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**Report of the Assistant Chief Executive (Corporate Governance)**

***Licensing Committee***

**Date:** 15<sup>th</sup> March 2011

**Subject:** Sex Establishment Fees and Charges  
Local Government (Miscellaneous Provisions) Act 1982

**Electoral Wards Affected:**

**Specific Implications For:**

Ethnic minorities

Women

Disabled people

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**Executive Summary**

Sex establishments, meaning a sex cinema or a sex shop are licensed under the Local Government (Miscellaneous Provisions) Act 1982. An applicant for the grant, renewal or transfer of a licence under the Act pays a reasonable fee determined by the appropriate authority.

Recent changes in the law, namely the European Services Directive, have determined that licence application fees are to be proportionate to the effective cost of the procedure dealt with.

In addition the Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 s2 and Sch 3 to introduce a new classification of sex establishment, namely sexual entertainment venues.

These two changes have precipitated a review of the application fees charged by the council for these applications.

## **1.0 Purpose Of This Report**

- 1.1 To seek members approval in principal to the proposed fees, subject to consultation with the industry which will take place during the wider consultation on the new Sex Establishment Statement of Licensing Policy from April to June 2011.

## **2.0 Background Information**

- 2.1 The council currently licences five retail outlets which trade as adult shops. There are no licensed sex cinemas in the Leeds District. From the 1st October 2011 the council will receive applications from existing sexual entertainment venues and there are eight premises which outwardly advertise as “Gentlemen’s Clubs” and a number of other premises which offer sexual entertainment on an occasional basis.
- 2.2 The current fee for a sex establishment licence was approved by the Licensing and Regulatory Panel in 2008. This was reviewed following written representations from Darker Enterprises.
- 2.3 This agreed fee has been subject to minor annual increments and the current charges presently stand at:
- New application           £8098 with a refund of £1860 if refused or withdrawn
  - Renewal                   £3271.67 with a refund of £1674 if refused or withdrawn
- 2.4 The current fees include an element of the licensing sections costs post grant of the licence such as an annual compliance check with a contribution to the investigation of unlicensed operators.

## **3.0 Main Issues**

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 permits the council to set a reasonable fee. While in the past this gave a wide discretion, Art 12.2 of the European Services Directive provides:

*‘2. Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures.’*

- 3.2 In addition officers have received verbal requests from the current sex shops to review the current fees in line with the European Services Directive.

- 3.3 Enquiries made with other local authorities reveal that the majority of authorities are reviewing their fees and charges this year. The core cities current charges are as follows:

Licensing Authority	New	Renewal	Transfer	Variation
Birmingham	£9,935	£9,935		
Bristol	£8,000	£5,500	£796	£63
Nottingham	£13,840	£11,100		
Manchester	£5,142	£5,142		
Sheffield	£5,200	£4,400		

- 3.4 Enquiries were also made with the neighbouring West Yorkshire authorities:

Licensing Authority	New	Renewal	Transfer	Variation
Bradford	£5,658	£5,658		
Calderdale	£2,433	£2,433		£2,433
Kirklees	£2,575	£2,575		
Wakefield	£2,876	£2,876		

- 3.5 Following a comprehensive costing exercise, in which all the current charges for services were examined, the following charges are proposed:

**3.5.1 New, renewal, transfer application: £2,300**

This fee includes:

- Application processing
- Inspection of notices
- Dealing with objections
- Compilation of committee report
- Chairs brief
- Notices of Hearing
- Site visits
- Associated hearing costs
- Notice of Decision.
- Production of licence

**3.5.2 Maintenance fee: £500 payable within 30 days of grant**

Maintenance fee includes the cost of updating personnel records, an annual compliance check and investigation of complaints/unlawful activities.

**3.5.3 Variation: £600**

A variation may include a change of the details on the licence, i.e. operating hours, conditions etc, change of external appearance, new advertising material, structural changes, new vehicle (with new style of advertising).

This fee includes:

- Application processing
- Notice of Hearing
- Associated hearing costs
- Notice of Decision
- Site visit
- Production of licence

3.6 The new charges are to be applied to all categories of sex establishments as licensed under the Local Government (Miscellaneous Provisions) Act 1982, including:

- Sexual establishment licensing
- Sex shops (retail)
- Internet and mail order sales
- Sex cinemas (showing R18 classification films)

3.7 It should be noted that sexual entertainment venues will still be subject to the Licensing Act 2003 fees which range from £100 to £635.

#### **4.0 Implications for Council Policy and Governance**

4.1 There are no implications for council policy and governance.

#### **5.0 Legal and Resource Implications**

5.1 If members are minded to agree the revised charges there would be an annual loss in revenue relating to the licensing sex shops of £2,178.

5.2 However there would be additional revenue from sexual entertainment venues. Initially this will be £22,688 if all eight current establishments apply for the sex establishment licence from 1st October 2011 and the same amount annually from 12th October 2013 (12 months from when the initial licences come into effect).

#### **6.0 Conclusions**

6.1 The council has undertaken to review the current fees for sex establishments, and it is timely to do this now so that a consultation can take place during the Statement of Licensing Policy consultation commencing April 2011.

#### **7.0 Recommendations**

7.1 Members are requested to agree the revised licence charges set out in paragraph 4.

7.2 Members are requested to approve the proposals in principal to allow Entertainment Licensing to consult with members of the industry alongside the wider consultation for the Statement of Licensing Policy which is due to commence early April.

7.3 It is requested that the new charges take effect from the 1st October 2011 in line with the new provisions adopted by Council in January but which take effect in October.