

Body: Cabinet

Date: 9th December 2015

Subject: Review of the following Councils policies:

- 1. Street Trading in Eastbourne**
- 2. Sex Establishment & Encounter Policy, regarding the control of Sex Establishments in Eastbourne.**

Report of: Claire Groves, Senior Specialist Advisor

Ward(s) All

Purpose For members to review the Policies following consultation.

Recommendation:

- a) Members are invited to note the feedback received in relation to the public consultation concerning the review of both policies.**
- b) Members are asked to endorse and adopt the Policies in line with the views of the General Licensing Committee.**

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1.0 Street Trading

- 1.1 A key Council objective is to increase the vibrancy and vitality of the town, in particular the town centre. This is embedded in the Community Strategy under Regeneration & Economy, the Corporate Plan and the Proposed Submission Version of the Eastbourne Town Centre Area Action Plan. The policy will facilitate the provision of extra vitality in the Borough and the appropriate diversification of street trading activity, as well as attracting a regular improved street market.
- 1.2 The Street Trading Policy, adopted in February 2012, sought to allow a range of managed street trading activities across the Borough and is available via:
<http://www.eastbourne.gov.uk/about-the-council/council-policies-plans-and-strategies/licensing-policy/street-trading-policy/>
- 1.3 The Council currently regulates street trading under the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. This permits the Council, among other things, to designate streets as "consent streets" or "prohibited streets" for trading purposes.
- 1.4 The Street Trading Policy will not cover all types of trading on the street, as there are some exemptions. Pedlars Certificates, which are issued by Sussex Police to individuals to sell their goods from a mobile unit, moving from location to location. This activity is transitory in nature, where customers

approach the Pedlar as opposed to the Pedlar directly marketing their wares. Their activity is regulated under the Pedlars Act 1871.

2.0 Sex Establishments

- 2.1 The increase nationally in the number of lap dancing clubs and adult entertainment venues since the implementation of the Licensing Act 2003 had become a concern for many local communities.
- 2.2 Central Government has responded to calls for further controls to be introduced, specifically governing lap dancing clubs and similar premises. This resulted in the introduction of legislation in the form of the Policing and Crime Act 2009. This re-classifies current "Sexual Establishments" as 'Sexual Entertainment Venues' under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. (LGMPA 1982).

3.0 Legislative Proposals

- 3.1 As detailed above, Section 26 of the Policing and Crime Act 2009 introduces a new category of 'Sex Establishment' under Schedule 3, called a 'Sexual Entertainment Venue.' This is defined as 'any premises at which relevant entertainment is provided before a live audience for the financial gain on the part of the organiser or the entertainer.'
- 3.2 'Relevant Entertainment' is defined as 'any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.' This includes pole dancing, lap dancing and strip tease etc.
- 3.3 Such venues will require a Sex Establishment Licence. However, there is an exemption for premises which provide this type of entertainment 'infrequently.' The Act still permits sexual entertainment to be provided in premises, providing it occurs on no more than eleven occasions a year, with at least a month of "other" entertainment in between, without the need for it to be registered as a sexual entertainment venue (i.e. a pub).

4.0 Adoption of Provisions

- 4.1 At a meeting on 19th July 2010, Members agreed to adopt the relevant provisions of the Policing and Crime Act 2009, and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 4.2 Members agreed the current Sex Establishment and Encounter Policy on the 23rd February 2011. This is available via:
<http://www.eastbourne.gov.uk/about-the-council/council-policies-plans-and-strategies/licensing-policy/sex-establishment-and-encounter-policy/>

5.0 Consultation

- 5.1 Consultation in relation to the review of the Street Trading Policy and the Sex Establishment Policy commenced on the 1st July 2015 and concluded on the 24th September 2015.
- 5.2 No responses were received concerning the review of either policy.

6.0 **Implementation Timetable**

The timetable for the review of both policies is tabulated below:

Procedure	Date/s
Public consultation	1 st July – 24 th September 2015
Full Licensing Committee: <ul style="list-style-type: none">- To consider results of consultation- Delegate any further revisions of the policy in line with the views of the General Licensing Committee to the Senior Specialist Advisor in consultation with the Chair of the Licensing Committee and the relevant Cabinet Portfolio Holder prior to consideration and adoption by Cabinet.	5 th October 2015
Seek Cabinet Approval	9 th December 2015

7.0 **Consultation/Feedback**

7.1 No feedback was received to either consultation.

7.2 The policies considered and agreed at General Licensing Committee on 5th October 2015 contained no amendments. Copies of the policies and the reports to the Council's General Licensing Committee and the committee's recommendation can be viewed on the Council's website at <http://democracy.eastbourne.gov.uk/ieDocHome.aspx?bcr=1>

8.0 **Community Safety and Links to Strategic Vision**

8.1 In relation to the Sex Establishments Policy, the introduction of the regime under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 gives the Council powers to tackle issues of concern to local communities around crime, disorder and anti-social behaviour, associated with sex establishments.

8.2 The local authority will continue to work in partnership with enforcement agencies such as Sussex Police and Trading Standards to deliver effective enforcement in respect of crime, disorder and anti-social behaviour.

8.3 The Corporate Plan sets out the Council's priority themes and is available via: <http://www.eastbourne.gov.uk/EasysiteWeb/getresource.axd?AssetID=210648&type=full&servicetype=Inline>

9.0 **Policy Review**

9.1 Both the Street Trading Policy and the Sex Establishment and Encounter

Policy will be kept under review and amended as required.

10.0 Recommendation

- 10.1 Members are asked to agree the recommendations at the beginning of this report as it clarifies the Council position on licensed Street Trading and Sex Establishments. It provides clear guidance to anyone considering applying for such a licence, or wishing to comment on an application, and to Members of the Committee when determining applications.

Background Papers:

The Background Papers used in compiling this report were as follows:

- Local Government (Miscellaneous Provisions) Act 1982
- Policing and Crime Act 2009
- Sexual Entertainment Venues, Guidance For England and Wales, Home Office 2010
- Licensing Act 2003
- Pedlars Act 1872
- West Berks DC v Paine [2009] EWHC 422 (Admin)
- Street Trading – Eastbourne Policy
- Sex Establishment – Eastbourne Policy
- General Licensing Committee Report (5/10/15) – Review of the Council's Sex Establishment & Encounter Policy
- General Licensing Committee Report (5/10/15)– Review of the Council's Street Trading Policy
- Decision of the General Licensing Committee (5/10/15)