



BRIEFING PAPER

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Lap dancing clubs: licensing issues

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Summary

The *Policing and Crime Act 2009* reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power, if they adopted the legislation, to regulate such venues as sex establishments under Schedule 3 to the *Local Government (Miscellaneous Provisions) Act 1982*. This means that any person wishing to operate a lap dancing club will require a sex establishment licence from the local authority.

Objections to a licence application can be made on the basis that, among other things, a lap dancing club would be “inappropriate” in regard to:

- the character of the relevant locality; or
- the use to which any premises in the vicinity are put; or
- the layout, character or condition of the premises in respect of which the application is made.

A licence application can also be rejected if the local authority considers that the number of lap dancing clubs is equal to or exceeds the number that it considers appropriate for the “relevant locality”.

Home Office [guidance](#) (March 2010) states that local authorities should not consider objections that are based on “moral grounds/values”.

Although not required, many local authorities publish a licensing policy relating to sex establishments. A policy may include a statement about the locations that are likely to be considered inappropriate for lap dancing clubs. This could be set out in general terms by reference to a particular type of premises, such as a school or place of worship, or more specifically, by reference to a defined locality. A policy may also state how many sex establishments a council considers appropriate for a particular area.

However a licensing policy must not prevent an individual licence application from being considered on its merits.

1. Introduction

Section 27 of the *Policing and Crime Act 2009* reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power, if they adopted the legislation, to regulate such venues as “sex establishments” under Schedule 3 to the *Local Government (Miscellaneous Provisions) Act 1982* [Schedule 3].

The reclassification introduced by the 2009 Act was in response to concerns that, under the *Licensing Act 2003*, local communities did not have sufficient powers to control where lap dancing clubs were established. Further background on this is available in part 3 of the Library’s [Research Paper](#) (RP 09/04) on the *Policing and Crime Bill 2008-09*.

The changes came into force on 6 April 2010 in England and on 8 May 2010 in Wales. The Government has said that it does not have “precise numbers” for how many local authorities have adopted the 2009 legislation.¹ However, according to one text, the vast majority have done so.²

Under Schedule 3, any person wishing to operate a sex establishment – i.e. a sexual entertainment venue, sex cinema or a sex shop - requires a sex establishment licence from the local authority.³ Licences are granted for up to one year.

¹ [HC Deb 10 September 2013 c223WH](#). If a local authority hasn’t adopted the 2009 Act, lap dancing clubs will continue to be licensed as “regulated entertainment” under the *Licensing Act 2003*

² Paul Maginn and Christine Steinmetz (eds), *(Sub)Urban sexscapes: geographies and regulation of the sex industry*, Routledge, 2015, chapter 8

³ Unless the requirement for a licence has been waived under paragraph 7 of Schedule 3

2. Sexual entertainment venues

Paragraph 2A of Schedule 3 defines a sexual entertainment venue as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.”

“Relevant entertainment” is defined as:

(a) any live performance; or

(b) any live display of nudity;⁴

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)

An audience can consist of just one person (e.g. where the entertainment takes place in private booths).⁵

Home Office [guidance](#) states that, while local authorities should judge each case on its merits, it would expect “relevant entertainment” to apply to the following:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

The guidance notes that a display of nudity does not necessarily mean that a sex establishment licence will be needed – e.g. “if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.”⁶

Premises that are not sexual entertainment venues

Under paragraph 2A(3) of Schedule 3, premises that provide “relevant entertainment” on an “infrequent basis” are not sexual entertainment venues. This means premises where:

- no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
- no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
- no such occasion has lasted longer than 24 hours

⁴ Paragraph 2A(14) sets out the definition of a ‘display of nudity’. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus

⁵ Paragraph 2A(14) of Schedule 3

⁶ Home Office, [Sexual Entertainment Venues: Guidance for England and Wales](#), March 2010, para 2.6

During a September 2013 Westminster Hall [debate](#), the Government said that the exemption was meant to cover “premises such as a pub hosting a one-off birthday party at which a strippergram has been booked” and which “should not require regulation in the same manner as lap-dancing clubs that offer entertainment every night, or even every week or month.”⁷

Premises providing relevant entertainment on an infrequent basis will be regulated⁸ under the *Licensing Act 2003*, insofar as they are providing “[regulated entertainment](#)” under the Act.⁹

2.1 The licensing process

Chapter 3 of the Home Office guidance sets out the process of applying for a sexual entertainment venue licence and the role of local authorities.¹⁰

Objecting to licence applications

Local residents often want to know what they can do to stop a club from opening or how to complain about an existing one.

Under paragraph 12 of Schedule 3, any person can object to a licence application (or renewal) on the following grounds:

- (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 determined 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.
- (4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c) above.¹¹

Objections must be given in writing with 28 days of the licence application.

