relating to the new legislation
 - Examined the policy and standard conditions adopted by other councils, particularly those in place for Westminster City Council, London Borough of Hackney and Harrogate Borough Council.
 - Heard from West Yorkshire Police, Leeds City Council's Taxi and Private Hire Licensing, Domestic Violence Unit, and Leeds University, Dept of Sociology.
2. Provided the draft policy to operators of sex establishments, including sexual entertainment venues currently operating in the area.
3. Provided the first draft of the policy to partner agencies for comment:
 - West Yorkshire Police
 - British Transport Police
 - Local Safeguarding Children Board
 - Leeds City Council - City Development
 - Leeds City Council - Environmental Health Services
 - HM Revenue and Customs
 - West Yorkshire Fire and Rescue Service
 - Trading Standards
 - Domestic Violence Team
 - Taxi and Private Hire Licensing
 - Leeds University

The working group also undertook a series of site visits to a representative sample of the sexual entertainment venues in Leeds city centre.

These steps produced a draft policy. The public consultation will run from 4th April to 24th June 2011. This consultation will include:

- A postal consultation to the trade, support groups, religious groups, ward members and local MPs.
- A press release
- Poster advertisement placed in libraries, one stop shops and leisure centres for the public to access.
- A webpage on the Leeds City Council website which provided the consultation documents and online questionnaire.
- Attendance at Area Committee meetings to bring the matter to the attention of the public and ward members.

Timetable

4 April to 24 June 2011	Public consultation
19 July 2011	Final Policy to Licensing Committee for approval and referral to Council
14 Sept 2011	Council
1 October 2011	First Appointed Day - Licensing regime comes into effect. The council will be able to receive applications from existing operators and new remises during this first six month period.
1st April 2012	Second Appointed Day - this is the final day that the first wave of applications can be received. These applications will be determined at the same time in April 2012.
1st October 2012	Third Appointed Day - the date on which all the new sex establishment licences granted in April 2012 come into effect.

Main Themes

Following consultation with partner agencies, the working group decided that specific attention would be taken in the following areas:

1. Advertising
2. Dancers Welfare Pack
3. External appearance of clubs
4. Locality & Limiting numbers

1. Advertising

Over the past few years the council has received a number of complaints relating to the way sex establishments are advertised. This included promotional material sited outside the premises, advertisements and the use of vehicles and promotional material.

The working group discussed the current conditions placed on sex shops in relation to advertisement, and used these as a basis. It was decided that all advertisements should be approved by the council. This way matters such as decency, location/positioning and offence can be dealt with on a case by case basis.

2. Dancers Welfare

After having heard from the Domestic Violence Team, West Yorkshire Police and Professor Sanders from Leeds University, the working group discussed the need to protect the welfare of people providing the entertainment at sexual entertainment venues. There was particular concern that staff do not report crime as they are not aware of how to do this safely.

The working group discussed a number of measures that could be introduced to protect staff but felt that providing this information to new staff, in a pack, would be the most appropriate.

The working group discussed codes of conduct for both staff and customers. These are required and will be scrutinised as part of the application process.

Through the research being undertaken by Leeds University, the working group are aware of the practice of fining staff for misdemeanours. Although it is not appropriate for the council to involve itself in specific management arrangements, it was felt that a fine register would resolve a number of the issues described by the entertainers.

The working group investigated the use of private booths. The Leeds University research highlighted that the use of booths encouraged an expectation that the staff may provide additional services. The group heard from the existing operators and how their trade is dependant on booths. The group felt that it was important that should booths be provided that they are supervised adequately, both by CCTV but also by the physical presence of security staff.

3. External Appearance

In line with complaints received about advertising the council is aware that the external appearance of all sex establishments is a sensitive issue. There is a need for premises to be able to advertise themselves to the night time economy. However there is a

strong need for the premises to be discreet during the day time economy. As such the council will approve the external appearance of all sex establishments.

4. Locality and numbers

Under the legislation there are a number of discretionary grounds for refusal. These are:

- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) that the number of sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard
 - i) to the character of the relevant locality; or
 - ii) to the use to which any premises in the vicinity are put; or
 - iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

This allows a local authority to determine the appropriate number and localities of sex establishments in their area.

Some authorities have consulted upon policies which lay down guidelines on where they prefer sex establishments to be located, and the number they feel is appropriate. In some cases that number is nil.

