

Gloucester City Council

Meeting:	Licensing and Enforcement Committee	Date: 15 th July 2014
	Council	17 th July 2014
Subject:	Adoption of the draft Sex Establishment Policy Statement following consultation	
Report Of:	Chair of the Licensing and Enforcement Committee	
Wards Affected:	All	
Key Decision:	No	Budget/Policy Framework: No
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Appendices:	1. Revised draft Sex Establishment Policy Statement	

1.0 PURPOSE OF REPORT

- 1.1 To present to Members the result of the consultation on the draft revised Sex Establishment Policy Statement.
- 1.2 For Members to consider and agree the final version of the Sex Establishments Policy Statement to recommend approval and adoption by Full Council

2.0 RECOMMENDATIONS

- 2.1 Licensing and Enforcement Committee are asked to **RECOMMEND** to Council that:
 - (1) The revised Sex Establishments Policy Statement be approved and adopted.
- 2.2 Council are asked to **RESOLVE** that:
 - (1) The revised Sex Establishments Policy Statement be noted by Members and approved and adopted, to take immediate effect.

3.0 BACKGROUND AND KEY ISSUES

- 3.1 On 1st November 1982 the 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 11th January 1983 and introduced a licensing regime for sex shops and sex cinemas.
- 3.2 On 24th February 2011 this Council resolved to adopt that part of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as it had been amended Section 27 of the Policing and Crime Act 2009. This introduced a licensing regime for 'Sexual Entertainment Venues' and came into force on 1st April 2011. This allows local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982.

- 3.3 Following the adoption of the above powers, the Council's Sex Establishment Policy Statement was revised to incorporate Sexual Entertainment Venues. The Council adopted the existing Sex Establishment Policy on 21st July 2011.
- 3.4 At the time the Council adopted the existing Sex Establishment 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.
- 3.5 Gloucester City Council currently licences one Sex Shop in the City. 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 five years. The existing statement was adopted in 2011 and is now being 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. It is recommended that the new statement takes immediate effect in July 2014.
- 3.7 **Appendix A** contains the revised draft Sex Establishment Policy Statement and includes all proposed amendments, which are highlighted throughout the policy in 'grey' and other 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 on obtaining the current fees have been noted within the Policy for clarification, because the fees will be reviewed annually, and may change more frequently than this Policy is reviewed.
- c) Delegation of Functions;
There are no changes to the delegation of functions, however, where a matter concerning the determination of a Policy Statement, in this case the approval of the final version of the Licensing Sex Establishment Policy Statement, it is clarified in the Policy that this will be a matter for Full Council to approve.
- 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 PROGRESS

4.1 The revised Sex Establishment Policy Statement supersedes all previous policies and was consulted upon over a 12 week period starting on 13th March 2014 and ending 6th June 2014.

4.2 The consultees are listed as follows:-

- 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

4.3 The consultation was also published on the council's website and a press release was published in the Citizen.

4.4 No responses were received from any of the consultees.

5.0 FUTURE WORK

5.1 It is intended to review this policy every five years. The next review of the Policy is scheduled for 2019; however it may be amended prior to this, depending on changes to the legislative framework, national guidance or changes to internal procedures/processes.

6.0 CONCLUSIONS

6.1 The revised Sex Establishment Policy Statement has been widely consulted upon and 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 applied to any applications for Sex Establishments.

7.0 FINANCIAL IMPLICATIONS

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

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

9.0 RISK AND OPPORTUNITY MANAGEMENT IMPLICATIONS

9.1 Approval of this 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 PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

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.

11.3 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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