

Consultation response to the Draft Sex Establishments Policy January 2011

Given the recent abhorrent events, concerning residents of our Borough and the alleged sexual abuse of young women we call upon the Licensing Committee to note and adopt the following when considering the Draft Sex Establishments Policy (January 2011):

NIL POLICY

We strongly recommend introducing a ‘nil’ policy for Sexual Entertainment Venues, as permitted under Schedule 3 of the Local Government (Miscellaneous Provisions) Act (LGMPA)1982 and amended by Section 27 of the Policing and Crime Act (PCA) 2009.

The introduction of a nil policy on the granting of SEV licenses is perfectly permissible under the LGMPA (1982), as amended by the PCA (2009). Indeed, the statute specifically contemplates this option. As **Philip Kolvin QC, chair of the Institute of Licensing** states:

“...the provision gives the authority a high degree of control, even amounting to an embargo, on sex licences or particular types of sex establishment, within particular localities. The width of the discretion is consolidated by the absence of any appeal against a refusal on this ground.”¹

The introduction of a nil policy is currently being proposed by the London Boroughs of Hackney and Harringey. In the view of Hackney council SEVs:

“...contradict and undermine its stated aims and exacerbate the challenges it faces in bring about positive, genuinely sustainable characterful and thriving neighbourhoods which support the need and principle of upskilling its population and closing the education gap across its communities.”²

In Harringey, Councillor Nilgun Canver states:

"This new legislation allows us to stop lap dancing and pole dancing clubs from setting up in sensitive areas where they will cause concern. We consider this would apply to every ward and want this to be central to our policy. We are asking for comments from residents, to see if they support this stance³."

We are aware that some lap dancing club operators may threaten to appeal against the rejection of a Sexual Entertainment Venue (SEV) licence on the grounds that it violates their human rights under the Human Rights Act 1998 and that the two rights they threaten to invoke are the *right to freedom of expression* and the *protection of property*.

However, it is extremely unlikely that such an appeal would be successful considering that it is within the law for councils to set nil policies.

¹ Kolvin, P. (2010) *Sex Licensing*, The Institute of Licensing, p.60

² Hackney Draft Sex Establishment Licensing Policy, 2010

³ http://www.haringey.gov.uk/index/news_and_events/latest_news/lap_dancing_ban.htm

Furthermore, the two rights specified above are qualified, they are not absolute. **Philip Kolvin QC, Chairman of the Institute of Licensing**, states⁴:

"Where a rational decision has been taken by the licensing authority in accordance with the principle of the statute, it is most unlikely that the decision will be held to have been a disproportionate interference with human rights."

Indeed, before the Policing and Crime Bill became law – enabling local authorities to licence lap dancing clubs as Sexual Entertainment Venues under the LGMPA - the **Minister of the Crown** in charge of the Bill made a **written statement that the new law, including the provision to set nil policies, was compatible with the Human Rights Act 1998.**

Thus **the power of local authorities to set a nil policy for Sexual Entertainment Venue licenses has been validated in human rights terms.**

The reasons for introducing a nil policy are outlined below as factors the Council should take into account in developing policy concerning the number and location of SEVs.

GENDER EQUALITY

We strongly recommend that you explicitly include ‘the promotion of gender equality’ as a specific objective for Sex Establishment licensing in your licensing policy.

The Gender Equality Duty 2007 legally requires local authorities to promote equality between women and men in all that they do. The Gender Equality Duty is particularly relevant in relation to the licensing of sex establishments because of the gendered nature of sex establishments like lap dancing clubs, and because of the negative impact that lap dancing clubs have on efforts to promote equality between women and men. The negative implications of lap dancing clubs on women are outlined below:

Lap dancing clubs normalise the sexual objectification of women in contradiction to efforts to promote equality between women and men.

The links between objectification, discrimination and violence against women are recognised at the international level by the legally binding United Nations Convention to Eliminate Discrimination Against Women (CEDAW), which has repeatedly called on states – including the British Government - to take action against the objectification of women⁵. Similarly the UK-based End Violence Against Women coalition has called on the UK Government to tackle the sexualisation of women and girls because it provides a ‘conducive context’ for violence against women⁶.

