

**Gambling, Licensing & Regulatory Committee** 13 September 2016

Report from the Assistant Director – Housing and Community Safety

## **Licensing of Sex Establishments – Review of Licensing Policy**

### **Summary**

1. This report seeks Members' approval to formally consult on a proposed revised Licensing Policy which relates to the licensing of sex establishments within the authority area.

### **Recommendations**

2. That Members **approve Option 1** of this report.

**Reason:** This will allow the Council to formally consult on the draft revised Licensing Policy.

### **Background**

3. In 2010 the Government introduced a new category of sex establishment called a 'sexual entertainment venue'. This reclassified lap dancing clubs and other similar venues as sexual entertainment venues (SEVs), and gave local authorities the powers to regulate such venues.
4. At a meeting of the Licensing and Regulatory committee on 2 July 2010 members resolved to adopt the provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009, with effective from 1 December 2010. Full Council approved this resolution on 7 October 2010.
5. The current policy and standard conditions approved by members in 2010 can be found at Annex 1 and 2.
6. In 2015 members of this committee asked officers to review this policy and standard conditions.

7. Following this request officers sought best practice advice from other licensing authorities, who had also reviewed their policies. Officers have developed an approach to this policy review based on good examples of best practice.
8. A working group was formed to review the policy. This group was made up of members of this committee, council officers and the police.
9. The working group reviewed the existing policy and standard conditions. The group undertook a public consultation with regard to the licensing of sexual entertainment venues, especially in relation to the appropriate number of lap dancing clubs and the most appropriate locations for them. The responses to this consultation are summarised below.
10. The working group undertook unannounced site visits to the two licensed SEVs, on an evening to see how they operator and speak directly to the managers and the dancers about the day to day operation of the lap dancing clubs. In this context the working group has reviewed the existing policy and standard conditions.
11. The responses to the public consultation have also assisted in the formulation of this draft revised policy, which can be found at Annex 3.
12. Prior to consultation on this policy members need to consider what the Council's approach should be to a limitation of the number of licensed premises and the most appropriate location(s) for them. Members also need to determine the appropriate scheme of delegation in relation to sex establishment licences.

## **Consultation**

13. A public consultation took place between 24 June to 5 August 2015, to gain the views of residents and businesses with regard to the appropriate localities and numbers of SEVs. A total of 329 online surveys were submitted. The feedback from this consultation has assisted in the formulation of the draft revised policy.
14. This report seeks members' approval to formally consult on the proposed revised Licensing Policy. Subject to members' approval, the public consultation will run for 8 weeks, starting on 19<sup>th</sup> September 2016 and shall accord with the Council's consultation strategy. Members of the public shall be informed of the consultation via the Council's website

and by directly mailing. The final revised policy taking account of the public consultation responses shall be presented to this committee for approval in due course.

## **Options**

15. Option 1 – Authorise officers to consult on the draft revised Licensing Policy with agreed appropriate maximum numbers of licensed premises and the most appropriate localities for them, the delegation scheme and the draft standard conditions (attached at Annex 3).
16. Option 2 – Authorise officers to consult on an alternative draft revised Licensing Policy and draft standard conditions.
17. Option 3 – Determine that a Licensing Policy in this format is not required, with the current policy and standard conditions remaining in place.

## **Analysis**

18. The Council currently licences three sex establishments, one sex shop and two SEVs. The SEVs are located in Micklegate and Toft Green.
  - Sex Shop – means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in the connection with, or for the purpose of stimulating or encouraging sexual activity.
  - Sexual Entertainment Venue – means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser (i.e. a person who is responsible for organisation of management of the entertainment or the premises).
  - Relevant entertainment – means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
19. The public consultation responses provided some guidance to the working group about the locations and numbers of SEVs. The survey

had 329 responses. A postcode was provided by 72% of respondents, which was used to identify wards, detailed in the table below:

