

Scottish Government Consultation on the Regulation of Sexual Entertainment Venues, 2013

A briefing paper from Women's Support Project
www.womenssupportproject.co.uk

The Scottish Government has issued a consultation paper on the regulation of sexual entertainment venues. You can download a copy at www.scotland.gov.uk/Resource/0042/00425962.pdf

Current situation as regards regulation of lap dancing and related activities

Scotland does not currently have licensing or other regulation specific to lap dancing. To date these activities have been regulated by Licensing Boards under alcohol licensing. This has meant that the grounds for objections have been limited to the terms of Alcohol Licensing and there has been no scope for objections in relation to the *nature* of the activity. However Licensing Boards tended to impose local conditions, and there was considerable variation from one area to another.

Lap dancing clubs have consequently expanded in the past 10 years, even in areas where the Local Authority or other bodies do not support such activities. Scotland currently has 20 venues regulated under alcohol licenses.

In 2011 a lap dancing venue won a licensing appeal after being refused renewal of their license. This ruling, referred to as 'BrightCrew' outlined that it was not permissible for Licensing Boards to impose any additional conditions, which were not directly related to the sale of alcohol. In effect this meant that Licensing Boards could no longer impose conditions such as restrictions on advertising, no touching rules, or no full nudity.

The impact of the "Brightcrew" ruling was recently highlighted in recent cases where Licensing Boards of Local Authorities found they had to grant licenses to new applicants for premises even when such actions undermined other policies adopted such as equality and discrimination. See for example www.heraldscotland.com/news/home-news/licence-clears-way-for-first-lap-dancing-bar-in-the-highlands.21078995

This ruling has major implications for the safety and conditions for women who perform in these venues. Please take the time to read the proposal and to submit a response. You do not have to give a lengthy response and if there are some questions on which you do not have a view, you can still make your views known on the overall principle and on other points.

Current proposal for regulation

The consultation proposes a new 'Sexual Entertainment' license category for venues which offer a range of legal activities such as lap dancing, strip shows,

peep shows and live sex shows, whether provided by females or males. A Sexual Entertainment Licensing would not cover or authorise currently illegal activity such as brothel keeping or trading in prostitution. The definition of 'sexual entertainment' would be 'any live performance or live display of nudity (as defined), which would reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating the audience.'

This is not the first proposal to come before the Scottish Parliament with the aim of improving regulation of activities such as lap dancing. For example in 2010 an amendment was submitted to the Criminal Justice and Licensing Bill but this was not passed by Parliament. The consultation response submitted by Women's Support at that time outlined the main arguments against the normalisation of activities such as lap dancing, and these are also relevant to this proposal. (See Appendix 1.) Our position remains the same, i.e. that any policy or legislative framework should aim to challenge and reduce sexual exploitation and the objectification of women.

Strategic Context

In 2009 the Scottish Government and COSLA, supported by Association of Chief Police Officers and the Crown Office and Procurator Fiscal Service, published *Safer Lives: Changed Lives- A Shared Approach to Tackling Violence Against Women in Scotland*. www.scotland.gov.uk/Publications/2009/06/02153519/0

This approach broadened out the strategic agenda to include all forms of violence against women and provided a definition of violence against women that specifically includes 'commercial sexual exploitation' as a form of gender-based violence. (See appendix 2 for full definition)

Issues to consider in your response to the consultation

a) Should such activities be regulated or banned?

You may be of the view that lap dancing is not acceptable and that you would rather it was banned than regulated, so why should you respond to this consultation.

Women's Support Project and many other organisations working in the field of gender equality previously argued that lap dancing was neither necessary nor desirable and that it undermines work on gender equality.

In our view activities such as stripping, lap dancing, pole dancing, and table dancing or "sexual entertainment" are forms of commercial sexual exploitation and so we are opposed to their existence. These activities are incompatible with work on gender equality and on violence against women. It makes no sense to sign up to prevention and awareness work on male violence against women, or to fight for improved protection for women from sexual assault and sexual harassment, and then to condone such behaviour under the guise of 'entertainment'. The fact that there is a demand for sexually exploitative activities does not make these activities legitimate: for example there is also a demand for

child pornography. On the contrary, once the idea exists there is pressure on vulnerable women to become involved. There is evidence that once involved, there is pressure on women to take part in further sexual activity. See, for example, the report 'Profitable Exploits: Lap Dancing in the UK' <http://www.glasgow.gov.uk/>

Whilst our view has not changed we now have clubs established in a number of areas across Scotland and people with expertise in licensing have advised us that it would be difficult if not impossible to currently force the closure of existing establishments. Meanwhile the Brightcrew decision means that lap dancing is effectively unregulated and makes it likely that applications will be received in areas, which do not currently have venues. The Highland licensing decision (see Herald article link above) makes it clear that even strong, well-argued local opposition will not empower Boards to refuse licenses.

