

Gloucester City Council

Meeting:	Licensing & Enforcement Committee	Date:	11th March 2014
Subject:	Revised Sex Establishment Policy Statement		
Report Of:	Gill Ragon – Head of Public Protection		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	1. Revised Sex Establishment Policy Statement		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.2 To present the draft revised Sex Establishment Policy Statement for approval by the Licensing and Enforcement Committee for consultation.

2.0 Recommendations

- 2.1 Licensing and Enforcement Committee is asked to **RESOLVE** that;

- (1) That the draft revised Sex Establishment Policy Statement attached in appendix 1 of this report is approved for a period of 8 weeks consultation.
- (2) That the contents of this report are noted.
- (3) That the Policy statement is revised every 5 years

3.0 Background and Key Issues

- 3.1 Section 27 of the Policing and Crime Act 2009 introduced a new category of sex establishment called 'Sexual Entertainment Venue (SEV), which allows local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982.
- 3.2 Following the adoption of the above powers, the Councils Sex Establishment Policy statement was revised to incorporate Sexual Entertainment Venues. The Council adopted the current Sex Establishment Policy on 21st July 2011.
- 3.3 Gloucester City Council currently licence one Sex Shop in the City.

- 3.4 At the time we adopted the current policy statement, Gloucester City had two Sex Shops which were licensed prior to the implementation of the new powers since at least 2002. One of these two Sex Shops has now ceased trading. Another premise is also authorised under the Licensing Act 2003 to provide entertainment that would need licensing under this Act however, it is currently operating under the frequency exemption to allow one live display of nude dancing per calendar month. They are in currently considering applying for the appropriate Licence to operate a sexual entertainment venue.
- 3.5 There have not been any further applications received for new sex establishment licences of any category since the new licensing provisions were adopted in 2011.
- 3.6 Gloucester City Council aims to review its Sex Establishment Policy Statement at least once every three years. The current statement was adopted in 2011 and is now due to be reviewed. It is not proposed to completely re-write the policy and standard conditions but it is considered that changes are required following the original implementation of the new licensing regime. The new statement will need to be published to take effect in July 2014.
- 3.7 All proposed amendments are shown highlighted throughout the policy in 'grey' and the changes are as follows;
- a) 'Profile of the City' has been updated with the aim to promote the areas of the City where regeneration is being undertaken with the number of licensed sex establishments currently in situ. A map showing the City boundary is also included in Appendix 1 of the policy.
- b) Inclusion of fees;
The fees have been reviewed against current service costs and no changes are proposed to take effect for April 2014. Details of the fees below have been noted within the Policy for clarification only.
- The current fee for all Sex Establishments (Sex shops and Sex Cinema) is £4,420
 - Unsuccessful new and renewal applications will receive a refund of £800.00
- c) Delegation of Functions;
There are no changes to the delegated of functions (Appendix B) however, the determination of policy matters concerning the Licensing of Sex Establishments has been included to state that this function should be delegated to Full Council for their approval.
- d) A further minor amendment to Appendix E the Standard conditions for Sexual Entertainment replaces the word 'tape' recordings to 'DVD' recordings;
- (Condition 20) **DVD** recordings shall be made available to an authorised Officer of the Council or the Police together with facilities for viewing.*

4.0 Alternative Options Considered

- 4.1 Alternative options will be considered where representations are raised against the revised draft policy. This policy will not take effect until after the 8 week consultation period and all feedback has been considered by the Licensing and Enforcement Committee for consideration. Committee can resolve to review the policy statement every 5 years.
- 4.2 Members may request for further amendments to be made to the draft policy which they consider suitable and approve it for consultation as amended.

5.0 Reasons for Recommendations

- 5.1 Reasons for the key changes are explained in paragraphs 3.7 (A-D) of this report.
- 5.2 A period of 12 weeks to consult is considered appropriate in line with the BIS Code of practice on consultations 2008. It states '*Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible*'. This is certainly sensible for new policies, policies of a contentious nature or where a large number of stakeholders need to be consulted. However, a shorter period is allowed where the authority can rationalise this. Given the minor amendments made to this revised policy, as well as the ability of the Licensing Team to quickly engage stakeholders, Gloucester City Council will consult on this revised policy for a period of 8 weeks.

6.0 Future Work and Conclusions

- 6.1 It is intended to consult on this draft policy for a period of 8 weeks. Results of the consultation will then be presented back to the Licensing & Enforcement Committee to approve as a final version.
- 6.2 The following stakeholders will be consulted:
- Gloucestershire Constabulary
 - Gloucestershire Fire and Rescue
 - The Council's Environmental Protection Team
 - The City Council's Planning Team
 - The City Council's Health and Safety Team
 - Gloucestershire Trading Standards
 - Children and Young People's Directive (Safeguarding)
 - Existing Licence Holders
 - Gloucester Licensing Victuallers Association
 - Relevant Trade Associations
- 6.3 There is nothing to prevent a Licensing Authority from consulting more widely than the above list. To this end the Licensing Team will seek to identify and consult with other organisations and individuals who may be affected or have an interest in this policy.

- 6.4 It is intended to review this policy on a regular basis. The next review of the Policy is scheduled for 2017; however it may be amended prior to this, depending on changes to the legislative framework, national guidance or changes to internal procedures/processes.
- 6.5 Members are asked to consider and approve the policy as drafted, subject to any amendments they consider appropriate.
- 6.6 The revised Sex Establishment policy sets out the Council's approach to licensing Sex Establishment's in Gloucester. If the draft revised Policy Statement is approved by the Licensing and Enforcement Committee for 8 weeks consultation period. Results of the consultation will then be presented back to the Licensing and Enforcement Committee to consider as a final version for adoption by Full Council.

7.0 Financial Implications

- 7.1 There are no direct financial implications associated with this report.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 The Council has not delegated to the Licensing and Enforcement Committee the responsibility or function in relation to the adoption of policy guidelines for Sex Establishments.
- 8.2 Application of the policy in the decision making process will enable the Council to minimise successful legal challenges and appeals. Licensing Officers and the Committee should have regard to all the circumstances of a particular case and would be entitled to have due regard to this policy.
- 8.3 Local Authorities must take into account any rights the existing operator may have under Article 1, Protocol 1 of the European Convention of Human Rights, (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal.
- 9.2 Consultation with relevant stakeholders will minimise the risk of challenge.
- 9.3 The risk management implications for this report and the Sex Establishment Policy Statement include conducting an inadequate consultation and approving a policy that is unfair or too prescriptive.

10.0 People Impact Assessment (PIA):

- 10.1 The Screening stage considered risks to customers in the areas of gender, disability, age, ethnicity, sexual orientation or community cohesion.
- 10.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact. The need to carry out a full PIA will be assessed once representations have been considered from the consultation process.

11.0 Other Corporate Implications

Community Safety

- 11.1 Licensing Sex Establishments in accordance with the Act will ensure control over the location, number and conduct of these licensed premises so that they do not cause offence in the community, harm to children or contribute towards crime.

Sustainability

- 11.2 Relevant stakeholders will be consulted on applications, the aim being to encourage intelligence sharing and joint working to eliminate crime which may be associated with sex establishments.

Staffing & Trade Union

- 11.3 None

Background Documents:

Home Office 'Sexual Entertainment Venues'- Guidance for England and Wales Local Government (Miscellaneous Provisions) Act 1982
Gloucester City Council Sex Establishment Policy Statement adopted 2011