

AGENDA ITEM

REPORT TO CABINET

25 FEBRUARY 2021

**REPORT OF SENIOR
MANAGEMENT TEAM**

CABINET / COUNCIL DECISION

Access, Communities and Community Safety – Lead Cabinet Member Councillor Steve Nelson

SEX ESTABLISHMENT LICENSING POLICY REVIEW

SUMMARY

For Cabinet to consider the views and comments received from the Licensing Committee and other interested parties following consultation on the Sex Establishment Licensing Policy review and to make recommendations to Council.

REASONS FOR RECOMMENDATION(S)/DECISION(S)

Anyone operating a sex shop, sex cinema or sexual entertainment venue must obtain a licence to do so. In determining applications Members and officers will have due regard to the policy whilst considering each application on its merits.

RECOMMENDATIONS

It is recommended that Cabinet

1. Note the content of this report.
2. Recommend to Council that the proposed Sex Establishment Licensing Policy is approved with an implementation date of 1st April 2021.

DETAIL

1. The original Sex Establishment Licensing Policy was agreed in 2011 and reviewed in 2015 when minor revisions were agreed.
2. Since the adoption of the original policy in April 2011, no applications for a Sex Establishment Licence have been received by the Authority and no issues or concerns have been raised. There have been no changes to legislation or to the Home Office guidance issued in 2010 which can be viewed at:

<https://www.legislation.gov.uk/ukpga/1982/30>

<https://www.legislation.gov.uk/ukpga/2009/26/part/2/crossheading/sex-establishments>

<https://webarchive.nationalarchives.gov.uk/20100408140149/http://www.crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

3. As a result it is proposed that the current policy remains relatively unchanged. A copy of the draft policy was emailed to all members on 14 December 2020, and can also be found at: <https://www.stockton.gov.uk/our-people/licensing/sex-establishment-licence/>
4. A log of proposed changes is attached as Appendix 1.
5. The proposal to readopt the policy was sent via email to all Members and Responsible Authorities under the Licensing Act, namely Cleveland Police, Children's Services, Environmental Health, Cleveland Fire Service Public Health and Planning.
6. Comments received and any additional information is detailed in Appendix 2.
7. The adoption of a policy for Sex Establishments is not statutory but 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. It is proposed that review period should be 5 yearly for this Policy.
8. Next Steps – summary of the consultation and any further Cabinet Member comments will be considered by full Council on 24 March 2021. If approved it is proposed that the revised policy will be implemented on 1 April 2021.
9. The Policy will then be due for a further review by the end of 2026.

COMMUNITY IMPACT IMPLICATIONS

Community Safety was one of the main reasons for originally 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. Control and regulation of sex establishments ensures the safety of the public and staff and this proposal will enhance public safety objectives of the licensing regime.

FINANCIAL IMPLICATIONS

None. Sexual Entertainment fees are set and reviewed locally and are not affected by this proposal.

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. A person or body aggrieved by the Sex Establishment Licensing Policy could seek to challenge its adoption by issuing legal proceedings by Judicial Review proceedings before the Administrative Court. A claimant must file a claim promptly, and in any event not later than three months after the grounds to make the claim first arose. The implementation and operation of the Sex Establishment Licensing Policy will be done in accordance with the legislation and associated guidance.

RISK ASSESSMENT

The risks associated with the Sex Establishment Licensing Policy are mitigated by the administration and enforcement provisions of legislation and associated guidance.

COUNCIL PLAN POLICY PRINCIPLES AND PRIORITIES

The administration and enforcement provisions within the legislation and associated guidance assist officers in dealing with public safety and can lead to the revocation of a licence.

CORPORATE PARENTING IMPLICATIONS

None.

CONSULTATION INCLUDING WARD/COUNCILLORS

The Cabinet Member for Access, Communities and Community Safety has been consulted, along with Members and Responsible Authorities.

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Education related? No

Background Papers

<https://www.legislation.gov.uk/ukpga/1982/30>

<https://www.legislation.gov.uk/ukpga/2009/26/part/2/crossheading/sex-establishments>

<https://webarchive.nationalarchives.gov.uk/20100408140149/http://www.crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

<https://www.stockton.gov.uk/our-people/licensing/sex-establishment-licence/>

Ward(s) and Ward Councillors:

Not applicable – does not relate directly to specific wards.

Property

Not applicable.