

**Executive**

**27 April 2017**

**Report of the Director of Economy and Place (Portfolio of the Executive Member for Housing and Safer Neighbourhoods)**

**Licensing of Sex Establishments – Licensing Policy**

**Summary**

1. In accordance with the requirements of the Council's Constitution, this report seeks the Executive's formal adoption of the new Licensing Policy which relates to the licensing of sex establishments. It advises of the consultations undertaken, and the amendments made to the draft policy following the consultation. The Licensing Policy was approved by Gambling, Licensing and Regulatory Committee (GLR Committee) on the 6 February 2017.

**Recommendations**

2. That Members approve Option 1 of this report and adopt a revised Licensing Policy relating to the licensing of sex establishments.

Prior to their approval of the proposed Licensing Policy the GLR Committee took into consideration the responses received to the public consultation.

**Reason:** This will allow the Council to implement a more robust Licensing Policy and conditions relating to the licensing of sex establishments.

**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 (1982 Act), with effect from 1 December 2010. Full Council approved this resolution on 7 October 2010.
5. Unlike other licensing regimes, there is no statutory requirement for local authorities to set policies in relation to the licensing of sex establishments. It is, however, considered best practice to do so as the benefits bring transparency, accountability, certainty, consistency and the promotion of good standards in licensing. Policies are an integral part of the decision-making process. A policy guides, but does not bind, a local authority.
6. In 2010 a Licensing Policy and standard conditions were approved by members, as part of the resolution to adopt the provisions of the 1982 Act. The Policy was deemed to be adequate at that time.
7. Since this policy was approved the operation of sex establishments have changed. The number of sex shops has reduced (internet sales) and sexual entertainment venues have become more high profiled, with the venues in York requesting longer operating hours. Legal precedence surrounding policies has also been set since 2010, following legal challenge to policies and council decisions.
8. In 2015 members of the GLR Committee asked officers to review this policy and standard conditions, to produce a more robust policy and more robust standard conditions.
9. 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. A working group was formed to review the policy. This group was made up of members of the GLR Committee, council officers and the police.

10. The group undertook a public consultation between 24 June to 5 August 2015 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 results of the public consultation assisted in the formulation of the proposed Licensing Policy.
11. A report was brought to GLR Committee on the 13 September 2016, detailing the results of the public consultation, and asking for approval to formally consult on a proposed Licensing Policy. This proposed policy took into consideration the results of the public consultation. Members authorised officers to go out for formal consultation on the proposed policy with one amendment, that the appropriate number of sexual entertainment venues should be set at two, as they believed this was in line with the results of the public consultation and an adequate number for the acceptable locality.

## **Consultation**

12. An 8 week consultation was carried out on the proposed revised Licensing Policy, from the 19 September to 14 November 2016.
13. As part of the consultation process the Council consulted over 40 organisations/individuals (see Annex 1 for list of consultees) and the three licensed sex establishments premises within the authority area.
14. Two responses were received to the consultation from Make it York and North Yorkshire Police.

## **Options**

15. Option 1 – approve and adopt the revised Licensing Policy (incorporating standard conditions) at Annex 2 to this report. Prior to their approval of the Licensing Policy GLR Committee took into consideration the responses received to the public consultation.
16. Option 2 – make further minor amendments and editing changes to the revised Licensing Policy at Annex 2 to this report which do not alter the substance of the document prior to approval and adoption.

## Analysis

17. 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).
18. During the consultation on the proposed Licensing Policy members of GLR Committee undertook unannounced site visits to the two licensed SEVs, on an evening to see how they operate and speak directly to managers and dancers about the day to day operation of lap dancing clubs.
19. Two responses were received to the consultation:
  - a) Make It York – we are keen to discourage as much as possible the development of such establishments. York is facing an ongoing battle of anti-social behaviour and ‘sex establishments’ are not conducive to the ‘family friendly’ atmosphere that Make It York and many other organisations are trying to create and promote. We hope that any final policy is as tight as it possible can be in terms of limiting any expansion in this area.
  - b) North Yorkshire Police – fully support the amendments and changes that have been looked at for the new and improved Licensing Policy for the City of York. My only observation

would be that any variations / transfers of sexual entertainment venue licence should be consulted by the Sub Committee at the least rather than a delegated officer. There may well be concerns that committee members (via residents) have and I believe it would be more appropriate to consult with at least the Sub Committee.

20. Each application for a sex establishment must be considered on its own merits. There is however, provision within the 1982 Act to impose a numerical control on the number of sex establishments in a particular locality. Within the Licensing Policy premises/places with particular sensitive uses have been identified, along with an appropriate locality in relation to SEVs, and an appropriate number of SEVs within this locality.
21. Appendix B 'Schedule of Delegation' within the proposed Licensing Policy has been amended to reflect the comments from North Yorkshire Police and the recommendations made by GLR Committee when they approved the policy.

#### Proposed Licensing Policy

22. The proposed policy is attached an Annex 2.

#### **Council Priorities**

23. 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**

24. 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 impaction 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**

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

**Contact Details**

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		<b>Report Approved</b>	√	<b>Date</b> 17/03/17
<b>Specialist Implications Officer(s)</b> Sandra Branigan Senior Solicitor 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

Agenda and minutes of the Gambling, Licensing and Regulatory Committee on the 6 February 2017

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=606&MId=9638&Ver=4>

## **Annexes**

**Annex 1** – List of Consultees

**Annex 2** – Licensing Policy (incorporating standard conditions)

## **List of Abbreviations Used in this Report**

GLR Committee - Gambling, Licensing and Regulatory Committee

SEVs – Sexual Entertainment Venues