

8th October 2018

LICENSING OF SEX ESTABLISHMENTS - STATEMENT OF LICENSING POLICY

REPORT OF THE ASSISTANT DIRECTOR OF NEIGHBOURHOODS

1. Reason for report

As part of its overall licensing framework Calderdale Council wishes to establish a policy of Licensing of Sex Establishments.

2. Need for a Decision

A policy will set out the Council's approach for the benefit of applicants and operators. Its purpose is to guide and inform the public and other public authorities and aims to ensure transparency and consistency in decision making. The policy will have regard to the guidance issued by the Home Office.

It should be noted that the conditions within the policy are the currently approved conditions and no decision is required in relation to any changes to the existing conditions. It relates the approval of the policy detailing the Council's approach in dealing with applications.

The implementation of any new policy will require Full Council Approval.

3. Recommendation

- a. Members are asked to consider the proposed draft Licensing of Sex Establishments Statement of Licensing policy (Appendix 1).

Specifically members are also asked to consider:

- Paragraph 5.2 within the draft policy which relates to the Relevant Locality. Do members wish to limit the number of sex establishments within the borough or within the specific areas?

4. Background

- 4.1 The Local Government (Miscellaneous Provisions) Act 1982 referred to "Sexual Establishment" as sex cinema or sex shop. The Police and Crime Act 2009 amended this Act to introduce a new classification of sex establishment, namely sexual entertainment venues.
- 4.2 Calderdale Council adopted the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 on 28th April 2010.
- 4.3 The legislation provides for local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.

- 4.4 The authority does have an adopted application process and standard conditions that relate to both Sex Establishments and Sexual Entertainment Venues; these can be found at section 6 of the draft policy.
- 4.4 Currently the Licensing Authority has not adopted a policy for sex establishments. A clear policy is advised by the Home Office to ensure that any decision making on this type of licensing is clear and transparent and is in line with Home Office guidance.
- 4.5 On 9th June 2017 the draft policy was sent to colleagues at West Yorkshire Police, Calderdale's Safeguarding team and Calderdale's Community Safety Partnerships Manager for input relating specifically section 5 of the Policy, which relates to locality. I have attached the responses received in Appendix 3. West Yorkshire Police response stated that the policy seems sensible, their view was that there should be a limit to the number of venues within Calderdale as any additional venues may cause demand on the police. The Adults and Childrens Safeguarding Team stated that the policy looks sound and subsequent monitoring will assist in establishing any potential safeguarding issues. All points raised were considered and where appropriate the policy was amended.
- 4.8 At their meeting on 7th August 2017 members of the Licensing and Regulatory committee resolved that formal consultation on the draft Licensing of Sex Establishments Statement of Licensing Policy be carried out between 8th August 2017 and 8th November 2017. Members asked that specific questions be asked during the consultation with regards to the removal of conditions 6 of the Standard conditions for Sexual Entertainment Venues, which relates to the performers at all times wearing a non-transparent g-string or similar piece of clothing on the appropriate part of the body, and at no time will it reveal any part of their genitalia or anus. Members also asked whether there should be a limit on the number of sexual entertainment venues in Calderdale. The results of this consultation are shown at Appendix 4. A survey was carried out within the 6 main towns within Calderdale, the majority of people who answered the survey said there should be a limit on the number of Sexual Entertainment Venues within Calderdale; there are inappropriate locations to grant or renew a licence within Calderdale; there should be a maximum number for specific localities within the Borough.
- 4.9 In the responses to the consultations carried out there were the 3 requests for amendments to the conditions. These conditions are the current approved conditions and not the reason for this report. The report is specifically in relation to the implementation of a policy detailing how the authority will deal with any applications. The requests regarding the amendment to existing conditions will be addressed in a second report.
- 4.10 In response to the concerns about monitoring it is proposed at paragraph 7.1 within the draft policy that Licensing Enforcement Officers will carry out a minimum of 5 routine unannounced inspections to any licensed sexual entertainment premises per year to ensure compliance with the policy and conditions.

5. Consultation

All authorities within the Combined West Yorkshire Authorities including York have a Sex Establishment Licensing Policy except for Bradford Council.

The list of those consulted is shown at Appendix 5.

6. Financial Implications

The cost of the consultation exercise was met from within the existing budget.

7. Corporate Implications

Directorates and services which may have any impact on the policy, application and process, were consulted on the draft policy.

8. Equality and Diversity

The Equality Impact Assessment is attached at Appendix 6

8. Conclusion

Members Can:-

- a) Resolve to recommend to Council for approval the draft licensing of Sex Establishments Statement of Licensing Policy with a limit to the number of Sex Establishments within the borough or within specific localities.
- b) Resolve to recommend to Council for approval the draft licensing of Sex Establishments Statement of Licensing Policy with no limit to the number of Sex Establishments within the borough or within specific localities but to judge each application as it is received.

9. Appendices

Appendix 1 – Draft Licensing of Sex Establishments Statement of Licensing Policy
Appendix 2 – Letter from Current Licence Holder of La Salsa
Appendix 3 – Initial Consultation responses
Appendix 4 – Responses to formal Consultation Process
Appendix 5 – List of Consultees
Appendix 6 – Equality Impact Assessment

FOR FURTHER INFORMATION ON THIS REPORT CONTACT:

Fiona Goldsmith Principal Licensing Enforcement Officer, Licensing Unit, Town Hall, Halifax. HX1 1UJ telephone Halifax 288001

DOCUMENTS USED IN THE PREPARATION OF THE REPORT:

Police and Crime Act 2009
Home Office Guidance
Combined Authorities Sexual Entertainment Policies
Local Government Miscellaneous Provisions Act 1982

DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:

Licensing Unit, Town Hall, Halifax. HX1 1UJ