



**AGENDA ITEM: X**

**SUMMARY**

<b>Report for:</b>	<b>Licensing Health &amp; Safety Enforcement Committee</b>
<b>Date of meeting:</b>	<b>26 November 2013</b>
<b>PART:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Response to consultation on revision of Sex Establishment licensing policy and application procedures</b>
Contact:	Sally Taylor – Lead Licensing Officer, Legal Governance
Purpose of report:	To present the results of consultation on the revisions to the Council’s Sex Establishment licensing policy, application form and particulars, and standard conditions.
Recommendations	That the Committee agree the proposed amendments to the Sex Establishment licensing policy and standard conditions arising from the consultation, and adopt the policy as amended.  That the Committee adopt the application form and particulars as set out at Annex 5.
Corporate objectives:	Safe and Clean Environment <ul style="list-style-type: none"> <li>• Maintain a clean and safe environment</li> </ul> Dacorum Delivers <ul style="list-style-type: none"> <li>• Performance excellence</li> </ul>
Implications:	This report relates to a review of an existing policy. No new implications are expected to arise as a result.
Consultees:	Public consultation has been conducted, and the results are contained within this report.
Background papers:	Dacorum Borough Council Sex Establishment licensing policy (v2.0). Dacorum Borough Council application form for a Sex Establishment Licence.
Glossary of acronyms and any other abbreviations used in this report:	

## **1. BACKGROUND**

- 1.1. On 23<sup>rd</sup> February 2011, Dacorum Borough Council re-adopted the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, so as to enable the regulation of sexual entertainment venues in addition to existing powers to regulate sex shops and sex cinemas. At the same time, a sex establishment licensing policy was also adopted and published.
- 1.2. Since that date, the Council has dealt with applications for three sexual entertainment venues, one of which was granted but has since lapsed, one of which was refused, and one which remains valid at the time of writing this report. Annual applications have also been received in respect of the sole sex shop in the borough, with one currently under consideration at the time of writing this report.
- 1.3. While there is no requirement in legislation for authorities to publish a policy in respect sex establishment licensing, it is a useful tool for providing local guidance to both applicants who are looking to apply for licences, and those that may wish to make representations. A policy acts as guidance for Members and officers when exercising relevant functions, helping to ensure more consistent and transparent decision-making. It is important to note that all applications are considered on their own merits, and use of any policy as a guidance tool does not prevent that.
- 1.4. The licensing policy was set for an initial period of 3 years, and is due to expire in February 2014.

## **2. PROPOSED REVISIONS**

- 2.1. At the Licensing and Health and Safety Enforcement Committee on 27<sup>th</sup> August 2013, Officers presented proposals for a Sex Establishment licensing policy to run from 2014-2017. The policy had undergone substantial revision and Members were therefore asked to consider it as a fresh document.
- 2.2. At the same meeting, proposals in respect of revisions to the standard conditions for sex establishment licences were presented, together with a revised application form, and request for particulars which the Council would require to accompany applications for sex establishment licences. The particulars requested would mirror the contents of the proposed application form, and would require the submission of a plan of the premises/location which would satisfy the requirements set out on page 13 of the application form.
- 2.3. The Committee agreed to the commencement of a consultation exercise on adoption of all the proposals to run for a period of two months.

## **3. RESULTS OF CONSULTATION**

- 3.1. Consultation was carried out by setting out the proposals on the Council's website, and the issue of a press release which was reported in the local press. The revised policy was also sent to existing holders of sex establishment licences in the borough, inviting their comments. Responses were invited between 1<sup>st</sup> September and 1<sup>st</sup> November 2013.

3.2. One response was received to the consultation during this period, from an academic at the University of Kent who has been involved in a study of sex establishments, and this is set out at Annex 1. The response was also accompanied by two academic reports from the Universities of Kent and Leeds into Sex Establishment licensing, which are reproduced at Annexes 2 and 3.

3.3. No valid responses were received from licensees, or members of the public.

#### 4. OFFICER RECOMMENDATIONS

4.1. Having considered the content of the response and the points raised, Officers are recommending the following amendments to the Draft Sex Establishment licensing policy:

- (i) That paragraph 1.20 of the policy be amended to read as follows:  
““Relevant locality” means, in relation to the premises, the locality in which they are situated. In considering the question of the “relevant locality” the Council may take into account the following:-
  - a) The size of the neighbourhood;
  - b) *The presence of important thoroughfares or use of the locality as a gateway district.*
  - c) The density and proximity of residential accommodation;
  - d) The proximity of parks and children’s play areas;
  - e) The nature, density and proximity of other retail units and their uses;
  - f) The proximity of schools.”
  
