

FOR: REGULATORY AND LICENSING COMMITTEE

Date: 28th November 2013

Agenda Item: 6

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THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
THE POLICING AND CRIME ACT 2009
LICENSING OF SEXUAL ENTERTAINMENT VENUES (SEV'S)

1. Purpose Of Report

- 1.1 To confirm the policy and standard conditions of a licence for the Licensing of Sexual Entertainment Venues as previously reported to the Committee on 6th February 2013.

2. Background

- 2.1 At a previous meeting of the Committee Members were advised of the background and reason for adopting a policy and standard conditions for the Licensing of Sexual Entertainment Venues.
- 2.2 Under the Policing and Crime Act 2009 a new category of “sex establishment” called a “sexual entertainment venue” (SEV) in Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 was created.
- 2.3 Section 27 of the Policing and Crime Act 2009 introduced amendments which made available new powers relating to the control of sexual entertainment venues.
- 2.4 This brings the licensing of lap dancing, pole dancing clubs and other similar venues under the regime set out in the 1982 Act (currently used to regulate establishments such as sex shops and sex cinemas) rather than under the Licensing Act 2003.
- 2.5 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 defined as “any live performance or 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 an audience (whether by verbal or other means).” An audience can consist of just one person (e.g. where the entertainment takes place in a private booth).

- 2.6 The powers to regulate sexual entertainment venues **are not mandatory** and only apply where the amendment to the 1982 Act has been specifically adopted. Where adopted, the legislation is designed to give local people a greater say over the regulation of sexual entertainment venues in licensed premises in their area by allowing for objections on wider grounds than is allowed currently under the LA2003.
- 2.7 Guidance issued by the Home Office indicates that whilst local authorities should normally judge each case on its own merits, it is expected that the definition of relevant entertainment would at least include the following forms of entertainment:
- Lap dancing
 - Pole dancing
 - Table dancing
 - Strip shows
 - Peep shows
 - Live sex shows

3. Adopting the Policy and Conditions.

- 3.1 Member's views were sought at the last meeting in February 2013 as to whether to adopt the new powers. They were advised that if the Council were to adopt the amendments it would be able to better control what is or what is not licensed within the district and that other local authorities have chosen to do so with some having such venues currently e.g. Tamworth.
- 3.2 There is no statutory requirement for a consultation exercise to be undertaken prior to approving a policy for SEVs but it is suggested it would be good practice to do so.
- 3.3 The Committee after consideration of the report resolved that:
- 1) That the new amendments to the Policing and Crime Act 2009 for a new category of "sex establishment" called a "sexual entertainment venue" (SEV) in Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 be adopted.
 - 2) That a public consultation exercise be undertaken prior to approving a policy for SEVs.
 - 3) That the policy and standard conditions of a licence for the Licensing of Sexual Entertainment Venues under the Local Government (Miscellaneous Provisions) Act 1982 and Policing and Crime Act 2009 be subsequently adopted as detailed at Appendix A and B of the report.
- 3.4 The results of the public consultation have resulted in one response and this related to academic work undertaken on this subject. This is attached at Appendix C for information.
- 3.5 A specific request for a response from the Police Licensing Division was also requested in the respect of licensing aspects of this Policy. No adverse comments have been received from them.
- 3.6 The local authority are also required to publish a notice that they have passed a resolution under section 2 of the 1982 Act or (in cases where Schedule 3 is already in force but the local authority is adopting the amendments made by section 27) paragraph 2(2) of Schedule 3 to the 2009 Act for two consecutive weeks in a local newspaper that is circulated in their area.
- 3.7 The first publication shall not be later than 28 days before the day specified in the

resolution for the provisions to come into force in the local authority's area.

4. Strategic Plan Implications

- 4.1 The provision of good quality services by the Council is a key objective.
- 4.2 The licensing and enforcement activities undertaken contribute to the delivery of strategic objectives of "Supporting People" and "Boosting Business and our Economy".

5. Sustainability Issues

- 5.1 The services provided by Environmental Health, including licensing enforcement activities contributes to the well-being and safety of our residents and towards protecting and providing a high quality and sustainable environment for this and future generations.

