

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Licensing Committee

Date: 2 March 2017

Reporting officer: Assistant Director (Communities)

Subject: Review of Statement of Licensing Policy for Sex Establishments and Sexual Entertainments Venues

Purpose and summary of report:

To present to Members a proposed draft revised Statement of Licensing Policy for Sex Establishments and Sexual Entertainments Venues

Recommendations:

1. Members to approve and adopt the draft Gravesham BC Statement of Licensing Policy for Sex Establishments and Sexual Entertainment Venues (as attached at Appendix 2 to this report)
2. The revised policy to be published and to become effective as from 1 April 2017

1. Background

- 1.1 The powers the Council has to regulate sex establishments are contained in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. In order to use these powers a local authority has to adopt them through a prescribed process. Gravesham formally adopted the provisions on 20 December 1982.
- 1.2 Section 27 of the Policing and Crime Act 2009 introduced a new category of sex establishment called "sexual entertainment venues". In order to implement this change a local authority has to adopt the legislation although it is not mandatory. Gravesham Borough Council chose to adopt the provisions on 5 October 2010 and they became effective as of 1 April 2011.
- 1.3 There is one sex establishment in the Borough in Queen Street, Gravesend which operates as a sex shop.
- 1.4 There are no sexual entertainment venues in the borough and neither have there been any applications received for the same.
- 1.5 At their meeting of 5 October 2010, Council delegated sex establishment licensing to the Licensing Committee established for the purposes of the Licensing Act 2003.

2. Statement of Licensing Policy

- 2.1 There is no statutory requirement to have a licensing policy for sex establishments including sexual entertainments venues; however it is considered best practice. A modern, effective policy document ensures that the trade and public alike have a document that fully explains the elements of the regulatory process which includes the principles to be applied when considering applications for such premises. It also ensures consistency of approach by officers thus ensuring fairness and transparency for both the trade and public alike. Gravesham Borough Council therefore initially developed a policy that was adopted by Licensing Committee on 17 October 2010 and which became effective on 1 April 2011.
- 2.2 The policy was formulated working in close conjunction with other local authorities in Kent via the mechanism of the Kent and Medway Regulatory Licensing Steering Group thus promoting consistency to the benefit of licensees, potential licensees, businesses and residents alike. The other benefit is to minimise the risk of judicial review of individual policies.
- 2.3 The current Policy, which was approved by the Licensing Committee on 5 March 2014, will become three years old on 31 March 2017.

3. Draft Statement of Licensing Policy

- 3.1 Although there is no statutory requirement to undertake a review of the policy statement, there is a commitment set out in the policy statement to do so at least every three years to ensure the policy remains up to date and relevant.
- 3.2 The existing policy has now been reviewed by officers. There have been no changes to legislation to take into account, so whilst there are some changes they are of a minor administrative nature to:
 - 3.2.1 Update the design to match the corporate image;
 - 3.2.2 Update references in relation to the Regulators Code and the Gravesham Community Profile, and;
 - 3.2.3 Remove section 25 – ‘Review of Policy’ as the exact same text is already contained in section 3 – ‘Policy.’
- 3.3 It is therefore considered that there is no need for a public consultation.
- 3.4 As with the existing policy we propose setting no numerical limits for Sexual Entertainments Venues within Gravesham. Instead each application would be judged on its own merits but taking into account the various criteria laid out in the policy document. In this way each application will be considered as to whether it is suitable given the nature of the particular locality in question.
- 3.5 As the policy is not a statutory requirement there is no need for it to be formally adopted by Council following consideration by Licensing Committee.
- 3.6 The draft statement of licensing policy is attached as Appendix 2.

4. Recommendation

- 4.1 Members are asked to approve the draft Gravesham BC Statement of Licensing Policy for Sex Establishments and Sexual Entertainments Venues so that it can become effective from 1 April 2017.

5. BACKGROUND PAPERS

- 5.1 None. Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS

APPENDIX 1

<p>Legal</p>	<p>The relevant piece of legislation in relation to the regulation of sex establishments is Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).</p>
<p>Finance and Value for Money</p>	<p>There are no direct financial implications for Gravesham Borough Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.</p>
<p>Risk Assessment</p>	<p>Whilst each individual application will be judged on its own merits a policy ensures a transparent and consistent approach to licensing that would reduce the opportunity for challenge through the courts. Challenges to a particular decision are more likely to fail if we can demonstrate that we have adhered to our published policy and there is no justifiable reason to depart from it. Any departure from the policy will be based on material evidence and documents giving clear and compelling reasons for doing so.</p>
<p>Equality Impact Assessment</p>	<p>Screening for Equality Impacts</p>
	<p>Question</p>
	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No - N/A</p>
	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No - N/A</p>
<p>Corporate Plan</p>	<p>There are links to: Objective 1 – Safer Gravesham Objective 2 – Sustainable Gravesham Objective 4 - Sound and Self Sufficient Council</p>
<p>Crime and Disorder</p>	<p>The powers allowed within the licensing regime for sex establishments and sexual entertainments venues allow the Council to tackle issues of concern to communities around crime and anti-social behaviour that are sometimes associated with sex establishments</p>
<p>Digital and website implications</p>	<p>The Digital Team would be asked to update the wording of the Policy online.</p>

Safeguarding children and vulnerable adults	The local Safeguarding Children's Board is named within the Policy as a consultee and the possibility of children or other vulnerable persons being harmed or exploited by the provision of sexual entertainment or the operation of sex shops or sex cinemas is referred to in the Policy as one of the specific matters to which the authority will have consideration in deciding whether or not to grant an application.
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