

DRAFT SEX ESTABLISHMENT LICENSING POLICY CONSULTATION

Relevant Portfolio Holder	Councillor Peter Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes - Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Bromsgrove District Council does not currently have an adopted Policy on the licensing of Sex Establishments. The Licensing Committee has considered a draft Policy and approved it for the purposes of consultation with relevant stakeholders and the general public in September 2015.

This consultation has now taken place and the responses received are reported to the Licensing Committee.

2. RECOMMENDATIONS

Members are asked to RESOLVE;

To adopt the draft Sex Establishment Licensing Policy (attached at Appendix 3) with effect from 1st April 2016.

3. KEY ISSUES

Financial Implications

- 3.1 The costs involved in carrying out the consultation were met by existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Local Government (Miscellaneous Provisions) Act 1982 (“the Act”), as amended, allows local authorities to adopt provisions concerning the regulation of sex establishments. Under the Act there is no legal requirement for the Council to adopt a policy on how it proposes to license sex establishments under the Act. However, it is considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions are carried out.

Service / Operational Implications

- 3.3 The Local Government (Miscellaneous Provisions) Act 1982, when originally enacted, allowed for the licensing of Sex Establishments (i.e. sex shops and sex cinemas) by those local authorities, like Bromsgrove District Council, that adopted Schedule 3 of the Act.
- 3.4 The Council resolved to adopt the original provisions at a meeting on 3rd July 1984.
- 3.5 On 15th September 2010 the Council resolved to adopt the amended provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which were amended by virtue of Section 27 of the Policing and Crime Act 2009.
- 3.6 The adoption of the provisions as amended by the Policing and Crime Act 2009 meant that “sexual entertainment venues” in the District are subject to the same licensing requirements as sex shops and sex cinemas.
- 3.7 The new controls strengthened the role that local communities can play in deciding whether, for example, a lap dancing premises is appropriate for the locality. The adoption of the amended provisions brought lap dancing and other similar premises in line with other sex establishments such as sex shops and sex cinemas and recognised that local people have legitimate concerns about where such premises are located.
- 3.8 Despite having adopted controls over sex establishments, the Council does not currently have an adopted Policy on the licensing of sex establishments under the Local Government (Miscellaneous Provisions) Act 1982.
- 3.9 Members of the Licensing Committee have considered a draft Policy and approved it for the purposes of consultation with relevant stakeholders and the general public in September 2015.
- 3.10 The draft Policy sets out how Bromsgrove District Council would approach its licensing functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
- 3.11 It will provide guidance to Members and Officers when considering applications and will inform potential applicants, relevant stakeholders and the general public of the principles which will be applied by the Council when carrying out its licensing functions.

- 3.12 The draft Sex Establishment Licensing Policy has been subject to consultation with relevant stakeholders and the general public. Those contacted regarding the consultation included the West Mercia Police, the Police and Crime Commissioner, the local MP, Bromsgrove District Councillors, Parish Councils, Trading Standards, Environmental Health, Fire Safety, Planning, Public Health, the Worcestershire Safeguarding Children Service, Safer Bromsgrove, the Local Enterprise Partnership and other groups and bodies representing local businesses.
- 3.13 The consultation documents were also hosted on the Council's website and advertised via social media channels.
- 3.14 Responses were received during the consultation from West Mercia Police and Hereford and Worcester Fire and Rescue Service. The response received from the Police can be seen at **Appendix 1** and the response from the Fire and Rescue Service can be seen at **Appendix 2**.
- 3.15 West Mercia Police asked for a number of additional conditions to be applied to licences issued in respect of sexual entertainment venues. The vast majority of these conditions have been inserted into Annex E of the draft Policy.
- 3.16 However some of the requested conditions were already included in the draft Policy and those relating to membership of Pubwatch were not considered appropriate to attach as licence conditions. This is because the National Pubwatch organisation has in the past made clear that in its view, conditions that require premises to join Pubwatch contravene the basic principle that Pubwatch has always been a voluntary activity, engaged in by operators of licensed premises primarily for their own benefit which also results in a positive outcome for the wider community.
- 3.17 The changes made to the conditions as a result of the Police response to the consultation, can be seen highlighted in Annex E of the draft Policy shown at **Appendix 3**.
- 3.18 The Fire and Rescue Service asked for a condition to be added in Annex D of the Policy that the licensee should carry out a fire risk assessment in order to comply with The Regulatory Reform (Fire Safety) Order 2005. It is not considered good practice to impose a licence condition that replicates a legal duty that the licence holder is already under as a result of other legislation, therefore this condition has not been added to Annex D.

3.19 The Fire and Rescue Service also asked for the draft Policy to be amended at paragraph 2.2.2 to state that the required plan should also contain details of all passive and active fire safety provisions including but not limited to fire extinguishers, emergency lighting, fire signage and fire detectors. The draft Policy has been amended accordingly.

3.20 The Licensing Committee are now asked to note the responses received during the consultation and resolve to adopt the amended draft policy at **Appendix 3** with effect from 1st April 2016.

4. RISK MANAGEMENT

4.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal. Consultation with relevant stakeholders has been carried out to minimise the risk of legal challenge.

5. APPENDICES

Appendix 1 –	Police Response
Appendix 2 –	Fire and Rescue Response
Appendix 3 –	Draft Sex Establishment Licensing Policy (amended following consultation)

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