6. Human Rights Issues

- 6.1 Article 6 of the Human Rights Act 1998 states that, in determination of a person's civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- 6.2 Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence.
- 6.3 Part II, Article 1 of the Act states that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

7. Financial Implications

- 7.1 Some officer costs have been incurred in the development of a draft policy and conditions and these have been accommodated within existing budgets.
- 7.2 The cost of the public advert will be in the region of £1500 (2 required) and this will need to be accommodated from existing budgets which do not have a current provision for this new area. Some of this cost may be recoverable as part of the fee for administering such licences.
- 7.3 In the event of an application being received and subsequent objections being made, there would be additional costs associated with the holding of a public hearing, the cost of which may also be recovered from the fees dependant on the final approved fee structure.

8. Risk Management Issues

- 8.1 There is a risk to the Council in respect of legal challenge to any decision made and to the policy and conditions if not considered to be reasonable and proportionate.
- 8.2 In the event of such a premises starting up in the district currently a lack of policy could limit the Councils ability to property regulate these premises

9. Recommendation

- 9.1 To formally adopt the policy and standard conditions of a licence for the Licensing of Sexual Entertainment Venues under the Local Government (Miscellaneous Provisions) Act 1982 and Policing and Crime Act 2009 as set out in the report and Appendix A and B of the 6th February 2013.
- 9.2 Publish a notice that a resolution has been made under section 2 of the 1982 Act or (in cases where Schedule 3 is already in force but the local authority is adopting the amendments made by section 27) paragraph 2(2) of Schedule 3 to the 2009 Act as detailed at paragraph 3.6.
- 9.3 That the policy and conditions referred to in paragraph 9.1 comes into effect after the resolution for the provisions to come into force in the local authority's area has been confirmed by Council and subject to the statutory notice period.
- 9.4 That all fees relating to this matter are subject to confirmation by the Regulatory and Licensing Committee on the 6th February 2014 as part of the overall confirmation of other fees and charges for the following year.

Background Documents:

Appendix A - Policy for the Licensing of Sexual Entertainment Venues (SEV)

Appendix B - Standard conditions of licence of Sexual Entertainment Venues (SEV)

Appendix C - Consultation response received from Professor Phil Hubbard, University of Kent.

Web link to Guidance -

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?authCode=5AF8F2C&id=23464>

APPENDIX A

LICHFIELD DISTRICT COUNCIL

PROPOSED POLICY FOR SEXUAL ENTERTAINMENT VENUES

1. Introduction

- 1.1 Lichfield District Council (“the Council”) is able to regulate and control sex establishments under the powers provided by Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”), in relation to sex shops and sex cinemas.
- 1.2 On 6 April 2010 the Policing and Crime Act 2009 (“the 2009 Act”) came into force and amended Schedule 3 to the 1982 Act by adding Sexual Entertainment Venues (“SEVs”) as a category of sex establishments in order to enable local authorities to regulate those premises which provide lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows and other similar entertainment.
- 1.3 The Council resolved on 10th December 2013 to adopt the new amendments with effect from 1st February 2014. As a result it is necessary to introduce a new policy which is to apply to SEVs within Lichfield District.
- 1.4 The policy will be reviewed on a regular basis and revised where necessary.
- 1.5 The underlying principle of the policy is that each application for a SEV licence will be dealt with on its own individual merits.
- 1.6 Notwithstanding matters contained within this policy, consideration will also be given to the provisions of the Human Rights Act 1998 and the Home Office Guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales” when considering applications for SEVs.
- 1.7 The Council does not take a moral stance in approving this policy. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industry. It is the Council’s role as a Licensing Authority to regulate such premises in accordance with the law.