With that in mind The WSP believes that the current situation is not sustainable and leaves women very much at risk. The current consultation proposal includes the option for local authorities to apply a specific licensing regime to sexual / adult entertainment venues, including the possibility of limiting the number of 'sexual entertainment' venues in the local authority area.

We therefore urge people to respond to this consultation. You should certainly comment that you find the activities unacceptable if that is your view but please also comment on the ten set questions where possible.

b) Sexual Entertainment

The consultation proposes a "Sexual Entertainment ' license. Do you think that 'entertainment' is an appropriate term to use in relation to lap dancing? If not can you suggest a more suitable term? Regulation in England and Wales refers to 'Sexual Encounter Establishments' but some people feel that this implies physical and/or one-to-one contact.

Irrespective of whether you have views on the terms above it is important that the definition of the chosen term makes the nature of the activity clear, rather than being a euphemism to normalise such activities. The definition must also clearly distinguish lap dancing from entertainment which may have a sexual element but in which sexual stimulation of the audience is not the main or sole aim.

c) Evidence of negative impact on women in lap dancing

Women who have worked in clubs report assaults, attempted assaults, and verbal abuse from men in the audience, and research has shown that a worrying number of women report being stalked by customers. (See 'Strip Club Testimony' by Kelly Holsopple, <http://www.ex-dancers.com/reports.htm> A report 'Violence and Stress at Work and in the Performing Arts', by Giga, Hoel and Cooper, University of Manchester, published by the International Labour Office, Geneva, 2004, states that "Some dancers, particularly those

employed in “exotic dancing” such as stage dancing, table dancing and lap dancing report social disillusionment and increased health problems due to: costume and appearance restrictions, dirty work environments, coercion by management and customers to perform particular types of dance, sexual harassment, physical assault, forced sex and the effects of stigmatisation”. Lap dancing has increased the vulnerability of all dancers. It presents a potential for direct skin to skin, genital-to-genital, or oral to genital contact in the guise of dancing. It increases the probability that dancers may be sexually coerced or assaulted, and blurs the boundary between entertainment that relies on sexual fantasy and that, which involves physical contact. Although many dancers were supportive of regulating lap dancing, regulations introduced to date have not helped in reducing the impact of lap dancing on the lives of dancers. The findings of this study suggest that there is a need for a change in policy regarding the regulation of strip clubs and their patrons. (From Erotic /exotic dancing: HIV related risk factors, Lewis & Maticka-Tyndale, University of Windsor, 1998) Whilst the sex industry promotes lap dancing as a glamorous and lucrative dance form, the experience of women dancers is almost always very different. As one woman said,

"If you're masturbating someone through his trousers with your arse then that's definitely a sexual service. It's outrageous that lap-dancing clubs are offering that kind of experience when they only need the same license as a cafe ... No matter what the owners tell you, these places are 100% sex industry." (Jenni, quoted in Libby Brooks article, The Guardian, 19th March 2009)

Numerous articles and research studies have highlighted the poor working conditions for women, as for example Nadine De Montagnac reported at a Westminster parliamentary hearing:

"I have witnessed a lot of things going on and the attitude towards women by the people in charge is appalling...the women entering the industry are vulnerable people...they think they will be protected and safeguarded but are being abused and brainwashed into it...It is a celebrity lifestyle which is sold to them and they think that being sexy is empowering. You are only empowered for three minutes when you are on stage; the rest of the time you are not empowered... you have no rights; there is no sick pay; if you do not like it you can leave, that is the answer to every complaint."

(From House of Commons Minutes of Evidence taken before the Culture, Media and Sport Committee, Tues 25th Nov 2008, available at:

<<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmcmds/c1093-iv/>>

Questions

The Scottish Government consultation asks for responses to ten set questions. We have provided brief comment on these questions below. Please consider local, as well as national, issues and evidence in submitting your responses.

Q1. Should sexual entertainment and the sale of alcohol be licensed separately? If so, what impact, if any, would a parallel regime for sexual entertainment venues have on alcohol licensing?

We agree that a separate license should be created for 'sexual entertainment'. If venues also choose to sell alcohol this should be licensed under current alcohol regulation. This would reduce need for Licensing Boards to consider 'sexual entertainment' aspects in issuing alcohol licenses.

Q2. Do you agree that sexual entertainment premises should be licensed separately from other forms of public entertainment?

