

Part A

**Report to:** Licensing Committee

**Date of meeting:** Tuesday, 7 July 2020

**Report author:** Senior Licensing Officer (AY)

**Title:** Review of Sex Establishment Licence Policy

**1.0 Summary**

1.1 The council has powers in relation to sexual establishments ('sex shops') and sexual entertainment venues (such as lap-dancing clubs). The committee has adopted a non-statutory policy regarding these licences, which is due for review.

**2.0 Risks**

2.1

<b>Nature of risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> (treat, tolerate, terminate or transfer)	<b>Risk Rating</b> (combination of severity and likelihood)
Not renewing policy	Policy lapses, preventing controls in policy from being enforced and implemented, including standardised conditions and limits on number of premises	Renew policy	Treat	High
Legal challenge to decision if consultation comments not properly considered	Negative perception of council and its licensing functions, and challenge through the Courts	Ensure that results of public consultations are thoroughly considered and amendments to proposed policy made where	Treat	Medium

		necessary and appropriate		
--	--	---------------------------	--	--

### 3.0 **Recommendations**

- 3.1 That the policy at appendix 3 be approved and adopted for three years, subject to any amendments proposed and approved by the committee, starting immediately upon the expiry of the current policy.

**Further information:**

Austen Young

austen.young@watford.gov.uk

**Report approved by: Justine Hoy, Head of Community Protection**

### 4.0 **Detailed Proposal**

- 4.1 The council has powers under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) to licence 'sex shops' and lap-dancing clubs. There is currently only one such premises operating within the borough, being a sexual entertainment venue trading in Market Street.
- 4.2 In October 2010 the Licensing Committee adopted a non-statutory policy, setting out its approach to dealing with applications for these types of licences. The policy particularly sets out the number of sex establishment premises that the committee thought appropriate within defined localities, and in many cases that number is nil. It is open to applicants to argue that they should be considered an exception to the policy.
- 4.3 On 15 June 2011 the Committee agreed to reduce the number of sexual entertainment venues from one to nil in The Parade. This followed the closure of one of the two sexual entertainment venues that were then trading.
- 4.4 On 14 July 2014, the Committee agreed to renew the policy for a further three years.
- 4.5 On 26 June 2017, the Committee again agreed to renew the policy for a further three years. This policy is attached at appendix 1.
- 4.6 Officers were of the opinion that the policy only needed minor amendments rather than significant change. The amendments are in regards to housekeeping and updating terms of the policy, without affecting the specific policy. This approach was taken on the experience of officers that no significant representations were

made, nor evidence provided, during the life of the policy that the policy requires amending.

- 4.7 This approach was also taken upon considering the impact of the covid-19 pandemic, and how, while the policy did require renewal, this was not the most appropriate time to introduce significant changes upon business and residents.
- 4.8 The previous two policy renewals were undertaken without public consultation because the proposed changes were only minimal. Due to this, officers did consider it appropriate to hold a consultation on the renewal of the policy at this time so that people who wished to comment were given an opportunity to do so.
- 4.9 Consultations are required to be held in accordance with the Government's consultation principles<sup>1</sup>. These principles state:
- Consultations should be clear and concise
  - Consultations should have a purpose
  - Consultations should be informative
  - Consultations are recognised as only part of a process of engagement
  - Consultations should last for a proportionate amount of time
  - Consultations should be targeted
  - Consultations should take account of the groups being consulted
  - Consultations should be agreed before publication
  - Consultation should facilitate scrutiny
  - Consultation exercises should not generally be launched during local or national election periods.

Officers consider that the consultation has been held in accordance with these principles.

- 4.10 The consultation was carried out between 4 and 21 June 2020. Consultees were contact directly by email so as to avoid any delay in postal correspondence. The time period was considered appropriate due to the consultation seeking opinion on renewing the policy without making significant changes, whereas a proposal to significantly change the policy would have justified a longer consultation period. The consultation was open to any person to submit comments by a public consultation accessible through an online survey through the council's website and our sex establishment webpages. The webpage also stated that comments could be submitted in writing and not necessarily through the online survey.
- 4.11 Consultees were specifically asked whether the council should continue to limit the number of licensed establishments within the town centre, and whether the council

---

<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691383/Consultation\\_Principles\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf)

should continue to prescribe standard conditions for licences granted under this policy. Consultees were also given the opportunity to provide detailed responses and reminded that they were not restricted to only commenting on the limit of premises and standard conditions.

4.12 The following groups were specifically contacted and invited to partake in the consultation:

- Licence holders
- Solicitors acting for licence holders
- Hertfordshire Constabulary
- Central Town Residents' Association
- Watford BID

4.13 There is currently only one business operating within the borough to which this policy applies. They were contacted directly for their input on the policy and its renewal. Officers had recently been in contact with the premises regarding an application to vary their premises licence issued under the Licensing Act 2003, where they were represented by a firm of solicitors.

4.14 All applications for sex establishment licences made under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) are required to be copied to the local Police, so their views were sought as a statutory consultee. It was also considered appropriate to consult with the Police due to their involvement with the town's night-time economy, and it is recognised that sexual entertainment venues are a late night venue.

4.15 The policy specifically allows sex establishments to only operate within the town centre, being Market Street and The Parade. It was therefore appropriate to seek the views of parties who represent businesses and residents within these areas, which is why the BID and the local residents' associations were contacted.

