

<b>Title of Report:</b>	<b>Sex Establishments</b>
<b>Report to be considered by:</b>	Licensing
<b>Date of Meeting:</b>	21 <sup>st</sup> December 2010
<b>Forward Plan Ref:</b>	

**Purpose of Report:** To consider the adoption of Section 27 of the Policing and Crime Act 2009

**Recommended Action:** To adopt

**Reason for decision to be taken:** The introduction of adoptive provisions that allow authorities to regulate lap dancing clubs and similar venues

**Other options considered:** Non adoption

**Key background documentation:** Policing and crime Act 2009, Local Government (Miscellaneous Provisions) Act 1982

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic downturn** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce crime and the fear of crime**

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:  
 Ensuring that sex encounter establishments are regulated thus protecting users of these establishments and the public at large.

Portfolio Member Details	
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<b>Date Portfolio Member agreed report:</b>	01 December 2010

Contact Officer Details	
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## Implications

- Policy:** The Council has a policy for the regulation and licensing of Sex Shops and Sex Cinemas.
- Financial:** None  
 If there are any financial implications contained within this report this section **must** be signed off by a West Berkshire Group Accountant. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.
- Personnel:** None
- Legal/Procurement:** This is an adoptive provision and is therefore not a statutory requirement. However if the proposal is approved section 27 will become a legal licensing requirement.
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** EIA carried out  
 Where a decision is required, Policy and Communication are not able to accept your report without an EIA being completed. These should be sent to P&C along with your report and should be copied to the Principal Policy Officer (Equality & Diversity). For advice please contact Principal Policy Officer (Equality & Diversity) on Ext. 2441.
- Corporate Board's Recommendation:** To be completed after the Corporate Board meeting.

**NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.**

<b>Is this item subject to call-in?</b>	Yes: <input type="checkbox"/>	No: <input type="checkbox"/>
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If not subject to call-in please put a cross in the appropriate box:

- |  |                                     |
|--|-------------------------------------|
| The item is due to be referred to Council for final approval   | <input checked="" type="checkbox"/> |
| Delays in implementation could have serious financial implications for the Council                               | <input type="checkbox"/>            |
| Delays in implementation could compromise the Council's position   | <input checked="" type="checkbox"/> |
| Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months | <input type="checkbox"/>            |
| Item is Urgent Key Decision  | <input checked="" type="checkbox"/> |

# Executive Summary

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## 1. Introduction

- 1.1 This report advises members of the introduction of section 27 of the Policing and Crime Act 2009. The Act introduces adoptive provisions to allow local authorities to regulate lap dancing clubs and similar venues (Sex Entertainment Venues – SEV's) under the Local Government (Miscellaneous Provisions) Act 1982 Section 2 Schedule 3: Control of Sex Establishments, which already regulates sex shops and sex cinemas.
- 1.2 Sexual entertainment venues are defined as “any premises at which relevant entertainment is provided for a live audience for financial gain of the organiser or performer”.
- 1.3 The meaning of relevant entertainment is “any live performance or live display of nudity which is of such a nature that, 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)”.
- 1.4 In summary, Schedule 3 :
- Allows local people to oppose an application for a sex establishment licence if they have legitimate concerns that a lap dancing club, or similar would be inappropriate given the character of an area because, for example, the area was primarily a residential area.
  - Requires licences to be renewed at least yearly, again local people can raise objections.
  - Allows the authority to reject a licence application if it believes that to grant a licence for a lap dancing club or similar would be inappropriate given the character of a particular area.
  - Allows the authority to set a limit on the number of SEV's that it thinks is appropriate for the area (locality).
  - Allows the authority to impose a wider range of conditions on the licences of lap dancing clubs or similar, than it is currently able to do under the Licensing Act 2003.

## 2. Proposals

- 2.1 To adopt the provisions of section 27.

## 3. Conclusion

- 3.1 If section 27 is not adopted the Council will have no legislative means to control SEV's.

# Executive Report

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## 1. Introduction

- 1.1 At a meeting of the (then) Environmental Services Committee on 28<sup>th</sup> May 1983 the Committee resolved to adopt the provisions of the Local Government (Miscellaneous provisions) Act 1982 Section 2 Schedule 3 – Control of Sex Establishments.
- 1.2 This effectively meant that sex establishments, (cinemas or shops) could be regulated by licence, and conditions attached to a licence.
- 1.3 For member information definitions of the above are as follows;
- 1.3.1 “Sex Cinema”: means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced which –
- a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –
    - (i) sexual activity; or
    - (ii) acts of force or restraint which are associated with sexual activity; or
  - b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,  
but does not include a dwelling house to which the public is not admitted.
- 1.3.2 “Sex Shop” and “Sex Article” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –
- a) sex articles; or
  - b) other things intended for the use in connection with, or for the purpose of stimulating or encouraging –
    - (i) sexual activity; or
    - (ii) acts of force or restraint which are associated with sexual activity.
- 1.4 The Council may, within its district, grant to any applicant, and from time to time renew, a licence under Schedule 3 for the use of any premises, vehicle, vessel or stall specified in it for a sex establishment on such terms and conditions and subject to such restrictions as may also be specified.

## **2. Procedures for Adoption**

- 2.1 The Council cannot effect any licensing controls on SEV's unless it first adopts the provisions of section 27. The adoption procedure is as follows:
- Resolution by full council to adopt
  - Date of commencement specified, at least one month ahead
  - Notice published in local newspaper for 2 consecutive weeks
  - First publication no later than 28 days before the date of commencement
  - Notice to state effect of resolution
- 2.2 If the Council adopt these provisions, transitional arrangements will apply to already existing SEV's, giving them up to 1 year to apply from the date of adoption. West Berkshire currently has no SEV's.
- 2.3 Any new premises will require to be licensed under the Act before they can legally operate.

## **3. Policy**

- 3.1 Full Council adopted conditions for sex establishments on 4<sup>th</sup> December 1997. These conditions still lawfully apply and due to no licences ever being issued are unchallenged.
- 3.2 Officers are of the opinion that the current conditions are fit for purpose and if section 27 is adopted, they can be added to cover appropriate conditions which would be necessary to regulate SEV's.
- 3.3 There is no legal reason to adopt the provisions of section 27 however, if not adopted the Council cannot regulate such premises other than through the Premises Licence required under the Licensing Act 2003.
- 3.4 The Act provides for a council to determine the numbers of SEV's that it considers appropriate within its area. This could be a matter for fuller internal debate once a decision has been taken whether to adopt or not.

## **4. Options**

- 4.1 The Council can adopt section 27 without choosing to carry out a consultation however it cannot choose not to adopt without first considering the views of local people. If the option to not adopt is considered, consultation must be carried out before 5<sup>th</sup> April 2011.

## **5. Recommendation**

- 5.1 Officers recommend that the Council adopt the provisions of section 27 without public consultation as it is an extension of the already adopted provisions for sex establishments. If Members approve this report then the matter will be referred to full Council for adoption.

## Appendices

There are no Appendices to this report.

### **Consultees**

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**Local Stakeholders:** None at this time

**Officers Consulted:** Paul Anstey

**Trade Union:** None