⁷ [HC Deb 10 September 2013 c224WH](#)

⁸ i.e. through a [premises licence](#) or [club premises certificate](#) or a [temporary events notice](#)

⁹ For further detail on premises that are not sexual entertainment venues, see paras 2.11 – 2.16 of the Home Office guidance

¹⁰ *Ibid*, paras 3.13 – 3.55

¹¹ Paragraph 12(3) of Schedule 3

There is no explicit provision in Schedule 3 for objectors to be heard. However, according to case law, while local authorities are under no obligation to offer an oral hearing to objectors, they may do so at their discretion.

A legal text on licensing notes that the grounds for refusing a licence under Schedule 3 “confer a wide discretion and will not easily be shown to be unreasonable...”¹²

Moral objections

The Home Office guidance, referring to case law,¹³ states that objections to SEV licences should not be based on “moral grounds/values”.¹⁴

Meaning of “relevant locality”

Schedule 3 does not define “relevant locality” other than, in relation to premises, “it is the locality where they are situated”. The Home Office guidance comments:

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

The relevant locality does not have to be a clearly pre-defined area:

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding that two sex establishments 200 miles away from one another were in the same locality. Case law also indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

¹² Philip Kolvin, *Licensed premises: law, practice and policy* (2nd ed), Bloomsbury, 2013, p668

¹³ i.e. *R v Newcastle upon Tyne City Council ex parte The Christian Institute [2001] B.L.G.R. 165*

¹⁴ Home Office guidance, para 3.23

Licence terms and conditions

Once a local authority has decided to grant a licence, it can impose terms, conditions and restrictions on the licence, either in the form of conditions specific to the individual licence or standard conditions applicable to all sex establishments. Standard conditions can include the following:

- the hours of opening and closing
- displays and advertisements on or in sex establishments
- the visibility of the interior of a sex establishment to passers-by
- any change of use from one kind of sex establishment to another

Offences

It is an offence to knowingly contravene, or without reasonable excuse to knowingly permit the contravention of, a term, condition or restriction specified in a licence. A person guilty of an offence is liable, on summary conviction, to a fine of up to £20,000.

2.2 Licensing policies

Although not required, many councils publish a licensing policy relating to sex establishments. A policy may include a statement about the locations that a council is likely to consider inappropriate for sex establishments. This could be set out in general terms by reference to a particular type of premises, such as a school or place of worship, or more specifically, by reference to a defined locality.¹⁵

A policy may also state how many sex establishments a council considers appropriate for a particular area.

However a licensing policy must not prevent an individual licence application from being considered on its merits.¹⁶

2.3 Sexual entertainment venues and alcohol

In addition to a sexual entertainment venue licence, lap dancing clubs will, under the *Licensing Act 2003*, require a [premises licence](#) for the sale of alcohol.

¹⁵ Ibid, para 3.46

¹⁶ Ibid, para 3.45

3. Further reading

For discussion of the impact of the 2009 Act on the licensing of sexual entertainment venues see:

- Philip Kolvin (ed), *Licensed premises: law, practice and policy* (2nd ed), Bloomsbury, 2013, chapter 33
- Paul Maginn and Christine Steinmetz (eds), *(Sub)Urban sexscapes: geographies and regulation of the sex industry*, Routledge, 2015, chapter 8
- Phil Hubbard, [Recommendations for Sexual Entertainment Venue Licensing in England & Wales](#), ESRC, July 2013
- Phil Hubbard, ["What does the licensing of lap dancing clubs suggest about our changing attitudes towards the sex industries?"](#), LSE blog, 26 February 2013
- P. Hubbard and Rachela Colosi, ["Taking back the night? Gender and the contestation of sexual entertainment in England and Wales"](#), *Urban Studies*, September 2013
- "The life of the lap-dancing operator - shed no tears", Ranjit Bhowse and Josef Cannon, *Journal of Licensing*, Issue 15, July 2016¹⁷
- "Sexual entertainment venues: policies and conditions", Teela Sanders and Rosie Campbell, *Journal of Licensing*, Issue 7, November 2013
- "Dancer welfare at sexual entertainment venues", Teela Sanders et al, *Journal of Licensing*, Issue 3, July 2012

On objecting to SEVs see:

- Christian Concern, [Sex establishments: how to stop them](#) (Undated)
- [OBJECT](#) campaigns against SEVs and its members sometimes attend licensing hearings¹⁸

¹⁷ The [Journal of Licensing](#) is published by the [Institute of Licensing](#)

¹⁸ OBJECT's Facebook [page](#) says that the group "challenges 'sex object culture' : the sexual objectification of women, including through lads' mags, lap dancing clubs, prostitution, pornography or sexist advertising"

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