- (ii) The wording of paragraph 1.21 to be amended to read as follows:  
“The authority will decide each application on its individual merits. However there are a number of localities in which it is believed that the grant of a sex establishment licence would be inappropriate due to the historic *character of those localities, or that they are areas of mixed commercial use with a high density of families and younger persons frequenting premises in the vicinity.* Therefore, for the purpose of paragraph 12(3)(c) of schedule 3 to the 1982 Act, the Council considers ‘nil’ to be the appropriate number of sex establishments in these localities. The localities to which this paragraph relates include:
  - a) Hemel Hempstead Old Town – *map of defined area at Appendix 1*
  - b) Berkhamsted Town Centre – *map of defined area at Appendix 2*
  - c) Tring Town Centre – *map of defined area at Appendix 3”*
  
- (iii) The wording of standard condition 12 on page 14 of the policy to be amended to read as follows: “No part of the Premises shall be used for the purposes of prostitution at any time.”

- (iv) The wording of standard condition 16 on page 14 of the policy to be amended to read as follows: “A change from one type of sex establishment approved by the licensing authority to another shall not be effected without the consent of the licensing authority”.
- (v) The following standard condition be added to ‘Annex B – Standard conditions applying to sexual entertainment venues’:

“18. Management of the premises shall maintain a document specifying all applicable house rules and disciplinary procedures, which shall be made available on request to any member of staff, performer or licensing officer. The disciplinary procedure shall not include provision to “fine” performers or otherwise impose pecuniary penalties, but may provide for verbal or written warnings, suspension of a performer’s right to perform at the premises, or revocation of a performer’s right to perform at the premises.”

4.2. That the Sex Establishment licensing policy, as amended, be adopted.

4.3. There have been no comments received in respect of the revised application form and particulars, and therefore Officers request that the Committee adopt both the form and content of these documents.

## Annex 1 : Consultation response

**Sally Taylor**

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**From:** Phil Hubbard <P.Hubbard@kent.ac.uk>  
**Sent:** 02 September 2013 11:01  
**To:** Licensing Mailbox  
**Subject:** sex establishment policy  
**Attachments:** recommendations ESRC.pdf; sanders findings.pdf

I see you are consulting over a revised policy for sex establishments in the Dacorum area. I have conducted the only academic study of lap dance venues and their effect on the community, and as such am recognised as an authority in this area of licensing activity. I am aware of the existing clubs in the area, and some of the controversies that adhered to proposal for clubs in the old town of Hemel. I believe I am entitled to have my views presented to the council as your new policy suggests anyone is entitled to express their view irrespective of whether they live or work near one of the establishments.

As such, I will make the following comments on your policy:

The policy sets down new expectations as to where a club or shop could not be located, but not where one might be located. Can we assume that sites identified in the last policy are now no longer suitable? It can be useful for applicants to guide them towards suitable sites - and last time round some were identified (not just high streets, but leisure parks and industrial parks). If the EU services directive is taken at face value, not providing any useful guidance as to where a premise could be located might be considered prejudicial: c.f a housebuilder, who is told quite clearly where new housebuilding might be encouraged. Case law suggests it is unreasonable to tell applicants that their premise is unsuitable in a given locality without telling them where might be suitable: it seems very unlikely that there are no sites where a club or shop would be suitable. I recommend some stipulation of the localities which could be suitable.

Further comments:

1.20 The first point here is odd. It effectively says that in considering the extent of a relevant locality the authorities will consider the extent of a relevant locality. The second point about thoroughfares is also unclear. If it is the presence of important thoroughfares or gateway districts this is in line with the kind of conditions which exist elsewhere. If it is that localities may be defined by thoroughfares, this should be stated.

1.21 - The definition of areas as unsuitable is a key change to the policy. However, suggesting that an area is historic does not itself provide any basis for suggesting that sex establishments are not appropriate - the definition of what is historic is vague, and there is little support for the idea that there is an incompatibility between historic buildings and sex. It suffices to say that the area have been appraised as unsuitable localities because of their character and the uses of buildings in the vicinity.

I would add that the definition of the town centre areas is not clear and I assume a map showing extent of the three protected areas will be included so there is some clarity over the extent of these localities (if there is not, then the grounds for identifying these as worthy of protection could be open to challenge - one cannot define an area as unsuitable without clarify what the area is which is being spoken of. In the last policy, these areas were not defined in the same way (i.e. Berkhamstead high street is not extended to Berkhamstead town centre) so the need for clarity is clear.

Some minor points:

Annex A: 12. should not refer to prostitutes, as this term is offensive to many and outdated. It should simply read that no part of the premise should be used for the purposes of prostitution at any time. A: 16. Change of use is a planning term and of course change of use is only permissible subject to the appropriate planning

permission being granted. I assume this section ought to read that there shall be no change in licensable activities without the appropriate consent sought from the licensing authority.

