

MAIDSTONE BOROUGH COUNCIL

COUNCIL

2 MARCH 2011

REFERENCE FROM THE LICENSING COMMITTEE

1. LICENSING SEXUAL ENTERTAINMENT VENUES AND DRAFT POLICY FOR SEX ESTABLISHMENTS

- 1.1 At a meeting on 17 February 2011 the Licensing Committee considered a report of the Head of Democratic Services outlining the results of the consultation on the draft policy for sex establishments and the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended.
- 1.2 At the previous meeting held on 18 November 2010, the Licensing Committee received and considered a detailed report on the changes to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 made by section 27 of the Policing and Crime Act 2009 which extended the provisions of that schedule to cover sexual entertainment venues as well as sex shops and other adult entertainment. The committee agreed that it was minded to adopt the amended schedule and also agreed to adopt for consultation purposes a policy which incorporated the extension to cover sexual entertainment venues.
- 1.3 In accordance with the wishes of the committee the consultation was undertaken for 8 weeks ending on 26 January 2011 and done as widely as possible by using the consultees on the Statement of Licensing Policy which includes licensing act licensees, all licensing act sexual entertainment venues, additional solicitors etc and to whom were added a number of local churches.
- 1.4 In accordance with our decision the consultees were the same as with the Statement of Licensing Policy (over 460) and there were 9 responses received of which 3 made no comments, 5 agreed with the adoption of these provisions and 4 agreed with the approach of no numbers being set at this stage.
- 1.5 There were various comments on disabled issues which cover access and distance condition effect on visual impairment. Currently building control and equalities legislation is in place. Additionally, the Licensing Committee will have to consider layout, character and condition of the premises as part of their decision on individual applications. In respect of the distance condition consideration also has to be given to the conditions for performers and safety in the premises and a balance reached. This condition is currently used in such premises.

- 1.6 In respect of the comment on policing, these premises have not been an issue in Maidstone and no comments on the consultation have been raised by the police. The police will also be consulted on all applications.
- 1.7 Issues regarding the automatic granting of licenses to existing premises and that no new licenses for Sexual Entertainment Venues should be granted were raised during the consultation. The government considered whether there should be rights for existing premises and made provision that those licences will continue until at least 12 months after the effective date of adoption of the new legislation. Each application will be considered on its merits and previous history of the licensee and the premises will obviously form part of the overall decision. Each application being considered on its merits also means that applications for new premises will be considered in relation to the circumstances at the time of the decision and having regard to the adopted policy. It was not recommended that presumptions are made a part of policy as they could not bind a future committee in any event.
- 1.8 Two separate comments were raised regarding the issues of locating in rural areas and in main streets. It was suggested that this view detracts from the policy and the need for transparency on how decision is made, rather than setting criteria before an application is received. Each application will be considered on its merits at the time of the decision.

RECOMMENDED:

- a) That Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 relating to sex establishments be adopted to take effect from 1 May 2011, which will be the first appointed day as set out in the legislation.
- b) That the Policy for Sex Establishments, including Sex Shops, Sex Cinemas and Sexual Entertainment Venues, as attached at Appendix 1, be adopted with effect from 1 May 2011.