

**Report of the Director of Resources**

**Report to Executive Board**

**Date: 7 September 2011**

**Subject: Sex Establishment Statement of Licensing Policy**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- 1 The Policing and Crime Act 2009 amends the Local Government (Miscellaneous Provisions) Act 1982 s2 and Sch 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brings to lap dancing, pole dancing and other "relevant entertainment" into the same regime that has licensed sex shops and sex cinemas in the Leeds area since 1982.
- 2 In January this year Council formally adopted these provisions to come into effect on 1st October 2011. In June 2010 Licensing Committee decided to adopt a policy and set of standard conditions to support the licensing regime.
- 3 Over the last 12 months the Licensing Committee's working group has developed and has consulted upon a draft policy with a wide range of persons including ward members, the industry, the public of Leeds as well as special interest groups. The policy and standard conditions, along with a Report of the Working Group on the public consultation is being brought to Executive Board for their consideration and approval.

**Recommendations**

- 4 Executive Board approve the Sex Establishment Statement of Licensing Policy.
- 5 Executive Board note the contents of the report of the Working Group and approve it as the Council's response to the public consultation.

## 1.0 Purpose of this report

- 1.1 To present the Sex Establishment Statement of Licensing Policy for formal adoption ready for the start of the transitional period on 1st October 2011.
- 1.2 To present the Working Group report for approval as the Council's response to the public consultation on the draft Statement of Licensing Policy.

## 2.0 Background information

- 2.1 On 22<sup>nd</sup> June 2010 Licensing and Regulatory Panel (now Licensing Committee) resolved to recommend to Council to adopt the provisions of Sch 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
- 2.2 The Panel also resolved to develop a policy and set of standard conditions relating to sexual establishments, which include sexual entertainment venues, sex shops and sex cinemas. The Panel formed a cross party working group of licensing members to develop the policy and associated documents.
- 2.3 The Sex Establishment Statement of Licensing Policy sets out the principles the council will use to exercise its functions under the Local Government (Miscellaneous Provisions) Act 1982 as amended. Applicants for sex establishment licences are expected to read the policy before making their application and the council will refer to the policy when making its decisions.
- 2.4 In January 2011 the Council made a resolution to adopt the provisions of Sch 3 of the Act, effective from 1<sup>st</sup> October. This timescale was agreed to provide enough time for the council to consult with existing operators, the public and interested parties on the new policy. However this timescale also means that the council must have a policy in place by the beginning of October.
- 2.5 Timetable

4 April to 24 June 2011	Public consultation
26 July 2011	Licensing Committee for referral to Executive Board
7 September 2011	Executive Board
1 October 2011	Licensing regime comes into effect

## 3.0 Main issues

- 3.1 During the development of the draft policy the working group invited views from organisations and people that would represent those people using and working within the service areas covered by this policy and people who would have a special interest in the licensing of these service areas. This included:
  - **West Yorkshire Police** - to discuss crime and disorder issues directly related to the operation of sexual entertainment venues

- **LCCs Taxi and Private Hire Licensing** - to discuss the issues relating to the vehicles associated with sexual entertainment venues who provide a transport service for customers
- **LCCs Domestic Violence Team** - to provide insight into women's issues, especially related to women who work in sexual entertainment venues.
- **Leeds University, Sociology Dept** - Prof Teela Sanders was invited to share her interim report on her research into sexual entertainment venues. This work involved speaking with 300 dancers about their work and working conditions.

3.3 The working group considered the information provided by these groups and produced a first draft policy and set of conditions. The industry were invited to view the first draft with the view that the standard conditions would need to be practical and enforceable. The working group met with all eight existing sexual entertainment venue managers and their legal advisor at an open meeting where each of the provisions set out in the policy and conditions were reviewed.

3.4 The working group visited four out of the eight premises during opening hours to view the practicality of the set of conditions.

3.5 This work was undertaken over a period of nine months with careful consideration given to equality, diversity and human rights at each step.

3.6 A final draft policy was produced and was provided for public consultation for 12 weeks. The council received 23 responses via the web form, email and letter. The working group considered these responses before producing the final policy, set of conditions and application forms/notices.

3.7 Once the policy is in place and the licensing regime comes into effect on the 1st October, operators of lap dancing venues will be given the opportunity to apply for a sex establishment licence. These applications will be determined together in June 2012 and will come into effect on 1st October 2012. Existing sex shop licences will be renewed and the new conditions applied in January 2012.