I would draw your attention to the two documents which I would wish you to present to the licensing committee and council when adoption of this new policy is carried out. One is from a colleagues' work and relates to good practice in licensing conditions relating to dancers' well-being. From this, it should be taken that licensing conditions will include statements relating to the provision of well-lit, warm changing rooms for performers, and a statement that the fining of dancers by owners is prohibited.

Please let me know of any way I can be of assistance, noting I am an independent academic and have no vested interest in protecting the sex industries or, to the contrary, condemning those who work in that industry.

Phil Hubbard  
Professor of Urban Studies, School of Social Policy, Sociology and Social Research  
& Faculty Director of Research, Social Sciences  
University of Kent, Canterbury  
Cornwallis Building CNE206

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## Recommendations for Sexual Entertainment Venue Licensing in England & Wales

Sexualisation,  
nuisance  
and safety

### Sexual Entertainment Venues and managing risk

Throughout 2012, our ESRC-funded research collected evidence of the impacts of Sexual Entertainment Venues (SEVs), based on a survey with 941 residents and guided walks in four towns with striptease clubs present. Some of the key findings were:

- A minority - around one in ten people - are strongly opposed to lap dance and striptease clubs and feel they are never appropriate.
- Only around one third of those living in towns with striptease clubs want to reduce the overall number of clubs.
- Very few (15%) believe clubs are suitable near schools, though the majority (55%) regard town and city centres as appropriate locations.
- SEVs appear a relatively insignificant source of fear most people, with most associating antisocial and rowdy behaviour more with pubs, clubs and takeaways than Sexual Entertainment Venues.
- Women are more likely than men to pass comment on SEVs and express un-ease or anxiety about them.
- SEVs which are discrete in terms of their signage, naming and exterior appearance appeared to generate least comment or concern. Sexist imagery and names were objected to by many of our participants.

Our conclusion was that there is a case for licensing SEVs recognizing that their presence can be offensive to a significant minority, but that licensing policies and practices need to acknowledge that most residents perceive these premises as no more problematic than other night-time venues. Licensing must therefore be **proportionate** and not overly restrictive given there may clearly be localities where such premises can be located without causing undue offence to those who object strongly to their presence. These include non-residential locations such as industrial estates where there are

no schools or facilities associated with children in the vicinity, but may also include town and city centres where such clubs are open at times when children are not routinely present.

Following the research, we held a workshop with licensing officers, councilors, premise managers, police, and other interested parties. This generated a range of recommendations for licensing policy and practice as summarized below.

## **Recommendations for licensing policy**

Policies are clearly drawn up by local authorities on behalf of local residents with a view to the specificities of the place in question. However, the fact that only a minority appear to have strong objections to striptease clubs means there is not a compelling case for overly restrictive licensing policies, such as those arguing for a nil limit. This said, it is possible to suggest a nil limit on the basis of local sensitivities, so long as it is clear licences may still be granted in cases where applicants are able to make an exceptional case. It should be stated that applications will always be judged on their merits, noting that different types of clubs and premises can fit into the definition of Sexual Entertainment. Any statement that there is a presumption against the award of an SEV licence may be interpreted as discriminatory and disproportionate within a system that must not be contrary to the goals of the EU Services Directive (i.e. to ensure that regulation of premises is non-discriminatory, necessary and proportionate).

Beyond this general observation, we offer ten recommendations for those drawing up policy:

1. If it is stated there are no suitable localities in a given local authority where a club would be appropriate, it is incumbent on the local authority to demonstrate that all possible localities have been assessed as unsuitable, and the reasons for this judgment described to potential applicants.
2. For the benefit of applicants, and objectors, it is useful to provide clarity as to what is meant by a locality or vicinity. For the purposes of licensing SEVs, a locality cannot be considered to be as extensive as an entire town or city.
3. Licensing policies should be explicit about the type of land uses that might be regarded as incompatible with SEVs. There is a consensus venues should not be located in the vicinity of schools and near areas deemed to be 'family areas' such as museums, libraries and leisure centres. However, the case for not having clubs in the vicinity of industrial facilities, businesses and other sites of leisure and entertainment predominantly aimed at adults is unclear, so needs to be justified.
4. While tourist and heritage sites marketed at family audiences may be regarded as sensitive land uses, there is little obvious justification for suggesting Sexual Entertainment Venues are inappropriate in the vicinity



of listed or historic buildings. This appears overly restrictive as whether or not a building might be harmed by a particular type of activity occurring in it is more a consideration for planning rather than licensing.

