

Dear Chief Executive

## **CONTROL OF LAP DANCING ESTABLISHMENTS**

The Government is concerned about the current increase in the number of establishments which are putting on lap dancing and similar forms of adult entertainment, and we are aware that these concerns are shared by many local authorities and other stakeholders.

The Home Office holds the policy lead for this area because of its wider responsibilities for the law dealing with public indecency, sexual exploitation and prostitution.

Vernon Coaker, the Home Office Minister for Crime Reduction, has agreed to consider with relevant Ministerial colleagues, including myself, whether we need to do more to support local communities in limiting the increase in these establishments and controlling the activities that take place within them.

This will include consideration of whether or not lap-dancing clubs should be placed under the category of "sex encounter" establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Some of the correspondence on this issue suggests there may be some confusion about the powers available under the Licensing Act 2003 (the 2003 Act). I am therefore writing to help clarify the position.

At Annex A, we have outlined how the regime established under the 2003 Act allows the control of activities within and outside lap dancing establishments in relation to the four licensing objectives. You will be aware that these are:

- the prevention of crime and disorder;
- public safety
- the prevention of public nuisance; and
- the protection of children from harm.

The Act does not, and was never intended to provide an independent source of regulation on matters of taste, decency or the moral or general appropriateness of any form of entertainment. Such concerns are properly directed at the law dealing with indecency and obscenity.

However, it is clear that the protections and regulations set out in the 2003 Act and elsewhere do not go as far as some people would like to control the proliferation of lap dancing clubs and similar establishments.

### **Next Steps**

Vernon Coaker and I would like to have your views on whether there are issues related to lap dancing and similar entertainment that you feel cannot be adequately controlled by licensing legislation or other legislation, such as that relating to planning or public decency.

In doing so, it would be helpful to have your views on what additional powers you think you need as a local authority to control such establishments and whether you think existing tools provided by the planning system could be used more effectively to supplement the controls offered by the licensing legislation.

It would also be useful to know to what extent there are concerns in your area about the control of activities that do not fall within the definition of entertainment, such as topless waitresses or bar staff, or the more extreme lewd displays which the courts have previously said go beyond the definition of 'entertainment'.

We realise you may wish to consult local stakeholders and we would therefore be grateful for your feedback by [ ].

GERRY SUTCLIFFE

## **ANNEX A: The current licensing regime**

The four statutory licensing objectives listed in section 4(2) of the 2003 Act are:

- the prevention of crime and disorder;
- public safety
- the prevention of public nuisance; and
- the protection of children from harm.

The Act does not seek to provide regulation on matters of taste, decency or the general appropriateness of any form of entertainment. These are governed by the laws dealing with indecency and obscenity.

When a pub, bar or club applies for a licence which includes regulated entertainment, such as the performance of dancing, they have to declare in their application if this is to include content of an adult nature.

Any of the statutory licensing objectives may be affected (over and above the issues arising from the sale of alcohol and general dancing) by adult content in the activity involved.

### **The Protection of Children from Harm**

The statutory Guidance strongly recommends that children under the age of 18 should be prohibited from such premises by an imposed licence condition if not volunteered by the applicant. Conditions are also generally imposed, if not volunteered, that no performer should be under 18. Any subsequent concerns about under-18s being allowed access to, or being employed in, a lap dancing premises can be tackled through the police or relevant child protection agency seeking a review of the licence in relation to the protection of children from harm objective. Similarly, concerns about the impact on children of inappropriate exterior signage or other forms of promotion and advertising, such as leafleting outside the premises, can also be addressed.

### **Public Safety**

Where appropriate, conditions can also be imposed with regard to public safety. These may be focussed on the well-being of performers as well as the general public. If there is any evidence that a particular establishment represented a threat to public safety, whether it be performers or local women, it could have its licence reviewed under this licensing objective.

### **Crime and Disorder**

It is possible to impose wide-ranging conditions to prevent crime and disorder in lap dancing clubs, in particular to protect performers from the possibility of assault by, for example, prohibiting physical contact during dances or restricting dancing to designated areas.

Conditions may also be imposed to prevent other crime that might be associated with less well operated clubs and bars, for example preventing prostitution and indecent or obscene displays and other offences.

If the police or other responsible authorities, or local residents and businesses believe that criminal offences are occurring at the premises, it is open to them to seek a review of the licence on these grounds. Any licensed premises associated with serious crime or serious disorder can be addressed through the fast track review process which the Government introduced last year.

### **Prevention of Public Nuisance**

If the behaviour of patrons at a particular establishment is causing a nuisance to the public, for example in the treatment of local women passing by the premises, it could be possible to seek a review of the licence under the prevention of public nuisance objective. Remedial action might include requirements for door staff to control the activities of patrons outside the premises.