

Bolsover District Council

Council

02 February 2022

Adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982(as amended) and the Sex Establishment Policy

Report of the Portfolio Holder for Environmental Health and Licensing

Classification: This report is public

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PURPOSE / SUMMARY

To invite Council to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) together with the draft policy.

REPORT DETAILS

1 Background *(reasons for bringing the report)*

- 1.1 Under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) and section 27 of the Crime and Policing Act 2009 (the 2009 Act) the Council can adopt legislation and policies which give them the power to control the number and location of sex establishments in its area.
- 1.2 On 11 September 2019 the Council resolved that there was an intention to adopt the 1982 and 2009 Acts in respect of Sex Establishments, that the General Licensing Sub Committee should determine any applications for Sex Establishment licences and a draft policy be prepared and submitted to a future Licensing Committee for member approval.
- 1.3 Following consideration of a draft policy through the General Licensing Committee, a 13 week public consultation opened between 01 March 2021 and 28 May 2021, in order to enable as broad a consultation with partners, stakeholders and the public. The Consultation was carried out through the Ask Derbyshire website, publicised through press releases and on the Council's social media platforms as well as contacting a range of stakeholders directly.
- 1.4 A full evaluation of the responses was carried out and the evaluation, together with copies of the consultation responses and the subsequently amended policy were considered by the General Licensing Committee on 07 October 2021.

- 1.5 Members noted that whilst the responses to the consultation showed an overwhelming objection to sex establishments being established within the district, the adoption of the legislation and the final draft policy (attached as Appendix 1) were necessary to ensure the Council had sufficient powers to regulate such premises.

2. Details of Proposal or Information

- 2.1 A draft Sex Establishment Policy has been drafted in line with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act), section 27 of the Crime and Policing Act 2009 (the 2009 Act) and guidance issued by the Home Office in relation to Sex Establishments.
- 2.2 Following a lengthy public consultation and member scrutiny a recommendation has been made to Council that the process for adopting Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and section 27 of the Crime and Policing Act 2009 be followed and the final draft policy agreed by the General Licensing Committee on 07 October 2021 (Attached as Appendix 1) be adopted.
- 2.2 The procedure for the formal adoption of the legislation is set out in full in section 2 of Part II the 1982 Act and there are two stages which must be followed:
- (1) The Council must pass a resolution under section 2 of the Local Government (Miscellaneous Provisions) Act 1982 to adopt Schedule 3 of the Act and specify the day the provisions are to come into effect.(Appropriate wording for the Adoption Resolution is set out in Appendix 2.)
 - (2) After Resolution but prior to it coming into force the Council is required to publish, for two consecutive weeks, in a local newspaper circulating in our area, a notice that it has passed a resolution, the first publication not being later than 28 days before the date specified in the resolution for the coming into force of the Council's powers.(Appropriate wording for the notice is set out in Appendix 3.)
- 2.3 In line with the final draft policy a Local Area Profile has been prepared and will be published on the website together with the policy. A copy of the Local Area Profile is attached as Appendix 4.

3 Reasons for Recommendation

- 3.1 Adopting the above legislation will give the Council more powers to regulate and control Sex Establishments within the district. This will in turn provide greater community confidence that any establishments which are proposed within the district undergo appropriate scrutiny and challenge and can only operate within the limits of the Council's policy.

4 Alternative Options and Reasons for Rejection

- 4.1 The alternative option is to not adopt the legislation and draft policy. However, this would limit the Council's powers to regulate sex establishments and may have negative effects on community confidence and safety and have other negative reputational impacts on the district.
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RECOMMENDATIONS

1. That Council approve the recommendation from the General Licensing Committee that a resolution be made to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and the associated statutory notices be published; and
2. That Council approve the recommendation from the General Licensing Committee that the final draft Sex Establishment Policy be adopted.

Approved by the Portfolio Holder - Cllr X, Executive Member for Y

IMPLICATIONS

Finance and Risk: Yes No

Details:

There will be a minor cost associated with the publishing of statutory notices.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

Adopting Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) will give the Council powers to regulate and control sex establishments within the district. Having a policy which is clearly detailed, compliant with the legislation, fit for purpose and clear to applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review, with associated costs in defending the same.

On Behalf of the Solicitor to the Council

Staffing: Yes No

Details:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p>BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/></p> <p>NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Significantly Affected</p>	All
<p>Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>Yes</p> <p>Details: Public consultation, Licensing Committee and Climate Change and Communities Scrutiny Committee</p>

<p>Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.</p>
All

DOCUMENT INFORMATION

Appendix No	Title
1	Draft Sex Establishment Policy
2	Draft Resolution for Adoption of Legislation
3	Draft Statutory Notice
4	Draft Local Area Profile
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	

