

Strip Clubs: Council Licensing Obligations

Councils across the UK have now adopted the provisions in the Policing and Crime Act 2009 to licence lap dancing clubs as **Sexual Entertainment Venues (SEVs)** under the Local Government Miscellaneous Provisions Act (1982). This important piece of legislation gives residents, businesses, experts and others a much greater and fairer say in the licensing of strip clubs/lap dancing clubs in their area.

This document highlights Councils' licensing obligations with regard to SEVs.

In particular we call for all councils to adopt the following:

- 1. Set a Nil Policy for SEVs**
- 2. If Nil Policy not adapted, incorporate Gender Equality Duty into Licensing**
- 3. If Nil Policy not adapted, set rigorous Licensing Conditions**
- 4. Monitor the 'Frequency Exemption' in relation to SEVs**

1. Why Councils should set a Nil Policy for SEVS

The adoption of the Sexual Entertainment Venue (SEV) licensing for strip clubs affords the council significantly greater powers to control and regulate such clubs, including adopting a 'nil' policy for SEVs in the borough.

We therefore urge you to introduce a 'nil' policy for Sexual Entertainment Venues in the borough. This is possible 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.

Strip clubs detrimentally effect the women performing within them, women in the immediate vicinity and women in wider society. But the council has a duty to protect all women from these effects under the **Gender Equality Duty 2007**. We argue that the best, and perhaps the only, possible way to do this is for Councils to adopt a Nil Policy to SEVs.

We outline why a nil policy is both a desirable and, indeed a necessary, below:

1.1 Councils are bound by the Gender Equality Duty

The Gender Equality Duty 2007

This legally requires local authorities to promote equality between women and men in all that they do - including in its licensing policies and decisions.

The Gender Equality Duty is particularly relevant in relation to the licensing of sex establishments because of their gendered nature and because of the negative impact that SEVs such as 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:

Strip Clubs harmful to women in the industry

Lap dancing clubs operate in a manner that is harmful to performers & are linked to wider systems of prostitution

Research shows that the structural conditions of lap dancing clubs, whereby self-employed performers are forced to compete with one another for private dances, leads to some dancers having to offer sexual services in order to survive financially ¹. It leads to 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'*²

¹ Bindel, J. (2004) *Profitable Exploits: Lap Dancing in the UK*, London Metropolitan University, Child and

² 'Elena' quoted in 'I was an Object, not a Person, The Guardian 19.03.08

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 services³. This places lap dancing on a continuum of commercial sexual activity, irrespective of whether this sexual exchange occurs within the club itself.

Strip clubs effect women's safety in their vicinity

Research undertaken in the **London Borough of Camden** found a 50% increase in sexual assaults in the borough after the rapid expansion of lap dancing clubs⁴. Personal testimonies 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 different⁵

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 uncomfortable⁶.*

Strip clubs effect 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

³ 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

⁴ Eden, I. (2003) *Lilith Report on Lap Dancing and Striptease in the Borough of Camden*, London: The Lilith Project, Eaves Housing for Women

⁵ See www.object.org.uk for testimonies

⁶ Royal Town Planning Institute (2007), *Gender and Spatial Planning, Good Practice Note 7*, 10 December 2007

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'*⁷.

Furthermore, in response to research it commissioned into the impact of lap dancing clubs on the city, **Glasgow City Council**⁸ 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 explicit commitments by a range of private, public and voluntary agencies to promoting women's equality."

Strip clubs normalise the sexual objectification of women

Lap dancing clubs normalise the sexual objectification of women in contradiction to efforts to promote gender equality

The links between objectification and discrimination and violence against women are recognised at the international level by the legally binding United Nations Convention to Eliminate Discrimination Against Women (CEDAW). This has repeatedly called upon nations' governments, including Britain, to take action against the objectification of women⁹. 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 women¹⁰.

⁷ Both quotes are from an OBJECT leaflet 2008

⁸ 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/legtablic2.pdf>

⁹ 1979 Convention on All Forms of Discrimination Against Women (CEDAW) Article 5

¹⁰ Realising Rights, Fulfilling Obligations: An Integrated Strategy to End Violence Against Women (EVAW) 2008

Lap dancing clubs mainstream the sex and porn industries

Lap dancing clubs feed 'sex-object' culture – the mainstreaming of the sex and porn industries and the sexual objectification of women and girls. Before SEV licensing was introduced, clubs were licensed in the same manner as cafes. This led to a doubling in the number of clubs in five years, turning them into a High Street commodity. This was coupled with intensive PR to brand lap dancing as glamorous, empowering and 'harmless fun'. The result being major retailers selling pole dancing kits along with pink frilly garters and paper money in their 'toys and games section'¹¹, and leisure centres offering pole dancing lessons to girls as young as twelve¹². No wonder 25% of teenage girls see being a lap dancer as their *ideal* profession¹³.