5. Statements that venues are inappropriate within a given distance (e.g. 100, 250 or 500m) of given land uses are useful for applicants, but there needs to be clarity here as to what premises fall into different categories of land use. Applicants and licensing committees might usefully be provided with maps indicating the number of sensitive premises and land uses within the vicinity of a given address, meaning such information should be easily obtainable.
6. It is entirely appropriate for policies to set conditions to guarantee clubs are not open when children would routinely be on the street in the vicinity of a club. Given the logic of government curfew orders, this implies 9pm to 6am can reasonably be considered as times when this would occur.
7. Licensing policies should contain model conditions relating to the management of the premises and permitted conduct on the premise. These should ensure certain protections for performers, including a no-fines regime and provision of adequate changing and toilet spaces.
8. Licensing policies should set conditions on the external appearance of premises where appropriate, and alter the name of venues where these contain overtly sexual references. References to 'Gentleman's Clubs' should also be avoided.
9. External signage and displays should not be suggestive or overtly gendered. However, it should be noted that obstructing the visibility of performers from the outside of a venue is unworkable in practice and this condition should be reworded so that only the actual sexual entertainment per se cannot be seen by the passer-by.
10. Finally, it should be remembered that fees for application and renewal of SEV licenses must, following *Hemming v Westminster* (2013), be proportionate to the costs of the procedures and formalities involved in processing an application, not running the SEV licensing system or the costs of licensing enforcement in this area.

## **Recommendations for licence determination**

Case law (*R v South Bucks, 2013*) suggests a local authority has 'a very broad power to make an evaluative judgment whether the grant of a licence would be inappropriate having regard to the character of the relevant locality'. In coming to a decision, the relevant licensing committee should be guided, but not bound, by policy, and should use its own judgment to draw conclusions based on local knowledge.

This said, we offer 10 recommendations for those determining applications:

1. The committee must consider the weight of objections but should be minded to disregard those made on the basis of morality given Home Office guidance suggests that moral or religious objections to sexual

entertainment cannot provide a legitimate basis for licence refusal. Many objections are of this type, and make inferences about the effects of lap dancing clubs on performers and clientele that cannot be substantiated by research. There is no research to suggest that striptease clubs are any more associated with crime, disorder and anti-social behavior than any other type of venue, and they generally cause less noise, parking, and littering. Of course, where clubs are poorly run and problems emerge this provides a basis for non-renewal.

2. Legitimate objections concern the fact that a given locality is inappropriate. There is a social consensus that clubs are inappropriate in the vicinity of schools, nurseries and other land uses habitually used by children. Which land uses fall into this category should be a matter for common sense and not dictated by policy. For example, some pubs market themselves as 'family-friendly pubs', but committees should question carefully if this means they are habitually places where children will be present in the evening.
3. It is possible that children may see clubs even when they are not located away from such locations. Where there are concerns that the name or signage of a club might be inappropriate licensing conditions may require this to be altered.
4. It may be decided that allowing a club to be licensed is contrary to plans to regenerate an area in the future. This is legitimate, but given clubs may bring investment and jobs, it needs to be stated why they are viewed as an obstacle to future investment and regeneration.
5. Women tend to object more to Sexual Entertainment Venues than men. If there is evidence that some women will be put off from visiting an area because of the presence of an SEV then this provides grounds for refusing an application. However, consideration needs to be taken as to whether this is a minority view, and whether the interests of those women who work in, or visit, such venues should be outweighed by those women who find them offensive or problematic.
6. Human rights considerations must be taken into account, in particular, Article 1 of the first protocol (the protection of property and the peaceful enjoyment of possessions and property), Article 8 (the right to respect for private and family life, home and correspondence) and Article 10 (which refers to freedom of expression). These are qualified rights that can be denied if it is in the public interest to do so (e.g. if it is considered necessary to achieve related to the prevention of crime; or, the protection of public order or health). The implication is that a committee needs to be convinced there is a sound basis for refusing an application given this is effectively a denial of rights to open a business offering a legitimate and legal form of entertainment.
7. There is nearly always some residential land use in the localities proposed for Sexual Entertainment Venues. Most people consider such clubs inappropriate in residential areas, so whether the area is predominantly

residential ought to be an important consideration. There might be a different approach taken to a club proposed for a predominantly residential suburban estate than one for a city centre where there is a mixture of residential, commercial and leisure use.

8. Proximity of striptease clubs to other sex establishments - such as sex shops - may appear relevant, but such issues should be considered carefully given these tend to be open during the day rather than in the hours when SEVs are open. There is little evidence that sex shops have negative impacts on their surrounding if these are appropriately licensed and are discrete in appearance.
9. Any licence refusal should be intelligible and adequately justified so as to assist the applicant and other applications. Where a locality is designated as unsuitable, or land uses in the vicinity are determined incompatible with the proposed SEV, it is useful to specify the nature of those land uses and the reasons why the committee determined these to be incompatible.
10. Each application should be determined on its merits, with an assessment of the suitability of the locality and vicinity of the premise decided with reference to the facts presented to the committee. The question as to whether the premise has existing planning consent to operate as a striptease club is irrelevant given licensing is concerned with the operation of the premise and the likely effects it will have on the community, not the general principle of having a lap dance club in a given locale.

