

LICENSING AND REGISTRATION COMMITTEE

24 JULY 2024

REPORT OF THE ASSISTANT DIRECTOR - GOVERNANCE

A4. SEX ESTABLISHMENT POLICY

(report prepared by Michael Cook & Keith Simmons)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The purpose of this report is for the Committee to consider a draft of the Council's Sex Establishment Policy, to authorise consultation on the draft policy and for the outcome of the consultation to be reported back to this Committee for consideration together with a policy document for the period of 2024-2028.

EXECUTIVE SUMMARY

It is best practice that the Authority keeps its Policy on Sex Establishments under review to ensure that it is kept up to date with the most current information and guidance, legislation and resources available. This is then available to applicants, licensees, those seeking to address issues with regards to sex establishments, the Authority's partner agencies and the public.

RECOMMENDATION(S)

a) That subject to any matters the Committee may wish to raise, the draft Sex Establishment Policy as set out in Appendix A to this report be approved for the purposes of the consultation in b) below.

b) That the draft Sex Establishment Policy be circulated to the Licensing Authority's key stakeholders for consultation purposes and that any representations received be considered at a future meeting of the Committee.

REASON(S) FOR THE RECOMMENDATION(S)

The recommendations seek to provide a process together with a sex establishment policy can be adopted and to take account of the views of partner agencies.

ALTERNATIVE OPTIONS CONSIDERED

There is no legal requirement to adopt the legislation or have a policy in place. However having adopted the legislation, a Policy sets out how the Council will regulate the types of establishments in its area and the manner in which such premises are run.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The draft policy set out at Appendix A is intended to support the following theme from the Council's Corporate Plan 2024-28:

- Working with Partners to improve quality of life

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Local Government (Miscellaneous Provisions) Act 1982
Policing and Crime Act 2009

Having a policy which is clearly detailed and compliant with the legislation, fit for purpose and clear to applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review, with associated costs in defending the same.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There will be a minor cost associated with carrying out the consultation and publish statutory notices which can be accommodated from existing budgets.

USE OF RESOURCES AND VALUE FOR MONEY

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The policy does not, in itself, directly impact on financial sustainability.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The policy directly seeks to support consistency good decision making.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The implementation of the policy will be reviewed to ensure it can be delivered in a way that supports economic, efficient and effective delivery of services.

MILESTONES AND DELIVERY

The adoption of the Sex Establishment Policy this financial year is itself a key milestone in ensuring Licensing Policies remain up to date.

ASSOCIATED RISKS AND MITIGATION

The principal risks this policy seeks to address to those around supporting good decision making.

OUTCOME OF CONSULTATION AND ENGAGEMENT

As part of the proposed review, the Committee would be invited to considered all representations received during a consultation with stakeholders on a revised Licensing Enforcement Policy and to recommend the proposed new Policy to Council.

EQUALITIES

In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act);
- advance equality of opportunity between people who share a relevant characteristic and people who do not;
- foster good relations between people who share a protected characteristic and people who do not.

SOCIAL VALUE CONSIDERATIONS

There are no direct social value considerations arising in respect of this policy.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area.
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The current policy on licensing Sex Establishments was published in 2018.

This Council currently has one licensed sex shop within Clacton-on-Sea. There are no Sexual Entertainment Venues currently operating within the District.

Since November 2005, the Licensing Act 2003 has required a wide range of regulated entertainment to be licensed by the Council acting as the Licensing Authority.

Members will be familiar with the restrictions in the 2003 Act which means that any representation against a premises licence can only be based on the four licensing objectives. Whilst licences can be subject to review procedure they otherwise continue in force for the life of the business.

Sex Shops and Sex Cinemas are licensed under the Local Government (Miscellaneous Provisions) Act 1982. This regime gives licensing authority a wider discretion in determining whether to grant or refuse licences, a power to set a limit on the number of premises that may be suitable for a particular location, greater flexibility of applying licence conditions and the ability to accept representations for a wider scope of the community. Sex Shop licences are only valid for one year at a time.

Schedule 3 of the 1982 Act through Section 27 of the Policing and Crime Act 2009 to extend the definition of Sex Establishments from sex shops and sex cinemas to include sexual entertainment venues. Lap dancing venues and similar premises could be licenced under the more flexible 1982 Act provisions rather than solely under the Licensing Act 2003 (for alcohol sales etc).

The policy has been developed taking full account of the requirements of the legislation and guidance so as to minimise the prospect of future judicial review.

The policy provides each application will be judged on its own merits but taking into account the various criteria laid out within the policy document. In this way each application will be considered as to whether it is suitable given the nature of the particular locality in question.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

None

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None

APPENDICES

Appendix A – Proposed Sex Establishment Policy

REPORT CONTACT OFFICER(S)

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

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