

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Licensing Committee

Date: 1 November 2022

Reporting officer: Mandy Francis, Licensing Manager

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

Purpose and summary of report:

To present Members with the draft Statement of Licensing Policy for Sex Establishments and Sexual Entertainment Venues.

Recommendations:

1. Members to approve and adopt the revised Statement of Licensing Policy for Sex Establishments and Sexual Entertainment Venues
2. The revised policy to be published and to become effective as from 1 April 2023
3. The standard policy review period to be extended from 3 years to 5 years

Key Implications:	
Item	Implications
Legal	The relevant legislation in relation to the regulation of sex establishments is Sch.3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).
Finance and Value for Money	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.
Corporate Plan	There are direct links to Corporate Objective 1 - People. Enforce high regulatory standards: put customer and employee safety first by ensuring commercial businesses and licence holders are fully compliant with expected legislative standards
Climate Change	None

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 are currently no sex establishments or sexual entertainment venues in the borough and nor have any applications been received for the same.
- 1.4 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.
- 2.2 An 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.
- 2.3 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.

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.
- 3.2 As with each review since the policy was first published, there have again been no changes to legislation or guidance. Consequently, no changes to the policy are proposed, and it is therefore also considered that there remains no need for public consultation.
- 3.3 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.
- 3.4 As the policy is not a statutory requirement there is no need for it to be formally adopted by Full Council following consideration by Licensing Committee.
- 3.5 The draft statement of licensing policy is attached as Appendix 1.

4. Policy Review Period

- 4.1 Save for minor administrative changes, the policy has not required any alterations since it initially became effective in 2011 and has therefore been subject to a simple three-yearly re-adoption process since that time.
- 4.2 In light of this and given the standard prescribed review periods for other licensing policies such as the council's Hackney Carriage and Private Hire Licensing Policy and its Statement of Licensing Policy under the Licensing Act 2003 are set at five years, it is proposed that the standard review period for this policy is similarly extended to five years unless it becomes necessary to review the policy sooner for example, due to changes in legislation or guidance.

5. Appendices

- 5.1 The following documents are to be published with the report:
 - 5.1.1 Appendix 1: Draft Statement of Licensing Policy for Sex Establishments and Sexual Entertainments Venues

6. Background Documents

- 6.1 There are no background documents.

Lead Officer: Mandy Francis, Licensing Manager

Email: Mandy.francis@gravesham.gov.uk

Secondary Implications	
Risk Assessment	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.
Data Protection Impact Assessment	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data ? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. No
	b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A
	c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk . N/A
Equality Impact Assessment	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
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
Crime and Disorder	Licensing Polices support local authorities in meeting their duty to consider crime and disorder implications, and put in place steps to mitigate against them, as set out in section 17 Crime and Disorder Act 1998
Digital and website implications	The Digital Team would be asked to upload a copy of the revised policy on the council's website and update any associated web-content.
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.