

# Southend-on-Sea Borough Council

**Agenda  
Item No.**

## Report of Deputy Chief Executive (Place)

to  
**Cabinet**  
on  
**6<sup>th</sup> November 2018**

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### **Sex Establishments Venues Policy**

**Place Scrutiny Committee**  
**Cabinet Member: Councillor Flewitt**  
**Part 1 (Public Agenda Item)**

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#### **1. Purpose of Report**

- 1.1 To update Members on the outcome of the formal consultation process in respect of the Sex Establishments Licensing Policy
- 1.2 To set out a proposed final policy

#### **2. Recommendations**

##### **2.1 That the Cabinet recommend to the Council:-**

**That the draft Statement of Licensing Policy set out in Appendix 1 to this report be approved**

#### **3. Background**

- 3.1 In October 1982, the Council (the Licensing Authority) resolved to adopt the new powers which had been made available by the Local Government (Miscellaneous Provisions) Act 1982 to control sex establishments, which were defined as sex shops and sex cinemas.
- 3.2 Premises which operated as lap-dancing clubs and similar did not come within the definition of sex establishments and therefore any necessary controls could only be put in place by reference to existing legislation namely the Licensing Act 2003.
- 3.3 The Government deemed the controls insufficient and introduced legislation which has amended the Local Government (Miscellaneous Provisions) Act 1982 to extend the definition of sex establishments to include sexual entertainment venues. In general terms these included premises which have lap dancing, pole dancing, table dancing, strip shows and live sex shows.

- 3.4 On 15<sup>th</sup> December 2011 the Council resolved to adopt the new powers under schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) ('the Act') to control sex establishments, namely sex shops, sex cinemas and sexual entertainment venues. At the same time the first version of the Sex Establishments Policy was also approved. The resolution came into force on 1st April 2012.
- 3.5 Drawing from the experience gained in implementing the first policy a revised policy was drawn up for consultation.
- 3.6 The proposed new policy has been updated and now includes the following additions:
- Clearer detail on the legislation taken into account when determining an application (section 7)
  - Information on licensing requirements and definitions of matters within the Act (8)
  - New sections on general principles (9) and making an application (12). These include details of the Licensing Authority's expectations of an applicant.
  - A new proposal to limit the number of licences permitted within the borough, (10.1) although it should be noted that this does not remove the right of an applicant to apply and in that eventuality the Council must still process and deliberate on any applications received. Accordingly the policy still includes proposed conditions and provisions to properly control new premises to allow for the eventuality that an applicant successfully shows that the limit should not apply to their application.
  - Detail of what will be taken into account when deciding an application including the character of the locality (10.2), the use of premises in the vicinity (10.3), and the layout, character and condition of the premises (10.4),
  - A clear direction to applicants on the effect of failing to renew a licence in a timely manner (17) and
  - Revised conditions, split into type of premises applied for, rather than the previous 'general conditions', which will normally be added to a licence upon renewal and in the event of a new licence being granted. (**Appendix 1**).
- 3.7 On 25<sup>th</sup> May 2018 the Council published a draft statement of Licensing Policy. In line with best practice, a formal consultation was carried out, with the request that responses be received by 15<sup>th</sup> July 2018. The consultation exercise involved the following elements.
- a) The despatch of a letter or email to the holders of existing licences. This gave a brief explanation of the effect of the legislation, and the consultation process, and gave details of the availability of the draft policy document.
- b) A letter was also sent to a range of residents associations, tenants groups and focus groups.

- e) Correspondence was sent the Police, Public Health and various other Council Departments highlighting the consultation.
  - f) All Council Members were emailed a link to the draft policy together with details of how to comment.
  - g) A presentation outlining the detail of the policy was given to The Licensing Committee on 10<sup>th</sup> July 2018. The Licensing Committee resolved to support the policy with the following amendments:
    - a) The inclusion of a reference to paragraph 9.1 to be included under paragraph 10.1.6, and
    - b) The correction of an error in paragraph 19.1 updating the reference to 10.1.5 to read 10.1.6.
  - h) Press coverage was obtained during early July alerting the public to the consultation process, notably an article appeared in the Evening Echo Group publications.
  - i) Inclusion of the draft policy document on the Council's website in the consultations section
- 3.8 As a result of the consultation process 88 written responses were received. 1 of which was received from a body representing the trade. It should be noted that a number of responses were anonymous so it is not possible to know for certain the split of trade v non trade. Copies and an analysis of the responses can be found in appendix 2.
- 3.9 In general there was a high level of support for the policy and attached conditions in the format presented in the draft version. Of particular note was that 85% of respondents supported the proposal to limit the number of premises to the current amount with a gradual drop towards zero as licences cease. As such only the following minor changes were made:-
- a) The changes proposed by the licensing committee listed at 3.7 g) above.
  - b) The date for the installation of shower facilities is extended to 1<sup>st</sup> March 2019 to allow businesses time to implement structural changes.
  - c) Condition 11 is strengthened to require test results of panic buttons to be recorded.
  - d) Condition 45 has an additional sentence requiring details of support services for victims of sexual harassment and/or sexual violence to be provided to staff in Sexual Entertainment Venues.