| <b>Ward</b>                        | <b>Number</b> |
|------------------------------------|---------------|
| Guildhall Ward                     | 40            |
| Micklegate Ward                    | 38            |
| Holgate Ward                       | 23            |
| Clifton Ward                       | 22            |
| Fishergate Ward                    | 20            |
| Hull Road Ward                     | 16            |
| Dringhouses and Woodthorpe Ward    | 14            |
| Heworth Ward                       | 9             |
| Westfield Ward                     | 8             |
| Fulford and Heslington Ward        | 7             |
| Wheldrake Ward                     | 7             |
| Haxby and Wigginton Ward           | 6             |
| Acomb Ward                         | 5             |
| Strensall Ward                     | 5             |
| Rawcliffe and Clifton Without Ward | 4             |
| Rural West York Ward               | 4             |
| Bishopthorpe Ward                  | 3             |
| Copmanthorpe Ward                  | 3             |
| Huntington and New Earswick Ward   | 3             |
| Osbalwick and Derwent Ward         | 1             |
| No postcode or ward                | 91            |
| <b>Total</b>                       | <b>329</b>    |

It was not possible to use this information for profiling.

20. Respondents were asked to what extent they agreed that it would **not** be acceptable to locate a SEV in different types of locations. 325 responses were received, the following table details the responses received:

| <b>Area</b>   | <b>Agree</b> | <b>Disagree</b> | <b>Neither agree or disagree</b> |
|---|--------------|-----------------|----------------------------------|
| City centre   | 42%          | 53%             | 5%                               |
| Rural   | 47%          | 40.5%           | 12.5%                            |
| Busy late night economy                               | 39%          | 54%             | 7%                               |
| Built up – i.e. Front Street Acomb, Bishopthorpe Road | 49%          | 40%             | 11%                              |
| Retail parks – i.e. Clifton Moor, Monks Cross         | 46%          | 44%             | 10%                              |

|  |     |     |     |
|--|-----|-----|-----|
| Residential                                  | 61% | 32% | 7%  |
| Industrial                                   | 43% | 44% | 13% |
| Would not be acceptable in any locality York | 39% | 55% | 6%  |

- These figures show that 39% of respondents feel that it would not be acceptable to have a SEV in any location in York. 55% of respondents have no issues with a SEV been located in York.
- Respondents feel the most acceptable locations for a SEV are the city centre (53%) and busy late night economy areas (54%).
- Respondents feel that rural (47%), built up (49%) and residential (61%) areas are not acceptable locations for a SEV.

21. Respondents were asked for their opinion on which localities in York where it **would** be acceptable to locate a SEV. 221 responses were received.

- 130 respondents were in favour of SEVs, 45 felt that SEVs would be acceptable in any location in York, others made suggestions such as the city centre, late night economy area (including present locations) and outside the city centre. Other issues raised included:
  - Proper regulation of the clubs and welfare of employees should be a priority when considering location;
  - Unsuitable locations such as residential areas, places of worship and schools should be avoided;
  - Importance of discretion in location and outside appearance;
  - Location should be dictated by demand and business or economic case.
- 91 respondents made comments against SEVs, suggesting there are no acceptable locations. There were three main themes from those against:
  - Moral objections to clubs and the exploitation of women;
  - Feeling that venues are not in keeping with York's cultural image;
  - Concerns that venues do or would contribute to anti-social behaviour associated with the late night economy.

22. Respondents were asked to what extent they agreed that it would **not** be acceptable to locate a SEV on or near the locations detailed in the table below. 267 responses were received.

| <b>Area</b>  | <b>Agree</b> | <b>Disagree</b> | <b>Neither agree or disagree</b> |
|--|--------------|-----------------|----------------------------------|
| Low/High Ousegate, Duncombe Place                            | 48%          | 44%             | 8%                               |
| St Leonards Place, Museum St, Blake St, St Helens Sq, Lendal | 48%          | 44%             | 8%                               |
| Davygate, St Sampson's Sq, Parliament St                     | 48%          | 44%             | 8%                               |
| Stonegate, Swinegate, Grape Lane                             | 47%          | 46%             | 7%                               |
| Goodramgate, Church St, Kings Sq, Colliergate                | 48%          | 45%             | 7%                               |
| Pavement, Stonebow   | 43%          | 47%             | 10%                              |
| Fossgate, Piccadilly   | 45%          | 46%             | 9%                               |
| Coppergate, Castlegate                                       | 48%          | 45%             | 7%                               |
| Tower St, Clifford St, Kings Staith                          | 47%          | 45%             | 8%                               |
| High Ousegate, Coney St                                      | 47%          | 45%             | 8%                               |
| Low Ousegate, Bridge St, North St, Skeldergate               | 45%          | 47%             | 8%                               |
| Tanner Row, Micklegate, Toft Green                           | 41%          | 54%             | 5%                               |
| Nunnery Ln, Blossom St, Queen St, Station Rd, Station Rise   | 44%          | 48%             | 8%                               |
| Would not be acceptable in any locality of the city centre   | 43%          | 53%             | 4%                               |