2. **Sexual Entertainment Venues**

- 2.1 A SEV is defined in the 2009 Act as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.
- 2.2 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 be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)”.
- 2.3 These definitions would apply to the following forms of entertainment [as they are commonly known]: lap dancing; pole dancing; table dancing; strip shows; peep shows, live sex shows and any sexual entertainment of a similar nature.
- 2.4 The 2009 Act provides exemptions from the definition of SEVs as follows:
- Sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act).
 - Premises which provide relevant entertainment on an infrequent basis. These are detailed as premises where:
 - (a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - (b) no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
 - (c) no such occasion has lasted longer than 24 hours.
 - Other premises or types of performances or displays exempted by an order of the Secretary of State.
- 2.5 Premises which provide regulated entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003 (‘the 2003 Act’) insofar as they are providing regulated entertainment under that Act either by virtue of a premises licence or club premises certificate or a temporary event notice.
- 2.6 In practice this means that the vast majority of lap dancing clubs and similar venues will require both a SEV licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provisions of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 2.7 Live music or the playing of recorded music which is integral to the provision of relevant entertainment such as lap dancing for which a SEV licence is required is specifically excluded from the definition of regulated entertainment in the 2003 Act. Therefore, a SEV will not require a premises licence or club premises certificate under the 2003

Act merely because it plays recorded music for a performer to dance to.

3. **Waivers**

- 3.1 Schedule 3 to the 1982 Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit.
- 3.2 The Council however, does not generally consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of SEVs, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than 11 occasions within a 12 month period, providing there is at least one month between each period of entertainment.
- 3.3 Whilst each application for a waiver will be considered on its own merits by the Regulatory and Licensing Committee, in light of the exemption in relation to the provision of relevant entertainment on an infrequent basis the Council takes the view that waivers are unlikely to be appropriate in relation to relevant sexual entertainment and would therefore only be considered in exceptional circumstances.

4. **Determination of an Application**

- 4.1 All applications for the grant, renewal, variation or transfer of an SEV licence will be determined by the Council's Regulatory and Licensing Committee ("the committee").
- 4.2 The 1982 Act provides five mandatory grounds and four discretionary grounds for the refusal of a SEV licence. Each application will be determined on its own individual merits and the committee will give clear reasons for its decisions. Any decision to refuse a licence **MUST** be relevant to one or more of the following grounds set out in paragraphs 5.1 and 5.2 below:

5. **Grounds for refusal**

- 5.1 The Act provides that a licence cannot be granted on the following mandatory grounds:
- (a) to any person under the age of 18 years;
 - (b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
 - (c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of

six months immediately preceding the date when the application was made; or

- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

5.2 The following are discretionary grounds for refusal :

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
- (b) 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/she made the application himself/herself;
- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time which the authority consider is appropriate for the 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.

6. **Suitability of an Applicant**

6.1 With regard to paragraphs 5.2(a) and (b) above, insofar as the unsuitability of an applicant to hold a licence is concerned, the committee will normally consider the following criteria:

- that the operator is honest.
- that the operator is qualified by experience to run the type of sex establishment in question.
- that the operator understands the general conditions.
- that the operator is proposing a management structure which delivers compliance with the operating conditions e.g. through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for the welfare of performers.
- that the operator can be relied upon to act in the best interests of performers e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored.

- that the operator can be relied upon to protect the public e.g. transparent charging, freedom from solicitation.
- that the operator can show a track record of management of compliant premises, or that he/she will employ individuals who have such a track record.

7. **Number of Sexual Entertainment Venues**

- 7.1 As set out within paragraph 5.2(c) above, the committee may refuse an application if it is satisfied that the number of sex establishments 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. The committee does have the power to determine that the appropriate number for a particular locality is nil.
- 7.2 In determining the appropriate number of sex establishments for a particular locality the committee will consider each application on its own individual merits.

8. **Relevant Locality**

- 8.1 With reference to paragraph 5.2(d) above, 'relevant locality' for the purposes of paragraph 12 of Schedule 3 of the Act means, in relation to the premises, the locality where they are situated.
- 8.2 In considering whether the grant, renewal or variation of a SEV licence would be appropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the committee will consider, among other things, the following :
- (a) The proximity and position of the premises in relation to any -
- schools, or other establishments for the education, training or care of young persons, including youth clubs or similar establishments ;
 - leisure centres, libraries or other buildings used by the community for sporting or other activities ;
 - nearby residential dwellings ;
 - places of public religious worship
 - buildings of historical or cultural interest or tourist attractions ;
 - play areas
- (b) The general nature and character of the locality
- (c) The number of any licensed sex establishments already in the area at the time the application is made
- 8.3 The committee will determine the extent of each locality on a case by case basis taking into account the particular circumstances in each case.

8.4 The committee shall have regard to this policy when determining applications for SEV licences, subject to the overriding principle that each application will be determined on its own merits.