## **4.0 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 The Statement of Licensing Policy underwent a public consultation which ran from 4th April to 24th June 2011. The consultation was advertised through Talking Point and with posters placed in public spaces such as libraries, one stop shops and leisure centres. A press release was produced, and the consultation was advertised on the website.

4.1.2 The consultation was advertised by letter directly to 234 people and organisations including:

#### Organisations which represent the general public

- Elected members, Members of Parliament
- Parish and Town Councils, Citizen Advice Bureaux

#### Partner Agencies

- West Yorkshire Police and British Transport Police
- West Yorkshire Fire and Rescue Service
- West Yorkshire Trading Standards Service
- Health and Safety Executive
- HM Revenue and Customs and The Border Agency
- LCC Development Department and Environmental Health Services
- Local Safeguarding Children Board
- NHS Leeds

#### Special interest groups

- Individual members of the public who had expressed an interest during the development of the policy
- Special interest groups, specifically women's interest and support groups
- Support organisations such as Alcoholics Anonymous, Victim Support, The Samaritans, Alcohol and Drugs Service
- Faith groups

#### Organisations which represent businesses in Leeds

- Business support organisations such as Federation of Small Businesses
- Businesses currently operating sex establishments
- Licensing Solicitors who had expressed an interest during the development of the policy, or who are known to represent sex establishments

4.1.3 The consultation was picked up by the Culture Vulture website, and the comments can be viewed at: <http://theculturevulture.co.uk/blog/uncategorized/lapdancing-clubs-demonstrate-a-vibrant-cultural-offer/>

4.1.4 The public consultation generated 23 responses, mostly from special interest groups and faith groups, with one response from a solicitor representing the industry. The responses as well as the proposed changes to the policy following this consultation are available in the Working Group report.

## **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 During the development of the policy the working group considered equality and diversity throughout the process. The working group invited a number of officers to working group meetings to discuss the issues and concerns that sexual entertainment venues, in particular, present to their area.

4.2.2 West Yorkshire Police provided the information that sexual entertainment venues and sex shops do not give rise to concern in relation to reported crime. It was felt that the premises manage disorder in-house rarely allowing it to spill out onto the streets. The level of crimes reported to the police about sex establishments is low. The police proposed that providing staff with a confidential crime reporting service would be beneficial as there was concern that the low levels of reported crime did not accurately reflect the crime occurring on the premises. A dancers welfare pack will be developed that could include information related to the confidential reporting of crime, rape crisis lines, Crimestoppers etc.

- 4.2.3 Leeds City Council's Taxi and Private Hire Licensing expressed concern about the number of unlicensed vehicles being used by sexual entertainment venues to transport customers to and from their premises. These vehicles should be licensed as private hire vehicles. A condition was inserted into the draft policy which related to the licensing of vehicles. Taxi and Private Hire Licensing will pursue enforcement on unlicensed vehicles.
- 4.2.4 Prof Teela Sanders, Professor of Sociology at Leeds University, has undertaken research into sexual entertainment venues. She addressed the working group and discussed the issues that her research had uncovered. The full research can be found at <http://www.sociology.leeds.ac.uk/research/projects/regulatory-dance.php>. Although a number of the concerns were outside of the scope of the policy, a number of conditions were added requiring:
- a Dancers Code of Conduct and Customer Code of Conduct to be clearly displayed.
  - A fine register to be in place
  - Stricter controls on the use of private booths
  - Stricter requirement for CCTV and the supervision of booths
- 4.2.5 The Domestic Violence Team were pleased that women's issues and gender inequalities had already been considered in the first draft of the policy. They provided some assistance with the drafting of the section on equality in the policy. They supported the inclusion of the dancers welfare pack and offered to work with the Police on the contents of the welfare pack by providing information relating to support after rape/sexual assault.
- 4.2.6 The industry made comments relating to the practicality of the conditions. In particular there was concern about the use of private booths. They reiterated that their main source of income is generated by the use of private booths and they are integral to their business. The working group carefully analysed their concerns about the use of private booths which were relating to the use of the booths for illegal sexual activities and the safety of the dancers. As a consequence, and on balance, the working group felt that these concerns can be mitigated by tighter security and supervision and that a complete ban on their use was not proportionate. The use of CCTV in booths is already in place, but the additional requirement of a person supervising the booths who is in contact with registered door supervisors would provide the balance of privacy for the customer and security for the dancers.
- 4.2.7 The public consultation highlighted a number of concerns which echoed the concerns already considered around safety and welfare of women working within the clubs, the rights of pedestrians to use the streets without being harassed by clubs touting for business, the use of flyers, the discreetness of the clubs and their locations in sensitive areas. The working group carefully considered all the responses to the consultation. A report has been written which describes how the working group has responded to the consultation which is attached as appendix 2. Briefly the working group examined each response carefully, and reviewed the draft policy to ensure that every point was considered. Conditions were clarified where necessary. The main themes of the responses were the same themes the working group considered when producing the draft policy, i.e. welfare of staff working in the

