

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**LICENSING & APPEALS COMMITTEE**

**7 June 2010**

**Report of the Central Services Director**

**Part 1- Public**

**Matters for Information**

**1 UPDATE ON THE IMPLICATIONS OF S.27 OF THE POLICING AND CRIME ACT 2009 ON THE LICENSING ACT 2003**

**1.1 Background**

1.1.1 Prior to the implementation of the Licensing Act 2003 in 2005, public entertainment was regulated by the Local Government (Miscellaneous Provisions) Act 1982 (As amended) and any application was subject to wide public consultation.

1.1.2 The Licensing Act 2003 dispensed with this procedure and any application for regulated entertainment was subject to the requirement of a premises licence or temporary event notice.

1.1.3 The consultation procedure for a premises licence limited persons who could make representations to "Interested Parties" and Responsible Authorities. At that time, in 2005, "Interested Parties" were classified as:

- a person living in the vicinity of the premises in question
- a body representing persons living in that vicinity
- a person involved in a business in the vicinity of the premises in question
- a body representing persons involved in such a business.

1.1.4 Persons making representations could only do so on one or more of the four following grounds (the Licensing objectives) which are:

- Crime and Disorder
- Public Safety
- The Prevention of public nuisance
- The protection of children from harm.

- 1.1.5 This consultation process led to an explosion in many areas of premises operating as lap dancing/pole dancing venues.
- 1.1.6 In August 2008 following lobbying from pressure groups and local authorities, the Conservative Party announced that it would be reviewing the Licensing arrangements for lap dancing clubs with a view to giving greater powers to local authorities.
- 1.1.7 This matter was debated and supported by the Policy Overview Committee meeting of this Council on 20 August 2008.
- 1.1.8 The unanimous view of the Members at that time was that current powers under the Licensing Act 2003 were inadequate and urged that the Government should
- Amend the Local Government (Miscellaneous Provisions) Act 1982 in respect of sex encounter establishments to cover all areas of the country.
  - Categorise lap dancing clubs as sex encounter venues and
  - Remove sex encounter establishments from the Licensing Act 2003
- 1.1.9 Section 27 of the Policing and Crime Act 2009 introduced a new category of sex establishment called a “sex entertainment venue” (SEV) which allows local authorities to regulate lap dancing and similar venues under Schedule 3 of the Local Government (Miscellaneous) Provision Act 1982.
- 1.1.10 Prior to the implementation of this new legislation, full Council must pass a resolution to adopt the amendments in Section 27 of the Policing and Crime Act 2009.
- 1.1.11 The Kent and Medway Licensing Steering Group (KMLSG) believe it would be prudent to co-ordinate policy and fee approval on a country-wide basis. This Authority is represented on the working party of the KMLSG tasked with this matter.
- 1.1.12 There is no necessity to have a policy in place, but a consultation on policy will help defend decisions made on the basis of the policy, especially if a decision is made based on a locality or the number of similar premises in the area.
- 1.1.13 Local Authorities have until April 2011 to adopt the new legislation if they wish to do so. Should the Council choose not adopt the new legislation, it will be required to consult with local residents as soon as is reasonably practicable thereafter as to whether it should adopt.

## **1.2 Proposed Way Forward**

- 1.2.1 The working party is due to report back to the KMLSG on 19 May 2010 and this will be followed by a further working party meeting on 26 May 2010.

1.2.2 It is anticipated that a draft policy and procedure document will be presented to this Committee at the September meeting and a further report will be submitted in due course.

Background papers:

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Nil

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