

LICENSING COMMITTEE



Report subject	New BCP Council Sex Establishment Policy
Meeting date	10 December 2020
Status	Public Report
Executive summary	This is the first Sex Establishment Policy for BCP Council since the establishment, on the 1 st April 2019 of a single local government area for the now dissolved boroughs of Bournemouth, Christchurch and Poole.
Recommendations	It is RECOMMENDED that: Members agree to the adoption of the legislation and agree a draft policy ready for public consultation to begin in January 2021. Members to consider and agree the proposed fees
Reason for recommendations	The now dissolved Bournemouth Borough Council and Borough of Poole have both previously published individual policies. The Local Government (Structural Changes) (General)(Amendment) Regulations 2018 provides that the Licensing Authority has 24 months from the date of reorganisation to prepare adopt and publish a Sex Establishment Policy for the new local government area.

Portfolio Holder(s):	Councillor May Haines – Community Safety
Corporate Director	Kate Ryan – Corporate Director for Environment & Community
Report Authors	Nananka Randle – Licensing Manager
Wards	Council-wide
Classification	For Decision

Background

1. Sex Establishment premises are regulated and licensed under Schedule 3 of the Local Government (Miscellaneous) Provisions Act 1982. This legislation originally provided for the licensing of sex shops and sex cinemas before being amended by section 27 of the Policing and Crime Act 2009 to extend the scope of the schedule to include sexual entertainment venues.
2. Previously Bournemouth Borough Council and the Borough of Poole had adopted this legislation meaning anyone wishing to operate a sex establishment had to first obtain a licence from the respective Council. Both had published sex establishment policies

<https://www.bournemouth.gov.uk/Business/Licensing/documents/Sex-Establishments-Policy.pdf>

<https://www.poole.gov.uk/resources/assets/attachment/full/0/47761.odt>

3. In order to produce a new policy for the whole conurbation of Bournemouth, Christchurch and Poole, BCP Council need to adopt schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).
4. Reference is also made to Home office guidance - *Sexual Entertainment Venues* (Appendix 1) originally published for local authorities when schedule 3 was amended. This contains guidance on the process BCP Council will be required to follow in order to adopt the provisions of the legislation

Draft Policy

5. This will allow BCP Council to publish a policy to control and regulate the operation of Sex Establishments within the whole conurbation. This draft Policy is at Appendix 2
6. Sex Establishments falls into three categories; sex shops, sexual entertainment venues and sex cinemas
7. Chapters 10 and 11 of the draft policy relate to the setting out the characteristics of locations that are/not suitable for licences sex establishments. In addition BCP Council Licensing Authority can specify the number of each kind of sex establishments deemed appropriate in the defined locality relevant to the application at the time it is determined.
8. No sex establishment can operate unless it has obtained a licence from the Council – any such licence will contain conditions that will regulate how that

individual and category of sexual establishment may trade from the prospective premises.

9. Licences for sexual entertainment venues are required for *“any premise at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”*. Relevant entertainment is defined under the Act.
10. In deciding whether entertainment is *“relevant entertainment”* we will consider the content of the entertainment to be provided at the premises before determining whether a sexual entertainment licence is required, but generally this will apply to:
 - a. lap dancing
 - b. pole dancing
 - c. table dancing
 - d. strip shows
 - e. peep shows
 - f. live sex shows
11. Under Section 17 of the Crime and Disorder Act 1998, local authorities must exercise its functions with due regard to the likely effect on, and of the need to do all it reasonably can, to prevent crime and disorder in their area.
12. This draft policy has due regard to the likely impact of such licences on related crime and disorder in the conurbation.

Fees

13. The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority.
14. The fees cannot be used to support enforcement activity against such premises.
15. Currently within BCP there are two sets of fees for the issuing of licences under this legislation and it is proposed to introduce a single set of fees. (Appendix 3)

Consultation

16. There is no provision within the legislation for public consultation however it is deemed good practice to seek the views of local people and business. As such it is proposed that public consultation will commence on 4th January for 28 days this will take place via the Councils Consultation team on the website and will be advertised via social media.
17. In addition, a link to the consultation will be emailed directly to all persons/bodies at Appendix 4. These persons/bodies have been identified as relevant interested parties such as local operators of SEV's within the conurbation.

Options Appraisal

Adopt the legislation through Full Council

18. Put forward a recommendation for Full Council to approve adoption of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009)

19. Full Council will then be required to pass a resolution in accordance with section 3.6 of the Home Office guidance.
20. Following this a public notice will be placed in the local newspaper for two consecutive weeks.

Approve the draft policy

21. Amend the draft policy as appropriate and agree the draft policy to be put forward to public consultation. Chapter 10 provides members with two options to consider local characteristics when determining any applications or setting limits on the number of SEV it considers acceptable in predefined localities.

Approve the BPC fee structure

22. Approve or amend the fees as proposed which are based on cost recovery for the service in line with the legislation guidance..

Summary of financial implications

23. Within the existing budget.

Summary of legal implications

24. If the legislation is not adopted the council cannot set any limit on the number of or the location for any Sexual Establishments within the conurbation.

Summary of human resources implications

25. This will be delivered as part of the existing Licensing Team

Summary of sustainability impact

26. Not applicable

Summary of public health implications

27. Not applicable

Summary of equality implications

28. An EINA is underway and will be submitted to Equalities team in due course.

Summary of risk assessment

29. Not applicable

Background papers

Local Government (Miscellaneous Provisions) Act 1982

<https://www.legislation.gov.uk/ukpga/1982/30>

Policing and Crime Act 2009

<https://www.legislation.gov.uk/ukpga/2009/26/section/27>

Appendices

Appendix 1 – Home Office Guidance – Sexual Entertainment Venues

Appendix 2– Draft BCP Council SEV Policy

Appendix 3 – Fees

Appendix 4- Consultation List