

4 January 2012		ITEM 3
<b>Licensing Committee</b>		
<b>STATEMENT OF LICENSING POLICY IN RELATION TO SEX ESTABLISHMENTS</b>		
<b>Report of:</b> Paul Adams, Principal Licensing Officer		
<b>Wards and communities affected:</b> All		<b>Key Decision:</b> Yes
<b>Accountable Head of Service:</b> Lucy Magill, Public Protection		
<b>Accountable Director:</b> Jo Olsson, People Services		
<b>This report is</b> Public.		
<b>Purpose of Report:</b> To consider the response to the public consultation on the draft statement of licensing policy in relation to Sex Establishments.		

## **EXECUTIVE SUMMARY**

Thurrock Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that the Council can licence sex shops, sex cinemas, and sexual entertainment venues in the Borough. This report considers the response to the public consultation on the draft “statement of Licensing Policy in relation to Sex Establishments”.

### **1. RECOMMENDATIONS:**

- 1.1 Consider the responses received to the public consultation and the changes made to the draft “Statement of Licensing Policy in relation to Sex Establishments”.**
- 1.2 Recommend to Council the adoption of the draft “Statement of Licensing Policy in relation to Sex Establishments”.**
- 1.3 Recommend that the Member training for members of the Licensing Committee include suitable basic training in gender equality legislation.**
- 1.4 Recommend that the Licensing Department actively monitors premises that are using exceptions to the legislation.**

### **2. INTRODUCTION AND BACKGROUND:**

- 2.1 Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) makes provision for the licensing of Sex Establishments.**

- 2.2 At the Licensing Committee on the 13 October 2011, a draft statement of licensing policy in relation to sex establishments was agreed for public consultation.
- 2.2 Consultation has been undertaken as detailed in section 4 of this report and ended on the 17 November 2011.
- 2.3 Two responses were received in relation to the consultation from South Essex Rape & Incest Crisis Centre (SERICC) and Thurrock Women's Aid (which are attached as **Appendix A**).

### 3. ISSUES AND/OR OPTIONS:

- 3.1 Detailed below are comments in reply to the summary of matters raised by both parties, highlighting any amendments that have been made to the draft policy.
- 3.2 **"Nil Policy"** – The Act does permit for a Local Authority to decide that an appropriate number of licences in a particular locality is nil. It would be difficult to demonstrate that the whole borough of Thurrock as one is a locality as defined within the legislation. As an alternative to a total "nil policy" our policy seeks to create areas where nil is an appropriate number; for example near a school or in a residential area. An addition to the policy has been made to include accommodation provided for people with learning disabilities to the area where nil would be appropriate.

Having a blanket nil policy may also push sex establishments underground, or encourage them to utilise exemptions in the legislation where controls, monitoring and conditions can not be applied.

- 3.3 **Gender balanced Sub-Committees and working parties** – There is no requirement in the legislation that dictates how committees determining these applications should be constituted. With the absence of any guidance the approach prescribed under the Licensing Act 2003 has been adopted. The committee also sits in a quasi judicial capacity.
- 3.4 **Maintaining a register of interested parties** – The policy has been amended to allow for a register of interested parties in relation to sex establishments to be held by Thurrock Council and for any new applications to be consulted on with any person on that register.
- 3.5 **Include the promotion of gender equality as a specific objective for sex establishment licensing** – Objectives of the licensing policy have been added including considerations of gender equality.
- 3.6 **A comprehensive set of standard conditions** - A comprehensive set of standard conditions already exist as a starting point for licence applications to be considered against. Each application will be assessed in its own right and additional conditions can be added where required or the standard ones can be amended to ensure they are fit for purpose in relation to each application.

- 3.7 The draft policy has now been updated to reflect the changes detailed above and is attached as **Appendix B**.

#### **4. CONSULTATION (including Overview and Scrutiny, if applicable)**

- 4.1 This policy was subject to a 28 day public consultation which sought the views from:

- Local residents;
- Community groups;
- Existing and future potential holders of sex establishment licences in the Borough;
- Relevant statutory bodies;
- Representatives of holders of premises licences under the Licensing Act 2003 within the Borough.

#### **5. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

- 5.1 The Council has a duty under Section 17 of Crime and Disorder Act 1998 to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;  
 (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this duty the Council should have due regard to the provisions of the Policing and Crime Act 2009.

#### **6. IMPLICATIONS**

##### **6.1 Financial**

Implications verified by: **Funke Nana**  
 Telephone and email: **01375 652010**  
**fnana@thurrock.gov.uk**

There are no financial implications.

##### **6.2 Legal**

Implications verified by: **Alison Stuart**  
 Telephone and email: **01375 652040**  
**astuart@thurrock.gov.uk**

The Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) as amended allows Local Authorities to adopt provisions concerning the regulation of sex establishments.

There is no legal requirement for the Council to adopt a policy on how it proposes to licence sex establishments under the Act. However it is considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions are carried out.

### 6.3 **Diversity and Equality**

Implications verified by: **Samson DeAlyn**  
 Telephone and email: **01375 652472**  
**sdealyn@thurrock.gov.uk**

The Equality Act places a duty on the Council to consider the impact of its policies on equality groups. This policy position has a significant impact on gender equality in terms of themes around the sexualisation of women and girls. Parliament has made it lawful to operate sex establishments, and that such businesses are a legitimate part of the retail and leisure industries. Due consideration should be given to monitoring and review of how the licensing regime relating to sex establishments is operating locally and any equality impact analysis subject to review.

This policy has been subject to public consultation as detailed in section 4 with Essex Police, Thurrock Social Services, Thurrock’s Faith Forum, Thurrock Coalition, South Essex Rape and Incest Crisis Centre (SERICC) and Thurrock Women’s Aid. An Equality Impact Analysis has been undertaken which has taken into account any comments and changes made as a result of the consultation.

### 6.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

There are none.

## 7. **CONCLUSION**

- 7.1 The provision of a licensing policy in relation to sex establishments will ensure that all applications are decided upon in a fair, consistent and transparent manner.

### **BACKGROUND PAPERS USED IN PREPARING THIS REPORT:**

- Local Government (Miscellaneous Provisions) Act 1982 Schedule 3..
- Section 27 of the Policing and Crime Act 2009.
- Sexual Entertainment Venues – Guidance for England and Wales.
- Sex Licensing – Philip Kolvin QC.

**APPENDICES TO THIS REPORT:**

- **Appendix A** Responses reviewed in relation to the public consultation to the draft policy.
- **Appendix B** Updated draft “statement of licensing policy in relation to Sex Establishments” for Thurrock Council.

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