

Summary: Intervention & Options

Department /Agency: Home Office	Title: Impact Assessment of new measures to regulate lap-dancing clubs	
Stage: Final	Version: v1.3	Date: 16 December 2008
Related Publications:		

Available to view or download at:

<http://www>.

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What is the problem under consideration? Why is government intervention necessary?

Lap dancing premises are currently regulated under the Licensing Act 2003. However, under this legislation the powers available to local authorities to control the establishment of lap-dancing premises or impose condition on their licences are limited. Following a DCMS consultation with local authorities a majority of those that responded felt that their current powers to regulate lap-dancing clubs were inadequate and wanted Government to intervene. On the 21st September 2008 the Home Secretary announced the Government's intention to address this issue.

What are the policy objectives and the intended effects?

To give local communities a stronger say over the establishment and location of lap-dancing clubs in their area and local authorities more power to reject applications for lap-dancing clubs or impose conditions on licences. To bring the licensing of lap-dancing clubs in line with other sex establishments such as sex shops and sex cinemas. To recognise that local people have legitimate concerns about where lap-dancing clubs are located.

What policy options have been considered? Please justify any preferred option.

Option 1 - Do Nothing, maintain the status quo

Option 2 - Reclassify lap-dancing clubs as 'Sex Establishments' under the 1982 Local Government (Miscellaneous Provisions) Act

Option two is the preferred option as the existing 'Sex Establishment' legislation adequately covers lap-dancing and similar activities and the provision within the 1982 Act gives a stronger say to local communities and more powers to local authorities.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? We will review the implementation of this policy and its impact on local authorities and industry on an ongoing basis.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' Due to the uncertain nature of the costs within this IA, estimates of the costs of relicensing on page 5 have not been included here.		
	One-off (Transition) Yrs			
	£			
	Average Annual Cost (excluding one-off)			
	£ 0	Total Cost (PV)	£ 0	
Other key non-monetised costs by 'main affected groups' To owners of clubs and their employees where clubs are required to licence under the new legislation, through additional administration costs, potential rejection or revocation of licences preventing trading or causing to change the nature of the entertainment offered on the premises.				

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'		
	One-off Yrs			
	£			
	Average Annual Benefit (excluding one-off)			
	£ 0	Total Benefit (PV)	£ 0	
Other key non-monetised benefits by 'main affected groups' See Below.				

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate) £ 0
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What is the geographic coverage of the policy/option?	England & Wales
On what date will the policy be implemented?	
Which organisation(s) will enforce the policy?	Local Authorities
What is the total annual cost of enforcement for these organisations?	£
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£
What is the value of changes in greenhouse gas emissions?	£
Will the proposal have a significant impact on competition?	Yes/No
Annual cost (£-£) per organisation (excluding one-off)	Micro Small Medium Large
Are any of these organisations exempt?	Yes/No Yes/No N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Rationale

Lap dancing premises currently require a premises licence under section 1 of the 2003 Licensing Act. No special provisions are made in the 2003 Act for lap-dancing clubs. If an application is submitted to the licensing authority for a premises licence the authority must grant the licence subject to certain mandatory conditions, the only relevant ones for lap dancing clubs being those related to how and when alcohol is supplied.

It is only if relevant representations are made by an interested party (e.g. residents or local businesses) or a responsible authority (e.g. the police or fire services in the area) that the authority can, following a hearing, impose other conditions or reject the application. Even then, it will only be able to do so where such a step is necessary to promote one of the four licensing objectives set out in the Act – preventing crime and disorder; public safety; prevention of public nuisance; the protection of children from harm.

Premises licences are not subject to renewal and last until they are revoked, suspended, surrendered or the holder becomes mentally unstable, insolvent or dies (sections 26 to 28). They can be reviewed following representations by an interested party or a responsible authority but the authority will only consider representations relating to one or more of the four licensing objectives.

Objectives

To give local communities a stronger say over the establishment and location of lap-dancing clubs in their area and local authorities more power to reject applications for lap-dancing clubs or impose conditions on licences. To bring the licensing of lap-dancing clubs in line with other sex establishments such as sex shops and sex cinemas. To recognise that local people have legitimate concerns about where lap-dancing clubs are located. Under these provisions, local people will be able to object to an application for a lap-dancing club on the grounds that such an establishment would be inappropriate given the character of the area or, for instance, if located in a area that is primarily residential.

Appraisal

Option 1 - Do Nothing, maintain the status quo.

Option 2 - Reclassify lap-dancing clubs as 'Sex Establishments' under the 1982 Local Government (Miscellaneous Provisions) Act

Option 2 is the preferred option - Placing lap-dancing clubs under the category of 'Sex Establishments' as defined by the 1982 Local Government (Miscellaneous Provisions) Act Those local authorities who resolve to adopt Schedule 3, as amended, will be able to impose a wider variety conditions on lap dancing clubs e.g. relating to opening hours, adverts, visibility of the interior to passers by. Local authorities will also be able to refuse to grant or renew a licence on the grounds that such a club would be inappropriate having regard to the character of the area or the total number of similar premises in the locality.

Similarly, local people will be able to make written representations to the local authorities on these grounds, rather than being limited to making representations based on the four licensing objectives found in the 2003 Act. Licenses would only last a maximum of one year before requiring renewal.

The Lap Dancing Association proposed an alternative approach that included using planning legislation to control the establishment of lap dancing clubs. This approach was considered but was opposed by the Local Government Association and some industry representatives¹ who argued that it would be overly complicated and bureaucratic. It was also felt that this approach would not adequately address the issue of giving communities a stronger say.