Lap dancing clubs are a part of the sex industry and as such are linked with wider systems of prostitution

Research shows that the structural conditions of lap dancing clubs, where women compete with one another for private dances, lead to some dancers offering sexual services to survive

⁴ Kolvin, P. (2010) *Sex Licensing*, The Institute of Licensing, p82

⁵ 1979 Convention on All Forms of Discrimination Against Women (CEDAW) Article 5

⁶ Realising Rights, Fulfilling Obligations: An Integrated Strategy to End Violence Against Women (EVAW) 2008

financially⁷, a climate in which, according to an ex-lap dancer: ‘No touching, not exposing your genitals, not allowing men to touch you is the exception rather than the rule’⁸

Even if a club enforces a no touching rule and there is no sexual contact between dancer and customer, research further shows that strip clubs increase demand for nearby prostitution services⁹. This places lap dancing on a continuum of commercial sexual activity, irrespective of whether this sexual exchange occurs within the club itself.

Lap dancing clubs have a negative impact on women’s safety in the local vicinity

Research undertaken in the London Borough of Camden found a fifty percent increase in sexual assaults in the borough after the rapid expansion of lap dancing clubs¹⁰. Personal testimony from women who have written to OBJECT reinforces the idea of a link between the proliferation of lap dancing clubs and increased levels of sexual harassment for women in the vicinity:

‘On separate occasions, I have had men say to me “How much for a dance love? I’ll give you £20 to get yours out,”... they seem to always think that because they can pay to degrade and abuse women inside the club that I am no different’¹¹

The UK Royal Institute of Town Planning has further drawn attention to concerns regarding the impact of lap dancing clubs on women in the local areas: ‘Evidence shows that in certain locations, lap dancing and exotic dancing clubs make women feel threatened or uncomfortable’¹².

Lap dancing clubs have a negative impact on women’s safety in wider society

Lap dancing clubs normalise the representation of women as being always sexually available and this is worrying in light of widespread public opinion that women are in some way responsible for sexual assaults perpetrated against them. The links between the expansion of lap dancing clubs and an increase in the levels of sexual violence have been raised by organisations who work with victims and perpetrators of gender-based violence. For example, as **Chair of Rape Crisis** Nicole Westmarland reported that lap dancing clubs ‘*both support and are a consequence of sexual violence in society*’. This view is reiterated by the Director of the **White Ribbon Campaign**, an organisation which works with men to end violence against women: ‘*Any expansion of lap dancing clubs feeds an increase in the lack of respect for women*’¹³.

Furthermore, in response to research it commissioned into the impact of lap dancing clubs on the city, **Glasgow City Council**¹⁴ stated:

“Images of women and entertainment which demean and degrade women portraying them as sexual objects plays a part in normalising sexual violence and contributes to male abuse of women being acceptable, tolerated, condoned and excused. Such entertainment runs counter to

⁷ Bindel, J. (2004) *Profitable Exploits: Lap Dancing in the UK*, London Metropolitan University, Child and Women Abuse Studies Unit (CWASU)

⁸ ‘Elena’ quoted in ‘I was an Object, not a Person, The Guardian 19.03.08

⁹ Coy, M, Horvath, M & Kelly, L (2007) *It’s just like going to the supermarket: Men talk about buying sex in East London* London: Child and Woman Abuse Studies Unit

¹⁰ Eden, I. (2003) *Lilith Report on Lap Dancing and Striptease in the Borough of Camden*, London: The Lilith Project, Eaves Housing for Women

¹¹ See www.object.org.uk for testimonies

¹² Royal Town Planning Institute (2007), *Gender and Spatial Planning, Good Practice Note 7*, 10 December 2007

¹³ Both quotes are from an OBJECT leaflet 2008

¹⁴ Glasgow City Council report on the need for review of licensing legislation in the light of concerns re table dancing

<http://www.glasgow.gov.uk/NR/rdonlyres/0D19236F-808A-4467-96F7-6A9508C1F312/0/legtable2.pdf>

explicit commitments by a range of private, public and voluntary agencies to promoting womens equality.”

