

<b>DECISION-MAKER:</b>	<b>LICENSING COMMITTEE</b>		
<b>SUBJECT:</b>	<b>PROPOSED AMENDMENT TO CONDITIONS FOR SEX ESTABLISHMENTS</b>		
<b>DATE OF DECISION:</b>	<b>30 JANUARY 2020</b>		
<b>REPORT OF:</b>	<b>SERVICE DIRECTOR – COMMUNITIES, CULTURE AND HOMES</b>		
<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>		
N/A		
<b>BRIEF SUMMARY</b>		
The Council has previously adopted legislative provisions enabling the regulation of sex establishments, including sexual entertainment venues.		
This report seeks approval to amend the standard licence conditions relating to Sex Establishments.		
<b>RECOMMENDATIONS:</b>		
1.	(i)	That the Committee approve the variation of the conditions for sex establishments, subject to any amendments the Committee wish to make.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>		
2.	The provisions of the Local Government (Miscellaneous Provisions) Act 1982 which pertain to the regulation of sex establishments have been adopted by the Council and amended provisions relating to sexual entertainment venues. Once the provisions were adopted, it was necessary to introduce a licensing policy and application form in relation to sex establishments generally, as well as a pool of licensing conditions to be imposed upon individual licences as necessary. This was approved by the Committee on 25 <sup>th</sup> April 2013, however a variation to several conditions is now deemed appropriate.	
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>		
3.	The Council should implement and review conditions for sex establishments in order to support and underpin the statutory licensing process contained within the Act.	
<b>DETAIL (Including consultation carried out)</b>		
4.	<b><u>Adoption of legislation:</u></b> Sex establishments can be regulated under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act'), provided the appropriate provisions of that Act have been adopted by Council as licensing authority for the area. The definition of sex establishments	

	traditionally included sex cinemas, hostess bars and sex shops, but was widened by section 27 of the Policing and Crime Act 2009 to include sexual entertainment venues.
5.	The Council originally adopted Schedule 3 of the 1982 Act insofar as it related to sex shops and sex cinemas in 1983, and subsequently readopted the provisions with effect from 3 July 1995.
6.	A report was considered by the Licensing Committee on 14 July 2011 regarding the adoption of the power to licence sexual entertainment venues as provided for in the amended 1982 Act. A public consultation was subsequently carried out, and a further report was considered by the Committee on 22 March 2012, which resolved to recommend Council formally adopt the new powers. Council adopted the powers at its meeting of 11 July 2012, and delegated authority to the Head of Legal, HR and Democratic Services to prepare a draft policy (including application form) and standard conditions to be adopted by the Licensing Committee. These were adopted by the Licensing Committee on 25 <sup>th</sup> April 2013.
7.	<p><b><u>Sex Establishment Licensing Conditions:</u></b></p> <p>Schedule 3 to the 1982 Act gives the licensing authority the power to make regulations prescribing standard conditions applicable to licences for sex establishments. Conditions are effectively terms, conditions or restrictions placed upon a licence when it is granted, renewed or transferred. Standard conditions may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Opening and closing hours;</li> <li>• Displays and advertisements on or in sex establishments;</li> <li>• Visibility of the interior of a sex establishment to passers-by;</li> <li>• Any change in use from one kind of sex establishment to another.</li> </ul>
8.	<p>The licensing authority may also specify other conditions specific to individual premises, dependent on the type of activity undertaken and the type of premises. These may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Specifying minimum distances between the audience and performers;</li> <li>• Control of access to changing room facilities;</li> <li>• Control of private viewings.</li> </ul>
9.	The current Standard Conditions applicable to Sex Establishments consisting of Sex Shops, Sex Cinemas or Sexual Entertainment Venues are attached as <b>Appendix 1</b> to this report. Section 6.2 states: The council may substitute, delete, vary or amend these conditions at any time.
10.	The amended Standard Conditions applicable to Sex Establishments consisting of Sex Shops, Sex Cinemas or Sexual Entertainment Venues are attached as <b>Appendix 2</b> to this report, and are presented to the Committee for initial comment before final adoption.
11.	<p>The following amendments to the current conditions are recommended for approval to bring these in line with current practices:</p> <p>Part One – General Conditions</p> <p>4. CCTV</p> <p>4.7 The CCTV system will have sufficient storage capacity for 31 days of good evidential quality images.</p> <p><b>To amend to 28 days which will fall in line with standard requirements.</b></p>

