



AGENDA ITEM: 6

SUMMARY

Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	27 August 2013
PART:	1
If Part II, reason:	

Title of report:	Review of Sex Establishment licensing policy and application procedures
Contact:	Sally Taylor – Senior Assistant Licensing Officer, Legal Governance
Purpose of report:	To outline proposed revisions to the Council's Sex Establishment licensing policy, application form and standard conditions, and to seek approval to commence a public consultation exercise in respect of these proposals.
Recommendations	That officers be instructed to commence consultation on the proposals, as set out in this report, and report the results to a future meeting, as set out at para 5.1.
Corporate objectives:	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> • Maintain a clean and safe environment <p>Dacorum Delivers</p> <ul style="list-style-type: none"> • Performance excellence
Implications:	This report relates to a review of an existing policy. No new implications are expected to arise as a result.
Consultees:	Consultation with affected parties will be carried out if the recommendations of this report are adopted.
Background papers:	<p>DBC Sex Establishment licensing policy (v2.0)</p> <p>DBC Application form for a Sex Establishment Licence</p>
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. On 23rd February 2011, Dacorum Borough Council re-adopted the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, so as to enable the regulation of sexual entertainment venues in addition to existing powers to regulate sex shops and sex cinemas. At the same time, a sex establishment licensing policy was also adopted and published.
- 1.2. Since that date, the Council has dealt with applications for three sexual entertainment venues, two of which were granted, the other refused. A further application is currently under consideration. Annual applications have also been received in respect of the sole sex shop in the borough. No applications have been received for sex cinemas.
- 1.3. While there is no requirement in legislation for authorities to publish a policy in relation to sex establishment licensing, it is a useful tool for providing local guidance to both applicants who are looking to apply for licences, and those that may wish to make representations. A policy also acts as guidance for Members and officers when exercising relevant functions, helping to ensure more consistent and transparent decision-making. It is important to note that all applications are considered on their own merits, and the use of any policy as a guidance tool does not prevent that.
- 1.4. The licensing policy was set for an initial period of 3 years, and is due to expire in February 2014. A review of the policy's contents prior to adoption of the next version for the next 3-year period is now underway.

2. PROPOSED REVISIONS TO POLICY

- 2.1. There have been substantial revisions from the previous version, updating the format, providing more detail from the legislation in respect of grounds for refusal or revocation of licences, and giving more comprehensive advice and information about what particulars the licensing authority would require from applicants for sex establishment licences. The number of changes have meant that it is not considered appropriate to include a list of the changes, but rather to view the proposed policy as a fresh document.
- 2.2. The revised draft Policy is set out at Annex A.
- 2.3. As part of the revisions, new provisions have been proposed setting out a number of localities in the borough where it is now believed that the grant of a sex establishment licence would not be appropriate, and a new 'nil' limit on the number of sex establishments considered acceptable in those localities is proposed. In addition, considerations as to the proximity to premises which may be particularly sensitive to the activities carried on at a sex establishment are also included. However, it should be noted that, although these factors would be taken into account when the local authority are considering applications, any application would still need to be decided on its individual merits, and it would be open to the authority to depart from its policy and grant a licence if satisfied that the individual circumstances of the case warranted this action.
- 2.4. Annexes A - D of the proposed policy set out the standard conditions which the Council will typically attach to licences. The format of these conditions

has been revised, with conditions common to all types of licence now separated into their own annex, and additional annexes for each type of sex establishment licence. New conditions have been proposed for sex cinemas, which had not previously been set, based on national best practices. A number of minor semantic amendments have also been made to the conditions. All of the amended conditions will require confirmation by way of regulations, to be made following consultation.

3. APPLICATION FORM AND PARTICULARS

- 3.1. Certain specific information, relating to the details of the applicant and the location of the proposed sex establishment, is required to be provided in writing by the applicant when applying for the grant, renewal, transfer or variation of sex establishment licences. Paragraph 10(6) of schedule 3 also permits an authority to stipulate further particulars which it reasonably requires to be furnished in respect of applications.
- 3.2. As part of the review of the policy, it is also intended to review the Council's application form which is provided to applicants, and to specify anew the particulars which the Council will require to be provided with applications for sex establishment licences.
- 3.3. At present, separate application forms are provided, for sexual entertainment venues and for other sex establishments. As application procedures for all types of sex establishment are identical, this duplication is considered unnecessary, and a new single form has been devised, taking into account needs identified while processing applications in the last 3 years. It is therefore proposed that the particulars that the Council requires from applicants be set to mirror the questions on this draft application form. The draft application form is set out at Annex B.
- 3.4. As part of the application particulars, it is also proposed to require submission of a plan of the premises with all applications for new licences, or to vary the layout of existing licensed premises. The following requirements for plans are being proposed:

