

Waverley Borough Council
LICENSING AND REGULATORY COMMITTEE
08 NOVEMBER 2021

Title:

**PUBLIC CONSULTATION ON REVIEW OF THE COUNCIL'S POLICY FOR
THE LICENSING OF SEXUAL ENTERTAINMENT VENUES**

[Wards Affected: All]

Portfolio Holder: Cllr Nick Palmer, Portfolio Holder for Operational & Enforcement

Head of Service: Richard Homewood
Head of Environmental & Regulatory Services

Key decision: No
Access: Public

1.0 Purpose and Summary:

- 1.1 The purpose of this report is to consider the outcome of the consultation on the draft Policy for the Licensing of Sexual Entertainment Venues for Waverley, against which applications for licences under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009 and recommend the revised Policy for the licensing of Sexual Entertainment Venues to the Council at its meeting on 14 December 2021 to approve.
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2.0 Introduction

- 2.1. Sex Establishment premises are regulated and licensed under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009.
- 2.2 The current policy was adopted on 21 February 2012 and came into effect on 1 May 2012 after public consultation and agreement by the Licensing and Regulatory Committee. The review period for the policy is at least every 5 years.

2.3 The policy has been reviewed by officers after being published for a 12-week public consultation, which commenced 19 July 2021 and ended 11 October 2021.

Policy for Sexual Entertainment Venues - public consultation

2.4 The Council's Policy for the Licensing of Sexual Entertainment Venues was first adopted by the Council in February 2012. It was last reviewed and updated in 2016 with the last updated policy coming into effect on 01 January 2017.

2.5 A draft revised Policy for Sexual Entertainment Venues, incorporating the changes/amendments made by officers from the existing Policy for Sexual Entertainment Venues is attached at **Annexe1**. The tracked changes are shown in colour type. (Please note the differing colours do not reflect anything specific other than an amendment/change)

2.6 The consultation has been conducted through a written process to all Responsible Authorities, Citizens Advice Centres, Chambers of Commerce, Town and Parish Councils and via the Council's website.

2.7 The timetable for the review of the current policy and implementation of the new policy is as follows:

- Commence review, write to consultees, and place consultation information on the website on 19 July 2021
- Consultation period ends 11 October 2021 (12 weeks) - followed by:
- Licensing and Regulatory Committee 08 November 2021
- Council 14 December 2021
- Published on Council's website 3 January 2022
- Policy comes into effect 31 January 2022

2.8 There are currently no Sexual Entertainment Venues in Waverley and no applications have been received since the policy was first adopted on 21 February 2012. Although the existing Policy has not been called upon since it was adopted, officers believe it is suitable and will work well if required.

2.9 There has been 1 response from the consultation from Cranleigh Parish Council, please see below with officer response in red.

Good Morning

Sex Establishment Policy.

Thank you for asking Cranleigh Parish Council to comment on the above Policy. The Council would like to make the following comments:

- *Although there is no legal requirement for the WBC to adopt this policy, the Parish Council is in agreement that it is very important to do so.*
- *Page 11. The Parish Council is quite surprised that a licence for a sexual entertainment venue is not required where relevant entertainment has not been provided on more than eleven occasions in any 12 months. In our opinion, any venue which offers sexual entertainment, no matter how often, should require a licence. This is the legislation*
- *Clause 8.4, please include Town and Parish Councils as relevant bodies to be consulted.*
- **8.4.1. already states;**

Other relevant authorities may be;

- a/ Fire Authority
- b/ Trading Standards
- c/ Health & Safety at Work
- d/ Local Planning Authority
- e/ Local Authority – Environmental Health
- f/ Protection of Children from Harm
- g/ Licensing Authority (other than relevant licensing authority) in whose area part of the premises is situated.

*In addition consultation will, where practicable, be undertaken with local residents associations, **parish councils**, local ward members and in some cases neighbouring properties/residents.*

A copy of the emailed comment is attached at **Annexe 2.**

3.0 Conclusion

- 3.1 The Committee is asked to consider the responses to the consultation and identify whether any further amendments to the policy are required. The Policy is ultimately set by the Council as part of the Policy Framework and the activity under the Policy is the remit of this Committee and its Licensing Act Sub-Committees. The Committee is asked to consider officers amendments and the comments made to the review and of the Policy for the Licensing of Sexual Entertainment Venues and make its recommendations to Council for amending the Policy.

