

**Agenda Item No:**

**Report  
No:**

**Report Title:** Control of Sex Establishments within Lewes District.

**Report To:** Licensing Committee. **Date:**

**Lead Councillor:**

**Wards(s) Affected:** All

**Report By:** Director of Planning and Environmental Services.

**Contact Officers:** Ian Kedge (Head of Environment and Health).  
Garry Clark (Licensing Officer).  
Jessica Fletcher (Trainee Solicitor)

---

**Purpose of Report:**

To ask the Licensing Committee to recommend to full Council that it (full Council) resolves to adopt provisions that will enable Lewes District Council to licence and control sex establishments within the District and also approves a draft sex establishments policy.

**Officers Recommendations:**

1. To note the provisions of section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) and the Policing and Crime Act 2009 which enable local authorities to licence and control sex establishments (including Sexual Entertainment Venues) within their areas.
  2. To consider the draft Sex Establishments Policy which is appended to this report at Appendix B.
  3. To recommend to Council that it adopts Section 2 and Schedule 3 of the Act and approves the draft Sex Establishments Policy.
  4. To recommend to Council that it approves the fees set out in Appendix A to this report.
- 

**Reason for Recommendations:**

**1. Sexual Entertainment Venues:**

- 1.1. Sex establishments, namely sex shops and sex cinemas are controlled and regulated by Schedule 3 of the Act. The Schedule requires all sex establishments to be licensed by the local authority. There are also other provisions within the Schedule that enable the local authority to impose

conditions and restrictions that will be attached to the licence and to hear objections to applications for the grant, renewal and variation of a Sex Establishment Licence.

- 1.2. Section 27 of the Policing and Crime Act 2009 (which came into force in May 2010) introduced a new category of sex establishment called a 'sexual entertainment venue.'
- 1.3. A sexual entertainment venue is defined as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer."
- 1.4. While local authorities should judge each case on its merits relevant entertainment applies to the following forms of entertainment as they are commonly understood;
  - Lap dancing
  - Pole dancing
  - Table dancing
  - Strip shows
  - Peep shows
  - Live sex shows
- 1.5. Premises that are not classed as sexual entertainment venues are;
  - Sex shops and sex cinemas. (separately defined)
  - Premises which provide relevant entertainment on an infrequent basis, ie. on not more than 11 occasions within a 12 month period.

Premises that provide relevant entertainment (as described in paragraph 1.4) on an infrequent basis will continue to be regulated under the Licensing Act 2003 and will therefore require either a premises licence, a club premises certificate or a temporary event notice.

- 1.6. Any premises that provide relevant entertainment on more than 11 occasions within a 12 month period will be operating as a sexual entertainment venue and will have committed an offence under Schedule 3 unless they hold a Sex Establishments Licence or the local authority has waived the requirement for such a licence.

## **2 Control of Sex Establishments:**

- 2.1. Schedule 3 of the Act gives local authorities wide powers to control the number and location of sex establishments (namely sex shops, sex cinemas and sexual entertainment venues) in their area. These powers are not mandatory and will

only apply where they are adopted by local authorities, under section 2 of the Act. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than are permitted under the Licensing Act 2003 and will give local people a greater say over the regulation of sex establishments in their area.

- 2.2. Premises for which a Sex Establishment Licence is required or held (or for which the requirement has been waived) will also require a premises licence, club premises certificate or temporary events notice if the premises also carry on other licensable activities such as the sale of alcohol or regulated entertainment that is not 'relevant entertainment'
- 2.3. In practice this will mean that the vast majority of lap dancing clubs and similar venues will require both a Sex Establishment Licence for the provision of sexual entertainment and a premises licence or a club premises certificate for the sale of alcohol or provision of other types of regulated entertainment.
- 2.4. At present there are no premises in the Lewes District that require a Sex Establishment Licence.

### **3 If the Council does not adopt the provisions:**

- 3.1. If the Council does not resolve to adopt the relevant provisions of the Act by 6 April 2011, it must as soon as reasonably practicable consult local people about whether or not it should make such a resolution.
- 3.2. The purpose of this requirement is to ensure that local authorities consider the views of local people in circumstances where, for whatever reason, the provisions have not been adopted.

### **4. Adopting the provisions:**

- 4.1. Whilst there is no great demand at present from businesses wishing to operate a sex establishment within Lewes District, officers believe that it would be prudent to adopt the relevant provisions in any event to avoid the need for a full public consultation exercise in 2011. Furthermore, the adoption of these provisions and the approval of the attached Policy will enable any person/premises licence holder who is considering the operation of a sex establishment within the District to know in advance what criteria and restrictions might be applied to an application for a Sex Establishment Licence.
- 4.2. Once the Council has resolved to adopt the provisions of the Act, the Council must publicise the making of that resolution in a local newspaper for two consecutive weeks. The relevant provisions of the Act cannot come into force until the expiration of at least 28 days from the passing of the resolution.
- 4.3. Any opposed applications for a Sex Establishment Licence will be heard by the Council's Licensing Sub-Committees. Grounds for opposing the grant or renewal of a Sex Establishment Licence are set out in the attached policy at Appendix B.

## **5. Fees:**

Where an application is made for the grant, renewal, variation or transfer of a Sex Establishment Licence the applicant shall pay a reasonable fee determined by the Council. Your officers propose to set the fees for Lewes District Council at the levels described in Appendix A. Your officers consider these fees to be reasonable and proportionate to the cost of the application procedure. The fees are also in line with those set by other local authorities.

## **6. Licensing Policy:**

- 6.1. Although local authorities are not required to produce a licensing policy for sex establishments, they may do so if they wish. Officers have drafted such a policy for Lewes District because it will act as an invaluable guide to Councillors, officers, applicants and members of the public when and if applications for Sex Establishment Licences are received. The draft policy is attached at Appendix B.
  
- 6.2. The policy establishes some general criteria that will be taken into account by the Council when applications for Sex Establishment Licences are considered. The policy provides information about the application process and advises on the process and grounds for objecting to applications. It also describes the controls that are available to the Council when applications have been approved and explains what action can be taken if complaints are received or licence conditions/restrictions are breached. .

## **7. Financial Appraisal:**

There are no financial implications to this report.

## **8. Environmental implications:**

The environmental implications checklist has been completed. Adoption of the provisions and approval of the draft policy will not have any adverse implications on environmental concerns within the District.

## **8. Risk Management:**

There are no significant risks

## **9. Appendices:**

Appendix A. Fees

Appendix B. Draft Statement of Licensing Policy for Sex Establishments.