

Title of report: Licensing of Sex Establishments: Statement of Licensing Policy

Meeting: Planning and Regulatory Committee

Meeting date: Wednesday 1 May 2024

Report by: Principal licensing officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To adopt the Licensing of Sex Establishments: Statement of Licensing Policy.

Recommendation(s)

That:

- a) The policy as presented be adopted (appendix 1).**

Alternative options

1. Propose modifications to the Policy.
2. Reject/decide not to adopt the Policy.
3. Refer the policy back to the officer for further work/consultation.

The above three options have been considered and have been rejected, as the policy is fit for purpose, has been consulted on and amended to reflect comments made, where applicable.

Key considerations

4. The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 section 2 and Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This includes lap dancing, pole dancing and other "relevant entertainment".
5. The legislation provides for local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.
6. On 6 March 2015 Herefordshire Council (full council) resolved to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 commencing on 16 April 2015. This applies to the whole of the area of the County of Herefordshire.
7. At that time a policy was presented and approved, which is still in place.
8. The policy is well overdue a review and some small changes have been made.
9. Further matters have been included in the policy in relation to Modern Slavery and Human Trafficking.

Community impact

10. The council's licensing regime aims to ensure that if sex establishments are granted a licence to operate in Herefordshire that they operate in a safe, fair, and discreet manner and are sensitive to the local area in which they are situated. Specific attention has been taken to advertising, staff welfare, external appearance, locality, and the number of licensed premises.
11. This policy further enhances the licensing authority's ability to carry out suitability tests and ensures that all licence holders are informed about their safeguarding responsibilities. In addition, it offers the opportunity to share information regarding issues surrounding child sexual exploitation and modern slavery.

Environmental Impact

12. Whilst this is a decision on back-office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy.

Equality duty

13. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
14. The council is aware that sex establishments tend to be predominantly marketed to men and that the licensing of these establishments must not encourage discrimination against women, especially in regard to women who work at the premises, women who may wish to visit the premises or women who are using the area for other purposes, but who may feel intimidated by the presence of such premises.

Resource implications

15. There is a requirement that licensing is cost neutral to the council, as a result the fees are set to cover the costs of issuing and ensuring compliance with any conditions attached to a licence.

Legal implications

16. The Council's Licensing of Sex Establishments: Statement of Licensing Policy is an important factor when determining certain applications under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications. Ensuring that the Policy is up to date and covers relevant areas assist the Council in ensuring a consistency of approach. The Sex Establishment policy has been drafted to reflect current legislative requirements.

Risk management

17. The proposed policy will ensure that if sex establishments are granted within Herefordshire that they operate in a safe, fair, and discreet manner and are sensitive to the local area in which they are situated.
18. It will also ensure that the rights of workers in this type of industry are protected.
19. The policy will reduce the risk to the authority by providing guidance in relation to decision making, concerning any application.
20. The risk is further reduced, as any decision made can be challenged by right of appeal through the Magistrates Court.

Consultees

21. The legislation requires us to consult with various groups before we determine our policy, and these include: -
- I. Representatives of local business
 - II. Representatives of the licensing trade (alcohol & entertainment)
 - III. Local residents through Parish and town councils

- IV. Ward Members
 - V. West Mercia Police
 - VI. Herefordshire Council - Environmental Protection
 - VII. Herefordshire Safeguarding Children's Partnership
 - VIII. Herefordshire Council - Planning
 - IX. Herefordshire Public Health
 - X. Herefordshire Community Safety Partnership
- 22. This was done by email with it being sent to 339 different addresses.
 - 23. In addition, the consultation document was published on the Council's Website.
 - 24. The consultation took place between 23 February and 24 March 2024.
 - 25. There were 15 responses with comments and 3 with no comments.
 - 26. These are summarised in Appendix 2, showing the comments made and the outcome of the consideration.

Appendices

- Appendix 1 - Licensing of Sex Establishments: Statement of Licensing Policy
- Appendix 2 - Consultation Summary
- Appendix 3 - Comments from Herefordshire Women's Equality Group

Background papers

None identified.

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published

Governance	John Coleman	Date 19/04/2024
Finance	Judith Tranmer	Date 07/03/2024
Legal	Ben Davies	Date 07/03/2024
Communications	Luenne Featherstone	Date 05/03/2024
Equality Duty	Harriet Yellin	Date 06/03/2024
Procurement	Lee Robertson	Date 12/03/2024
Risk	Lindsay Lord	Date 07/03/2024

Approved by Ross Cook Date 23/04/2024