



AGENDA ITEM:

**LICENSING & GAMBLING
COMMITTEE: 4 OCTOBER 2022**

Report of: Corporate Director of Place & Community

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SUBJECT: REVIEW OF SEX ESTABLISHMENT LICENSING POLICY

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

- 1.1 To take the necessary action to approve a revised Sex Establishment Licensing Policy.

2.0 RECOMMENDATIONS TO LICENSING AND GAMBLING COMMITTEE

- 2.1 That the draft Statement of Sex Establishment Licensing Policy attached at Appendix 1 to this report be approved.

3.0 BACKGROUND

- 3.1 The determination of a Sex Establishment Licensing Policy is fully delegated to the Licensing and Gambling Committee. Members will be aware that the licensing regime for Sex Establishments is contained in the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act), as amended by Section 27 of the Policing and Crime Act 2009 (the 2009 Act). The amendment of the 1982 Act provides a national licensing scheme for the entire range of Sex Establishments. Legislation has responded to our changing society, where the public representation of sex has become more prevalent through advertising and popular culture. However, this change can, and has, caused concern to some members of the public. Notwithstanding individual morality, some may take the view that the presence of such premises damages the character of an area, prevents further commercial potential, or could lead to exploitation and reinforcement of damaging stereotypes.

- 3.2 The role of the Council as Licensing Authority is not to take a moral stance, but to assess these arguments in a local context, while aiming to ensure regulatory balance. Parliament has made it lawful to operate a Sex Establishment and such businesses are a legitimate part of the retail and leisure industries.
- 3.3 In contrast to other licensing legislation, the provisions of the 1982 Act are not mandatory, and therefore, the Council is not under an obligation to publish a policy for Sex Establishment licensing. However, the Council has previously taken the stance that it wanted to ensure that it was legislatively equipped to address the needs of the community. Members may therefore be aware that the Council has long since adopted Schedule 3 to the 1982 Act (as amended by Section 27 of the 2009 Act) and passed a resolution to determine and licence Sexual Entertainment Venues on 21 July 2010, which came into force on 1 November 2010, to ensure the Council was able to operate a documented licensing regime [following a legislative transitional period] for all such establishments from 21 July 2011.
- 3.4 Having adopted this legislation, the Council can licence Sex Shops, Sex Cinemas and Sexual Entertainment Venues in the Borough. However, by publishing a Policy, the Council can clearly state its objectives and reflect the needs of the Borough. The Policy also allows the Council to dictate where, and to what extent, Sex Establishments may be permitted through a clearly explained licensing process. Accordingly, Members previously took the view that the number of permissible Sex Establishments in the Borough should be set to zero. [Although it should be noted that the Council cannot reject any legitimate application without first considering it – even if it breaches these limits].
- 3.5 The current version of the Policy was approved for use from 11 February 2018 and remains in effect for five years. This report is presented to the Committee so that a revised version of the Policy can be adopted to replace the 2018 document.

4.0 CURRENT POSITION

- 4.1 Whilst the Corporate Director of Place and Community has an existing delegation within the Council's constitution to prepare, publish and consult on draft statements of Sex Establishment Licensing Policy, the nature of the subject matter and the opinions expressed during previous consultation exercises means that it is appropriate for a draft of the Policy to be presented to Members for approval. This draft is attached as Appendix 1 to this report. Assuming approval of the draft document, it will be subject to public consultation for a period of a minimum of 12 weeks [which is in line with good practice for similar licensing documents].
- 4.2 Accordingly, the consultation will run from 1 November 2022 to 24 January 2023. Any comments received during this period will be assessed and returned to this Committee as part of a request to approve the final version of the Policy at that time.

5.0 SUSTAINABILITY IMPLICATIONS

5.1 The Policy and legislation has the potential to impact upon any locality in which an application may be received. Whilst any such application would be determined in accordance with statute and on its own merits, the Policy is a key document that outlines the Council's ongoing licensing responsibilities to the public within West Lancashire.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

6.1 The contents of this report can be delivered within existing resources.

7.0 RISK ASSESSMENT

7.1 The Council is not under a legal obligation to publish a Statement of Sex Establishment Licensing Policy. However, given that it has already resolved to adopt the provisions of the 1982 Act (as amended by the 2009 Act), it is appropriate that a Policy is produced to provide clear guidance on the Council's requirements. If such a Policy were not adopted, the Council would still be required to determine legally submitted applications, but the Council's requirements would be less transparent and defined. This could lead to a lack of consistency in decisions and potential increases in appeals against Council decisions.

8.0 HEALTH AND WELLBEING IMPLICATIONS

8.1 The Policy will set out the Council's for sex establishment licensing and therefore seeks to ease public concerns and eliminate non-compliance that may be linked to related crime and offences.

Background Documents

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

None.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

- 1 Statement of Sex Establishment Licensing Policy 2023
- 2 Equality Impact Assessment

Appendix 2

Equality Impact Assessment Form



Directorate: Planning and Regulatory Services

Service: Licensing

Completed by: Paul Charlson

Date: 16/09/22

Subject Title: REVIEW OF SEX ESTABLISHMENT LICENSING POLICY

1. DESCRIPTION

Is a policy or strategy being produced or revised:

Yes

Is a service being designed, redesigned or cutback:

No

Is a commissioning plan or contract specification being developed:

No

Is a budget being set or funding allocated:

No

Is a programme or project being planned:

No

Are recommendations being presented to senior managers and/or Councillors:

Yes

Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty (**Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations**):

No

Details of the matter under consideration:

*If you answered **Yes** to any of the above go straight to Section 3
If you answered **No** to all the above please complete Section 2*

2. RELEVANCE

Does the work being carried out impact on service users, staff or Councillors (stakeholders):

No

If **Yes**, provide details of how this impacts on service users, staff or Councillors (stakeholders):
*If you answered **Yes** go to Section 3*

If you answered **No** to both Sections 1 and 2 provide details of why there is no impact on these three groups:
You do not need to complete the rest of this form.

3. EVIDENCE COLLECTION

Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?

Any licensed operators and immediate community/businesses.

If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?

N/A

Which of the protected characteristics are most relevant to the work being carried out?

Age	No
Gender	No
Disability	No
Race and Culture	No
Sexual Orientation	No
Religion or Belief	No
Gender Reassignment	No
Marriage and Civil Partnership	No
Pregnancy and Maternity	No
4. DATA ANALYSIS	
In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why?	Any licensed operators and immediate community/businesses.
What will the impact of the work being carried out be on usage/the stakeholders?	Reviewed policy requirements.
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	The proposed Policy will be subject to public consultation. Any comments will be brought back to this Committee.
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	The proposed Policy will be subject to public consultation. Any comments will be brought back to this Committee
If any further data/consultation is needed and is to be gathered, please specify:	N/A
5. IMPACT OF DECISIONS	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	None.
6. CONSIDERING THE IMPACT	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	N/A
What actions do you plan to take to address any other issues above?	No actions
7. MONITORING AND REVIEWING	
When will this assessment be reviewed and who will review it?	The proposed Policy will be subject to public consultation. Any comments will be brought back to this Committee