

# CABINET

21 NOVEMBER 2024

## REFERENCE FROM THE LICENSING AND REGISTRATION COMMITTEE

### A.5 ADOPTION OF A SEX ESTABLISHMENT POLICY

(Report prepared by Ian Ford, Committee Services Manager)

#### **PURPOSE OF THE REPORT**

To enable the Cabinet to consider the recommendation made to it by the Licensing and Registration Committee in relation to the adoption of a Sex Establishment Policy (the Policy recommended for adoption is set out as an Appendix to this report).

#### **EXECUTIVE SUMMARY**

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

This Council currently has one licensed sex shop and this is located within Clacton-on-Sea. There are no Sexual Cinemas or Sexual Entertainment Venues currently operating within the District.

Since November 2005, the Licensing Act 2003 (the 2003 Act) 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 a 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 ("the 1982 Act"). This regime gives licensing authority a wider discretion in determining whether to grant or refuse licence than is provided for in the 2003 Act, 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 from a wider scope of the community. Sex shop and sex cinema licences are only valid for one year at a time.

Schedule 3 of the 1982 Act as amended by Section 27 of the Policing and Crime Act 2009 extended the definition of Sex Establishments from sex shops and sex cinemas to include sexual entertainment venues. Consequently, from that point on, lap dancing venues and similar premises required licensing under the 1982 Act provisions and the Licensing Act 2003 for alcohol sales etc.

The policy has been developed taking full account of the requirements of the legislation and guidance.

The policy provides that 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.

A draft Policy Statement had been considered by the Licensing and Registration Committee at its meeting held on 24 July 2024. The Committee at that time had authorised consultation

on the draft for a period of five weeks from 30 July 2024 to 3 September 2024. A page was created for the consultation on the Council's website and a public notice was displayed outside of the front of the Town Hall and the Council's Offices at Pier Avenue, Clacton on Sea.

The below were written to inviting them to comment on the draft policy:-

- Licensed Sex Establishment Premises
- All Tendring District Councillors
- All Parish Councils
- Responsible Authorities (including Essex Police)
- Institute of Licensing
- A number of licensing solicitors
- A range of licence holders of local premises licence (including pubs, off-licences, night time economy, street traders, gambling premises and taxis)

In addition to the consultation letters, the licensing team also visited a number of licence holders within the District handing out consultation postcards to bring the consultation to the attention of the trader to voice their opinions.

One member of the public sent in responses to the consultation. Their comments are as below:

*“Although, there are only one such premises within the locality it is essential that the policy framework exists to ensure should there be an increase in such venues wishing to establish themselves that the local authority has the tools available to ensure adherence to their rules and to maintain the King's peace without causing intentional outrages of public decency. On the other hand, there must also be provision made to ensure the welfare of those employed in these premises to protect them from any abuses from employers due to the taboo nature of sex establishments”.*

The draft Policy was seeking to set out how this Council (as the licensing authority) would approach to regulating sex establishments and the procedures it will adopt in relation to applications for sex establishment licences.

This Council's Licensing and Registration Committee (“the Committee”), at its meeting held on 2 October 2024 (Minute 22 refers), considered the matter again (including the above mentioned responses received during the consultation). The Licensing Manager considered that the above mentioned response was a generalised comment that did not require any amendment to the Policy as presented. A Member and the Head of Democratic Services & Elections had highlighted a small number of formatting errors and a textual amendment.

Through the report, the Committee was invited to determine its recommendation to Cabinet. The Committee's decision was as follows:-

**“RESOLVED** that –

- (a) the Committee recommends to Cabinet that the revised draft Sex Establishment Policy, as attached to this report (A.2) but subject to the amendments highlighted at the meeting, be adopted; and*
- (b) once adopted, the Assistant Director (Governance) (or other authorised Officer) be authorised to make minor amendments to that Policy to ensure that it reflects the operational positions of the Council and legislative / case law relevant to the Policy.”*

The Policy referred to in the above decision of the Licensing and Registration Committee is set out as an Appendix to this report.

#### Housing and Planning Portfolio Holder's Comments

*"It is right and proper that District Councils can represent the communities we serve and apply appropriate controls on the location and operation of any sex shops, sex cinemas and sexual entertainment venues. In Tendring we have a single established Sex Shop. However, through this renewed Policy we would be prepared if others wanted to open such shops, cinemas or venues elsewhere in the District. This means we can carefully consider the impact proposals may have on the locality and the protections for those potentially working at those businesses. On the basis of being prepared for any such applications, I urge Cabinet to approve the Policy as submitted."*

#### **RECOMMENDATION**

**That, subject to Cabinet's consideration of the recommendation of the Licensing and Registration Committee arising from its meeting held on 2 October 2024, Cabinet resolves that the Sex Establishment Policy, as set out in the Appendix hereto, be adopted.**

#### **CURRENT POSITION**

Cabinet is now requested to consider the recommendation submitted to it by the Licensing and Registration Committee.

The Assistant Director (Governance)'s Report and accompanying Appendix which was considered by the Licensing and Registration Committee at its meeting held on 2 October 2024 is available using this link:

[Agenda for Licensing and Registration Committee on Wednesday, 2nd October, 2024, 6.30 pm \(tendringdc.gov.uk\)](https://tendringdc.gov.uk)

Under the Leader of the Council's approved Scheme of Delegation, as set out in Schedule 3 (Responsibility for Executive Functions) of Part 3 of the Council's Constitution, the Portfolio Holder for Housing and Planning is the designated Executive Member for overseeing licensing policy matters.

#### **BACKGROUND PAPERS**

None. However, the published Minutes of the meeting of the Licensing and Registration Committee held on 2 October 2024 have been referred to in the preparation of this report.

#### **APPENDICES**

A.5 Appendix – Sex Establishment Policy (as recommended for approval by the Licensing and Registration Committee)