

Meeting:	Council
Meeting date:	6 March 2015
Title of report:	Adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended and approval of the Licensing of Sex Establishments Policy
Report by:	Regulatory Committee

Classification

Open

Key Decision

This is not an executive decision.

Wards Affected

County-wide

Purpose

To approve the adoption and date for adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended and approve the Licensing of Sex Establishments Policy.

Recommendation

That:

- (a) **Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 be adopted on the 42nd day after the agreement by Council; and**
- (b) **the Licensing of Sex Establishments Policy as appended to the report be approved.**

Alternative Options

- 1 To decline to adopt of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 to Council. This would mean that there would be no control over Sex Establishments within the County.
- 2 To decline to adopt the policy. This is not recommended because it would in effect mean that there would be no guidance available to assist decision making in respect applications for sex establishments.

Reasons for Recommendations

- 3 By adopting the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act and a policy on sex establishment licensing, the local authority can provide clear guidance through policy to operators of such premises on how applications for sex establishment licences will be assessed and granted. Communities can be protected from an oversupply of such establishments.
- 4 Legislation requires this policy to be approved by Council.

Key Considerations

- 5 On 26 September 2014 Council approved the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended and also approved the the draft Sex Establishment Policy for consultation.
- 6 The Regulatory Committee considered the outcome of the consultation exercise on 19 February 2015. It has recommended a date for the adoption of Schedule 3 and has also recommended the adoption of a Licensing of Sex Establishments Policy as appended to this report.

Community Impact

- 7 To protect children, the vulnerable of the community and to preserve the character of certain localities, it is essential that the current regime is properly regulated.. Not being able to licence such premises could have an adverse effect on the community especially those who may be at risk and or need of protecting.

Equality duty

- 8 There are no equality or human rights issues in relation to the content of this report.

Financial implications

- 9 The licensing section is required to operate the function on a full cost recovery basis. The fees for Sexual Establishments will be set if adoption is agreed. A robust policy which is fit for purpose is essential if full cost recovery is to be maintained.

Legal Implications

- 10 The Licensing of Sex Establishments Policy has been drafted to reflect current legislative requirements. Failure to do so would leave the authority in breach and open to challenge.

Risk Management

- 11 If Council fails to adopt the legislation then the authority is required to consult with the public to obtain their opinion in respect of adoption. Such consultation is likely to be expensive and could still require the authority to adopt the legislation.
- 12 Without the legislation there is no power to stop sexual entertainment venues opening within the county.

- 13 If the policy is adopted it could be challenged through Judicial review, although such challenge could only be in respect of process which meets the requirements of the legislation.

Consultees

- 14 In accordance with the legislation the licensing section has consulted the following and the Regulatory Committee considered the outcome of consultation in developing their recommendation to Council.

The chief officer of police for West Mercia

One or more persons who represent the interests of Licensed establishments in Herefordshire (An operator of a Lap Dancing Club in Hereford)

One or more persons who appear to represent the interest of persons who are likely to be affected by the implementation of the new regulations and policy in Herefordshire (The HAND [Herefordshire Against Night Time Disorder] for Hereford, Ross on Wye, Ledbury, Kington, Leominster and Bromyard)

In addition to this Parish Councils were consulted

A Public Notice was also placed in the Hereford Times

- 15 Only one response was received. Nobody has objected to the adoption of Schedule 3.

Appendices

Appendix 1 - Draft Licensing of Sex Establishments Policy

Background Papers

- None.