Where the application relates to premises:

Applications in respect of premises should be accompanied by a plan of the premises, drawn to an appropriate scale. The plan must be clear and legible in all material respects, and should include the following matters:

- the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- the location of points of access to and egress from the premises and, if different, the location of escape routes from the premises;
- the area(s) within the premises used for relevant licensable activities (e.g. the locations in which sexual entertainment or exhibition of sex films will occur);
- fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of

individuals on the premises to use exits or escape routes without impediment;

- in a case where the premises includes a stage, podiums or raised areas, the location and height of each stage, podium or raised area relative to the floor;
- in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- in the case where the premises includes any room(s) containing public conveniences, the location of the room(s);
- the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment;
- in the case of sexual entertainment venues, any changing or dressing facilities provided for the use of performers, and any areas in which other non-relevant entertainment is provided;
- the location of a kitchen, if any, on the premises.

The above items may be shown on the plan through the use of symbols or colour-coding, in which case a legend should also be provided to indicate the meaning of each symbol and colour used.

Where the application relates to a vehicle, vessel or stall:

Applications for vehicles, vessels and stalls should be accompanied by a site plan drawn to an appropriate scale, showing the location at which the sex establishment would operate.

- 3.5. The legislation requires the applicant to give public notice of his application, by displaying a printed notice at or near on the premises for a period of 21 days, and by publishing a notice in a local newspaper within seven days of the submission of the application. Paragraph 10(13) of the schedule allows the form of the notice to be prescribed by the authority. It is proposed to do so, and template notices have been created and are included at the rear of the application form.
- 3.6. Applications for licences may also be made online, in accordance with electronic application requirements under the EU Services Directive. The Council currently subscribes to the government's 'Gov.uk' application facility, which allows applications of this type to be made (albeit under the misleading heading, 'sex shops and sex cinema licences'). As this is a central system, the Council does not directly control the particulars obtained through this system, and in the event of the above-mentioned particulars not being provided on initial application these would need to be requested by officers prior to the application being accepted for processing. Officers are in discussions with those responsible for the Gov.uk system, and will continue to lobby for improvements to be made in this respect.

4. METHOD OF CONSULTATION AND TIMESCALES

- 4.1. There are no statutory requirements in respect of the method of consultation, which is left to the discretion of the Council. However, it is advisable to carry

out any consultation so far as is possible in accordance with the principles set out in the Government's Code of Practice on Consultation. It is therefore proposed to consult for an eight week period, publishing the proposed revisions on the Dacorum Borough Council website, issuing a press release, and making hard copies of the proposed revisions available upon request. Details will also be sent to those licence-holders who would be affected by the proposed changes.

4.2. The following timeline is proposed:

Date	Action
27 th August 2013	Presentation of draft revisions to the Dacorum Borough Council Sex Establishment Policy to Licensing Health and Safety and Enforcement Committee
1st September 2013	Publication of draft revision to the Policy on www.dacorum.gov.uk . Information to also be published by way of a press release.
1st November 2013	Deadline for receipt of responses to the consultation.
26th November 2013	Presentation of consultation responses and possible further proposals for revision arising from the responses to Licensing Health and Safety and Enforcement Committee.

5. RECOMMENDATIONS

5.1. That the Committee instruct officers to commence consultation on the following proposals:

- Adoption of the proposed sex establishment licensing policy (v2.0) for the period 2014-2017, as attached at Annex A.
- Adoption of a revised application form for applications for sex establishment licences, as attached at Annex B.
- Specification of the particulars required in connection with applications to mirror the contents of the proposed application form, and a plan of the premises/location satisfying the requirements set out in para 3.4.
- Prescription of the form of public notices as attached to the application form.
- Adoption of the revised conditions shown in Annexes A-D of the policy as the standard conditions applying to sex establishment licences issued by the Council.

5.2. That the results of consultation shall be reported to a future meeting of the Committee for consideration prior to a decision as to whether to proceed.