12.	<p>Part One – General Conditions 5. CCTV Access 5.4 The premises shall not be operated pursuant to the grant of a licence until such time as the CCTV System has been approved by the Police. The CCTV must be maintained in a satisfactory working condition and subject to police approval in order to remain operating under the licence.</p> <p><b>In order to clarify the correct Police department to be amended to read:</b></p> <p>5.4 The premises shall not be operated pursuant to the grant of a licence until such time as the CCTV System has been approved by the Police Licensing department responsible for this area. The CCTV must be maintained in a satisfactory working condition and subject to police approval in order to remain operating under the licence</p>
13.	<p>Part Two – Additional Conditions for Premises Operating as Sex Shops 7. Hours of Opening and Closing 7.1 Licensed premises shall not, unless approved in writing by the council, be open for the purposes for which the licence is granted on any Sunday, bank or public holiday.</p> <p><b>To amend the Bank/Public Holidays to read stated days only amending to read:</b></p> <p>7.1 Licensed premises shall not, unless approved in writing by the council, be open for the purposes for which the licence is granted on any Sunday, Good Friday, Easter Monday, Christmas Day or Boxing Day.</p> <p>7.2.1 Monday to Saturday inclusive - 0930 until 2000</p> <p><b>To be amended to work with current practices to read:</b></p> <p>7.2.1 Monday to Saturday inclusive - 0900 until 2000</p>
14.	<p>Part Three – Additional Conditions for Premises Operating as Sexual Entertainment Venues 11. Control of Entry to the Premises 11.1 The Licensee will operate a Challenge 21 Policy whereby prospective customers who appears to be aged 21 or under will be refused admission unless they can prove that they are aged 18 or over by producing suitable photographic identification. Prominent notices must be clearly displayed to this effect at the entrance(s) to the premises.</p> <p><b>To be amended in line with current good practices to Challenge 25:</b></p> <p>11.1 The Licensee will operate a Challenge 25 Policy whereby prospective customers who appears to be aged 25 or under will be refused admission unless they can prove that they are aged 18 or over by producing suitable photographic identification. Prominent notices must be clearly displayed to this effect at the entrance(s) to the premises.</p>
15.	<p>Part Three – Additional Conditions for Premises Operating as Sexual Entertainment Venues 13. CCTV 13.3 The recording system will be able to capture a minimum of 4 frames per second and CCTV images shall be retained for a period of at least 28 days and made available to a police officer or authorised Council officer (subject to the Data Protection Act 1998).The said images shall be down loaded on</p>

	<p>request and a copy provided to such an officer at the earliest practicable opportunity together with any software required to enable playback.</p> <p><b>To comply with any changes in legislation to be amended to read:</b></p> <p>13.3 The recording system will be able to capture a minimum of 4 frames per second and CCTV images shall be retained for a period of at least 28 days and made available to a police officer or authorised Council officer (subject to the Data Protection legislation at the time).The said images shall be downloaded on request and a copy provided to such an officer at the earliest practicable opportunity together with any software required to enable playback.</p>
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
16.	There are no financial implications.
<b><u>Property/Other</u></b>	
17.	Not applicable.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
18.	The Local Government (Miscellaneous Provisions) Act 1982 as amended, gives licensing authorities the ability to regulate sex establishments with the adoption of Schedule 3 to the Act.
<b><u>Other Legal Implications:</u></b>	
19.	<p><b>CRIME AND DISORDER ACT 1998</b></p> <p>Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.</p>
20.	<p><b>HUMAN RIGHTS ACT 1998</b></p> <p>The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.</p>
21.	<p><b>RISK MANAGEMENT IMPLICATIONS</b></p> <p>The risk is assessed as low. There are no finance or service delivery implications. Failure to implement the appropriate conditions could impact on reputational damage.</p>
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
22.	None

<b>KEY DECISION?</b>	No	
<b>WARDS/COMMUNITIES AFFECTED:</b>	N/A	
<b><u>SUPPORTING DOCUMENTATION</u></b>		
<b>Appendices</b>		
1.	The current Standard Conditions applicable to Sex Establishments consisting of Sex Shops, Sex Cinemas or Sexual Entertainment Venues	
2.	A draft copy of the amended Standard Conditions applicable to Sex Establishments consisting of Sex Shops, Sex Cinemas or Sexual Entertainment Venues	
<b>Documents In Members' Rooms</b>		
1.	None	
<b>Equality Impact Assessment</b>		
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?		No
<b>Privacy Impact Assessment</b>		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out?		No
<b>Other Background Documents</b>		
<b>Equality Impact Assessment and Other Background documents available for inspection at:</b>		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None	