- These figures show that 43% of respondents feel that it would not be acceptable to have a SEV in any location in the city centre. 53% of respondents have no issues with a SEV being located in York.
- Respondents believe the most acceptable locations for a SEV are Tanner Row, Micklegate, Toft Green (54%).
- Respondents believe that High/Low Ousegate (48%), St Leonards Place (48%), Davygate (48%), Goodramgate (48%) and Coppergate (48%) areas are not acceptable locations for a SEV.

23. The council can use its Licensing Policy to state the number of SEVs which it thinks is the appropriate number for a locality, this could be zero. This will not stop the council deciding on a greater or smaller number in individual cases but would set out the council's policy on the

correct number that it considers to be appropriate for a particular locality.

24. Respondents were asked if they believed that the Council should set a maximum number of SEVs for any locality in York. 283 responses were received. 63% of respondents believe that the Council should set a maximum number of SEVs, 37% do not.
25. Respondents were asked how many SEVs the Council should allow in the locations detailed in the table below. 281 responses were received.

| Location                     | 0   | 1   | 2   | 3  | 4  | 5  | 6  | 7 | 8+  |
|------------------------------|-----|-----|-----|----|----|----|----|---|-----|
| Within the city walls        | 39% | 9%  | 12% | 5% | 4% | 0  | 0  | 0 | 31% |
| Rural area                   | 56% | 6%  | 5%  | 2% | 1% | 0  | 1% | 0 | 29% |
| Busy late night economy area | 40% | 6%  | 11% | 5% | 3% | 1% | 2% | 0 | 32% |
| Built up areas               | 53% | 3%  | 9%  | 3% | 1% | 0  | 1% | 0 | 30% |
| Retail parks                 | 50% | 8%  | 8%  | 2% | 1% | 1% | 0  | 0 | 30% |
| Residential areas            | 65% | 2%  | 6%  | 0  | 0  | 0  | 1% | 0 | 26% |
| Industrial areas             | 46% | 10% | 9%  | 1% | 1% | 1% | 0  | 0 | 32% |

- 19% of respondents would like to see the appropriate maximum number set at four or less. The most commonly chosen option was to have no SEVs at all, 50%.
- 30% of respondents saw no issues with the maximum number being set at eight or more.

26. Respondents were asked to what extent they agreed that it would **not** be acceptable to operate SEVs near particular areas and types of buildings, detailed in the table below. 271 responses were received.

| Area  | Agree | Disagree | Neither agree or disagree |
|---|-------|----------|---------------------------|
| Residential   | 62%   | 31%      | 7%                        |
| Retail shopping                                       | 51%   | 40%      | 9%                        |
| Late night entertainment                              | 39%   | 55%      | 6%                        |
| Financial institutions such as banks                  | 41%   | 44%      | 15%                       |
| Historic buildings                                    | 51%   | 38%      | 11%                       |
| Sports centres/facilities                             | 48%   | 41%      | 11%                       |
| Cultural leisure facilities such as libraries/museums | 55%   | 37%      | 8%                        |
| Family leisure facilities such as cinemas/theatres    | 58%   | 36%      | 6%                        |
| Places used for celebration or                        | 56%   | 36%      | 8%                        |

|                               |     |     |     |
|-------------------------------|-----|-----|-----|
| commemoration                 |     |     |     |
| Places of worship             | 59% | 33% | 8%  |
| Play areas or parks           | 63% | 31% | 6%  |
| Schools/colleges/universities | 58% | 35% | 7%  |
| Youth facilities              | 61% | 34% | 5%  |
| Women's refuge facilities     | 61% | 33% | 6%  |
| Train station or bus station  | 47% | 40% | 13% |

- Respondents feel that it would be more acceptable to locate a SEV in late night entertainment areas (55%).
- Respondents feel that residential (62%), youth facilities (61%) and women's refuge facilities (61%) are not acceptable locations for a SEV.