4.16 For ease of reference, officers propose that the following amendments are made to the policy in terms of updating the content of the policy without changing the impact of the policy:

Paragraph 1.4	Added the word 'initially' to the paragraph to describe the first consultation on this policy
Paragraph 1.8	Confirms the date of the consultation and approval of the new policy
Paragraphs 1.9	Confirms the details of the consultation
Paragraph 1.10	Amendment of paragraph number following the insertion of new paragraph 1.8
Paragraph 2.1	Population estimate updated

Paragraph 2.2	Updated to include information on the council's current Economic Development Strategy
Paragraphs 2.3 to 2.5	Updated the description of the borough in consultation with the council's Economic Development Officer
Paragraph 2.7	Updated to reflect that only one premises is currently licensed and trading
Paragraph 2.8	Updated to include information on the council's current Corporate Plan
Paragraph 3.6	Removed reference to the committee protocol being available online, but is still available upon request
Paragraph 4.3	Updated to reflect the full title of the Act, including the year
Paragraph 6.1	Formatting of the text only, without changing the content
Paragraph 7.13	Updated contact details

## 5.0 Consultation Responses

- 5.1 Responses to the consultation were received from the Police, Watford BID, and the existing licence holder.
- 5.2 The Police and Watford BID were in support of keeping the policy as it was, without making any changes, and keeping the limits and standard conditions in place.
- 5.3 The existing licence holder did make specific comments with regards to changes that they would like to see made to the policy. Their responses, which was submitted through their agent, is attached at appendix 2.
- 5.4 Comments were specifically made with regards to the limit of the number of sexual entertainment venues in the town centre, and they suggest that the council consider one of the following options:
- allow one sexual entertainment venue in Market Street and one on the Parade; or
  - allow one sexual entertainment venue within a consolidated area encompassing Market Street and The Parade
- 5.5 Officers do confirm, as stated in the submission, that a previous policy did permit one premises to operate within The Parade as a sexual entertainment venue, until that particular premises ceased trading and the committee agreed to revise the policy to allow no such premises on The Parade.
- 5.6 Officers would remind members that any decision on renewing the policy, with amendments or not, should give consideration to the comments received during the

consultation period, but that members are not bound to implement any suggested changes.

- 5.7 Officers would recommend that members agree the latter proposal, being to only allow a total of one premises within a location which consists of the High Street, The Parade, and Market Street.
- 5.8 In making this recommendation, officers advise that we have considered the points made in the submission with regards to the rationale behind such an approach. This approach confirms that the council's intention is to only licence one premises to operate within or near to the town centre, which reflects the current position which was supported by the Police and Watford Bid.
- 5.9 Officers appreciate that the town centre has a diverse night-time economy, which has been recognised in the award of the Purple Flag, and that the existing premises contributes to this economy. However, it is also acknowledged that only one sexual entertainment venue has traded in the town for a nearly a decade without significant demand or enquiries from the premises or other operators to increase this number. Officers also advise that while we respectfully agree that there may be no specific legal basis on which to exclude such premises from the town centre, the provision in the Act is that the local authority may determine for themselves a number of premises that they consider is "appropriate" for a locality, which allows councils to set their own visions of their boroughs and town centres as they may determine.
- 5.10 Members are reminded that the policy cannot prohibit applications, even if a limit on the number of premises is in place. The council is required to process any valid application made to it, and these applications will be subject public consultation. Should valid objections be received then the application is to be determined by a licensing sub-committee.
- 5.11 In any case, where an application is heard before a sub-committee, it will be for the sub-committee to decide if the policy should be implemented or not, and the applicant does have a right to argue that they should be considered as an exception to the policy based upon the individual merits and facts of the relevant application. In all such cases, it will be for the applicant to persuade the sub-committee that an exception to be considered, not on the sub-committee to show why an exception should be made.

## 6.0 **Implications**

### 6.1 **Financial**

- 6.2 The Shared Director of Finance comments that there are no specific financial implications in this report.

6.3 **Legal Issues** (Monitoring Officer)

6.4 The Group Head of Democracy and Governance comments that the legal implications are contained within the body of the report.

6.5 **Equalities, Human Rights and Data Protection**

6.6 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
- advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them
- foster good relations between persons who share relevant protected characteristics and persons who do not share them.

6.7 Having had regard to the council's obligations under s149, it is considered that no additional equalities assessment is required to be conducted due to the very minor changes to the policy.

6.8 It is acknowledged that the policy only directly affects a maximum of two businesses in the borough. The policy sets a limit on the number of businesses that may operate within the borough, and that licences are granted subject to specific conditions. It is also noted that the application and determination process is set out in legislation. It is also noted that we currently have one premises operating under this policy within the borough, which itself has not been recently subject to any complaints or allegations that its operation or existence is undermining the council's equality obligation. However, officers can advise that should any such complaints be made they will be investigated and necessary actions taken should the complaints hold any merit.

6.9 Having had regard to the council's obligations under the Data Protection Act 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

## **Appendices**

Appendix 1 – Existing policy (2017-2020)

Appendix 2 – Consultation response

Appendix 3 – Proposed policy (2020-2023)

## **Background papers**

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Watford Borough Council Sex Establishment Licensing Policy 2017-2020  
Consultation Principles (2018)