Benefits

- These new powers will give more say to local communities over the establishment and location of lap-dancing clubs in their area and will bring the licensing of lap-dancing clubs in line with the licensing of other sex establishments such as sex shops and sex cinemas, which are currently licensed under the 1982 Act.
- The new provision will allow local people to object to lap-dancing clubs if they felt that it would adversely impact the character of a particular area or, for example, that its proximity to a school or place of worship was inappropriate.
- Gives local authorities more scope to reject applications for lap-dancing clubs or impose conditions on their licences if they deem that such measures are necessary to address the concerns of local people.

Number of establishments affected

Currently, existing lap-dancing clubs will most likely be regulated under the Licensing Act 2003 and are therefore difficult to differentiate from other licensed premises and clubs. For this reason, the availability of accurate data on the number of premises that will be affected by this legislation is limited. Some estimates state that there are roughly 300 existing lap-dancing clubs. This figure comes from an industry related source² and has been quoted frequently by the Local Government Association and the campaign groups Object and the Fawcett Society. The Lap Dancing Association put the figure closer to 150.

How many of these clubs are actually affected will not be known until the licensing regime begins operating. There is the potential for a significant impact on lap dancing clubs in localities where local authorities chose to adopt the power and where communities choose to oppose license applications and renewals. However, while the impact may directly affect a large proportion of lap dancing clubs, owing to the relatively small size of this part of the sector the overall impact on the entertainment/leisure and the economy as a whole is likely to be small.

Costs to Local Authorities

Those local authorities that resolve to adopt schedule 3 will face costs of considering license applications and renewals. Annual renewals will in most cases be additional as reconsideration of licenses by a local authority and revocation is currently possible only in a limited set of circumstances.

¹ Peter Stringfellow's evidence to Department of Culture Media & Sport Select Committee hearing – 25 November 2008

² Strip Magazine.com - August 2007

Under the new provisions, local authorities are able to recover reasonable costs. Up to 100% of the local authority costs will be passed onto applicants in the form of a licence fee, the exact proportion depending on whether there are sufficient clubs in an area to maintain the fee at a 'reasonable' level.

There may also be additional enforcement costs (falling to local authorities or police) to ensure that the terms of any license are being adhered to. Additional burden may occur as the result of establishments continuing to operate under the 2003 Licensing Act, rather than under the new provisions. These costs can be recovered within the license fee.

Costs to Business

Costs to local authorities will be recovered from new applicants and existing club operators when licenses are renewed. In addition all clubs will be faced with the additional administration and legal costs of applying for a new sex establishment licence and the subsequent annual renewals and some may choose to offer alternative entertainment in order not to face more regular licensing.

Additional costs to the sector arise where applications are rejected under the new act where they would previously have been approved or where an application for renewal was not previously required. In some cases the club will be licensed to continue trading in the same way but in others the license may be revoked or refused, necessitating either a change in the type of entertainment offered or closure of the club. For applications for new clubs it may restrict the potential areas or locations within an area where the club can operate and impact on revenue where the location is less favourable for the business. In some cases this may deter investment altogether. Where renewals are rejected there will be some loss of revenue if the club has to revert to alternative role under the 2003 Licensing Act or sunk costs where the club chooses to close.

Legislation will be clearly directed at regulating sex establishments and not any premises that might occasionally feature performances, exhibitions or entertainment that involves nudity or sexual stimulation, such as theatrical performances/art or a one-off striptease in a pub or nightclub.

It is possible that this legislation may capture some premises, such as 'peep shows' that operate outside London and are not currently licenced under the Licensing Act 2003, but do provide services or performances that are for the purpose of sexual stimulation. The number of such premises is not known but is believed to be very low.

The Cost of a Sex Establishment Licence

Information provided by the Lap Dancing Association based on the current cost of sex establishment licences in local authorities across UK puts the average fee for a new licence at **£5447** and **£4981** for a renewal.

As stated above the exact number of existing lap dancing clubs in the UK is unknown but estimates range from 150 to 300. Depending on which figure is more accurate this would result in additional costs to industry due to licence fees of between **£817,000** and **£1.6m** in year 1.

After year 1 the cost burden as a result of renewing sex establishment licenses would be between **£747,150** and **£1.49m**.

The information provided represents the maximum re-licensing costs under these assumptions and not necessarily the likely impact, which is expected to be lower but will not be known until the new policy is in operation. The figures assume that all local authorities with lap dancing clubs in their area will adopt the new policy. The figures also assume that all existing lap dancing clubs will be granted a new sex establishment licence.

Downstream Costs

As existing lap-dancing clubs are already licensed under the Licensing Act 2003 there will be no additional licensed premises as a result of this policy. Therefore, we do not anticipate that these proposals will result in any increased enforcement costs for the police or local authorities or subsequent prosecution costs for the CPS.

In addition, experience of the Licensing Act 2003 suggests that very few licence breaches result in prosecutions as local authorities have the power to deal with such offences via a licence reviews and, if needed, licence revocations.

In order to minimise transition costs and reduce the potential for licensees inadvertently failing to comply with the new legislation (with the resultant costs for the police or local authorities, CPS and HSCS) local authorities will be encouraged to work closely with industry and promote any legislative changes prior to adopting the provisions in their area.

Assessment of the costs and benefits

The purpose of this policy is to empower local people and give them more say over the make-up and character of their communities. Where they have reasonable and legitimate concerns about the location or establishment of lap-dancing clubs, local authorities will have more powers to consider these concerns when reviewing a licence application.

The Government acknowledges that costs will fall to industry as a result of this legislation, and some lap-dancing clubs may close or be restricted from operated from certain locations. However, we believe that the cost to industry is outweighed by the wider objective of giving local people a stronger say over the establishment and location of lap dancing clubs and ultimately the make-up of their communities.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annexes

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