clubs, the external appearance and advertising of the sexual entertainment venues, the advertisement of sex shops, the use of vehicles, the location of the premises.

### **4.3 Council Policies and City Priorities**

4.3.1 The Sex Establishment Statement of Licensing Policy sets out the principles the council will use to exercise its functions under the Local Government (Miscellaneous Provisions) Act 1982 as amended. Applicants for sex establishment licences are expected to read the policy before making their application and the council will refer to the policy when making its decisions. The policy seeks to improve standards and to provide a fair and safe working environment for people who chose to work in this profession. The licensing regime provides an opportunity to seek further improvements through conditioning the sex establishment licences which are specific to individual premises.

4.3.2 The licensing regime contributes to the following aims:

**By 2030, Leeds will be fair, open and welcoming**

- Local people have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

**By 2030, Leeds' economy will be prosperous and sustainable**

- Opportunities to work with secure, flexible employment and good wages

**By 2030, all Leeds' communities will be successful**

- Communities are safe and people feel safe

4.3.3 The licensing regime contributes to the following city priorities:

**Best city... for communities:**

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

### **4.4 Resources and Value for Money**

4.4.1 Legal Services has provided advice at each stage of the policy development. They have also provided advice during the composition of the working group report.

4.4.2 The adoption of the provisions will bring sexual entertainment venues into the same regime which currently licences sex shops and sex cinemas. The policy will require applicants to provide additional information, and additional controls will be put in place to control advertising and the external appearance of the premises. This will increase the time required to process each application and there is potential for the additional controls to require more licensing sub-committee hearings to determine variations. However, in line with the Provision of Services Regulations and the European Services Directive, Entertainment Licensing have reviewed the current fee structure and are confident that the fees charged for these applications will cover the additional resources required.

4.4.3 The transitional arrangements will apply pressure on the council with a high number of representations expected for each of the applications. The Licensing Committee will need to determine at least eight licence applications at the same time in June 2012. However the resources required to handle this additional workload can be found within the existing staff structure or within the incoming licence fee.

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The development of a policy under the Local Government (Miscellaneous Provisions) Act 1982 is an executive function. On referral from Licensing Committee, the policy has to be approved by Executive Board and is available for call in by the Resources and Council Services Scrutiny Board.

#### **4.6 Risk Management**

4.6.1 Executive Board has the option of not approving the policy at this time, and requesting that further work is undertaken. However, the licensing regime will come into force on the 1st October and operators will be able to apply for sex establishment licences from that time. There is a risk of challenge should a policy not be in place in time, although this risk is considered to be low as all existing operators have been involved in the development. Additionally, the transitional period runs from 1st October 2011 to 1st October 2012 with operators able to apply for licences at any time during that period.

### **5 Conclusions**

- 5.1 The working group formed by the Licensing Committee has developed a policy and standard conditions, has sought advice from partners in relation to the contents of the policy and has taken the policy out to public consultation.
- 5.2 A report which provides a response to the comments received through the public consultation has been compiled. The draft policy has been amended where necessary. These documents are available as background papers.
- 5.3 The report requires endorsement from Executive Board as the council's response to the consultation. The Statement of Licensing Policy requires approval from Executive Board.

### **6 Recommendations**

- 6.1 That Executive Board members are asked to:
- endorse the report of the working group as the council's response and
  - approve the Sex Establishment Statement of Licensing Policy.

**7 Background documents** (available from the report author)

- 7.1 Report of the Working Group - This report considers the responses to the public consultation and the council's response. It details the changes made to the draft policy. Provided to Board Members for their consideration.
- 7.2 Sex Establishments Statement of Licensing Policy. Provided to Board Members for their consideration.
- 7.3 Sex Establishment consultation report - This report accompanied the public consultation which ran from 4th May to 29th June 2011. It explains the background to the legislation, and how the draft policy was developed.
- 7.4 Equality, Diversity, Cohesion and Integration Screening.