9. Planning Permission

9.1 Applicants for SEV licences in respect of permanent commercial premises will be required to produce planning consent for the premises concerned.

November 2013

APPENDIX B

LICHFIELD DISTRICT COUNCIL

DRAFT STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT

VENUES EFFECTIVE FROM 1st FEBRUARY 2014

These regulations are made under paragraph 13(1) of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the "1982 Act") as amended by the Policing and Crime Act 2009 (the "2009 Act") to prescribe conditions. In these Regulations, except when the context otherwise requires, the following expressions shall have the following meanings:

- (i) "The Council" shall mean Lichfield District Council and all enquiries concerning these Regulations and its conditions shall be directed to the Council Licensing Team.
- (ii) These conditions apply to all premises licensed as a "sexual entertainment venue" as defined by the 1982 Act, and set out the terms, conditions and restrictions on or subject to which licences under Schedule 3 of the 1982 Act are in general to be granted, renewed, varied or transferred.
- (iii) "Sexual Entertainment Venue" ('SEV') means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser or the entertainer.
- (iv) "Premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
- (v) '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).
- (vi) The Council may at any time waive, modify or vary these conditions or impose additional special conditions in any particular case.
- (vii) If the Licensee wishes any of the terms of the licence to be varied at any time an application must be made to the Council.
- (viii) In the event of a conflict between these prescribed conditions and any specific additional conditions imposed by the Council on a SEV licence those additional conditions shall prevail.

OPENING HOURS

1. The licensed premises shall not be open nor used for the purposes for which the licence is granted except between the hours prescribed within the licence or those hours of operation determined by the Licensing Committee.

WINDOW, FASCIA BOARD ADVERTISEMENT AND DISPLAYS

2. The licensee shall ensure that those areas of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.
3. The windows, doors fascia board, walls and other external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (a) The address of the premises.
 - (b) The licensed name of the premises.
 - (c) A notice stating the opening hours of the establishment.
 - (d) In the case of a licence granted to a body corporate:
 - (i) If the premises name is not the same as the full name of the body corporate then such corporate name and;
 - (ii) If the premises are also the body's registered office for the purposes of the Companies Acts then an indication in a form acceptable to the company that such is the case.
4. The lettering used in respect of such permitted items shall be of such colour and style as may be approved by the Council.
5. With the exception of the requirements of condition 30 the licensee shall not permit the display outside of the premises of any advertisement, photographs or other images other than those specifically authorised by the licence.

LICENSED NAME

6. At the time of granting the SEV licence the Council will approve a name, referred to as "The Licensed Name", by which the premises shall be known and the licensee shall ensure that the premises are known solely by that name and by no other, subject to paragraph 7 below.
7. To change the licensed name, a minor variation application shall be made to the Council not less than 28 days prior to the proposed change. Any such change of name shall be at the discretion of the Council.

DISPLAY OF LICENCE

8. A copy of the Licence and the conditions shall be on display in the premises at all times and in a position that can easily be seen by all persons frequenting the premises.
9. A copy of the conditions of the Licence insofar as they relate to performances (ie, conditions 27 to 39) shall be given to all performers prior to them performing at the premises, and a copy shall be on display in the performers changing rooms at all times the premises are open for business.

RESPONSIBILITY OF THE LICENSEE

10. The licensee shall take all reasonable precautions for the safety of the public and employees on its premises and, except with the consent of the Council, shall retain control over all parts of the premises. Any request to sublet the premises following the granting of the licence will need to be determined by an application to the Council to vary the licence.
11. If the premises are used for other forms of regulated entertainment not connected with the relevant sexual entertainment, it will be necessary for a premises licence to be granted under the Licensing Act 2003.
12. The licensee shall be responsible for ensuring compliance with these and any special additional conditions of the licence and will be held responsible for any breach of the conditions.
13. The licensee or a responsible person over 18 years of age nominated by them in writing for the purpose of managing the SEV in their absence shall be in charge of and upon the premises during the whole time they are open to the public.
14. The written nomination referred to in condition 13 above shall be maintained in a daily register, kept on the premises and made immediately available for inspection by an authorised officer of the Council or a police officer.
15. The person in charge shall not be engaged in any duties which prevents them from exercising general supervision of the premises, in particular those areas where relevant entertainment takes place, and they shall be assisted as necessary by a suitable number of persons so as to ensure proper supervision.
16. A notice showing the name of the person responsible for the management of the SEV shall be prominently displayed within the premises throughout the period during which they are responsible for its conduct.

