

**Bolsover District Council**

**Council**

**11<sup>th</sup> September 2019**

**Regulation of Sex Establishments in the Bolsover District**

**Part II And Schedule 3 Of The Local Government (Miscellaneous Provisions) Act 1982 and Section 27 of The Policing And Crime Act 2009 within the Bolsover District**

**Report of the Chair of the General Licensing Committee**

This report is public

**Purpose of the Report**

- To set out the required stages of the legal process to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') and section 27 of the Policing and Crime Act 2009 ("the 2009 Act"), in order that the Licensing Authority is able to regulate sex establishments in the Bolsover District.
- To recommend that the Council resolves to adopt Schedule 3 of the 1982 Act and s.27 of the 2009 Act, to publish statutory notices to that effect and to adopt a Sex Establishment Policy following a public consultation process.

**1 Report Details**

- 1.1 Licensing of sex cinemas, sex shops and sexual entertainment venues is governed by section 2 and Schedule 3 of the Act 1982, as amended by the 2009 Act.
- 1.2 All Councils which wish to have the power to licence such establishments are required to adopt section 2 of the 1982 Act and section 27 of the 2009 Act. Bolsover District Council is unable to evidence the formal adoption of the 1982 Act.
- 1.3 It is proposed that, in line with many other District Councils, Bolsover District Council formally adopts the legislation and thereafter a draft sex establishment policy will be put before the Licensing Committee and a period of public consultation would follow.
- 1.4 It is accepted that at the current time there are no known sex establishments within the District, however the Council would be unable to regulate under The Acts unless it adopted the relevant legislation. The formal adoption of the legislation and a policy would mean the Council had powers immediately at its disposal to adequately and fairly address the issue should the need arise.

1.5 The 2009 Act amended the 1982 Act to give greater rights to local people to oppose an application for a sex establishment licence. In addition a local authority can refuse a licence because there is already an appropriate number of sex establishments in an area and/or that a sex establishment would 'conflict' with the character of the area or other premises nearby e.g. schools, places of worship etc. A policy would be able to set out these numbers, and provide further clarity to applicants and local residents alike.

1.6 The procedure for formal adoption of the provisions is set out in full in section 2 of Part II the 1982 Act. The Act can be viewed online at <http://www.legislation.gov.uk/ukpga/1982/30/contents> and a copy can be made available on request to the Legal Services team.

1.7 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 1.

(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 2.

## **2 Conclusions and Reasons for Recommendation**

2.1 Whilst at this time there may be no premises within the district to which this legislation applies, the adoption of the 1982 and 2009 Acts as amended means the Council could regulate sex establishments. This power is consistent with the Council's general aims to strengthen community cohesion and civic pride within the District whilst seeking to lower crime, fear of crime and anti-social behaviour.

## **3 Consultation and Equality Impact**

3.1 Consultation issues are outlined in this report. In accordance with best practice guidance and in the interests of transparency, public consultation should be undertaken on a draft policy following the Resolution being passed.

## **4 Alternative Options and Reasons for Rejection**

4.1 If the relevant legislation is not adopted, the Council will continue to have no licencing regime in relation to sex establishments, no controls of the same and in the event of complaints or incidents relating to them. There is a risk that the Council's reputation for protecting the interests of its residents could be called into question, given that the majority of authorities probably have adopted the relevant legislation.

## **5 Implications**

### **5.1 Finance and Risk Implications**

5.1.1 The cost implication relating to the publication of statutory notices can be met from the existing licensing budget.

### **5.2 Legal Implications including Data Protection**

5.2.1 Having a formal resolution to adopt the Act, and evidence of the notice is essential to ensure that we have complied with the requirements for Adoption of the Act and to enable enforcement action.

### **5.3 Human Resources Implications**

5.3.1 None.

## **6 Recommendations**

6.1 That Council approves the intention to pass a resolution to adopt, the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, 'Control of Sex Establishments' and section 27 of the Policing and Crime Act 2009 in relation to the whole district as set out in Appendix 1.

6.2 That the Council publish notice of the adoption of the 1982 and 2009 Acta in accordance with the legal requirements.

6.3 That the General Licensing Sub Committee be given responsibility to determine applications for Sex Establishments (including sexual entertainment venues, sex shops and sex cinemas) under the Local Government (Miscellaneous Provisions) Act 1982 ( as amended).

6.4 That a draft policy on sex establishments shall be prepared for consultation within the district to clarify the Council's policy on:

- i. "relevant locality" and "appropriate number";
- ii. conditions under which sex establishments must operate; and
- iii. an appropriate fee for applications.

6.5 That the draft Sex Establishment Policy be submitted to a future Licensing Committee for Members' approval for a full 6 week consultation period.

## 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  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><i>BDC: Revenue - £75,000</i> <input type="checkbox"/>  <i>Capital - £150,000</i> <input type="checkbox"/>  <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>Has the relevant Portfolio Holder been informed</b></p>	Yes
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All

## 8 Document Information

Appendix No	Title
1.	Appropriate wording for the Adoption Resolution is set out in Appendix 1.
3.	Appropriate wording for the public notice is set out in Appendix 2.
<p><b>Background Papers</b> (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>	
Home Office Sexual Entertainment Venues Guidance for England and Wales 2010	
<b>Report Author</b>	<b>Contact Number</b>
Debs Cartwright, Solicitor (Contentious Team)	01246 2422428