

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Licensing Committee

21 October 2010

**AUTHOR/S:** Executive Director/Operational Services / Environment Services Manager

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### ADOPTION OF S.27 POLICING AND CRIME ACT 2009

#### Purpose

1. To seek approval and recommendation to full Council for the adoption of schedule 3 to the Local Government (Miscellaneous provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009.
2. This is a key decision as it raises new issues of policy.

#### Recommendation

3. That the Licensing Committee recommend to the leader of the Council the adoption of Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 as to apply in the district of South Cambridgeshire.

#### Reason for Recommendation

4. To commence with the adoption prior to the 6 April 2011 deadline as defined in the Policing and Crime Act 2009.

#### Background

5. On 28 September 2006 the council adopted the provisions of part II Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 relating to the control of sex establishments.
6. On the 6 April 2010 the provisions contained in section 27 of the Policing and Crime Act 2009 relating to sexual entertainment venues came into effect.
7. These provisions amend Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by introducing a new category of sex establishment called a sexual entertainment venue into the existing legislation. These venues are defined to include live performances or a live display of nudity. The relevant entertainment is defined as:-
  - Any live performance or display of nudity "*which is of such a nature that ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)*". Such activities would include for example striptease and lap dancing before a live audience. A licence will be required under this legislation for these specific activities.
8. Premises only providing this entertainment at monthly intervals within a period of 12 months will be exempt from the requirement to obtain a licence.

9. The licensing of Sex Entertainment Venues are outside of the remit of the Licensing Act 2003, however where such premises provide other licensable activities e.g the sale or supply of alcohol they will nevertheless continue to require the authorisation under the Licensing Act 2003 for such activities.
10. Because the new licensing arrangements are to be dealt with under the Local Government (Miscellaneous provisions) Act 1982 rather than the Licensing Act 2003 they would fall within the remit of this Committee rather than the Licensing Act Committee.
11. In order to use these procedures, a resolution is required to be made at full council. The resolution is made under section 2 of the Local Government (Miscellaneous Provisions) Act 1982. The procedure requires the local authority to make a resolution which specifies that the provision will apply to the area from the date specified in the resolution. This date shall not be within one month from the date that the resolution is passed.
12. The process by which Sex Establishments are licensed remains unchanged, as Section 27 of the 2009 Act only amends the definition of a Sex establishment to include Sexual Entertainment Venues rather than to create a new licensing regime. Accordingly, an applicant for a Sex Establishment licence must submit the application to the Council, including the prescribed fee (Currently £3,400) and advertise the application in the local press and on the premises. If representations are received that are not malicious, frivolous or vexatious the application would be referred to the Licensing Committee, which would resolve either to grant the licence (with additional conditions if necessary) or refuse the application on one or more of the grounds contained in the 1982 Act.

### **Considerations**

13. In order to proceed with the adoption of the provisions, the policy will be forwarded in the following manner:
  - a. This Licensing Committee will, if it decides to do so, make a recommendation to the Leader of the Council to adopt the provisions of S.27 of the Policing and Crime Act 2009.
  - b. The Leader will then make a recommendation to Council at its meeting on 25 November 2010 to approve and adopt the provisions. The date set for the implementation of the provisions will not be less than one month after the date of the meeting.

### **Options**

14. The legislation is not mandatory for local authorities and therefore the adoption of Section 27 is optional. However, if the amendment within the Policing and Crime Act 2009 is not adopted by 6 April 2011, then any future adoption will be subject to a consultation with local people about whether we should do so as soon as is reasonably practical after that date.

### **Implications**

15. Venues that would fall into this category are currently either outside the scope of licensing or more likely covered by the Licensing Act 2003 and as such are limited by the licensing objectives when either considering grounds for refusing an application or

attaching conditions. The adoption of this provision would give far wider parameters to the Licensing Committee when considering the impact such a venue may have in any given area.

16. Financial	Lap dancing venues are currently licensed under the Licensing Act 2003, as such the fees are set by statute. It is proposed that if a Local Authority adopts the provisions of Section 27 of the Policing and Crime Act, 2009 fees will be set by the Local Authority but will have regard to cost of implementation, administration and enforcement of the legal requirements.
Legal	Any decision to refuse an application may be appealed to a magistrates Court
Staffing	None arising from this report
Risk Management	None arising from this report
Equality & Diversity	There are no negative impacts
Equality Impact Assessment completed	Awaiting completion
Climate Change	N/A

### Consultations

17. There is no statutory requirement to consult on the adoption of the provisions of the Act provided adoption occurs before 6 April 2011. Consultation will, however, take place in respect of the amended policy for determining applications for these venues.

### Effect on Strategic Aims

18.	<b>Commitment to being a listening council, providing first class services accessible to all.</b>
	The commitment to being a listening council, any application for a licence will be subject to a 28-day period in which comments can be received and considered by the Council.
	<b>Commitment to ensuring that South Cambridgeshire continues to be a safe and healthy place for all.</b>
	The adoption of the Act will allow for conditions to be considered, subject to the merits of an individual application.
	<b>Commitment to making South Cambridgeshire a place in which residents can feel proud to live.</b>
	The policy clearly states the objectives of the Council.
	<b>Commitment to assisting provision for local jobs for all.</b>
	The policy clearly states the objectives of the Council.
	<b>Commitment to providing a voice for rural life.</b>
	A sub committee of the Licensing Committee will determine applications where any relevant representations have been made against applications

### Conclusions / Summary

19. As detailed in the report, the Council must pass a resolution if it wishes to adopt these new provisions. The resolution must be made under Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 stating that Schedule 3 as amended by Section 27 of the Policing and Crime Act 2009 has been adopted and shall apply to the Council's area. The final resolution must be made by full Council.

20. The adoption of the resolution will lead to a review of the current policy for dealing with applications which, as referred to will be subject to a formal consultation.

**Background Papers:** the following background papers were used in the preparation of this report:

Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982

Licensing Act 2003

Policing and Crime Act 2009

The Policing and Crime Act 2009 (commencement No 1, Transitional Provisions and Savings) (England) Order 2010

Home Office Guidance – Sexual Entertainment Venues

The Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010

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