

Bolsover District Council

Council

7 April 2016

Adoption of the Policing & Crime Act 2009 – Control of Sex Establishments

Report of the Joint Assistant Director Planning and Environmental Health

This report is public

Purpose of the Report

To adopt the relevant provisions which have been inserted by the Policing and Crime Act 2009 into the Local Government (Miscellaneous Provisions) Act 1982 in accordance with the Council's Constitution.

1 Report Details

- 1.1 The Policing and Crime Act 2009 reclassified lap dancing clubs and similar premises as "sex establishments" under the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 In summary, Section 26 of the Policing and Crime Act introduces a new category of "sex establishment" under Schedule 3 to the Act called a "sex encounter venue". This new category covers venues that provide "relevant entertainment".
- 1.3 Relevant entertainment is defined as any live performance or display of nudity "which is of a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)".
- 1.4 Such venues will require a sex establishment licence. However, there is an exemption for premises which provide such entertainment infrequently.
- 1.5 Schedule 3 to the 1982 Act will, in particular:
 - Allow local people to oppose an application for a sex establishment licence if they have legitimate concerns that the sex encounter venue would be

inappropriate given the character of an area, for example, if the area was primarily a residential area;

- Require licences to be renewed at least annually, at which time local people will have the opportunity to raise objections with the Council;
- Allow the Council to reject a licence application if it is believed that to grant a licence for a sex encounter venue (including a lap dance club) would be inappropriate given the character of particular areas;
- Allow the Council to set a limit on the number of sex encounter venues that it is thought to be appropriate;
- Allow the Council to impose a wider range of conditions on the licence than currently available via the Licensing Act 2003.

- 1.6 The matter was discussed at Licensing Committee of 28th January 2016 who resolved to recommend to Council that the Policing and Crime Act 2009 be formally adopted and the Council's Constitution be amended as appropriate.

2 Conclusions and Reasons for Recommendation

It is recommended that the Council formally adopts the Policing and Crime Act 2009 and amends the Council's Constitution as appropriate as adoption of this legislation will enable the Council to have increased powers to control such venues and allow residents an avenue for opposition and to raise objections.

3 Consultation and Equality Impact

None

4 Alternative Options and Reasons for Rejection

The Council may not adopt the Policing and Crime Act 2009 but this would mean that it would have very little control of any sex establishments that wished to open in the district.

5 Implications

5.1 Finance and Risk Implications

A judicial review against this decision could be sought and would incur costs and officer time in preparing a defence case. Costs could be recovered in the event that the judicial review was dismissed.

Costs could be awarded against the Authority in the event that the judicial review was successful.

5.2 **Legal implications including Data Protection**

In order to implement these provisions, the Council will need to adopt the relevant provisions which have been inserted by the Policing and Crime Act 2009 into the Local Government (Miscellaneous Provisions Act) 1982 in accordance with the Council's Constitution.

6 **Human Resources Implications**

None arising.

7 **Recommendations**

- 7.1 It is recommended that Bolsover District Council formally adopt the Policing and Crime Act 2009 and the Council's constitution is amended as appropriate.

8 **Decision Information**

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| Is the decision a Key Decision? | No |
| District Wards Affected | All |
| Links to Corporate Plan priorities or Policy Framework | COMMUNITY SAFETY – Ensuring that communities are safe and secure ENVIRONMENT – Promoting and enhancing a clean and sustainable environment. |

9. **Document Information**

| Appendix No | Title |
|---------------------------------|-----------------------|
| N/A | |
| Background Papers | |
| The Policing and Crime Act 2009 | |
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