Every SEV license granted or renewed; every lap dancing venue, "gentlemen's club" and strip joint in operation counters the Gender Equality Duty and acts against gender equality, and even the fundamental safety and well being of all women. And yet your council has a duty to promote equality. We therefore urge you to set a limit of zero on the number of SEV licenses deemed appropriate for each ward.

1.2 Strip Club Objections against a Nil Policy are Unfounded

In the past strip club operators have sought to challenge the introduction of a nil policy and indeed the introduction of SEV licensing or any non-renewal of their license.

We analyse this below:

¹¹ Eden, I. (2007) *Inappropriate Behaviour: Adult Venues and Licensing in London*, London: The Lilith Project, Eaves Housing for Women.

¹² BBC News Online (2006), 'Children are Taught Pole Dancing' Tuesday, 12 December 2006, url: <http://news.bbc.co.uk/1/hi/england/tyne/6173805.stm>

¹³ http://www.manchestereveningnews.co.uk/news/s/161/161338_naked_ambition_rubs_off_on_teen_girls.html

A Nil Policy is Expressly Permitted

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."*¹⁴

The introduction of a nil policy is currently being proposed by the London Boroughs of Hackney and Haringey. 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."*¹⁵

In Haringey, 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 stance"*¹⁶.

¹⁴ Kolvin, P. (2010) *Sex Licensing*, The Institute of Licensing, p.60

¹⁵ Hackney Draft Sex Establishment Licensing Policy, 2010

¹⁶ http://www.haringey.gov.uk/index/news_and_events/latest_news/lap_dancing_ban.htm

Club Objections have no Legal Basis

Some strip club operators have threatened 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. The two rights they threaten to invoke are the *right to freedom of expression* and the *protection of property*.

However, legal experts have advised that such an appeal could not be successful since it is entirely within the law for councils to set nil policies.

Furthermore, the two rights specified above are qualified, they are not absolute. **Philip Kolvin QC, Chairman of the Institute of Licensing**, states¹⁷:

"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 (which enabled 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.**

¹⁷ Kolvin, P. (2010) *Sex Licensing*, The Institute of Licensing, p82

2. If Nil Policy not adapted, incorporate Gender Equality Duty into Licensing

We urge you to set a Nil Policy on strip clubs as the only meaningful way to incorporate the legally binding Gender Equality Duty into your licensing decisions.

If however, you do not set a 'Nil' Policy, we urge you to seek legal advice to ensure you find some way to promote 'gender equality' as a specific objective for SEV licensing policy.

3. If Nil Policy not adapted, set rigorous Licensing Conditions

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, please ensure that the following set of standard conditions are applied to such licenses in order to help protect women in your community.

Philip Kolvin QC, Chairman of the Institute of Licensing, has produced a set of suggested conditions for application to SEV licenses¹⁸. I 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 1m 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**

¹⁸ Kolvin, P. (2010) *Sex Licensing*, The Institute of Licensing, p.74

- 5. Prohibition of private booths**
- 6. CCTV coverage of all public areas**
- 7. Controls on exterior advertising and signage**
- 8. Prohibition of advertising in public spaces, including on billboards, telephone booth boards, and leafleting**

We would ask you also to include the conditions set out in Hackney Council's draft policy on the licensing of SEVs which states:

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/or, the conditions outlined by the Bristol Fawcett Society:

- 1. 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**
- 2. No fee to be charged by clubs to performers for working in the clubs**
- 3. Police to be kept informed of any assaults that take place on staff, whether or not the victim wishes to press charges**
- 4. 'No smoking areas' to be allowed at the front of clubs to minimise the potential for harassment of women living, working and passing through the area. All smoking areas must be in private areas away from public spaces.**
- 5. No advertising allowed in media that is not exclusively aimed at adults – this would exclude local family newspapers for example.**

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

However, because of the negative impact that lap dancing clubs have on women's equality and women's safety as outlined above, **we ultimately call on you to take a stance against the impact of lap dancing clubs by setting a nil policy in relation to SEVs.**

4. Monitor the 'Frequency Exemption' in relation to SEVs

As you may be aware, a rather bizarre 'frequency exemption' term exists which 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*. As such the presence of lap dancing in local pubs or 'strip tents' at large festivals and events has become the norm.

But your Council has *no powers* to prevent these performances from occurring and *no powers* to place any conditions or controls on them.

This problem is further exacerbated because venues hosting lap dancing less than once a month will not have facilities and procedures in place to protect the safety of performers – such as a separate changing rooms, CCTV and security. The safety of the performers is therefore put particularly 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 central 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.