We call on the council to adopt a nil policy in relation to SEVs for the reasons given above. However, if you do not adopt a nil policy and SEVs are to be granted and/or renewed, we strongly recommend that a comprehensive set of standard conditions are applied to such licenses in order to help protect women in this community.

Philip Kolvin QC, Chairman of the Institute of Licensing, has produced a set of suggested conditions for application to SEV licenses¹⁵. We would like to draw particular attention to the importance of introducing the following conditions:

1. No contact between performers and audience and a minimum of 1 meter separation between performers and audience
2. Performers confined to stage area
3. Prevention of fining performers
4. Zero tolerance policy on customers who break rules of conduct. Contravention warrants a lifetime ban from the premises
5. Prohibition of private booths
6. CCTV coverage of all public areas
7. Prohibition of advertising in public spaces, including on billboards, telephone booth boards, and leafleting
8. Sex establishments are not to be functionally visible to passers-by on retail thoroughfares or pedestrian routes. Premises should be at basement level or with a main entrance away from such routes.

And, as outlined by the Bristol Fawcett Society:

- A register to be kept of all staff working each night and valid proof to be held on the premises of the age of each of the performers
- No fee to be charged by any club to a performer for working in the club
- Police to be kept informed of any assaults that take place on staff, whether or not the victim wishes to press charges
- ‘No smoking areas to be allowed at the front of clubs to minimise the potential for harrassment of women living, working and passing through the area. All smoking areas must be in private areas away from public spaces.
- No advertising allowed in media that is not exclusively aimed at adults – this would exclude local family newspapers for example.

¹⁵ Kolvin, P. (2010) *Sex Licensing*, The Institute of Licensing, p.74

These vital conditions would go some way to protecting women working in lap dancing clubs and women in the wider community.

We further request that you monitor the impact of the ‘frequency exemption’ which was included within the SEV licensing regime.

As you will be aware, this exemption means that establishments hosting lap dancing less than 12 times in a year do not require an SEV licence or even a temporary event notice. We are extremely concerned about this exemption because you will have no powers to prevent these performances from occurring or place any conditions or controls on them. Yet venues hosting lap dancing less than once a month are less likely to have facilities and procedures in place to protect the safety of performers – such as a separate changing room, CCTV and security. The safety of the performers is thus put at risk by this exemption.

We therefore ask you to attempt to monitor performances that are staged under the frequency exemption and to convey your experiences of this back to the Government.

This is crucial because the power to amend or repeal the frequency exemption was included in the Policing and Crime Act 2009 in recognition of the fact that the frequency exemption could prove problematic for local authorities.

We recommend that the policy requires members of licensing subcommittees who wish to sit in hearings of relevance to gender (i.e. SEVs; sex establishments and so on) to have all completed up to date basic training in gender equality and equality legislation.

We recommend that, in the absence of legal direction to the contrary, the Licensing Committee maintain a register of interested parties in reference to SEVs, sex establishments and so on, who will be informed by the Licensing Committee when applications are received of potential relevance for gender equality. This will ensure that the Council will be seen to fulfil its obligations to operate in a transparent and accountable manner. (This will not be an onerous obligation as relevant applications are estimated to be up to three or four a year, currently).

While it is true that both men and women have been active in making representations about the negative impact on society of SEVs, it is also true that the majority of those who reflect and take action on the harm of SEVs are women. This could be because the lived experience of sexual objectification, sexual discrimination, sexual harassment and sexual violence in many women's lives plays a part in the extent to which these issues are given serious consideration and weighed against other interests or values in the context of SEV licensing.

Therefore we request and recommend that:

- **The working party of officers and councillors is at least equally gender balanced**
- **The policy should make reference to good practice in SEV applications being heard by sub-committees that are at least equally gender balanced.**

We would very much appreciate receiving written reports of any decisions taken pertaining to the recommendations that we have set out in this document.

Cllrs. R. Evans

B. McClements

C. Turley

G. Green

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J. Loveridge

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