17. The licensee must ensure that there is a current insurance policy in force to cover the performers whilst the premises are open and that a copy is displayed in all areas where staff have access.

EMPLOYEES AND MANAGEMENT STAFF

18. The licensee shall at all times keep and maintain at the licensed premises a written record of the names, addresses, and copies of photographic proof of age documents of all persons employed or performers contracted to operate within the licensed premises whether upon a full or part time basis and shall, upon request by an authorised officer of the Council or police officer, make such records immediately available for inspection to them.
19. The term contracted does not relate to persons engaged to carry out repairs or provide services from external companies to the premises, however, such persons must be aged 18 years and over if the premises are open for business.
20. The licensee shall ensure that all persons employed or contracted to work within the licensed premises hold the appropriate rights to work and shall keep copies of any documentation used to verify the details of these rights where necessary. The necessary documentation shall be available for inspection on request.
21. The licensee or a responsible person purporting to act upon their behalf must provide the Council with written notification as to the names, addresses and dates of birth of such person or persons (whether employees or otherwise connected with the business) who have authority to manage the premises in the licensee's absence, and shall produce the same, on request, to any authorised officer of the Council or a police officer.
22. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified by way of a minor variation application to the Council within 14 days of such change.

ALTERATIONS TO PREMISES

23. Any alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises, including any change in the permitted signs on display shall not be made except with the prior approval of the Council by way of a variation application.

RULES RELATING TO PERFORMANCES

24. Any rules imposed on the performers shall be displayed in a prominent position within the premises for all employees to have easy access to whilst at work and on the company's web site.
25. A copy of the club rules shall be provided to performers engaged by the premises by means of a written contract signed by the recipient. The signed copies shall be retained on the premises and be available for inspection on request.
26. Copies of the same must be retained on the premises and produced to an authorised officer of the Council or police officer on request.

PERFORMANCES

27. No person under the age of 18 shall be on the licensed premises at any time during the hours of operation stated. A notice shall be clearly displayed at the entrance to the premises in a prominent position advising customers that no one under the age of 18 will be admitted and that they may be asked to produce evidence of their age in accordance with condition 28 below.
28. The premises shall operate a 'Challenge 25' policy whereby any person who appears to be under the age of 25 must be asked to produce on request, and before being admitted to the premises, identification showing that they are over 18 years of age. The identification must contain their photograph, date of birth and a holographic mark and shall be either a passport, photographic driving licence or a proof of age card carrying a 'PASS' logo.
29. Each area where relevant entertainment is conducted shall be effectively supervised at all times and shall contain a panic alarm for the safety of performers.
30. All areas within the premises, especially those areas where performances are permitted to take place, shall display signs advising clients of the rules and conditions of the licence regarding improper performances.
31. All performers must be at least 18 years old.
32. Relevant sexual entertainment shall only be permitted in the approved designated areas, as stipulated or shown on the plan attached to the licence. With the exception of the designated areas, in all other areas within the premises the performers and employees must at all times be

dressed in such a way so that no nudity or underwear is visible under their clothes.

33. During any performance (including performances usually termed 'private dances') there must not be any deliberate contact by the performer, with any customer or other person within the viewing audience except:
 - a. Leading a patron hand in hand to and from a chair or private room or designated dance area.
 - b. Simple handshake greeting at the beginning and/or end of the performance.
 - c. A customary ("peck on the face") kiss at the end of the performance.
 - d. The placing of monetary notes or dance vouchers into the hand of, or garter worn by, the performer.
34. No performances shall perform any sex act with any other performers, patrons, employees, contractors, or with the use of any objects.
35. A price list shall be displayed in a prominent position giving the price and the time allowed for any of the performances.
36. All persons connected with or employed by the business who can be seen from outside the premises must be dressed in such a manner so that no nudity or underwear is visible under their clothing.
37. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except within the toilets or within the performers dressing rooms and staff areas.
38. At all times during a performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience or other customers. Access to dressing rooms shall be restricted to performers only at all times.
39. Customers and/or members of the audience shall not take photographs or record digital images of performers within the premises via a camera or mobile phones or any other equipment.

