

## FOR DECISION BY COUNCIL

# Gloucester City Council

<b>COMMITTEE</b>	<b>: LICENSING AND ENFORCEMENT COMMITTEE FULL COUNCIL (TO APPROVE POLICY)</b>
<b>DATE</b>	<b>: 19 JULY 2011 21 JULY 2011</b>
<b>SUBJECT</b>	<b>: DRAFT SEX ESTABLISHMENTS POLICY STATEMENT INCLUDING AMENDED SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 FOR REGULATION OF LAP DANCING AND OTHER SEXUAL ENTERTAINMENT VENUES</b>
<b>DECISION TYPE</b>	<b>: BUDGET AND POLICY FRAMEWORK</b>
<b>WARD</b>	<b>: ALL</b>
<b>REPORT BY</b>	<b>: GILL RAGON - GROUP MANAGER OF ENVIRONMENTAL HEALTH AND REGULATORY SERVICES</b>
<b>NO. OF APPENDICES</b>	<b>: A: DRAFT SEX ESTABLISHMENT POLICY STATEMENT B: CONSULTEES C: FORMAL WRITTEN RESPONSES</b>
<b>REFERENCE NO.</b>	<b>: ES21006A</b>

### 1.0 PURPOSE OF REPORT

- 1.1 To present to Members the result of the consultation on the draft Sex Establishment Policy Statement.
- 1.2 To agree the final version of the Sex Establishments Policy Statement for approval by Full Council.

### 2.0 RECOMMENDATIONS

- 2.1 That the draft Sex Establishments Policy Statement and consultation feedback be noted by Members and that the draft Policy Statement is recommended for approval and adoption by Full Council on 21<sup>st</sup> July 2011, to take immediate effect.
- 2.2 That the proposed amendments as detailed in paragraphs 4.8, 4.10 and 4.11 are noted and recommended for inclusion in the final Sex Establishment Policy Statement to take forward to Full Council.

### 3.0 BACKGROUND

- 3.1 On 1<sup>st</sup> November 1982 this Council resolved to adopt the provisions of Part II Section 2 (1) of Schedule 3 of the Local Government Miscellaneous Provisions Act 1982. This came into force on 11<sup>th</sup> January 1983 and introduced a licensing regime for sex shops and sex cinemas.

- 3.2 On 24<sup>th</sup> February 2011 this Council resolved to adopt that part of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended Section 27 of the Policing and Crime Act 2009. This introduces a licensing regime for 'sexual entertainment venues' and came into force on 1<sup>st</sup> April 2011.
- 3.3 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to allow the licensing of "sexual entertainment venues", where 'relevant entertainment' is provided before a live audience for the financial gain of the entertainer or organiser. For these purposes 'relevant entertainment' means 'any live performance or any live display of nudity' i.e. striptease, lap dancing etc. which is of such nature, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means). There are also a number of activities, which are specifically referred to as not being "relevant entertainment".

#### **4.0 PROGRESS**

- 4.1 Once the Council agreed to adopt the amended Schedule 3, a Sex Establishment Policy Statement was required to incorporate these new provisions. A draft Policy Statement was presented to Members at the Licensing and Enforcement Committee on 18<sup>th</sup> January 2011 and approved for consultation.
- 4.2 The draft Sex Establishment Policy Statement in Appendix 1 incorporates the existing Sex Establishment (sex shop/sex cinema) Policy and includes a Policy for "sexual entertainment venues". This supersedes all previous Policies adopted by Gloucester City Council.
- 4.3 This draft Policy Statement was consulted upon over a 12 week period starting 14<sup>th</sup> March 2011 and ending 6<sup>th</sup> June 2011.
- 4.4 A list of consultees can be found in Appendix B.
- 4.5 The consultation was also published on the Council's website, a press release was published in the Citizen and the draft Policy consultation was presented to the local Licensed Victuallers Association in Gloucester.
- 4.6 One formal response was received from Environmental Protection. The response can be found in Appendix C.

