

REPORT TO:	Licensing Committee
DATE:	4th March 2015
LEAD OFFICER:	Head of Planning & Public Protection
CONTACT OFFICER:	Licensing Officer licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Review of Sex Establishment Policy

1. PURPOSE OF THE REPORT

To inform Members of amendments to the regime that authorises the licensing of premises that provide sexual entertainment.

To request that Members consider whether a change to the existing Sex Establishment Policy is necessary.

2. EXECUTIVE SUMMARY

The Local Government (Miscellaneous Provisions) Act 1982 makes provision for the licensing of sex establishments by local authorities. In the context of the Act, a “sex establishment” means a sex cinema, a sex encounter establishment or a sex shop.

At the Licensing Panel held on 19th September 2001, Members resolved to formally adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 19th November 2001.

Section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities the power to regulate such venues as sex establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

3. POWER TO MAKE THE DECISION

Local Government (Miscellaneous Provisions) Act 1982.

4. BACKGROUND

- 4.1 When Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 was originally adopted, Members resolved that each application should be considered on its own merits whilst taking account of certain criteria which included, the locality of the premises, the hours of opening, etc
- 4.2 Since 2005, applications for lap dancing clubs have been licensable under the Licensing Act 2003. However, the results of a 2008 consultation with local authorities highlighted concerns that this legislation did not give communities sufficient powers to control where lap dancing clubs were established. In order to address such concerns, section 27 of the Policing and Crime Act was introduced in 2010.
- 4.3 The Licensing Act does not allow for objections to be made on such grounds as the number of premises in the area, the suitability of a premises to provide such activities or the potential character of the area.
- 4.4 Section 27 gives local authorities increased powers to control the number and location of lap dancing clubs and similar venues. These powers are not mandatory and will only apply where they have been specifically adopted. Where adopted, these provisions will allow local authorities to refuse an application on wider grounds than those permitted under the Licensing Act 2003, giving local people a greater say over the regulation of lap dancing clubs and similar venues in their area.
- 4.5 Section 27 sets out the meaning of 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 *“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).*
- 4.6 Whilst each application should be taken on its own merits, the definition of relevant entertainment would be likely to apply to the following forms of entertainment:
- Lap Dancing
 - Pole Dancing

- Table Dancing
- Strip Shows
- Peep Shows
- Live Sex Shows

5. CONSULTATION

- 5.1 Should Members be minded to adopt the provisions of section 27, it will be necessary to undertake a public consultation prior to implementation.

6. COST IMPLICATIONS

- 6.1 In the event that the amendments made by section 27 of the Policing and Crime Act are adopted, a premises where licensable activities as defined by the Licensing Act 2003 take place will still need to be licensed under that Act. This means that the vast majority of lap dancing clubs or similar venues will require both a sexual entertainment venue licence and a Premises Licence.

7. IMPLICATIONS ON OTHER POLICY AREAS

Section 17 of the Crime and Disorder Act places a duty on local authorities to consider issues of crime and disorder when making licensing related decisions. When considering this, matter, Members will wish to give regard to all relevant factors, including any implications associated with the potential for the decision to impact upon issues of crime and disorder within the locality.

8. CONSIDERATION

- 8.1 Members may consider the following points pertinent to their deliberations:

- Whilst there is currently no issue with this type of premises in Denbighshire, Members may well consider the adoption of these powers as a preventative measure for any future premises.
- If Members choose not to adopt these powers, the Council must continue to rely solely on the Licensing Act 2003 to control such premises
- The Licensing Act only permits representations to be made which relate to one or more of the licensing objectives, namely:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

9. RECOMMENDATION

- 9.1** That having considered the contents of this report, members may resolve to request that officers compile a draft, revised Sex Establishment Policy that is fit for purpose, to be presented to them at a future Meeting, prior to undertaking a public consultation.
- 9.2** That Members consider adopting the provisions of section 27 of the Policing and Crime Act 2009, such provisions to be incorporated within the draft revised Sex establishment Policy.