SECURITY STAFF

40. The licensee shall ensure all door supervisors employed or contracted to work on the premises are properly licensed by The Security Industry Authority or other appropriate agency with statutory responsibility for licensing door supervisors..

41. An adequate number of door supervisors or other security staff, based on a risk assessment undertaken by the licensee, shall be on duty on the premises at all times during the hours of operation, so as to ensure proper supervision of the performances and also to prevent entry to the premises by those under 18 years of age.

CCTV

42. CCTV shall be installed in each room within the premises where the public have access, except for the toilets and staff areas. All cameras shall continuously record whilst the premises are open to the public and video or digital recordings shall be kept available for a minimum of twenty eight days.
43. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers, cleared of all staff and closed.
44. The premises will provide any footage of any recordings immediately upon request by a police officer or an authorised officer of the Council.

TOUTING FOR BUSINESS AWAY FROM THE PREMISES.

45. The licensee shall not allow the use of vehicles whether mobile or stationary, (including limousines), for the promotion of the relevant entertainment unless otherwise authorised by the licence.
46. The licensee or its agents, servants, employees, contractors or performers shall not tout for business and/or customers outside of, or away from, the licensed premises by any means unless specifically authorised by the licence.
47. The licensee shall ensure that any marketing communications associated with the SEV or any relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.

ADMISSION OF AUTHORISED OFFICERS

48. Police officers and authorised officers of the Council shall be admitted without obstruction at all reasonable times to all parts of the premises and, in any event, at any time the premises are open for business.

November 2013

DECEMBER 2012

Initial findings

Sexualisation, nuisance and safety

Sexual Entertainment Venues and managing risk

In the last decade, venues where the live display of nudity is regularly offered have opened across England and Wales. This ESRC-funded research collected evidence of the impacts of such venues on surrounding businesses and residents. Some of the key findings were:

- There are 241 licensed premises regularly offering lap dancing or striptease in England and Wales. Nearly half (43%) of those applying for a Sexual Entertainment Venue (SEV) license have received no formal objections.
- A survey of residents in towns and cities with lap dance clubs suggests that around one in five were not aware there was an SEV operating in their town or city. Fewer than one in ten identified an SEV as a particular source of local nuisance, and in some locations this was considerably lower.
- Women, those over 40, those who have lived in their current home for over 5 years and those with children are most likely to argue there are too many lap dance clubs in their town. Women, those with children and the over 40s are least likely to suggest that striptease is harmless entertainment and most likely to suggest it attracts criminal elements and promotes sexism.
- Around one in ten in our survey suggested there is no suitable location for lap dancing clubs. Very few believe clubs are suitable near schools, though the majority (55%) regard town and city centres as appropriate locations.
- Walk-along events were used to gauge the impact SEVs had on the night-time economy in four case study locations. These suggested that SEVs were not the most significant source of fear or anxiety for participants, with most instances of antisocial and rowdy behavior being associated with other venues, notably pubs.
- Women were more likely than men to pass comment on SEVs and express un-ease or anxiety about them. None argued that SEVs were a major source of antisocial behavior, or were able to cite any instances of harassment, noise or violence associated with such clubs: concerns appeared to coalesce around the normalization of male-oriented sexual entertainment and the encouragement of sexist attitudes among younger people. This suggests moral anxiety and disgust, rather than fear, may underpin many objections about SEVs.
- SEVs which were discrete in terms of their signage, naming and exterior appearance appeared to generate least comment or concern. Sexist imagery and names were objected to by many of our participants.

