

LICENSING COMMITTEE



Report subject	Sex Establishment Policy update
Meeting date	19 May 2021
Status	Public Report
Executive summary	This paper updates the Licensing Committee on progress made to date and the proposed next steps in developing the new BCP Council Sex Establishment Policy, that is required following local government reorganisation.
Recommendations	It is RECOMMENDED that: Members consider options for further public consultation Any further amendments to the draft policy prior to further consultation
Reason for recommendations	The now dissolved Bournemouth Borough Council and Borough of Poole have both previously published individual policies. As a result of Local Government Reorganisation the Licensing Authority wishes to 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 Update

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. By adopting the legislation and agreeing a policy BCP Council will be able to control and regulate the operation of Sex Establishments within the conurbation.
3. Sex Establishments falls into three categories: sex shops, sexual entertainment venues and sex cinemas
4. 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.
5. Licences for sexual entertainment venues (SEV) 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.
6. 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
7. 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. This draft policy has due regard to the likely impact of such licences on related crime and disorder in the conurbation.
8. On the 10th December 2020 the Licensing Committee agreed a draft policy which was then subject to public consultation. The draft Policy as agreed is attached at Appendix 1.

Consultation

9. Public consultation was open for 4 weeks, from 4 January – 1 February 2021. An online survey was made available, alongside links to the draft policy document. In total there were 206 responses to the survey. The consultation report is attached at Appendix 2.
10. On the 4th March 2021 the Licensing Committee members agreed that due to the sensitivity of the policy, and large number of responses received via the consultation, that a working group of five members would be set up and provide an update to this meeting.
11. The working group met on 29th March 2021 the notes from this meeting are at Appendix 3.
12. The working group carefully considered the consultation responses as well as the wider policy implications of the Public Sector Equality Duty. Members recommended that although many consultees disagreed with not setting any permitted number of SEV's within the BCP area, given the strict locality characteristics set out in the policy which will be considered when determining any application, the number and location of any future premises could be adequately controlled.

13. Consultation response received via Julia Palmer (legal representative of For Your Eyes Only) requested some amendments to conditions to be attached to any licences issued and also sought clarification for the position of existing licenced premises. The members of the workshop agreed that existing licenced premises and operators be given grandfather rights for renewal applications as they have existed under previous policies which deemed them to be situated in an appropriate locality. These rights will be further reviewed when the policy is reviewed again.
14. Amendments as suggested by the workshop members have been added and the updated draft policy is attached at Appendix 4.
15. Workshop members were aware of the strength of feeling regarding this topic particularly due to recent high-profile crimes against women. As such members have agreed that an all member briefing meeting should take place regarding the proposals for this policy.
16. The workshop also considered engagement with local SEV's and also identified a lack of balance in opinions sought. The consultation responses focused on the perceived negative impacts of these venues and concerns raised about the working conditions experienced by performers, but no performers have had direct input into the consultation. Following the meeting, officers have made contact with the operators of local Sexual Entertainment Venues and also the Sex Shops and have requested feedback from performers. The results of this will be available at a later meeting.

Options Appraisal

17. Members are asked to consider the following
 - Agree amendments to the Draft Policy as suggested in Version 2 of the policy.
 - Suggest further amendments to Version 2 of the policy
 - Agree to further public consultation and ask members to suggest any questions they would like to propose as part of this consultation
 - Support a full member briefing session to explain the proposed policy and answer any questions

Summary of financial implications

18. Not Applicable

Summary of legal implications

19. The policy is subject to Judicial Review if challenged.

Summary of human resources implications

20. Not Applicable

Summary of sustainability impact

21. Not Applicable

Summary of public health implications

22. Not Applicable

Summary of equality implications

23. An Equalities Impact Assessment is being drafted during the course of this process. I can confirm that the Public Sector Equality has been considered as part of this ongoing process.

Summary of risk assessment

24. 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

Appendices

Appendix 1 – Draft Policy Version 1

Appendix 2 – Consultation Report

Appendix 3 – Members workshop notes

Appendix 4 – Draft Policy Version 2 with suggested amendments