#### **How to get further information**

Outputs and summaries of the research findings are available online at:  
<http://www.esrc.ac.uk/my-esrc/grants/ES.J002755.1/read>

Regular updates on SEV licensing and policy issues at:  
<http://sevlicensing.wordpress.com/>

Research on the conditions experienced in SEVs by workers is reported at:  
<http://www.esrc.ac.uk/my-esrc/grants/RES-189-25-0290/read>

Please contact [P.Hubbard@kent.ac.uk](mailto:P.Hubbard@kent.ac.uk) for further details of the methods and findings of this research.



## Annex 3 Findings of academic study by University of Leeds



### THE REGULATORY DANCE: SEXUAL CONSUMPTION IN THE NIGHT TIME ECONOMY

#### SUMMARY OF FINAL FINDINGS (Jan 2012)

Dr Teela Sanders, Dr Kate Hardy and Rosie Campbell

#### INTRODUCTION

Funded by the Economic and Social Research Council and carried out during 2010-2011 "The Regulatory Dance" is the largest study to date of the strip and lap dancing industry in the UK night time economy. It is the key study illustrating dancers' experiences and working conditions. This briefing reports on findings from the study.

It also draws on information gathered during further consultation with local authority licensing officials, club owners/managers and dancers in the first phase of new project "Sexual Entertainment Venues: Regulating Working Conditions", which is disseminating and making use of the findings. This follow on project is an Economic and Social Research Council project being carried out during November 2011 until the end of October 2012.

#### METHODS

The research involved;

- An interviewer-administered survey conducted with 197 dancers regarding their experiences across 45 towns and cities in the UK and 16 other locations worldwide.
- Interviews with 35 dancers and 20 other people involved in the industry (including bar staff, security, 'house mums', managers and owners) and 15 regulators (including licensing and enforcement officers, health and safety inspectors and the police).
- Observational methods: 20 clubs were visited
- A photographic visual methods element.

#### KEY FINDINGS: DANCERS' EXPERIENCES and WORKING CONDITIONS

##### Who are the Dancers? Demographics

- **Age:** 60% were aged between 22 and 29. The age range spanned from 18-53 years.
- **Age started dancing:** 74% started dancing when they were under 25 years old.
- **Relationship status:** Half of the dancers were single (45.5%), but the other half were in some form of relationship with someone with whom lived (21.4%) or did not live (20.2%). Only 9.5% of the dancers were married.
- **Mothers:** Only 13.5% of dancers surveyed had children. No dancer had more than two children.
- **Nationality:** British nationals constituted over half the dancers surveyed (60.5%); EU nationals, 28.6% (largest group being Romanians); 9.6% non-EU nationals (mainly Brazilian).
- **Education:** All of the dancers had some education and had finished school with some qualifications. 73% had completed at least Further Education, while 23% had completed an undergraduate degree. One third of dancers were currently students. Of these 60% were in full time education; 25% in part time education and the remainder taking evening classes.
- **Other work:** A minority (40.2%) were solely dancing. All others were in education (14.2%), another form of work (32.6%) or both other forms of work and education (10.6%).

##### Patterns of Working

- **Length of time working:** 70.9% had been working for less than 5 years.
- **Number of clubs:** Respondents had danced in between 1 and 35 clubs. Most women had worked in only 1-2 clubs. Women that had danced in more than ten clubs tended to have worked for agencies.
- **Shifts:** Most dancers worked between 3 and 5 shifts a week (62.6%). A small minority, 12.9% worked 6 or more shifts per week and migrants were likely to work more shifts. Over 90.5% stated that they felt able to choose their shifts. Shifts can be 10-12 hours long.

- **Earnings:** Women generally reported earnings going down from the first club they worked in to the current club at the time of the survey. Earnings ranged from £0-£800 per shift. The average earnings per shift in the first club that women worked in was £284 while the average that women currently reported was £243.

#### **Reasons for Dancing**

The reasons that dancers gave for leaving jobs prior to dancing varied widely. The largest proportion (21.4%) stated that they simply wanted to become a dancer. A further 16.1% said that they were seeking better pay than their previous position. Escaping boring or stressful work also featured highly. Dancers mainly found work in their first club through friends (41.1%) or the Internet.

The vast majority of dancers had made a decision to do dancing/stripping as a flexible, relatively high earning (although unpredictable), cash-in-hand form of work. Dancing was a popular employment option for some women who were working in low paid, unskilled jobs, but were motivated by the opportunity for future mobility.

#### **Advantages and Disadvantages of Dancing**

Dancers identified a number of advantages and attractions. Key amongst these were, 'flexibility' and independence, instant remuneration, earning more than in other roles, keeping fit, and an opportunity to combine fun and work. This resulted in a steady flow of labour supply. However some of these exact characteristics could be disadvantages as dancing remained precarious in terms of a stable income, high overheads, no employee protection, and a competitive environment. Coupled with fewer customers and expenditure during the recession, dancing proved to be a difficult job without guaranteed income. There were also disadvantages for some dancers of keeping the job secret and rude/abusive clients were a problem.

