

General Licensing Committee Meeting	
Meeting Date	9 th September 2021
Report Title	Review of Statement of Licensing Policy for Sex Establishments and Sexual Entertainments Venues
Cabinet Member	Cllr Richard Palmer, Cabinet Member for Community
SMT Lead	Charlotte Hudson, Head of Housing, Economy and Community Services
Head of Service	Charlotte Hudson, Head of Housing, Economy and Community Services
Lead Officer	Christina Hills, Licensing Officer
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. Members to note the comments made in the evaluation grid attached as Appendix II to this report. 2. That the draft Sex Establishments Policy as set out in Appendix I to this report be adopted to run for a period of 1st October 2021 – 30th September 2024.

1 Purpose of Report and Executive Summary

- 1.1 At the General Licensing Committee of 1st July 2021, a draft Sex Establishments Policy under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 27 of the Policing and Crime Act 2009 was approved for public consultation. This report sets out the feedback received and recommends adoption of the policy.

2 Background

- 2.1 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. Swale formally adopted the provisions in January 1983.
- 2.2 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 this legislation although it is not mandatory. Swale chose to adopt the provisions on 23rd November 2010 and they became effective as of 1st December 2010.

2.3 There are no sex establishments or sexual entertainment venues currently in the borough.

3 Proposals

3.1 There is no statutory requirement to have a licensing policy for sex establishments and sexual entertainments venues, however it can be considered to be 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. Swale BC therefore initially developed a policy that was approved by Licensing Committee on 23 November 2010.

3.2 Although there is no statutory requirement to undertake a review of the policy statement it is accepted best practice to review it at regular intervals to ensure that policy remains up to date and relevant. Swale has regularly reviewed the policy, with the current edition being adopted in 2018 and which is due to expire on 1st October 2021.

3.3 The existing policy has now been reviewed by officers. There have been no changes to legislation to take into account. The current policy is in keeping with policies that have been adopted by the majority of other local authorities within Kent.

3.4 The rationale for this is that the policy was formulated working in close conjunction with the 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.

3.5 As with the existing policy we propose setting no numerical limits for sexual entertainments venues within Swale. Instead each application will 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.

3.6 As the policy is not a statutory requirement there is no need for it to be formally adopted by Council following consideration by General Licensing Committee.

3.7 The draft statement of licensing policy is attached as **Appendix I**.

4 Alternative Options

- 4.1 The Council could choose not to have a Policy of Sex Establishments and Sexual Entertainments Venues, however, to do so would be contrary to best practice and may lead to a lack of clarity on the application of the legislation.

5 Consultation Undertaken or Proposed

- 5.1 A six week consultation ran from 5th July 2021 until 13th August 2021. Methods of consultation and consultees were agreed by members at the 1st July 2021 meeting of the General Licensing Committee.
- 5.2 Incoming responses were entered onto a grid for consideration. The grid is attached as **Appendix II**.
- 5.3 During the consultation period a total of two (2) responses were received. One response was a comment rather than a request for change. The other response recommended a change to the draft policy for Members to consider.

6 Implications

Issue	Implications
Corporate Plan	Having an adopted Statement of Licensing Policy for Sex Establishments and Sexual Entertainments Venues satisfies the corporate objective of: A Council to be proud of
Financial, Resource and Property	There are no direct financial implications For Swale 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.
Legal, Statutory and Procurement	The relevant legislation in relation to the regulation of sex establishments and sexual entertainment venues is contained within Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended)
Crime and Disorder	The powers allowed within the licensing regime for sex establishments and sexual entertainment venues allow the Council to tackle issues of concern to communities around crime and anti-social behaviour that may sometimes be associated with sex establishments.
Environment and Climate/Ecological Emergency	None identified

Health and Wellbeing	Child Protection Services 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 specified matters to which the authority will have consideration in deciding whether or not to grant an application.
Safeguarding of Children, Young People and Vulnerable Adults	Child Protection Services 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 specified matters to which the authority will have consideration in deciding whether or not to grant an application.
Risk Management and Health and Safety	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.
Equality and Diversity	None identified
Privacy and Data Protection	Normal data protection and privacy rules will apply

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Draft Statement of Licensing Policy for Sex Establishments and Sexual Entertainment Venues
- Appendix II: Consultation response grid

8 Background Papers

Local Government (Miscellaneous Provisions) Act 1982
Policing and Crime Act 2009