The WSP strongly agrees that any venue that offers 'sexual entertainment' should be licensed separately from other forms of public entertainment. The activities concerned are strongly gendered, with women predominantly providing the 'entertainment' and the overwhelming number of buying being male. There is considerable evidence of the harm to women performers and much concern about the normalization of such activity and we would wish such licenses to be dealt with very separately from entertainment which is suitable for all.

Q3. Is the definition of an audience as 'an audience of one' appropriate?

The definition allows for the option of a performer giving a dance to an individual customer or when a venue has only one customer present.

Clarification would be needed as to whether or not the availability of private booths would be covered in the conditions that could be applied by Licensing Boards to this new license. The WSP does not support the availability and use of private booths because of potential increased safety risks and increased pressure on women to provide sexual services.

Q4. Is the definition of sexual entertainment sufficiently clear? Are additional measures required to protect the position of artistic performances including, for example, exotic dancing?

We agree with the definition of sexual entertainment, but feel strongly that this should include specific reference to "nudity or partial nudity." In the past venues have tried to circumvent and bypass licensing conditions which refer to "nudity or full nudity"" and encourage women to wear see through or crotchless garments, or G-strings, or string bras.

We do not believe that other measures are required to protect the position of artistic performances.

Q5. Are there any other venues which should be exempt?

No – the exempt venues listed covers the key venues and also allows for policy discretion.

Q6. Is it appropriate that premises that are used for sexual entertainment on less than three occasions per year should be exempt from licensing?

No - we consider it important that all activities of this nature are licensed.

Q7. Is it appropriate that local authorities be allowed to decide that there should be no sexual entertainment venues in their area?

Yes we believe that local areas which consider that such activities pose a risk to safety, or undermine work on gender equality or breach other policies, should have a right to set a limit of zero provision, in consultation with local community, partnerships, networks and organisations.

Clarification is needed as to whether an area with existing lap dancing venues will be able to set the level of provision of such venues at zero. This is not clear within the current proposal. There also needs to be consideration taken as to what happens if an existing venue closes down.

Q8. Does the approach detailed above offer an adequate regulatory regime to provide control of sexual entertainment and provide local licensing authorities with the powers to determine the nature of the activities they wish to allow in their areas?

We agree that local authorities, through consultation and input from community members and service providers, should have the powers to not only set the amount of venues to be licensed but also to determine the types of activities that can take place if a venue is granted a license. This need to be supported through a clear regime of checks and monitoring by the appropriate staff who have been trained in Violence Against Women and Gender Equality.

Q9. Are there any other issues which Scottish Ministers should take into account in considering possible legislation to provide for the licensing of sexual entertainment venues?

The Department of Work and Pensions (DWP) held an extensive public consultation in 2010 as to whether Job Centres should hold advertisements from the sex industry. Based on objections – the DWP noted that the holding and promoting of such forms of employment would be incompatible with their requirements under Equality legislation and so does not promote employment in the sex industries. This highlights the inconsistencies and challenges of different approaches across different departments and needs to be discussed in relation to the proposal currently out for consultation.

The WSP is submitting a response stating that we strongly believe that lap dancing and related activities are not compatible with gender equality. However as we have been advised that it is not currently possible to get rid of existing venues and as the recent “Brightcrew” decision has made women in lap dancing even more vulnerable to abuse and exploitation, we will be calling for tighter regulation and controls via a Sexual Entertainment License.

Written responses are sought before the closing date of **24 September 2013**, to:

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Email: licensing.consultation@scotland.gsi.gov.uk

- 1 - 1979 Convention on All Forms of Discrimination Against Women (CEDAW) Article 5
- 2 - E.g 1993 Convention on All Forms of Discrimination Against Women and 2008 Concluding Observations of the Committee on the Elimination of Discrimination against Women: United Kingdom of Great Britain and Northern Ireland
- 3 - Realising Rights, Fulfilling Obligations: An Integrated Strategy to End Violence Against Women (EVAW) 2008

Appendix 1

Criminal Justice and Licensing (Scotland) Bill – Stage 2 Written submission Women’s Support Project (WSP)

The Women’s Support Project (WSP) is a charity working to raise awareness about and improve services, to tackle violence against women and children which includes women exploited through commercial sexual exploitation. There are clear links between child abuse, childhood neglect and domestic violence to women’s involvement in prostitution. These factors, along with poverty, addictions homelessness, trauma and mental health issues create vulnerability and inequality, which is exploited through men’s payment for sexual activity.