No evidence or anecdotes of forced labour or trafficking of women was found. However, some migrant workers reported high fees for agencies and accommodation. Although 'extra services' were reported anecdotally by dancers, there was no evidence of lap dancing having connections to organised prostitution.

Dancers generally reported high levels of job satisfaction. Almost three quarters (74.1%) stated their job satisfaction as between 7 and 10 out of 10. No dancers said that their job satisfaction was 0-2.

However, they faced a number of problems in the work place, relating to *customer behaviour; insecure work; and financial exploitation.*

#### **Customer Behaviour and Safety**

- **Sense of Safety:** Most women (80%) said they felt safe at work and supported by managers when there was a dispute with a customer, but there were significant differences between clubs.
- **Harassment:** Yet 51.9% of dancers reported having received harassment 'lots of times' or a 'a few times', nearly half reported frequent verbal harassment and unwanted touching from customers. This was reported more widely in clubs with private dancing than those with only stage shows.
- **Security:** The quality of security in clubs was very important to dancers
- **Booths:** many dancers felt that the way in which private booths were set up also made them vulnerable and also allowed standards to be lowered by dancers offering more than is allowed in the dances.

#### **Financial Exploitation: Fees, Fines and Commission**

**House Fees:** dancers had to pay, house fees ranging from £0-£200, though the average was around £20-30 in the North and around £80 in the South.

*"In the clubs the house fees are so enormous it puts you in such a stressful position to start up with; it's not a good attitude to go and start working from".*

**Commission:** In addition to fees, dancers paid commission. This ranged from 0-66%, though it was usually 30% for each dance.

- **Fines:** Dancers were also fined frequently (often arbitrarily). 61% had been fined at some point in their dancing career, 42% in their current work place. The highest reported fine was £100 for a missed shift. The most common were for chewing gum, using mobile phone on the floor, incorrect clothing and lateness.

- *Tiping:* 50% reported working in clubs where there was an internal tipping system to DJs, waitresses, bar staff and house mums, which in effect acted as an additional fee.
- *Making no money:* due to high overheads (house fees, commission, fines, tips, travel to work): 70% reported leaving a shift without making any money.

#### ***Insecure Employment and Tenuous Position as Independent Contractors***

- *Self employed:* dancers are defined as self employed. They had no contract with, or obligation to, the club.
- *Flexibility:* this flexibility is one of the key attractions to the industry.
- *House rules and codes of conduct:* yet there were strict, often arbitrary, house rules and codes of conduct which dancers had to sign up to which transferred power to managers, giving them strong disciplinary powers over the dancers. Dancers were concerned that the operation of fines could be linked to favouritism and bullying. Some clubs have strict rules like no hot food.
- *Confusion About Status of Contracts and Rights:* dancers were unclear whether Codes of Conducts constituted contracts and what rights and obligations these entailed. The gap between dancers official and actual statuses as self-employed was raised by dancers:

*"Management come and they say, "do this, do that", but we're self-employed, so they shouldn't be able to. Also, what we wear. We should be allowed to wear what we want, we're self-employed".*

- *Lack of Information About Council Rules:* many of the women felt that they didn't have access to knowledge about what the council imposed rules were and which had been instituted by the club.
- *Lack of negotiating power and fear of dismissal:* many dancers felt unable to complain about conditions and negotiate conditions for fear of instant "dismissal". Dancers tended to move to other clubs if they were unhappy.
- *Insurance:* few dancers had work-related insurance. Some vaguely knew that they needed it

as self employed contractors, but others had never thought about it and no-one had ever spoken to them about it.

- *National Insurance:* 56.7% (n=59) reported paying National Insurance and 56.9% (n=62) reported paying tax at some point during their dancing careers.
- *Dancers on Shift:* dancers were critical of clubs who had too many dancers on a shift so with a higher dancer to customer ratio it was more difficult to make money. Fees, commission and fines were seen by some as making an unfair and disproportionate contribution to club running costs and in some cases keeping struggling clubs open.
- *Dancers' relationships and perceptions of owners and manager were varied:* distinctions were made between reasonable and unreasonable managers, reasonable managers were seen as fair and considerate of dancers' welfare and others were seen as more self interested, concerned only with profit.

Dancers' status as 'self employed' workers resulted in exploitation as they had no rights or recognition in the workplace. The continuous supply of dancers, rather than the demand for erotic dance, accounted for the expansion of the industry.

