



## AGENDA ITEM: 5

Report for:	Licensing and Health & Safety Enforcement Committee
Date of meeting:	13 December 2016
PART:	I
If Part II, reason:	

Title of report:	<b>Review of licensing policies</b>
Contact:	Ross Hill – Licensing Team Leader, Legal Governance Sally Mcdonald – Lead Licensing Officer, Legal Governance
Purpose of report:	To present revised versions of the Council's Sex Establishment Policy and Licensing Enforcement Policy for adoption.
Recommendations	<ol style="list-style-type: none"> <li>1. That Committee adopt the document at Annex A as the Council's Sex Establishment Licensing Policy for a 5-year period from the 23 February 2017; and</li> <li>2. That Committee adopt the document at Annex B as the Council's Licensing Enforcement Policy for a 5-year period from the 14 December 2016.</li> </ol>
Corporate objectives:	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> <li>• Maintain a clean and safe environment</li> </ul> <p>Dacorum Delivers</p> <ul style="list-style-type: none"> <li>• Performance excellence</li> </ul>
Implications:	The policies referenced in this report are existing ones which are due to be reviewed, with only minor changes proposed in both cases. No new implications are expected to arise as a result.
Consultees:	Public consultation has been carried out on the proposed revisions, with the results reported within this report.
Background papers:	Draft Sex Establishment Licensing Policy 2017-2022 Draft Licensing Enforcement Policy 2016-2021
Glossary of acronyms and any other abbreviations used in this report:	

## **1. BACKGROUND**

- 1.1. In addition to publishing licensing policies under the Licensing Act 2003 and Gambling Act 2005 to fulfil its statutory duties, the Council also publishes various policies in respect of its other licensing functions. While there is no statutory duty to do so, publication is seen as best practice, as it offers guidance to applicants and other persons on how the authority will exercise its powers, and helps to ensure consistency in the Council's decision-making.
- 1.2. At its meeting on 20 September 2016, the Committee agreed consultation on updated draft versions of its sex establishment and licensing enforcement policies. Public consultation was carried out over a 7-week period from September to November 2016, and the results are reported below.
- 1.3. In a separate agenda item, the Committee also agreed to begin a simultaneous consultation on a number of changes to its taxi licensing requirements, around knowledge tests, medical checks and vehicle signage. A large number of responses were received to that consultation, and officers have not yet finished analysing the responses. As such, it is now intended to present the results of the taxi consultation, and any subsequent proposals, to the Committee in the New Year.

## **2. SEX ESTABLISHMENT LICENSING POLICY**

- 2.1. The Council has adopted schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, so as to enable the regulation of sex establishments (sex shops, sex cinemas and sexual entertainment venues). At present there are two licensed venues within Dacorum.
- 2.2. The current sex establishment licensing policy was last reviewed in 2013, and is due to expire in February 2017. The policy underwent substantial revision when last reviewed, and in the absence of significant issues, legislative change or case law only very minor changes have been proposed during this review – generally semantic changes.
- 2.3. During consultation, no responses nor comments were received in respect of the revised draft policy.
- 2.4. Officers therefore recommend that the revised draft policy, appended at Annex A, be adopted as the Council's Sex Establishment Licensing Policy, to take effect upon the expiry of the current version. Due to the similarities with the current policy, and in the absence of expected statutory change affecting this regulatory area, it is proposed that the revised policy have effect for 5 years, instead of the previous 3 year period.

## **3. LICENSING ENFORCEMENT POLICY**

- 3.1. The Council exercises a wide range of licensing powers across numerous pieces of legislation, many of which contain enforcement provisions, such as offences for carrying out particular conduct, or powers of entry and inspection to premises where licensable activities are carried on, with or without licences. These powers are underpinned by generic enforcement legislation, such as the Police and Criminal Evidence Act 1984, and associated codes of practice.

- 3.2. The enforcement policy contains guidance for licensed businesses and persons affected by such businesses on how we will exercise our legal powers. It also brings together expectations created under a number of charters, codes of practice and statutory guidance, which we will also take into account when exercising our powers.
- 3.3. The current enforcement policy was last reviewed in 2012-13. This particular review is currently overdue – however, as with the previous section, the changes proposed are mainly semantic, and there are few significant changes proposed from the current edition, with one exception – section 3 (powers of entry) has been added, to reflect the Home Office’s guidance on the exercise of such powers, which has been released since the publication of the current policy.
- 3.4. Two comments were received on the provisions of the draft enforcement policy during consultation, as follows:

**From: Group Manager – Residents Services, DBC**

*Section 4 (4.2) would it be useful to add closure orders and the ASB /police in this section as one of the options would be to close a premises in extreme circumstances?*

[N.B. Paras 4.41 onwards have been added to the draft policy in response to this comment]

**From: A licensed private hire operator**

*As we are all aware that the current enforcement policy is too relaxed and we will be demanding that extra enforcement officers should make their priority to stamp out illegal practices within our borough and all operators licenses should have a point system where after 12 points they should be revoked. This will ensure good practices and safety for the public of Dacorum. I feel currently we are to lenant towards wrong doing of operators and driver behaviour.*

[N.B. The ‘three strikes’ policy for taxi licence-holders, which was inadvertently omitted from the initial draft , has now been included at Annex A, and applies equally to private hire operators for various infractions]

- 3.5. Officers recommend that the revised draft policy, with further amendments as indicated above and appended as Annex B, be adopted as the Council’s Licensing Enforcement Policy to take effect from the day following adoption. As the enforcement policy references generic powers and, with the exception of section 3 which relates to statutory guidance, is largely unchanged from the current version, it is intended that this policy should also have effect for 5 years, with effect from its adoption.

#### **4. RECOMMENDATION**

- 4.1. That Committee adopt the document at Annex A as the Council’s Sex Establishment Licensing Policy for a 5-year period from the 23 February 2017; and
- 4.2. That Committee adopt the document at Annex B as the Council’s Licensing Enforcement Policy for a 5-year period from the 14 December 2016.

## **Annex A – Draft Sex Establishment Licensing Policy 2017-2022**

See separate document

## **Annex B – Draft Licensing Enforcement Policy 2016-2021**

See separate document