Background

The emergence of lap dance and striptease clubs since the late 1990s has prompted significant debate, with the opening of such clubs routinely opposed by local resident and business groups as well as those arguing such clubs represent a pernicious and damaging 'sexualisation' of society. One consequence was that the *Policing and Crime Act 2009* contained new adoptive powers allowing for the tighter regulation of such clubs, adding the category of Sexual Entertainment Venue to the list of sex establishments controlled by the *Local Government (Miscellaneous Powers) Act 1982*. Under the terms of this legislation, any premise where a live display of nudity is provided to a paying audience 'solely or principally for the purposes of sexual stimulation' on more than 'eleven occasions...within the period of 12 months' (Section 27, schedule 2A) needs to be licensed in the same manner as a sex shop or sex cinema. Moreover, a license may be refused simply if the local authority determines that '...the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality' (Home Office, 2010: 10). Given the definition of a 'locality' is left to the local authority, the new powers give authorities a high degree of control over SEVs.

Around 30 of 327 licensing authorities in England appeared not to have adopted the new powers for regulating lap dance clubs as of 1 September 2012. These included some rural and largely remote local authorities with no tradition of sex establishments (e.g. Ashfield, Cotswolds, Craven, Rossendale, Richmondshire) but include some local authorities where lap dance clubs remain open (and licensed under the 2003 Licensing Act). These include Bolton, Charnwood, Kirklees and Norwich,. Some local authorities that have not adopted the powers previously had lap-dancing clubs but do not have any currently (e.g. Bury, Bridgend, Cannock).

In most cases where the new powers have been adopted, policies have been drawn up to guide SEV applications. Most state that each application will be considered on its merits, but stress there is a presumption against clubs in the vicinity of particular land-uses (e.g. shops, family housing, education facilities, transport hubs, historic districts and 'areas in transition'). Some local authorities have suggested there are no suitable locations for new SEVs: these include Enfield, St Albans, Haringey, Harrow, Richmond on Thames, Tower Hamlets, Havant, Havering, North Tyneside, the City of London, Wellingborough, Winchester, and Hackney.

There is no national database of the number of premises that applied to put on striptease before the introduction of the *Policing and Crime Act 2009*. It has been estimated that there were around 200 clubs in 2000, rising to 300-350 by 2007. Our analysis suggests there are now 241 premises offering striptease or similar entertainment on more than 11 occasions per year. Of these, 198 have an SEV license, 5 have made an application on which a decision is pending and 38 operate on a 2003 Licensing Act license. 43% of SEV applications have not been opposed, though in some cases local opposition has been considerable: around one in ten applications receives upwards of 30 objections.

As of 1 November 2012, 16 SEV applications had been refused: *Saints & Sinners* and *The Pad* (Bedford); *Lounge@30* (Bristol); *Angels, Baby Blue* and *Panache* (Leicester); *Dazzle* (Ealing); *Piano Bar* (Twickenham, Richmond); *Pandoras* (South Bucks); *Kiss* (Newquay); *Shades* (Warwick) (refused twice); *Thirst Lodge* (Oxford) (refused once, not renewed once) and *Tantric Blue & 87 Bank Street* (Maidstone). There is no statistical relationship between the level of public opposition and the likelihood of license refusal. It should be noted that the current economic downturn, and the costs of applying under the new licensing regime, is also having some impact on the overall number of clubs, with three clubs previously issued an SEV license closing in 2012.

Aims

To date, there has been no academic research on the impacts of lap dancing clubs on the communities in which they are located. The purpose of this research was therefore to explore how local authorities can best achieve the aims of licensing - i.e. maximizing public safety, minimizing public nuisance, and reducing crime and disorder - in relation to SEVs. More widely, the aim is to explore whether SEVs have a place in England and Wales. The specific aims were:

1. To examine local residents' perceptions of Sexual Entertainment Venues in four case study locations selected to be representative of different styles and settings of clubs.
2. To explore the ways that SEVs change peoples' experience of the night-time city, paying particular attention to questions of gender.
3. To contribute to emerging academic and popular understandings of the anxieties that surround adult entertainment as it becomes more visible in the night-time economy of British towns and cities.

Methods

An online survey was completed by 941 adult respondents recruited from four case study locations with different histories of sexual entertainment. 68% were female; 40% had children under 18 living in their household; 48% lived in a home that was owned or mortgaged. 87% described themselves as white British or white English and 61% claimed no religion. 46% were aged 25-39 but only 13 respondents (1.4%) were over 65.