27. The results of this survey were analysed to find out if there were any differences between groups of respondents; including gender, age, ethnic backgrounds, sexual orientation, religion or belief and location. It was clear that the only factor consistently linked to differences of opinions was gender. A difference between the sexes was apparent, more female respondents gave answers and comments against SEVs, whilst male respondents made more supportive comments. For example:

- 53% of women strongly agree it would not be acceptable to locate SEVs anywhere in York, whereas only 23% of men feel this way.
- 59% of women strongly agree it would not be acceptable to locate SEVs anywhere in the city centre, compared with 27% of men.

28. This information has been used to identify the types of premises/places with particular sensitive uses that it would be considered inappropriate to locate a SEV near to.

29. This information can also be used to set suitable localities and maximum numbers:

- 57% of respondents feel that it would not be acceptable to locate a SEV in locations outside of the city centre, busy late night economy and industrial areas.
  - It is therefore suggested that a Nil Policy is in place for outside of the city centre, with the city centre being defined as the same area as the cumulative impact zone identified for the purposes of the Council's Statement of Licensing Policy pursuant to the Licensing Act 2003.



- 50% of respondents feel that the acceptable maximum number of SEVs in York should be Nil. 30% feel that there should be no limit on numbers. 14% of respondents feel that the acceptable maximum number of SEVs should be two or less. However, 19% feel that an acceptable number should be four or less.
  - It is therefore suggested that a maximum should be set at four premises for the city centre. Members are aware that all applications must be determined on their own merits, and the locality still can be taken into consideration with regards to premises/places with particular sensitive use.

30. Under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 the Council can prescribe standard conditions which will be attached to every licence issued by the Council, unless specifically excluded or varied at the request of the applicant/licence holder, following a hearing. Different provisions can be made for SEVs and sex shops. The conditions would be imposed on all licences in a similar way to the mandatory conditions which are imposed on all Licensing Act 2003 licences. Draft standard conditions are attached at Annex 3.
31. If deemed necessary, the Council may add to, change or replace the standard conditions with conditions that are relevant to the application.

### **Council Priorities**

32. The implementation of a Licensing Policy will support the Council's plan of a prosperous city for all, where local businesses can thrive and a council that listens to residents.

### **Implications**

33. The direct implications arising from this report are:
- (a) **Financial** – There are no financial implications for the council.
  - (b) **Human Resources (HR)** - There are no HR implications.
  - (c) **Equalities** – An equalities impact assessment will be undertaken in relation to the new Licensing Policy.
  - (d) **Legal** – There is no statutory requirement to adopt a Licensing Policy however, it is best practice to do so. Whilst an adopted policy will be a consideration in determining applications it should be noted that irrespective of the details of a sex establishment licensing policy, the Council must accept and determine properly

made applications and must consider each one on its own merits so that individual circumstances, where appropriate, are taken into consideration.

- (e) **Crime and Disorder** – The Licensing Policy introduces requirements to aid the prevention of crime and disorder.
- (f) **Information Technology (IT)** - There are no IT implications.
- (g) **Property** - There are no property implications.
- (h) **Other** - There are no other implications.

## Risk Management

34. There are no known risks associated with this report.

## Contact Details

|   |   |            |                      |
|---|---|------------|----------------------|
| <b>Author:</b>  | <b>Chief Officer Responsible for the report:</b>                      |            |                      |
| Lesley Cooke<br>Licensing Manager<br>01904 551515   | Steve Waddington<br>Assistant Director – Housing and Community Safety |            |                      |
|   | <b>Report Approved</b>  | √          | <b>Date</b> 26/08/16 |
| <b>Specialist Implications Officer(s)</b><br>Sandra Branigan<br>Senior Solicitor<br>Ext: 1040 |   |            |                      |
| <b>Wards Affected:</b>  |   | <b>All</b> | √                    |
| <b>For further information please contact the author of the report</b>                        |   |            |                      |

## Background papers

Local Government (Miscellaneous Provisions) Act 1982 as amended

**Annex 1** – current Licensing Policy

**Annex 2** – current Standard Conditions

**Annex 3** – draft revised Licensing Policy and draft standard conditions