

## LONDON BOROUGH OF ENFIELD

### POLICING AND CRIME ACT 2009

### SEXUAL ENTERTAINMENT VENUES

#### Proposal for public consultation

**Key :**

**LGMPA1982 = Local Government (Miscellaneous Provisions) Act 1982**

**LA2003 = Licensing Act 2003**

**PCA2009 = Policing and Crime Act 2009**

#### **1. Current Position**

- 1.1 The LGMPA1982 defines a sex establishment as either a sex shop, a sex cinema or a sex encounter establishment.
- 1.2 On 4 October 1982 the Council's Public Services and Protection Committee resolved to adopt LGMPA1982.
- 1.3 On 11 June 1991 the Council's Environment Committee considered that the appropriate number of sex establishments in all relevant localities within the borough is nil.
- 1.4 On 1 November 1995 this 'nil' policy was reconfirmed by the Council's Community Services Sub-Committee.
- 1.5 Within Enfield there are no premises licensed as sex establishments under the LGMPA1982.
- 1.6 However, any premises that has a premises licence under the LA2003 and wishes to provide 'live displays or performances involving nudity' does not additionally require a sex establishment licence under the LGMPA1982.
- 1.7 But, within Enfield there are no premises licensed under the LA2003 that are known to provide 'live displays or performances involving nudity' and :
  - 1.7.1 all new and varied licences granted under LA2003 are subject to a condition that provides that "there shall be no adult entertainment or services, activities or matters ancillary to the use of the premises that may give rise to concern in respect of children";
  - 1.7.2 any 'converted' licences under the LA2003 could be made subject to that condition on a review application; &
  - 1.7.3 any breach of that condition is a criminal offence attracting, on conviction, a maximum fine of £20,000 and up to 6 months imprisonment.

## **2. New Powers**

- 2.1 In September 2008 the Government gave local people greater say over the number and location of lap dancing clubs in their area.
- 2.2 Section 27 of the PCA2009 reclassifies premises that provide 'live displays or performances involving nudity' as sexual entertainment venues and gives local authorities the power to regulate such venues as sex establishments.
- 2.3 These new measures took effect on 6 April 2010 in England.
- 2.4 Where adopted, any premises that wanted to provide 'live displays or performances involving nudity' would be required to apply to the Council for a sexual entertainment venue licence under the LGMPA1982 in addition to any premises licence under the LA2003.
- 2.5 Where adopted, local residents will be able to object to a sexual entertainment licence application on wider grounds than those under the LA2003. The Council will be able to refuse a licence under the LGMPA1982 on those wider grounds.
- 2.6 These powers are not mandatory and will only apply if Section 27 of the PCA2009 is adopted by the Council.

## **3. Option 1 – Adopt?**

- 3.1 The Home Office advises that, while there is no statutory duty to do so, prior to deciding whether to pass a resolution, the Council may, as a matter of good practice, wish to seek the views of local people and businesses.
- 3.2 Enfield has already adopted Schedule 3 to the LGMPA1982 for the licensing of sex shops and sex cinemas. However, a further resolution is necessary by full Council before the provisions introduced by Section 27 of the PCA2009, will have effect here.
- 3.3 However, simply by adopting Section 27 of the PCA2009, every premises within the borough will be granted the automatic right to provide 'live displays or performances involving nudity' on up to 11 separate occasions a year without a licence under the LGMPA1982. Premises would only require an authorisation under the LA2003.

## **4. Option 2 – Don't Adopt?**

- 4.1 Should the Council choose not to adopt Section 27 of the PCA2009 all 'live displays or performances involving nudity' would continue to only require a licence under the LA2003.
- 4.2 If the Council does not make a resolution to adopt Section 27 of the PCA2009 we are required, as soon as is reasonably practicable, to consult local people about whether we should make such a resolution.

## 5. Discussion

- 5.1 The adoption of Section 27 of the PCA2009 grants additional powers to the Council in respect of the control of premises providing 'live displays or performances involving nudity'.
- 5.2 Such premises could not provide sexual entertainment without a licence under the LGMPA1982 in addition to any licence held under the LA2003.
- 5.3 Local residents could object to any application for a licence under the LGMPA1982 and any such application could be refused by the Licensing Sub-Committee on any of the following grounds :
  - 5.3.1 the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - 5.3.2 if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
  - 5.3.3 the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
  - 5.3.4 that the grant or renewal of the licence would be inappropriate, having regard :
    - 5.3.4.1 to the character of the relevant locality; or
    - 5.3.4.2 to the use to which any premises in the vicinity are put; or
    - 5.3.4.3 to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 5.4 However, by the adopting Section 27 of the PCA2009 every premises within the borough would automatically be granted a statutory right to provide 'live displays or performances involving nudity' on 11 occasions each year without requiring a licence under the LGMPA1982.
- 5.5 There is no statutory requirement for premises to notify the Council of these 11 permitted events. Without this statutory requirement we would be reliant on operators volunteering to inform us of any such events they held. This would make fair enforcement of these events impracticable.
- 5.6 Should the Council choose not to adopt Section 27 of the PCA2009 the control of premises providing 'live displays or performances involving nudity' would continue to be solely under the provisions of the LA2003.

5.7 Local residents may only object to any application for a licence under the 2003 and any such application may only be refused by the Licensing Sub-Committee on the grounds that refusal is necessary for the promotion of :

5.7.1 the prevention of crime & disorder;

5.7.2 public safety;

5.7.3 the prevention of public nuisance; or

5.7.4 the protection of children from harm.

5.8 Within Enfield there are no premises that are known to provide 'live displays or performances involving nudity'.

## **6. Recommendation**

6.1 The Council is recommended to maintain the status quo by not adopting Section 27 of the PCA2009.

6.2 By not adopting this legislation at this time the Council :

6.2.1 will continue to control provide 'live displays or performances involving nudity' under the LA2003;

6.2.2 will prevent every premises within the borough being granted a statutory right on 11 sexual entertainment events each year; &

6.2.3 is not fettering its ability to adopt Section 27 of the PCA2009 in the future, should this prove desirable.

6 October 2011