From the survey, 46 respondents were recruited for evening walk-along events which were audio-taped and photographed. Respondents were asked to speak about their feelings about different parts of the town, with routes chosen to ensure some SEVs would be visible. Semantic rating scales were used to explore their feelings about different locations. The walk-along events were mixed gender, and included participants from a variety of age groups.

Results

Our survey found that 22% of respondents who lived in towns with one or more SEVs present were unaware of these premises. One in four of those who were aware of such premises had visited a lap dance venue: of the rest, most had become aware of a venue by seeing on the street rather than reading about it in the media.

One in five respondents identified a venue in their town that they thought caused particular nuisance: 65% of these were pubs or clubs, 20% take-aways or off-licenses and 15% SEVs. Pubs were most likely to be associated with noise, take-aways with littering and lap dance venues with crime and antisocial behaviour. This implies only around 3% of our respondents felt that an SEV was a source of particular nuisance. This can be contrasted with another UK survey (n=1875) where 57% of respondents felt clusters of sex premises would have detrimental effects on the vibrancy and vitality of their local high street (cf. 36% for fast food outlets and 19% for pubs/bars) (Local Government Association, 2012).

Overall, 83% of people think SEVs are unsuitable near Schools or Nurseries, 46% near Universities/Colleges, 65% near religious facilities, and 45% near shops. Only 3% think SEVs are suitable in residential areas, 10% in rural areas, and 15% in industrial areas, though the majority (55%) feel town centres are suitable. Around 1 in 10 claim there are no suitable locations for SEVs. This group is most likely to regard SEVs as promoting sexism, and least likely to regard it as harmless entertainment. This group is most likely to report avoiding walking past SEVs at night. However, this group does not have an over-representation of people with children in the household, even though this was the population most likely to report nuisance from SEVs.

The implication here is that SEVs are not regarded as a significant source of nuisance by the majority, but that a significant minority feel such clubs are inappropriate because they promote sexism, crime and encourage antisocial behavior. This group appears to harbor concerns that SEVs might encourage and normalize particularly negative attitudes

towards women. Perceptions of SEVs therefore appear to be strongly shaped by gender, though men living with children in their household, and those over 40, also appears significantly more likely to be opposed to lap dance venues. Religion and ethnicity made no significant difference to attitudes to SEVs.

Around one in three of our respondents claimed to feel reasonably or very unsafe walking in the city at night. This group was significantly more likely to say there were too many SEVs in their town than those who felt safe, and more likely than any other group to say they would avoid walking past a lap dance club at night. Women were significantly over-represented in this group, suggesting the presence of SEVs in the night-time city may have gendered effects. This was explored in our guided walks, which suggested women were more likely to note, and comment on, the presence of SEVs in their local towns than men. Here, unease about SEVs appeared more related to questions of class, morality and disgust than fear, with SEVs contribution to antisocial behavior and rowdy behavior deemed marginal, and in some cases insignificant, compared with other venues.

Notably, SEVs that had discrete signage, were well-kept and did not overtly sexualize the public realm appeared least likely to provoke unease among participants in our walk-along events, who were concerned about the impact of advertising on children.

Conclusions

Opposition to SEVs appears mainly based on perceptions that clubs normalize sexism and promote anti-social behavior rather than any direct experience of crime. Those who have children in their home appear significantly more likely to describe existing SEVs as a source of nuisance, while women are most likely to argue for fewer SEVs.

However, not all clubs are perceived to have similar impacts on their locality, and some communities seem more accepting of SEVs. Some clubs are judged to be better managed, and some locations as more suitable. This implies the need for considering each application on a case-by-case basis. Irrespective, current approaches based on excluding SEVs from residential areas or near schools appear to be widely supported. However, few regard SEVs as a major threat to children's safety, suggesting concern is primarily about the normalization of particular attitudes towards women among young(er) people.

The implications here is that licensing needs to take seriously its commitment to Gender Equity and Equality, and that objections based on grounds of sexism and morality might be considered when determining licensing applications given these might have implications for the appearance and naming of clubs (noting most people first become aware of lap dancing clubs in their city by seeing them on their streets).

How to get further information

Outputs and summaries of the research findings are available online at:
<http://www.esrc.ac.uk/my-esrc/grants/ES.J002755.1/read>

Please contact P.Hubbard@kent.ac.uk for further details of the methods and findings.