The WSP manages the Challenging Demand project (CD), which receives monies from the Scottish Government Violence against women funding. CD has 3 broad aims :-

1. To increase understanding of the myths and realities surrounding commercial sexual exploitation including prostitution.
2. To increase awareness of prostitution and other forms of commercial sexual exploitation as a form of violence against women
3. To lobby for approaches which focus on and target the men who make up the demand for prostitution. This strategy should also decriminalize all those involved in prostitution and resource support for exiting.

In our view activities such as stripping, lap dancing, pole dancing, and table dancing are forms of commercial sexual exploitation. We are supporting this extremely important amendment, which would, amongst other things, empower Local Authorities to decide on a local level of provision for lap dancing clubs.

Current licensing.

Current licensing regulations do not provide sufficient controls for lap dancing and related activities. For example regulations limit both who is eligible to object to licensing applications, and the grounds on which objections can be made. This effectively means that it is not possible to object to the nature of the activity itself. Since we view such activities as exploitative we are opposed to any regulation that condones or manages these activities. Local authorities should have the option of refusing to license these activities because they are exploitative.

These activities are incompatible with work on gender equality and on violence against women. It makes no sense to sign up to prevention and awareness work on male violence against women, or to fight for improved protection for women from sexual assault and harassment, and then condone such behaviour under the guise of 'entertainment'. We cannot have an equal Scotland while women are abused and exploited in this way.

Definition and use of term 'entertainment'.

Lap dancing is referred to in the amendment as a form of 'Adult Entertainment'. There are forms of entertainment suitable for adults (as opposed to children), but we are strongly of the view that it is inappropriate to use the term 'entertainment' when referring to exploitation. Whilst we accept that 'adult entertainment' is the commonly used term, it should be made clear that this is a euphemism designed to disguise the true nature of these activities, and to normalise sexual exploitation. Activities such as lap dancing are harmful for the individual women involved and have a negative impact on the position of all women through the objectification of women's bodies. This happens irrespective of whether individual women claim success or empowerment from the activity.

It is essential to separate sexual activity or 'titillation', from exploitative sexual activity. In our view a sexual activity becomes sexual exploitation if it breaches a person's human right to dignity, equality, respect, and physical and mental wellbeing. It becomes commercial sexual exploitation when another person, or group of people, achieves financial gain or advancement through the activity.

The fact that there is a demand for sexually exploitative activities does not make these activities legitimate: for example there is also a demand for child pornography. On the contrary, once the idea exists there is pressure on vulnerable women to become involved. There is evidence that once involved, there is pressure on women to take part in further sexual activity.

See, for example, the report 'Profitable Exploits: Lap Dancing in the UK'
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Lap dancing as gateway to prostitution.

Scottish research with men who had bought sex in prostitution found that 31% of the men had located accessed prostitution through a lap-dancing club. 34% of the men interviewed in Edinburgh who bought sex indoors reported that they had located prostitutes in a lap-dancing club. Significantly fewer (13%) of the men interviewed in Glasgow had located

prostitutes in lap dancing clubs (chi square (1, N=88) = 5.53, p = 0.02). Edinburgh currently has seven lap dance clubs whereas Glasgow has four. Although Glasgow City Council considers lap dancing to be a form of sexual exploitation, current licensing legislation does not prohibit it. ([Challenging Men's Demand for Prostitution in Scotland, 2008](#))

Impact on communities.

Women who live or work near lap dancing clubs have reported harassment and verbal abuse from men leaving / arriving at clubs. There can be no doubt that the mixture of explicit sexual 'dances', and the availability of alcohol creates an atmosphere, which is extremely unsafe for women, and that woman with children, and families will avoid such areas if possible. This effectively creates city centre areas which are 'no go' areas for women and children. Public attitudes to 'adult entertainment' are changing, partly due to the normalisation of prostitution and pornography in popular culture. Findings show that younger people are more likely to be in favour of clubs opening in their neighbourhood than older people, and opposition to them is greater amongst women (63% opposed) than men (48%) (MORI/AEWG research).

Research carried out by Glasgow Chamber of Commerce in 2003 found that three-quarters of city centre business believed that lap-dancing clubs would damage the reputation of the city; half were concerned about the safety of their staff in the vicinity of the clubs.

Negative impact on women 'dancers'.

