

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM 7

REPORT TO CABINET

Date 12 November 2015

**REPORT OF CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION

Access, Communities & Community Safety – Lead Cabinet Member – Steven Nelson

SEX ESTABLISHMENT LICENSING POLICY

1. Summary

The Council currently has a Sexual Entertainment Policy which was adopted in November 2011. Anyone operating a sex shop, sex cinema or sexual entertainment venue must obtain a licence to do so.

The purpose of this report is for Members to consider the views and comments received from the Licensing Committee and other interested parties following consultation on a review of this policy.

Members are requested to determine the final policy

2. Recommendations

That Members approve the Sex Establishment Licensing Policy as presented in **Appendix 1**.

3. Reasons for the Recommendations/Decision(s)

The adoption of a policy for sex establishments allows the Council to outline its views for applicants about issues such as suitability of applicants, the number of establishments and where they can be located. In determining applications Members and officers will have due regard to the policy whilst considering each application on its merits.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

The purpose of this report is to seek Members approval of the Sex Establishment Licensing Policy following its review and consultation with relevant stakeholders.

RECOMMENDATIONS

1. That the revised Sex Establishment Licensing Policy attached at **Appendix 1** be approved for commencement on 1 January 2016.

DETAIL

1. Council previously agreed to adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1976, which enabled the licensing of sexual entertainment venues (Cabinet Decision 20th December 2010 refers). Council also agreed to the introduction of a Sex Establishments Policy (Cabinet Decision 3rd November 2011 refers). The original policy was adopted following extensive consultation with interested parties including Cleveland Police, representatives of businesses and residents in the Borough, Premise Licence and Club Premise Certificate holders (alcohol licensed premises) and the Local Safeguarding Children's Board.
2. Since the adoption of the policy in November 2011, no applications for a sexual entertainment licence have been received by the Authority and no issues or concerns have been raised. The Policy sets out in detail the Authority's views in relation to suitability of applicants, number of establishments and where they can be located.
3. As a result it is proposed that the policy remains relatively unchanged and that the policy is reviewed, in future, every 5 years.
4. The policy was considered by the Authority's Licensing Committee on 4th November 2014. Members agreed to a proposal to carry out a consultation exercise with stakeholders.
5. A consultation exercise was carried out between 20th November 2014 and the 16th January 2015. The review was advertised in the Herald & Post on the 20th November 2014, with a copy of the policy available on the Trading Standards & Licensing website. No comments were received.
6. A copy of the Policy was also circulated to Responsible Authorities designated under the Licensing Act including Public Health, Planning, Environmental Health, Local Safeguarding Children's Board and Cleveland Police.

FINANCIAL IMPLICATIONS

The cost of licensing sexual establishments will be met from the fees paid by applicants. The fee structure, in terms of the application/renewal fees to be charged, will be determined with a view to full cost recovery. Costs were reviewed in December 2014 and were calculated in accordance with the Local Government Association guidance on locally set fees which was published in January 2014. Fee levels have been set as follows:

New application:	£ 1214
Renewal application:	£ 729
Transfer application:	£ 1069

LEGAL IMPLICATIONS

The adoption of this policy will assist members and officers when considering applications. Each application will be considered on its merits but Members and officers will give due regard to the policy.

RISK ASSESSMENT

The implementation of the Sexual Establishment Policy is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Environment and Housing

The adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act has an impact on the communities' environment. Through the maintenance of the proposed strategic Sex Establishment Licensing Policy there will be opportunities to further improve the environment, to the benefit of all

Safer Communities

Community Safety is one of the main reasons for adopting the revised Schedule 3 of the Act. The administration and enforcement of the Act in accordance with the proposed policy should assist in reducing crime and disorder

EQUALITIES IMPACT ASSESSMENT

This report is not subject to an Equality Impact Assessment because at the time of the previous review the report was judged to have a positive impact. No remedial actions are therefore required.

CONSULTATION INCLUDING WARD/COUNCILLORS

Consultation has been undertaken with Licensing Committee Members, Responsible Authorities and the proposal to revise the policy was advertised in the local press and on the Council's website.

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Education related No

Background Papers None

Ward(s) and Ward Councillors: N/A

Property N/A