#### **4. Other Options**

- 4.1 The Licensing Authority is not legally required to publish a Statement of Licensing Policy but is doing so as a matter of good practice. The policy sets out the expectations of the Licensing Authority in determining applications and is a useful guidance tool for applicants and those wishing to object.

- 4.2 The other option is to not publish a revised policy and keep the existing one which is now somewhat dated.

## **5. Reasons for Recommendations**

- 5.1 To allow the Council to update the policy giving clearer guidance to applicants and objectors

## **6. Corporate Implications**

### **6.1 Contribution to Council's Vision & Corporate Priorities**

- 6.1.1 A statement of licensing policy is instrumental in the effective assessment of applications, and in helping to ensure proper conduct of approved premises. It is thus supportive of the Council's Vision of creating a Safer and Prosperous Southend

### **6.2 Financial Implications**

- 6.2.1 The annual licence fees form part of the overall budget for the Council; The Act requires that fees are set at a level which covers the cost of administering the system without making a profit. The budget for Sex Establishments in 2017/18 was £8,500 and the income received matched this amount. The budget for 2018/19 is £8,700. Fees do not form part of the policy and are set separately.

### **6.3 Legal Implications**

- 6.3.1 The Licensing Authority is not legally required to publish a Statement of Licensing Policy but is doing so as a matter of good practice. The policy sets out the expectations of the Licensing Authority in determining applications and is a useful guidance tool for applicants and those wishing to object.

### **6.4 People Implications**

- 6.4.1 When the Council adopted the powers in 2011 it enabled local residents to make written objections to the local authority on wider grounds than previously whereby they were limited to making representations based on the licensing objectives in the Licensing Act 2003 which related to regulated entertainment.
- 6.4.2 The policy sets out the expectations of the Licensing Authority in determining applications and is a useful guidance tool for applicants and those wishing to object.

### **6.5 Property Implications**

- 6.5.1 No property implications

### **6.6 Consultation**

- 6.6.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom will have

views and concerns which require consideration as part of the licensing function.

6.6.2 In developing this Policy Statement, the Licensing Authority consulted widely. Full details can be found in section 3.7 of this report.

6.6.3 A formal consultation period of at least 8 weeks took place following the Cabinet decision to approve the draft policy.

## **6.7 Equalities and Diversity Implications**

6.7.1 The Policy document has been drawn up in accordance with the requirements of the legislation. There is limited scope for change, and the document is felt to be broadly neutral in its equalities impact. Overall, the effect of control of such premises is supportive of concerns in respect of vulnerable groups. An equality assessment has been undertaken none the less.

## **6.8 Risk Assessment**

6.8.1 Elements of the first policy have become dated leaving the Council more open to challenge. Thus an updated version is required.

## **6.9 Value for Money**

6.9.1 The annual licence fees form part of the overall budget for the Council; The Act requires that fees are set at a level which covers the cost of administering the system without making a profit. Fees do not form part of the policy and are set separately.

## **6.10 Community Safety Implications**

6.10.1 The proposed new policy specifically addresses the impact that applications and licensed venues may have on local areas. It requires that applicants for new licences and renewals should demonstrate within their application that the operation will not have an adverse effect.

## **6.11 Environmental Impact**

6.11.1 No Environmental Impact

## **7. Background Papers**

7.1 Local Government (Miscellaneous Provisions) Act 1982 (as amended)

7.2 Home Office Sexual Entertainment Venues Guidance to Licensing Authorities in England and Wales, issued in March 2010.

## **8. Appendices**

8.1 **Appendix 1:** Proposed final Statement of Licensing Policy & Conditions

8.2 **Appendix 2:** Overview of the responses to the consultation process