Women who have worked in clubs report assaults, attempted assaults, and verbal abuse from men in the audience, and research has shown that a worrying number of women report being stalked by customers. (See 'Strip Club Testimony' by Kelly Holsopple, <http://www.ex-dancers.com/reports.htm>) A report 'Violence and Stress at Work and in the Performing Arts', by Giga, Hoel and Cooper, University of Manchester, published by the International Labour Office, Geneva, 2004, states that "Some dancers, particularly those employed in "exotic dancing" such as stage dancing, table dancing and lap dancing report social disillusionment and increased health problems due to: costume and appearance restrictions, dirty work environments, coercion by management and customers to perform particular types of dance, sexual harassment, physical assault, forced sex and the effects of stigmatisation". Lap dancing has increased the vulnerability of all dancers. It presents a potential for direct skin to skin, genital-to-genital, or oral to genital contact in the guise of dancing. It increases the probability that dancers may be sexually coerced or assaulted, and blurs the boundary between entertainment that relies on sexual fantasy and that which involves physical contact. Although many dancers were supportive of regulating lap dancing, regulations introduced to date have not helped in reducing the impact of lap dancing on the lives of dancers. The findings of this study suggest that there is a need for a change in policy regarding the regulation of strip clubs and their patrons. (From Erotic /exotic dancing: HIV related risk factors,

Lewis & Maticka-Tyndale, University of Windsor, 1998)

Whilst the sex industry promotes lap dancing as a glamorous and lucrative dance form, the experience of women dancers is almost always very different. As one woman said,

"If you're masturbating someone through his trousers with your arse then that's definitely a sexual service. It's outrageous that lap-dancing clubs are offering that kind of experience when they only need the same license as a cafe ... No matter what the owners tell you, these places are 100% sex industry." (Jenni, quoted in Libby Brooks article, The Guardian, 19th March 2009)

Numerous articles and research studies have highlighted the poor working conditions for women, as for example Nadine De Montagnac reported at a Westminster parliamentary hearing:

"I have witnessed a lot of things going on and the attitude towards women by the people in charge is appalling...the women entering the industry are vulnerable people...they think they will be protected and safeguarded but are being abused and brainwashed into it...It is a celebrity lifestyle which is sold to them and they think that being sexy is empowering. You are only empowered for three minutes when you are on stage; the rest of the time you are not empowered... you have no rights; there is no sick pay; if you do not like it you can leave, that is the answer to every complaint."

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Many women have to resort to lap dancing out of desperation or insurmountable financial hardship – when she finds herself impoverished with children to care for but lacking viable job skill. It is not as the media commonly suggests – that these women are all supposedly involved because when presented with a wide variety of attractive options, they've decided the sex industry has the most to offer.

These reduced economic options are exploited and the most vulnerable women - poor women, women of color, and women with few job skills are more likely to find themselves in situations in which commercial sexual exploitation are their only options. A woman might choose to become involved commercial sexual exploitation because of limited alternative options. Why should we be prepared to accept that women who are poor, vulnerable and homeless should be "made available" for sexual exploitation by men.

WSP questions why Scotland needs a "sex" industry where women's bodies and sexuality are aggressively commodified and exploited. This is a cultural phenomenon with the demand for a never-ceasing availability of women for men to use sexually.

We believe this amendment goes some way in giving power back to local authorities and communities to oppose applications for commercial sexual exploitation venues in their areas and to highlight the fundamental problem in our culture where men's sense of entitlement and privilege for paid for sexual activity remains unchallenged.

Appendix 2 – Safer Lives Changed Lives

Gender based violence is a function of gender inequality, and an abuse of male power and privilege. It takes the form of actions that result in physical, sexual and psychological harm or suffering to women and children, or affront to their human dignity, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. It is men who predominantly carry out such violence, and women who are predominantly the victims of such violence. By referring to violence as 'gender based' this definition highlights the need to understand violence within the context of women's and girl's subordinate status in society. Such violence cannot be understood, therefore, in isolation from the norms, social structure and gender roles within the community, which greatly influence women's vulnerability to violence.

Accordingly, violence against women encompasses but is not limited to:

Physical, sexual and psychological violence occurring in the family, within the general community or in institutions, including: domestic abuse, rape, incest and child sexual abuse;

Sexual harassment and intimidation at work and in the public sphere; commercial sexual exploitation, including prostitution, pornography and trafficking; Dowry related violence; Female genital mutilation; Forced and child marriages; Honour crimes.

Activities such as pornography, prostitution, stripping, lap dancing, pole dancing and table dancing are forms of commercial sexual exploitation. These activities have been shown to be harmful for the individual women involved and have a negative impact on the position of all women through the objectification of women's bodies. This happens irrespective of whether individual women claim success or empowerment from the activity. It is essential to separate sexual activity from exploitative sexual activity. A sexual activity becomes sexual exploitation if it breaches a person's human right to dignity, equality, respect and physical and mental wellbeing. It becomes commercial sexual exploitation when another person, or group of people, achieves financial gain or advancement through the activity. (p7-8)

<http://www.scotland.gov.uk/Publications/2009/06/02153519/0>.