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Report of: Director of Leisure and Wellbeing

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**SUBJECT: APPROVAL OF REVISED SEX ESTABLISHMENT LICENSING POLICY**

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Wards affected: Borough wide

## **1.0 PURPOSE OF REPORT**

1.1 To approve a revised Statement of Sex Establishment Licensing Policy.

## **2.0 RECOMMENDATIONS TO LICENSING AND GAMBLING COMMITTEE**

2.1 That the Statement of Sex Establishment Licensing Policy attached at Appendix 3 to this report is approved for publication on 11 January 2018 and to take effect from 11 February 2018.

## **3.0 BACKGROUND**

3.1 The power to approve, adopt and publish a Statement of Sex Establishment Licensing Policy (the Policy) is contained in the functions of the Licensing and Gambling Committee (the Committee).

3.2 Councillors 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). Whilst the amendment of the 1982 Act created a national licensing scheme for Sex Establishments, this may cause concern to the residents and businesses in the Borough. Notwithstanding individual morality, many 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.

- 3.3 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 therefore such businesses are a legitimate part of the retail and leisure industries.
- 3.4 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. Accordingly, the Council has long since adopted Schedule 3 to the 1982 Act (as amended by Section 27 of the 2009 Act), and also passed a resolution to determine and licence Sexual Entertainment Venues. This resolution was passed on the 21<sup>st</sup> July 2010 and came into force on the 1<sup>st</sup> November 2010 to ensure the Council was in a position to operate a documented licensing regime [following a legislative transitional period] for all such establishments from 21 July 2011.
- 3.5 Furthermore, by publishing the Policy, the Council can clearly state its objectives and 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, Councillors 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].
- 3.6 The current version of the Policy was approved for use from 11 February 2013 and remains in effect for five years. This report is presented to the Committee so that a revised version of the Policy can be approved for use from 11 February 2018.

#### **4.0 CURRENT POSITION**

- 4.1 Under existing delegated authority to the Director of Leisure and Wellbeing, a draft Statement of Sex Establishment Licensing Policy was prepared, published and subject to public consultation from 31 July 2017 to 29 September 2017. The responses to the consultation are provided in Appendix 2 attached to this report. All of the responses express an opinion that supports the proposed number of permissible Sex Establishments in the Borough remaining at zero. Accordingly, no amendments are therefore proposed to the Policy which is attached at Appendix 3 to this report.

#### **5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 5.1 This legislation has the potential to impact upon the Community Strategy. The contents of the report has the following links with the Community Strategy: Community Safety (issues A and E); Economy and Employment (issue D).

#### **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 As stated above, the Council is not under a legal obligation to publish the Policy. However, it is appropriate to do so to provide clear guidance on the Council's requirements. If the Policy were not adopted, the Council would still be required to determine legitimate applications, but its requirements would be ambiguous. This could lead to a lack of uniformity in decisions and potential increases in appeals against Council decisions.

## **8.0 CONCLUSIONS**

- 8.1 By publishing the Policy, the Council can clearly state the needs of the Borough and dictate where, and to what extent, Sex Establishments may be permitted. The Council can also set out controls and/or conditions on licensed operations. This will allow the Council to provide the means by which the arguments of commercial and individual freedom can be balanced against the protection of the character of the Borough and the sensibilities of those who live and work in West Lancashire.

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### **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 Councillors of the public, employees, elected Councillors 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 Equality Impact Assessment
- 2 Consultation responses
- 3 Statement of Sex Establishment Licensing Policy 2018