

Cherwell District Council

Licensing Committee

21 October 2013

Sex Entertainment Licensing Policy & Procedures

Report of Head of Community Services

This report is public

Purpose of report

The purpose of this report is to outline the changes made in Section 27 of the Policing and Crime Act 2009 amending Schedule 3 of the Local Government (Miscellaneous Provisions) Act, 1982 which enable local authorities to be able to determine applications for sex establishment venues (SEV's) and seek approval for the Council's policy in dealing with such matters

1.0 Recommendations

The meeting is recommended to:

- 1.1 Agree that the proposed policy setting out the Councils approach to governing the operation of Sexual Establishment Venues as set out at Appendix 1 be adhered to when determining all applications for such venues
- 1.2 Agree that the proposed conditions within the attached policy governing the operation of Sexual Entertainment Venues be approved and attached to all licences issued by the Council.
- 1.3 Agree that the proposed amendments as a result of the consultation responses as attached at Appendix 5 be incorporated into the final policy
- 1.4 Note that the finalised policy be published on 6 January 2014
- 1.5 Authorise the Head of Community Services in consultation with the Chairman of the Licensing Committee, to set and make any minor alterations to the setting of fees in relation to the processing of applications for sexual entertainment venues

2.0 Introduction

- 2.1 The Policing and Crime Act 2009 introduces amendments to Section 2, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 permitting local authorities to be able to determine applications for sexual entertainment venues

- 2.2 In March 2011, a request was put before the Licensing Committee to adopt the relevant schedules of the Act and for a policy to be formulated to govern these activities. These requests were approved and a copy of the minutes of this meeting is attached at Appendix 2.
- 2.3 A policy to govern SEV's was planned to be in place by 2012. Unfortunately, due to changes in personnel within the Licensing Department and other legislative requirements, it has not been able to formulate and consult upon a policy until now.

3.0 Report Details

- 3.1 Prior to 1982 there was no control over the operation of sex establishments. Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act (LGMPA) 1982 enabled local authorities the power to licence sex establishments, defined in this particular Act as sex shops and sex cinemas. The Council adopted these provisions on 2 June 1983
- 3.2 The Local Government (Miscellaneous provisions) Act 1982 gave local authorities the power to licence sex establishments, defined in this particular Act as sex shops and sex cinemas.
- 3.3 Originally a separate provision of the 1982 Act gave local authorities powers to regulate adult entertainment by means of a Public Entertainment Licence. The introduction of the Licensing Act 2003 abolished Public Entertainment Licences; instead any premise engaged in any one of the licensable activities listed in the Licensing Act 2003 had to apply to the local authority for a Premise Licence. This was not a like for like replacement, however, and had the effect of leaving sexual entertainment unregulated by the local authority.
- 3.4 Cherwell District Council currently has 2 premises that would require licensing under the new provisions. There are no current licensed sex shops in the district.
- 3.5 There is no statutory requirement on a local authority to have a policy on SEV licensing, but it is best practice to adopt a policy which sets out its approach for the benefit of operators, guides and reassures the public and other public authorities and ensures transparency and consistency.
- 3.6 Currently, there are no fees set for applications in relation to sexual entertainment venues as this type of application has not previously existed. The Policing and Crime Act 2009 allows local authorities to charge a reasonable and proportionate fee. Therefore, it is proposed that the fees will be set at the same level as sex shops which are currently £3,000.
- 3.7 The full draft policy is attached to this report at Appendix 1.
- 3.8 Consultation upon this policy took place from 12 August 2013 to 16 September 2013, inclusively. The consultation was advertised via press notices in local papers and upon the Council's consultation portal. In addition, responsible authorities and stakeholders were written to advising them of the consultation.
- 3.9 During the consultation, two responses were received from local residents. These responses are summarised at Appendix 5 along with the relevant amendments made as a result of the responses.
- 3.10 No other responses were received during the consultation period.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The Head of Community Services has a duty of care to the public and so any determination will always be made in the interest of public safety as well as service provision to the public
- 4.2 The SEV policy will allow the Licensing Authority to carry out its functions in a transparent approach with clear guidance to the Authority, Applicants, local residents and businesses alike.
- 4.3 Each application must be considered on its own merits

5.0 Consultation

Consultation was carried out in accordance with the requirements of the Act as detailed at paragraph 3.8. A full list of all consultees is attached at Appendix 4 and a summary of responses is attached at Appendix 5.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following options have been identified. The approach in the recommendations believed to be the best way forward.

Option 1: To approve all of the options set out in the recommendations

Option 2: To approve all of the options set out in the recommendations with amendments

Option 3: To disregard the policy and allow the activities to remain unregulated

7.0 Implications

Financial and Resource Implications

- 7.1 The recommended fees would enable the Licensing Department to fulfil their function as the Licensing Authority as the costs of issuing and enforcing the new licensing arrangements can be met from the proposed budget.

Comments checked by:

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Legal Implications

- 7.2 There is no statutory requirement to implement this policy. However the implication of not having such a policy in place would be to permit unregulated activities to take place within the district with minimal power for the Licensing Authority to take any enforcement action.

Comments checked by Paul Manning, Solicitor, 01295 221691
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Wards Affected

All

Links to Corporate Plan and Policy Framework

As detailed in the current Service Plan

Lead Councillor

None

Document Information

Appendix No	Title
1	Draft Sex Entertainment Licensing Policy and procedures
2	Copy of minutes from Licensing Committee, March 2011
3	Copy of consultation letter
4	List of Responsible Authorities and Stakeholders consulted
5	Summary of consultation responses and proposed amendments
Background Papers	
None	
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