The working group discussed this issue and decided that for the area of Leeds, with the current number of existing premises and their generalised locations, that it would not be appropriate for the council to set the location and number of sex establishments in their area.

Instead each application will be considered on its own merits by the licensing sub-committee convened for that purpose. However there is specific mention in the policy of locations that are considered to be unsuitable.

Fee Review

Leeds City Council currently licences five retail outlets which trade as adult shops. There are no licensed sex cinemas in the Leeds District. From the 1st October 2011 the council will receive applications from existing sexual entertainment venues and there are eight premises which outwardly advertise as "gentlemen's clubs" and a number of other premises which offer sexual entertainment on an occasional basis.

The current fee for a sex establishment licence was approved by Licensing and Regulatory Panel (now Licensing Committee) in 2008. This was reviewed following written representation from the industry.

This agreed fee has been subject to minor annual increments and the current charges presently stand at:

Grant	£8098 with a refund of £1890 if refused or withdrawn
Renewal	£3271.67 with a refund of £1674 if refused or withdrawn
Transfer	£248

The current fees include an element of the licensing sections costs post grant of the licence such as an annual compliance check with a contribution to the investigation of unlicensed operators.

The Local Government (Miscellaneous Provisions) Act 1982 permits the council to set a reasonable fee. Whilst in the past this gave a wide discretion, Article 12.2 of the European Services Directive provides:

'2. Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures.'

Enquiries made with other local authorities reveal that the majority of authorities are reviewing their fees and charges this year. The core cities current charges are as follows:

Licensing Authority	New	Renewal	Transfer	Variation
Birmingham	£9,935	£9,935		
Bristol	£8,000	£5,500	£796	£63
Nottingham	£13,840	£11,100		
Manchester	£5,142	£5,142		
Sheffield	£5,200	£4,400		

Enquiries were also made with the neighbouring West Yorkshire authorities:

Licensing Authority	New	Renewal	Transfer	Variation
Bradford	£5,658	£5,658		
Calderdale	£2,433	£2,433		£2,433
Kirklees	£2,575	£2,575		
Wakefield	£2,876	£2,876		

Following a comprehensive costing exercise, in which all the current charges for services were examined, the following charges are proposed:

New, renewal, transfer application: £2,300

This fee includes:

- Application processing
- Inspection of notices
- Dealing with objections
- Compilation of committee report
- Chairs brief
- Notices of Hearing
- Site visits
- Associated hearing costs
- Notice of Decision
- Production of licence

Maintenance fee: £500 payable within 30 days of grant

Maintenance fee includes the cost of updating personnel records, an annual compliance check and investigation of complaints/unlawful activities.

Variation: £600

A variation may include a change of the details on the licence, i.e. operating hours, conditions etc, change of external appearance, new advertising material, structural changes, new vehicle (with new style of advertising).

This fee includes:

- Application processing
- Notice of Hearing
- Associated hearing costs
- Decision notice/minutes
- Notice of Decision
- Site visit
- Production of licence

The new charges are to be applied to all categories of sex establishments as licensed under the Local Government (Miscellaneous Provisions) Act 1982, including:

- Sexual establishment licensing
- Sex shops & Internet and mail order sales
- Sex cinemas (showing R18 classification films)

How to respond

Anyone can respond to this consultation. The list of consultees at Annex A indicates those organisations that we will contact to suggest that they may wish to respond. The closing date for making responses to this consultation is **24th June 2011**. If you would like to respond to this consultation, please email your response to entertainment.licensing@leeds.gov.uk.

If you prefer, you may submit a hard copy by post to:

**Entertainment Licensing
Leeds City Council
Civic Hall
Leeds
LS1 1UR**

If you have any queries about this consultation, or require additional copies, please contact Entertainment Licensing at the above address or by telephone on 0113 247 4095.

Disclosure

Normal practice will be for responses to this consultation document to be disclosed, and for respondents to be identified. However if you would prefer to remain anonymous we may disclose the content of your response but only in such a way as to anonymise it.

Please identify any information that you or any other person involved do not wish to be disclosed. You should note that many facsimile and e-mail messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality.

