



Report to: Licensing and Environmental Health Committee, 11 Dec 2023

Report of: The Head of Worcestershire Regulatory Services on behalf of Worcester City Council

Subject: REVIEW OF THE SEX ESTABLISHMENT LICENSING POLICY

1. Recommendation

That Committee:

- 1.1 Note the contents of the report, and in particular the work undertaken to review the existing Policy that was published in January 2015**
- 1.2 Approve the undertaking of an 8-week public consultation exercise on a Draft Sex Establishment Licensing Policy included at Appendix 1**
- 1.3 Note that a further report on this subject will be presented to this Committee in March 2024, and will include feedback from the consultation process.**

2. Background

- 2.1 The Local Government (Miscellaneous Provisions) Act 1982, when originally enacted, allowed for the licensing of Sex Establishments (i.e. sex shops and sex cinemas) by those local authorities, like Worcester City Council, that adopted Schedule 3 of the Act.
- 2.2 On 1st January 2014, 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.
- 2.3 The adoption of the provisions as amended by the Policing and Crime Act 2009 meant that "sexual entertainment venues" within the district are subject to the same licensing requirements as sex shops and sex cinemas.
- 2.4 Sexual entertainment venues are defined by the Policing and Crime Act 2009 as any live display of nudity; which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 2.5 The new controls strengthened the role that local communities could 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.

- 2.6 On 17th December 2014, the Licensing and Environmental Health Committee resolved to adopt a Sex Establishment Licensing Policy with effect from 1st January 2015. This decision followed consultation on a draft policy which took place between 1st August 2014 and 24 October 2014.
- 2.7 The policy sets out how the Council approaches its licensing functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended). It also provides guidance to Members and Officers when considering applications and informs potential applicants, relevant stakeholders and the general public of the principles which will be applied by the Council when carrying out its licensing functions.
- 2.8 As the existing policy has been in place for more than eight years, officers consider it is appropriate to undertake a review and for a revised version of the policy to be consulted upon.
- 2.9 Officers have reviewed the existing policy, and a draft version is included at **Appendix 1**. This version has been highlighted in red to show where the document has been revised from the current policy. The revisions are only very minor in nature and have been made to ensure the document is up to date and is as clear and easy to understand as is possible.
- 2.10 The draft policy has been amended with the foreword at the beginning of the document having been removed. This is because it is considered that the foreword is unnecessary and doesn't add to the policy. It has also been updated to reflect the renaming of the Local Safeguarding Children Board as Worcestershire Safeguarding Children Partnership.
- 2.11 The level of fines applicable in respect of various offences set out in the relevant legislation have been amended to reflect changes made to these since the current policy was approved.

3. Preferred Option

- 3.1 The preferred option being put forward is for Members to approve the draft revised Sex Establishment Licensing Policy attached at Appendix 1, for the purpose of an 8-week consultation with relevant stakeholders.
- 3.2 The results of the consultation will be brought back to this Committee in March 2024 for consideration, with a view to the Draft Sex Establishment Licensing Policy being approved.

4. Alternative Options Considered

It is good practice for Council's to regularly review policies such as these on a regular basis, to ensure that they are kept up to date, therefore no alternative options have been considered appropriate on this occasion.

5. Implications

Financial and Budgetary Implications

- 5.1 The costs involved in carrying out the consultation will be met from existing budgets held by Worcestershire Regulatory Services.

Legal and Governance Implications

- 5.2 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.
- 5.3 Where a Council has adopted such a policy, it is best practice for that policy to be reviewed periodically to ensure it remains up to date and fit for purpose.
- 5.4 Consultation on the draft revised Sex Establishment Licensing Policy will take place with all relevant parties and will also be made available for comment via the Council’s website, publicised via social media and also through the local press. Given the number of changes being proposed to the Council’s existing Sex Establishment Licensing Policy, it is proposed that consultation take place over a period of around 8 weeks.
- 5.5 Any responses received during the consultation exercise will be reported back to the Licensing and Environmental Health Committee for consideration prior to approval.

Risk Implications

- 5.6 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal. Carrying out consultation with relevant stakeholders when reviewing the policy minimises the risk of legal challenge.

Corporate/Policy Implications

- 5.7 All policies approved by Worcester City Council comply with the Regulators Code. The regulators Code seeks to promote proportionate, consistent, and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.
- 5.8 The revised policy contributes to the Stronger and Connected Communities theme within the current City Plan 2022-2027, as it provides information to both applicants applying for a licence and existing licensed businesses on the expectations of the Council on how these types of premises should operate. The policy also provides guidance to residents and community groups on how new applications will be assessed and also how businesses will be regulated once licensed. This adds to “People feeling safe and able to enjoy the city fully without fear of crime or anti-social behaviour”.

Equality Implications

- 5.9 In its consideration of this report and its recommendations, the Council must have due regard to public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that 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; and
 - c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

5.10 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5.11 Officers have undertaken an equality impact assessment screening, which has highlighted the need for a full Equality Impact Assessment to be undertaken, which will be undertaken alongside the public consultation exercise.

Human Resources Implications

5.12 No human resource implications have been identified.

Health and Safety Implications

5.13 No Health and Safety Implications have been identified.

Social, Environmental and Economic Implications

5.14 The Policy aims to provide clarity to applicants and interested parties on how the Licensing Authority will determine applications for Sex Establishments and sexual entertainment venues.

5.15 The review of the Sex Establishment policy will ensure that it is up to date, robust and relevant. By having an up-to-date policy in place it will go some way to ensuring that the social impact of such premises is mitigated, as the locations can be considered and assessed for suitability prior to any licences being issued.

Ward(s): All

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Background Papers: None.