#### ***Improving Conditions and Security/Safety***

Dancers themselves suggested a number of measures to improve conditions and welfare including;

- Limit number of dancers per shift
- Minimum payment stipulations
- Better physical environments (heating, changing rooms, cooking facilities)
- Either commission *OR* house fee (not both)

To improve safety dancers identified as important;

- More quality door staff
- Proactive door staff who patrolled the floor and supervised booths
- Other staff looking out for the safety of dancers and the employment of "House mums"
- Panic alarms in booths
- More CCTV

- Clear display of rules for customers and reinforcement of these
- Dancers had a range of personal safety tips learnt through experience which they felt would benefit new dancers

Lap dancing clubs and strip pubs are workplaces, but regulatory assessments, criteria and licensing process did not examine the industry from this perspective. As a result, dancers are open to financial exploitation, disciplinary measures and few employment rights.

#### KEY FINDINGS: LICENSING

##### *New Sexual Entertainment Law*

The research took place at a pivotal time in which all Local Authorities were re-writing their policy on licensing lap dancing as a result of changes introduced under the Policing and Crime Act, 2010. A new classification of Sexual Entertainment Venue (SEV) has been introduced, aligning lap dancing clubs with the same licensing process as sex shops and cinemas. Further changes essentially give Local Authorities greater powers to control the number of clubs, by using quotas or introducing 'nil policies' which aim to remove existing clubs or prohibit new licenses. New powers also mean that Licensing Committees have the ability to impose certain conditions on licenses to dictate how they operate.

*Change in Licensing.* There was a strong feeling that the legal changes introduced under SEV licensing would not help the industry be safer or a good place to work: there was overall concern amongst dancers that their welfare and working conditions were not being taken seriously by the new legislation relating to licensing but rather assumptions were being made about exploitation and the community's views were favoured against dancers.

*"Councils and any other people who are going to pass legislation need to understand that we do need things to change...but what they're doing at the minute is changing it for the worse, because it's just going to push it underground, because there are more illegal clubs opening where they're run by people that we don't want them to be run by."*

In terms of the new law licensing practitioners generally considered that:

- The new laws would be more restrictive for the industry, and there is likely to be considerable variation according to local council policy.
- As there was market demand for the sale of lapdancing, where restrictive policies were implemented by councils, there may be illegal and unregulated venues which start to operate. There was concern that these venues would lack the necessary safeguards.
- There was concern that customers may migrate to areas where more clubs were operating. This may have a negative impact on the night-time economy.

##### *Licensing Practitioners Concerns and Bad Practice*

The main concerns regulators had with clubs were; incomplete staff registers, sub-standard operation of CCTV, complaints related to the issue of bills not being paid by customers, the practice of the door staff (being too aggressive or too 'friendly' with the dancers), incidents of problematic noise-levels, sexual services are being sold on the premises, exploitation of the dancers, drug use on the premises, external signage and advertising being too explicit and vehicles being driven in the city-centre which advertise the club and drive customers from the streets to the club.

Bad practice was not found to be common, but was associated with certain venues. Examples of this were issues such as; resistance to resolving issues, allowing touching in the clubs, noise, poor risk management, health and safety, slips and trips on the dance floor, poor backstage areas and poor practice associated with welfare of dancers and club staff.

##### *Dancer Welfare, Safety and Licensing*

The research found;

- That working conditions and welfare of dancer facilities differed across clubs and larger clubs were not necessarily better.
- Risks to dancers safety and health were seen as; assaults (which were noted as occurring but infrequently), harassment in the booth areas of the clubs, safety in getting home after shifts, and the risk of slipping and tripping on the dance floor and pole safety, frequency of breaks and club temperature. The role and conduct of the doorstaff in response to assaults was seen as very important.

- The priority for enforcers tended to be related to compliance with license conditions, which did not include scope for scrutiny of dancer safety except where serious incidents of crime and disorder occurred.
- That within licensing there was little consideration of the welfare or working conditions of the dancers: e.g. no regulatory checks were done in terms of the facilities for workers. Dancers' safety and wellbeing were not considered in the routine scrutiny process by licensing officials, as it was not related to licensing issues.
- Some practitioners did think standards for dancers could be improved. Suggestions included; safe and secure changing areas, washing facilities, lockers for valuables, somewhere to rest between dances, facilities for making food and drinks.
- Some practitioners felt more rigorous inspection processes would perhaps improve standards, (more covert ops and CCTV surveillance) but also noted this would require more public resources and is not considered a priority.
- A code of practice document with specific enforcement guidance indicating good practice rather than being another burdensome regulatory framework was seen as potentially helpful.
- A split in enforcement responsibilities, which leaves dancers general safety and well-being potentially falling into the area which belongs to no particular agency.
- Priority for enforcers tended to be related to compliance with license conditions which did not include scrutiny of dancer safety except where serious incidents of crime and disorder occurred.

We hope the dissemination of research findings can provide practical information about dancer working conditions and raise awareness amongst Local Authorities of the issues dancers raised regarding their experiences in this workplace.

