

## NORTH DEVON COUNCIL

**REPORT TO: LICENSING & COMMUNITY SAFETY COMMITTEE**

Date: 8<sup>th</sup> October 2019

**TOPIC: REVIEW OF NORTH DEVON COUNCIL'S SEX ESTABLISHMENT POLICY**

**REPORT BY: PUBLIC PROTECTION MANAGER**

### 1 INTRODUCTION

- 1.1 The purpose of this report is to seek a review of the Council's Sex Establishment Policy, as part of a standard five year review cycle.

### 2 RECOMMENDATIONS

- 2.1 That Licensing and Community Safety Committee considers the draft Sex Establishment Policy found at **Appendix A**. Due to the limited changes proposed, which are solely suggested to address administrative updates, it is not proposed that any consultation be undertaken at this time.
- 2.2 That Licensing and Community Safety Committee recommend to Strategy and Resources Committee that the draft policy be approved.

### 3 REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that the Council's policies are regularly reviewed and kept up to date.

### 4 REPORT

- 4.1 North Devon Council adopted a licensing policy and associated conditions of licence for sex establishments on the 5 April 2011. The policy was established following changes made to the Local Government (Miscellaneous Provisions) Act 1982 in 2010 which created a new class of sex establishment – the 'sexual entertainment venue'
- 4.2 There is no statutory requirement for the Council to have a licensing policy for sex establishments but most licensing authorities have developed policies and this is generally considered to be good practice. Without a policy in place, the Council would have great difficulty determining an application for a sex establishment licence and would potentially leave itself open to legal challenge in the event of refusal of a licence.
- 4.3 When originally documented the policy was drawn up as a collaborative piece of work with

Torrige District Council, and the document was written drawing upon guidance from the Home Office<sup>1</sup>, local experience of licensing issues, best practice guidance from Local Government Regulation (LGR), and collaborative work carried out by the Devon Licensing Group.

4.4 A subsequent review took place in 2014 (approved by Licensing Committee 11 November 2014 and Executive 3 February 2015) when a series of minor updates were made which included:

- clarifying that the Council will not consider moral issues when determining applications and varying the review period from three to five years;
- new section 4 - Licensing Objectives;
- new section 5 - integration with other policies and strategies;
- new section 9.5.3 - which suggests criteria for refusal of applications on discretionary grounds under s12(3)(d);
- new section 9.5.5 – which sets out suggested criteria for assessing the suitability of applicants;
- new section 10 – which sets out the circumstances in which the Council might consider waiving the requirement for a licence;
- inclusion at Appendix A of suggested criteria to define ‘relevant locality’;
- revised and updated licence conditions (Appendix B);
- Appendix C – update to require a standard criminal disclosure/subject access request as part of the application process.
- Appendix D – procedures for Licensing Sub-Committee hearings and the form of discussion at hearings.

4.5 The Council has not licensed any sex establishments, nor has it received any applications for a licence during the period since the policy was last reviewed. Furthermore it is not envisaged that any applications will be forthcoming. Members should be aware that there are exemptions contained in the Local Government (Miscellaneous Provisions) Act 1982 in terms of sexual entertainment, for example surrounding the scale of a sex shop business, and the number of occasions sexual entertainment takes place at a venue. Therefore, just because there are no licensed premises in the district, does not mean to say that relevant activity has not and does not take place.

4.6 There have been no relevant legislative changes subsequent to the last review, and there have been no comments received in terms of the policy requiring amendment. As such, the only proposals for updates are largely administrative in nature. These are shown as tracked changes to the existing policy document, and are contained at **Appendix A**.

4.7 In light of the minor changes proposed, and the limited feedback previously gained when consultation was undertaken, no consultation is proposed as part of this policy update.

## 5 RESOURCE IMPLICATIONS

5.1 There is no financial or human resource considerations associated with this report.

---

<sup>1</sup> ‘Sexual Entertainment Venues: Guidance for England and Wales’, Home Office, March 2010

## 6 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Part 3, Annex 1, Paragraph 2	Delegated	No

## 7 STATEMENT OF CONFIDENTIALITY

7.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 8 BACKGROUND PAPERS

8.1 The following background papers were used in the preparation of this report:

- *Sexual Entertainment Venues: Guidance for England and Wales*, Home Office, March 2010

The background papers are available for inspection and kept by the author of the report.

## 9 STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

---

Licensing and Community Safety Committee Chair: Cllr Frederick Tucker

Author: Katy Nicholls

Date: 09/09/2019