5.0. Recommendation

- 5.1. The Committee is asked to RESOLVE that

5.1.1 The draft revised Policy for the Licensing of Sexual Entertainment venues and Principles be approved subject to any amendments agreed at the meeting;

5.1.2 To recommend the revised Policy for the Licensing of Sexual Entertainment venues and Principles to Council at its meeting on 14 December 2021 to approve.

6.0 Reason for the recommendation(s)

6.1 Whilst there is no legal requirement for the Council to adopt a policy in relation to the application of the legislation of Sexual Entertainment Venues, it is seen as good practice to publish a policy setting out how the Council will determine applications for sex establishments in its area.. The aim of a Sexual Entertainment Venue policy is to provide guidance for the prospective applicants, persons who may wish to object to or support an application and members of the Council's Licensing and Regulatory Committee when making a decision in respect of an application.

6.2 Whilst each application will be considered on its individual merits, this policy is intended to give prospective applicants an early indication of whether their specific application is likely to be successful and the material facts that will be taken into consideration when determining the application. No policy will ever be considered absolute and there may be occasions where the Licensing and Regulatory Committee may depart from the policy having regard to the unique characteristics of any one particular application.

6.3 In accordance with Waverley's Policy for the licensing of Sexual Entertainment Venues, the policy states that it will be reviewed every five years or at such shorter periods as is felt necessary.

6.4 Having considered the findings of the engagement process the Licensing Committee is invited to approve the draft revised Policy for the licensing of Sexual Entertainment Venues and Principles provided. This approval would be subject to any amendments approved at this meeting.

6.5 The Committee is invited to recommend the revised licensing Policy to the Council at its meeting on 14 December 2021 to approve. If approved, the Policy will stay in force for 5 years. However, should the Licensing Authority consider it necessary, the Policy can be reviewed at any point during this 5 year period.

7.0 Relationship to the Corporate Strategy and Service Plan(s)

7.1 The Policy for the licensing of Sexual Entertainment Venues and Principles under the Schedule 3 of the Local Government Miscellaneous Provisions Act, as amended by section 27 of the Policing and Crime Act 2009 whilst not being a statutory duty of the Council helps to deliver the Council's strategic outcomes in promoting a thriving local economy, supporting business and employment;
encouraging small businesses;

and promoting the health and wellbeing of our communities, helping to ensure that Sexual Entertainment Venues are safe and controlled.

8.0 Implications of decision(s)

8.1 Resource (Finance, procurement, staffing, IT)

There are no immediate resource implications in this report; resources required to fulfil the Council's duties in respect of the licensing process are met from the existing budget.

8.2 Risk management

The Policy for the Licensing of Sexual Entertainment Venues is in place to ensure public safety when using these services and to ensure the appropriate balances and mitigations are in place to minimise risk to public safety whilst enabling businesses to trade effectively, efficiently and legally.

8.3 Legal

There is no statutory requirement to have a licensing policy for sex establishments. However, it is considered best practice and a modern effective policy document will ensure that the trade and public alike will have a document which fully explains the elements of the regulatory process. The revised Policy will guide applicants, licensees and those responsible for licensing and should provide a clear transparent and consistent basis for decision making. This in turn should reduce the risks of decisions being challenged in the Courts.

8.4 Equality, diversity and inclusion

The Policy sets out the framework within which decisions are made that effect crime and disorder and the protection of children and other vulnerable people from being harmed or exploited. There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the Council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

8.5 Climate emergency declaration

There are no implications arising from the recommendations contained within this report in terms of meeting the Council's climate change obligations.

8.6 Consultation and engagement

The Policy for the Licensing Sexual Entertainment Venues, as set out above, has been subject to consultation with the public before being finalised.

8.7 Other options considered

Other options considered are commented on throughout the report.

8.8 Governance journey

Trade and public consultation with final recommendations to Licensing and Regulatory Committee.

Annexes:

Annexe 1 – A draft revised Policy for the Licensing Sexual Entertainment Venues, incorporating the changes/amendments made by officers from the existing Policy.

Annexe 2 - A copy of the response from the consultation from Cranleigh Parish Council

Background Papers

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Agreed and signed off by:

Legal Services: date

Head of Finance: date

Strategic Director: date

Portfolio Holder: date