

REPORT: Executive Board

DATE: 14 October 2010

REPORTING OFFICER: Strategic Director – Resources

SUBJECT: Adoption of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 – Control of Sex Establishments

WARDS: Boroughwide

1.0 PURPOSE OF REPORT

To propose the adoption of controls relating to sex establishments

2.0 RECOMMENDATIONS

RECOMMENDED: That the Council be recommended

1) to adopt Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 – Control of Sex Establishments; and

2) to adopt the consequential amendments to the Council's Constitution as set out in Appendix 3 to this report.

3. INTRODUCTION

- 3.1 Prior to 1982 there was no control over the operation of sex establishments (which are defined as sex shops and sex cinemas).
- 3.2 Section 2 and Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 enabled local authorities to adopt controls over sex establishments. The Council adopted these provisions in 1983 and confirmed its policies and procedures in 2000 after consideration by the Council's Licensing Review Body.
- 3.2 The Policing and Crime Act 2009 has introduced new controls into the 1982 Act. These relate to sex entertainment venues.
- 3.3 This Report recommends the adoption by the Council of these new controls.
- 3.4 Although the Council has already adopted the pre-existing parts of Schedule 3 to the 1982 Act it would be appropriate to re-adopt these parts while adopting the new provisions.
- 3.5 Adoption of legislation is a matter reserved to full Council.

4.0 BACKGROUND

- 4.1 Considerable national publicity was given to the various proposals for controlling sex entertainment venues. The two 'rival' proposals were to (1) amend the 1982 Act or (2) amend the Licensing Act 2003. The former proposal was adopted.
- 4.2 The detailed definition of what comprises a sex entertainment venue is now set out in Schedule 3 to the 1982 Act as amended by the Policing and Crime Act 2009.
- 4.3 The approach adopted by the Council to 'controlled dancing' under the old public entertainment licensing system as well as under the Licensing Act 2003 is analogous to proposed controls relating to sex entertainment venues. Controlled dancing refers to lap-dancing, striptease or any similar dancing. Details are set out at **Appendix 3** to this report. Similar controls are proposed for sex entertainment venues.

5.0. ADOPTION PROCEDURES

- 5.1 The adoption procedures are set out in **Appendix 1** to this report.

6.0. CONSEQUENTIAL ISSUES

- 6.1 Once the new provisions are adopted there are consequential amendments which will be required to the Council's Constitution. These are set out at **Appendix 2** to this report.

7.0 POLICY IMPLICATIONS

- 7.1 The adoption of new legislation is a central policy issue.

8.0 OTHER IMPLICATIONS

- 8.1 There are no other implications arising out of this application.

9.0 IMPLICATIONS FOR THE COUNCILS PRIORITIES

9.1 Children and Young People in Halton

N/a

9.2 Employment Learning and Skills in Halton

N/a

9.3 A Healthy Halton

N/a

9.4 A Safer Halton

N/a

9.5 Halton's Urban Renewal

N/a

10.0. RISK ANALYSIS

10.1 No special risks have been identified. The new legislation is analogous to legislation already adopted by the Council.

11.0. EQUALITY AND DIVERSITY ISSUES

N/a

**12.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE
LOCAL GOVERNMENT ACT 1972**

Document	Place of Inspection	Contact Officer
Licensing files	Legal Services	John Tully/ Kay Cleary

Adoption Procedures

**Local Government (Miscellaneous Provisions) Act 1982
Section 2 & Schedule 3**

Control of sex establishments.

— (1) A local authority may resolve that Schedule 3 to this Act is to apply to their area; and if a local authority do so resolve, that Schedule shall come into force in their area on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(2) A local authority shall publish notice that they have passed a resolution under this section in two consecutive weeks in a local newspaper circulating in their area.

(3) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of Schedule 3 to this Act in the local authority's area.

(4) The notice shall state the general effect of that Schedule.

(5) In this Part of this Act “local authority” means—

- (a) the council of a district;
- (b) the council of a London borough; and
- (c) the Common Council of the City of London.

APPENDIX 2

Consequential Changes to the Constitution

1. Regulatory Powers and Duties – Table 1 (page 267) – Against ‘Sex Establishments’ in column 2 add after “includes” the words “sex entertainment venues”.
2. Delegation to officers – (page 299) – After delegated power 185 add a new delegated power

XXX. To grant (but not refuse) applications relating to sex establishments and to determine conditions relating thereto under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

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APPENDIX 3

Controlled Dancing

- In this condition “controlled dancing” means lap-dancing, striptease or any similar dancing.
- Controlled dancing shall not take place at the licensed premises without the written consent of the Council.
- In deciding whether to grant permission for controlled dancing the Council will take into account the suitability of the premises and the location of the premises.
- If the Council grants consent for controlled dancing such consent shall be subject to the following standard conditions and to any other special conditions which may be so specified:
- No person under the age of 18 shall be at the premises when controlled dancing is taking place.
- The licensee shall ensure that controlled dancing shall not comprise or result in any offence arising by statute or at common law.
- Performers of controlled dancing shall be provided with changing room facilities at the premises to which the public have no access and which are patrolled by an adequate number of attendants of the same sex as the performers.
- No photographs or other pictorial representation on posters at the premises or on any other advertisement or promotional material shall be permitted which relate to controlled dancing or the performers of controlled dancing if they can be seen from outside of the premises.