

Report of	Meeting	Date
Head of Environment	Licensing & Public Safety Committee	15 September 2010

POLICE AND CRIME ACT 2009 – ADOPTION OF POWERS

PURPOSE OF REPORT

1. For Committee to consider the adoption of the provisions for sexual entertainment venues introduced into the Local Government (Miscellaneous Provisions) Act 1982 by the Police and Crime Act 2009.

RECOMMENDATION(S)

2. That Members recommend adoption, under section 2 of the Local Government (Miscellaneous Provisions) Act 1982, of the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 Police and Crime Act 2009 and that this decision is taken to the next stage for adoption by Chorley Council.
3. That the Members approve the 'first appointed day' or the day on which adoption becomes effective as 1 January 2011
4. That delegation is given to the Licensing and Public Safety Committee to determine any policy framework and fee structure within which applications for Sexual Entertainment Venue licenses are considered.
5. If the provisions are adopted that the Licensing and Public Safety Committee be the determining body for all applications for Sexual Entertainment Venue licenses

EXECUTIVE SUMMARY OF REPORT

6. New legislative provisions exist under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to licence premises that provide entertainment defined as sexual entertainment. This includes entertainment such as that provided by lap dancing and pole dancing where the intention is to provide sexual stimulation for an audience and where the organiser or entertainer gains financially from such entertainment.
7. These new provisions are introduced by section 27 of the Police and Crime Act 2009 and require local authorities who wish to adopt the provisions to pass a resolution to that effect.
8. Members should note that the Council has previously adopted provisions of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 that relate to sex shops and sex cinemas. A new resolution does not have any effect on existing adoption of powers under Schedule 3.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

9. To enable the Licensing and the Public Safety Committee to determine applications for sexual entertainment venues using the wider consideration criteria that the adoptive powers of the amended Schedule 3 allow.
10. To ensure that the adoptive powers are introduced in accordance with the legislative requirements and Home Office guidance.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

11. To delay consideration of adoption of these powers until after 6 April 2011 when consideration of adoption, together with public consultation is compulsory. This alternative was rejected on the grounds that a decision on adoption of the powers should not be delayed.

CORPORATE PRIORITIES

12. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	x
Involving people in their communities	x	Ensure Chorley Borough Council is a performing organization	

BACKGROUND

13. In April 2010 a change in the law was introduced by the Policing and Crime Act 2009 to give local communities a stronger say over the establishment and location of lap dancing clubs and similar establishments in their area. In addition the change in legislation gives Local Authorities greater power to reject applications for lap dancing clubs and similar types of entertainment or impose conditions on such licensed premises.
14. The Local Government (Miscellaneous Provisions) Act 1982 is amended by an insertion into Schedule 3 which defines a sexual entertainment venue (SEV) and makes such premises licensable as a separate entity to other licensable activities. The effect of this is that certain premises may well have several licences dependant on the licensable activities they wish to offer. Hence a business with a Premises Licence issued under the Licensing Act 2003 to sell alcohol may also apply and be granted licence to operate as a sexual entertainment venue.
15. The transitional arrangements permit local authorities to adopt these new provisions prior to 6 April 2011, after which time any such adoption would need to be subject to widespread consultation. It is believed that adoption of these powers at this time will avoid the need for costly consultation for a power which is believed to be widely supported by the community at large.
16. In addition the transitional arrangements allow any existing providers of sexual entertainment that comes within the scope of the legislation sufficient time in which to make application without them providing such entertainment unlawfully.
17. It is believed that no such entertainment which would fall within the scope of the adoptive provisions is currently provided in the Chorley Council area.

18. Members should note that the legislation does provide exemptions to this new licensing provision for 'infrequent entertainment' i.e. where premises undertake 11 occasional SEV events separated by 28 days within a twelve month period, then no licence is required. In addition the Secretary of State may prescribe other types of sexual entertainment as falling outside the definition.
19. If the provisions are adopted the Council may draft and consult on an amendment to the Councils current Licensing Policy. Such an amendment will provide a framework around which decisions on the determination of applications for a SEV Licence can be made. This will be the subject of a future report to Members.
20. In addition to amendments to the Councils Licensing Policy this Committee will need to determine a fee structure for the new licence regime applicable to Sexual Entertainment Venues. This will be the subject of a future report to the Licensing and Public Safety Committee.

IMPLICATIONS OF REPORT

21. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	No significant implications in this area	

COMMENTS OF THE DIRECTOR OF TRANSFORMATION

22. The provisions in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 are adoptable and it is necessary for the Council to pass a resolution in order to adopt. Should such a resolution be passed it will need to be advertised in a newspaper circulated in the local area on 2 consecutive weeks the first such advertisement should not be placed later than 28 days before the date on which the resolution comes into force.

JAMIE CARSON
DIRECTOR PEOPLE AND PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Simon Clark	5732	28/07/10	SEV/adoption