The consultation phase of the dissemination project found that a number of Local Authority Licensing Committees have now begun to consider dancer welfare, some have added licensing conditions specifically. This follow on consultation has identified

a number of ways licensing could support dancer safety. These include:

- ▶ Requiring clubs to clearly display council rules in a number of places in the club: toilets, changing rooms etc.
- ▶ Requiring license holders to provide a range of information to dancers on their engagement including information about; house rules, insurance.
- ▶ Requiring clubs to provide access to adequate changing and kitchen facilities.
- ▶ Setting limits on the number of dancers related to the capacity of clubs.
- ▶ Tighter regulation on the location and design of private booths to achieve a balance between privacy and security. Requiring clubs to fit panic buttons in booths.
- ▶ Requiring owners to submit their codes of conduct, policies on house fees, commission and fining. Requiring receipts to be provided for fines, fees and commission.

#### *Examples of Good Practice*

Here are some good practice examples from Local Authorities we have already worked with:

**Leeds City Council:** require license holders to provide a welfare pack to new dancers and in the changing rooms. This pack must include: a copy of the Sex Establishment License, including the conditions applied by the Licensing Committee, details of any other conditions applied by management of the premises, details of how to report crime to the relevant authority, details of insurance (public liability/personal), details of unions, trade organisations or other bodies that represent the interests of dancers/entertainers, a copy of the code of practice for entertainers, a copy of the code of conduct for customers, fining policy and pricing policy.

**Blackpool Council:** has set a maximum on the number of dancers employed on any one night, this is calculated on no more than 10% of the total club occupancy. One of the criteria for assessing the suitability of applicants is that they will have policies for the welfare of dancers (including a policy to ensure dancer safety when leaving clubs), details of these must be provided. Another criteria is that license holders can be "relied upon to act in the interests of

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*the performers e.g. how they are remunerated, the facilities provided and how and by whom their physical and psychological well being is protected".* Secure private changing facilities, a means to secure personal property, a smoking area separate to customers must be provided for dancers. Clubs are required to display all charges and fees for dancers in changing rooms. Details of arrangements for dancers' breaks and stewarding and dance supervisors must be provided. They must list procedures for ensuring under 18's do not work at the premises. In relation to fines Blackpool SEV's policy requires a club's codes of conduct not only details any disciplinary procedures but should include a system to ensure that performers who are sick or have a domestic emergency "are not made subject to unfair punitive financial penalties".

**Manchester City Council:** Manchester includes criteria for assessing suitability linked to performer welfare concerns and also requires a written policy to ensure the safety of performers leaving the club. All private booths must be fitted with panic buttons or a security alarm, booths cannot be fully enclosed and a minimum of one security staff has to be present on any floor where a performance is taking part. Secure and private changing must be provided and a separate smoking area for dancers. There are detailed requirements for CCTV systems and a trained CCTV operator is required.

#### KEY FINDINGS: MANAGERS/OWNERS

- Most managers/owners reported substantial drops in income and profits in recent years, up to 50% in some instances. Some reported that the number of customers had remained steady, but that they had less money to spend.
- The number of women seeking employment in lap dancing or employed as dancers was perceived as having increased significantly. Managers/owners often linked this with increasing social acceptability of lap dancing.
- Files are kept on the dancers, with details stored including things like National Insurance Numbers, home address, contact numbers, photographs.
- There were 'codes of conduct' documents or 'house rules' (signed by dancers) which seemed to function as a working contract, as they were seen to be binding. However, managers understood that no contract was in place due to the dancers being 'self-employed'.

- Anecdotes of disorder tended to relate to customers trying to touch the dancers or behaving inappropriately towards them, trying to avoid payment, or breaching standard club etiquette after consuming a lot of alcohol.

#### What More are We Doing to Make the Research Useful?

- *Producing a series of bespoke briefing papers.*
- *Consulting with licensing officials in a number of areas to identify feasible ways licensing processes can play a role in improving dancer safety, welfare and working conditions.*
- *Delivering seminars and presentations for licensing practitioners, policy makers, business owners/managers and labour organisations.*
- *Developing and delivering an employment rights and tax awareness educational programme for dancers, in partnership with HM Revenue and Customs*
- *Developing a website and smart phone application for dancers: this will provide bespoke information about self employment, paying tax and safety based on consultation with dancers*
- *Producing safety information and guidance for dancers in partnership with West Yorkshire Police Community Safety Team and a number supportive police forces and partner agencies*
- *Carrying out a systematic review of International Policy Evidence on Licensing of Sexual Entertainment*

#### Further Information:

A summary video and a visual findings leaflet from "The Regulatory Dance" study are available here: <http://www.sociology.leeds.ac.uk/research/projects/regulatory-dance.php>

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## **Annex 4 Sex Establishment Licensing Policy 2014-2017**

**Annex 5 – Application form for Sex Establishment licence**