#### *Environmental Protection Response*

- 4.7 With reference to point 1, infrequent activity refers to any sexual entertainment carried out at a premise less than 11 occasions within a 12 month period. This is explained within 3.1.5 of the draft Policy Statement, it does not differentiate between types of entertainment.
- 4.8 A 'cover all' circumstance as referred to in Point 2 could be included in 3.1.5 as:  
(Additional wording is highlighted in grey)  
*In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put. The Committee shall consider the following circumstances in*

deciding whether the grant of the application would be inappropriate for that proposed location:

- The general character of the relevant locality
- The proximity of residential premises
- The proximity of places of public religious worship
- The proximity of any schools or other educational establishments
- The proximity of any playing fields and play areas
- The proximity of any leisure centres or swimming pools
- The proximity of any libraries or other public buildings
- The proximity of any youth clubs
- The proximity of any other licensed sex establishments
- The proximity of shops or markets directed for use by families or children
- The proximity of any other premises that is or has the potential to be frequently visited by children

4.9 Fees will be set under delegated powers in accordance with the Council's Constitution. Details of any fee calculation breakdowns would, once available, be available on request to the Food Safety and Licensing Service Manager. Fees will be reviewed annually.

4.10 In accordance with the Indecent Displays (Control) Act 1981, condition 10 on page 25 of the draft Policy Statement needs amending to say the following: (additional wording is in grey).

*A clear notice shall be displayed at each entrance to the premises or to the licensed area in a prominent position stating:*

**“WARNING**

*Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age”.*

4.11 A site visit was carried out on 1<sup>st</sup> July 2011, and the proposed policy and conditions were discussed with the licence holder of the only gentlemen's club in Gloucester. Condition 22 on page 26 of the draft Policy Statement states:

*“Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.”*

Having carried out a site visit and taken into account the small size of the tables and the potential for rules to be easily destroyed by patrons, the following replacement wording is suggested:

*“Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at appropriate locations within the club, where they are clearly visible by patrons”*

## **5.0 FUTURE WORK**

5.1 Further reports will be submitted to the Licensing and Enforcement Committee in relation to the adoption of the provisions under the 1982 Act, standard terms and conditions, application forms and procedures and amendments to the Policy.

## **6.0 CONCLUSIONS**

6.1 The draft Sex Establishment Policy Statement has been widely consulted upon and the feedback is contained within this report. Apart from minor typing amendments

already made to the draft document, Members must decide whether they wish for any other amendments to be made before the final version is approved by Full Council.

- 6.2 Members are referred to the recommendations at paragraph 2.0 in the report.
- 6.3 Once the Council approve and publish the Sex Establishment Policy Statement it will need to take immediate effect, to ensure the Policy can be considered in line with any applications from existing Licensed premises that may be conducting activities that will be considered to be 'sexual entertainment'.

**7.0 FINANCIAL IMPLICATIONS**

- 7.1 The Fees need to be set in line with the European Services Directive: Guidance for Local Authorities and LACORS Guidance on the impact of the Services Directive on Councils setting and administering local licence fees within the service sector.
- 7.2 Any consultation work required would be met through the current licensing budgets. The cost of issuing any licenses would be met through the allocated fees.

**8.0 LEGAL IMPLICATIONS**

- 8.1 Section 27 of the Policing and Crime Act 2009 makes amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 8.2 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.
- 8.3 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).

**9.0 RISK MANAGEMENT IMPLICATIONS**

- 9.1 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 PREDICTIVE IMPACT ASSESSMENTS (EQUALITIES) AND COMMUNITY COHESION**

- 10.1 Please ensure you complete this section even if a PIA is not required.

Is a PIA required?	Yes	No	Explanation:
		X	
Has an initial PIA screening been completed?	Yes	No	Explanation: No negative impacts found and no negative responses received during consultation
	X		

Has a full PIA been completed?	Yes	No	Explanation: Not necessary
		X	
Is the PIA available?	Yes	No	Explanation: Screening PIA available
	X		
Has the PIA identified any negative impacts on any protected characteristic or community cohesion?	Yes*	No	*Please ensure PIA is available
		X	

**Any Further Relevant Information:**

None

**11.0 Other Corporate Implications (this may include Community Safety, Environmental, Staffing, Trade Union)**

None

**Background Papers :** Standard regulations – Sex Establishment licences  
Sex Shop Licensing Policy

**Published Papers :** Local Government (Miscellaneous Provisions) Act 1982  
Policing and Crime Act 2009  
Licensing Act 2003

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