Confidentiality and Freedom of Information

It is possible that requests for information contained in consultation responses may be made in accordance with access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you do not want your response to be disclosed in response to such requests for information, you should identify the information you wish to be withheld and explain why confidentiality is necessary. Your request will only be acceded to if it is appropriate in all the circumstances. *An automatic confidentiality disclaimer generated by your IT system will not of itself be regarded as binding on the Department.*

Annex A – List of consultees

To be amended prior to the public consultation

Multi-agency Partners

West Yorkshire Police
West Yorkshire Fire and Rescue Service
Leeds City Council Environmental Health Services
Leeds City Council Health & Safety Team
Leeds Safeguarding Children Board
Leeds City Council Development Department
West Yorkshire Trading Standards Domestic Violence Team

Existing operators

Licensing Solicitors

A Halsalls & Co Solicitors
Anthony Collins Solicitors
Barber Titleys Solicitors
Batleys Limited
Berwin Leighton Paisner Solicitors
Blacks Solicitors
Bond Pearce Solicitors
Brabners Chaffe Street Solicitors
Burton Burton & Ho
Cobbetts Solicitors
Dickenson Dees Solicitors
DLA Piper Rudnick Gray Cary Solicitors
DWF Solicitors
Elmhirst Solicitors
Essence Consultants
Ford & Warren Solicitors
Fraser Brown Solicitors
Freemans Solicitors
Gamestec Leisure Ltd
Gill Turner Tucker Solicitors
Godloves Solicitors
Gordons Solicitors
Halliwells Solicitors
Hardys & Ansons Plc
Hart & Co Solicitors
Henry Hyams Solicitors
Howard Cohen & Co Solicitors
Inncourt Licensing Consultants
Joelson Wilson & Co Solicitors
John Cordingley Consultancy
John Gaunt & Partners

Jones & Company Solicitors
Kuit Steinart Levy Solicitors
Last Cawthra Feather Solicitors
LesterAldridge Solicitors
Levi & Co. Solicitors
Licence Trade Consultants
Licensing Legal Licensing Solicitors
Luptonfawcett Solicitors
McCombie & Co Solicitors
McCormicks Solicitors
Mitchells & Butlers
Mr John T Burton
Poppleston Allen Solicitors
Ricksons Solicitors
Rollits Solicitors
Roscoes Solicitors
T L T Solicitors
Trethowans Solicitors
United Co-operatives
Walker Morris Solicitors
Wells Connor & Co Solicitors
Winckworth Sherwood
Winston Solicitors
Zermansky & Partners Solicitors

Trade organisations

Support Organisations

OBJECT
Fawcett Society
Alcohol and Drugs Service
Leeds Addiction Unit
Leeds Chamber of Commerce & Industry
Mencap
Victim Support Leeds

Health

Leeds North East PCT
Leeds North West PCT
Leeds West PCT
Leeds East PCT
Leeds South PCT

Local MPs

Leeds West MP
Leeds Central MP

Leeds North West MP
MP for Elmet
MP for Morley and Rothwell
MP for Leeds North East
MP for Leeds East
MP for Pudsey

Parish and Town Councils

Aberford & District Parish/Town Council
Allerton Bywater Parish/Town Council
Arthington Parish/Town Council
Bardsey cum Rigton Parish/Town Council
Barwick in Elmet and Scholes
Parish/Town Council
Boston Spa Parish/Town Council
Bramham cum Oglethorpe Parish/Town
Council
Bramhope & Carlton Parish/Town Council
Clifford Parish/Town Council
Collingham with Linton Parish/Town
Council

Drighlington Parish/Town Council
East Keswick Parish/Town Council
Gildersome Parish/Town Council
Great & Little Preston Parish/Town
Council
Harewood Parish/Town Council
Horsforth Town Council
Kippax Parish/Town Council
Ledsham Parish/Town Council
Ledston Parish/Town Council
Micklefield Parish/Town Council
Morley Town Council
Otley & Yeadon Parish/Town Council
Pool Parish/Town Council
Scarcroft Parish/Town Council
Shadwell Parish/Town Council
Swillington Parish/Town Council
Thorner Parish/Town Council
Thorp Arch Parish/Town Council
Walton Parish/Town Council
Wetherby Town Council

Annex B – BRE Code of Practice on Consultation

The consultation is being conducted in line with the BRE Code of Practice on Written Consultation. The consultation criteria are listed below. More information can be found at: <http://www.berr.gov.uk/files/file47158.pdf>

The Consultation Criteria

1) When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2) Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3) Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4) Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5) The burden of consultation

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6) Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7) Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any questions or complaints about the process of consultation on this paper, please contact Susan Holden, Principal Project Officer, Entertainment Licensing, Leeds City Council, Civic Hall, Leeds, LS1 1UR.