

CANNOCK CHASE COUNCIL

COUNCIL

28 SEPTEMBER 2011

REPORT OF THE HEAD OF ENVIRONMENTAL HEALTH

RESPONSIBLE ENVIRONMENT PORTFOLIO LEADER: ENVIRONMENT

DRAFT POLICY ON SEX ESTABLISHMENTS

KEY DECISION - NO

1. Purpose of Report

1.1 To seek Council approval of a draft Policy on Sex Establishments.

2. Recommendations

2.1 That the draft Policy, as attached at Annex 1 to this report, be approved and adopted by Council.

3. Summary (inc. brief overview of relevant background history)

3.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 relates to sex establishments. It was amended by Section 27 of the Policing and Crime Act 2009 to allow the regulation and control of places such as lap-dancing clubs.

3.2 These discretionary powers were adopted by the Council on 16 February 2011 and became effective from 4 April 2011.

3.3 A draft Policy has been prepared and has undergone full public consultation. It is intended that the final version, once adopted by the Council, will be the instrument by which the Council administers, executes and enforces its duties towards sex establishment licences.

3.4 The focus of the draft policy is on Sexual Entertainment Venues, however it is also intended to be relevant to sex shops and sex cinemas.

4. Key Issues and Implications

4.1 It is a requirement for sex shops to be licensed by the Council. There is currently one sex shop within Cannock Chase District which is situated on an industrial estate.

4.2 The adoption of the new provisions of the Act means that sexual entertainment venues such as lap-dancing clubs will also require to be licensed if they offer such entertainment in excess of 11 times in any 12 months. There is currently one such venue within Cannock Chase District and whilst it is a town centre venue, it operates at first floor level.

4.3 There are no sex cinemas operating within Cannock Chase District at present.

- 4.4 The draft Policy sets out the process for application of any one of the three establishment licences, specific mandatory grounds for refusal, discretionary grounds for refusal which include inappropriateness due to the character of the locality and the number of such venues.
- 4.5 It is likely that lap-dancing clubs and similar venues will also be required to be licensed for the sale of alcohol and regulated entertainment under the provisions of the Licensing Act 2003.
- 4.6 It is intended that contested applications and all applications for variation will be considered by the Licensing and Public Protection Committee.

5. Conclusion(s) and Reason(s) for the Recommendation(s)

- 5.1 It is considered important to have a Policy on Sex Establishments in order that the Council, applicants and the public have a framework for the regulation of such venues.
- 5.2 A draft Policy has been prepared and fully consulted upon. Valid comments received have been given due consideration and the draft document amended as appropriate. The consultation responses and their evaluations are given as Annex 2 to this report.
- 5.3 Comments have also been received from two people regarding morality issues; one from a member of the public who stated that she had not read the draft policy and one from a Church Leader as an addendum to his valid response. The Council is unable to consider morality issues when regulating sex establishments.
- 5.4 The owner of the only venue within Cannock Chase to currently provide lap dancing in his premises has written to the Council outside of the consultation period to ask for a pro rata licence fee to be applied to his business. Lap dancing is offered on a weekly basis at this venue. The legislation provides an exemption from the licensing regime for 'infrequent' sexual entertainment. "Infrequent" means on no more than 11 occasions in any 12 month period; is no more frequently than once a month and with each event lasting no longer than 24 hours. There is no facility to offer a reduction in licence fees for a premises that provides sexual entertainment on a basis that falls outside the definition of "infrequent".
- 5.3 The draft Policy must be considered, agreed and adopted by full Council before it can be implemented.

6. Other Options Considered

- 6.1 Due to the potential contentious issues surrounding sexual entertainment venues, no other option has been considered.

7. Report Author Details

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SCHEDULE OF ADDITIONAL INFORMATION

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Section 1

Contribution to Corporate Priorities

The adoption of a policy on sex establishments will facilitate better regulation of these types of premises within the District.

Section 2

Contribution to Promoting Community Engagement

The draft Policy has been subject of public consultation.

Section 3

Financial Implications

The cost of consultation has been met from existing budgets. It is anticipated that the cost of implementing the final scheme will be fully recovered from the fees and charges set. The level of fees and charges will be reviewed annually. If the licence application is refused, the applicant can challenge the refusal by way of appeal to the Magistrates Court and this may incur additional costs to the Council.

Section 4

Legal Implications

There is no legal requirement for a sex establishment policy. Policies can provide a sound platform for proper decision making in accordance with the relevant legislation. They can also assist in ensuring the consistency and transparency of decision making. However, policies must ensure that each case is judged on its own merits and any restrictions are properly justified.

Section 5

Human Resource Implications

There are no direct human resource implications arising from this report at this stage.

Section 6

Section 17 (Crime Prevention)

It is intended to liaise closely with Staffordshire Police to establish protocols for effective enforcement.

Section 7

Human Rights Act Implications

Should it be decided to refuse a licence or to grant a licence with conditions, there is right of appeal to the Magistrates' Court and this ensures that the principles of the Human Rights Act are adhered to.

Section 8

Data Protection Act Implications

It was made clear during the consultation process that persons who wished to comment on the draft Policy would have their details made available to Council Members.

Section 9

Risk Management Implications

There is the potential for inconsistency of approach unless there is a Policy document as a framework to decision making.

Section 10

Equality and Diversity Implications

There are no direct equality or diversity implications arising from this report.

Section 11

List of Background Papers

Report to Council 16 February 2011.

Report to Cabinet 15 September 2011

Section 12

Report History

Leadership Team 14 June 2011

Licensing & Public Protection Committee 28 June 2011

Cabinet 15 September 2011

Annexes

Annex 1: Draft Policy on Sex Establishments

Annex 2: Consultation responses and evaluations