

COMMITTEE	GENERAL LICENSING COMMITTEE
DATE:	19 July 2021
TITLE:	REGULATION OF SEX ESTABLISHMENTS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PURPOSE:	TO APPROVE THE COMMENCEMENT OF A PUBLIC CONSULTATION ON THE ADOPTION OF POWERS TO REGULATE SEX ESTABLISHMENTS
AUTHOR:	HEAD OF ENVIRONMENT DEPARTMENT

1.0 BACKGROUND INFORMATION

- 1.1 Licensing Authorities wishing to regulate sex establishments in their area are required to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) 1982 ("1982 Act"), as amended by the Crime and Policing Act 2009 ("2009 Act").
- 1.2 Adopting Schedule 3 of the 1982 Act is optional and usually happens when a proposal to open such business is submitted for the first time. Historically, Bangor was the only place where an application was received and a licence was issued to open such a business.
- 1.3 The 1982 Act came into force in 1982. Between 1982 and 1996, deciding whether to adopt Schedule 3 was a matter for the former district and borough councils. Evidence from the minutes of the former councils shows that only Arfon Borough Council decided to adopt Schedule 3, with the decision becoming operational on 1 August 1983. There is no evidence that Dwyfor District Council or Meirionnydd District Council decided to adopt Schedule 3 between the 1982 Act coming in to force and the dissolution of those authorities at the time of local government reorganisation in 1996.
- 1.4 It also appears that there is no evidence that Gwynedd Council, since its establishment in 1996, has ever decided to adopt Schedule 3 either. The only area in the county where the Council is permitted to license under Schedule 3 is the Arfon area (namely the area of the former Arfon Borough Council). This is as a result of powers inherited by the Council from the former Arfon Borough Council at the time of reorganisation, powers that derive from the decision made by the former authority to adopt within the boundaries of Arfon.
- 1.5 In addition, since Arfon Borough Council decided to adopt in 1983, Schedule 3 has been amended by section 27 of the 2009 Act to include the ability to license sexual entertainment venues. As the amendment is optional and has been introduced after the decision made to adopt, the Council's regulatory powers in Arfon under Schedule 3 do not include the ability to regulate sexual entertainment venues at present.
- 1.6 A formal process is associated with the adoption of Schedule 3. Initially, approval will be needed from this Committee to: (i) proceed to undertake a process to consider adopting Schedule 3, as amended by the 2009 Act, so that a system is in place for the regulation and licensing of sex establishments across the County; and (ii) to authorise the Head of Environment Department to undertake a 28-day consultation process, commencing on 26 July 2021, with the aim of returning the matter to this Committee for a decision regarding recommending to the Full Council for decision in the autumn 2021 to adopt, as well as associated recommendations on the statutory notice, the date when the

adoption comes into force, and to delegate powers to this Committee to determine fees, standard conditions and an application processing plan.

2 WHAT ARE THE RISKS TO THE COUNCIL FROM NOT ADOPTING SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

2.1 As noted, the decision to adopt schedule 3 of the Act is optional. If a decision is made not to adopt the schedule, the Council will not have any powers in the Dwyfor and Meirionnydd areas to regulate and license sex establishments. It will not have powers to regulate sexual entertainment venues in the Arfon area either.

2.2 'Sex establishments' can include -

- sex shops (selling goods of a sexual nature)
- sex cinema (showing films with substantial content of a sexual nature)
- sexual entertainment venue (business premises that offers live entertainment of a sexual nature, often and regularly)

3 KEY STAGES OF THE ADOPTION PROCESS

3.1 If this committee approves commencement of consultation process for the purposes of adopting the Schedule 3 regime; following the 28 day consultation period which comes to an end on August the 23rd; any comments from the consultation will be reported to this Committee in a meeting on the 13th of September.

3.2 This Committee will at this time have the opportunity to consider any comments made during the consultation; before deciding if the recommendation to adopt the provisions is approved , before the matter is considered for decision by the Full Council on the 7th of October .

3.3 If Council members approve adoption of the provisions ; it will come in to force in December 2021; following further consideration by the General Licensing Committee at a meeting in November in respect of fees setting; standard licencing conditions and licence application processing arrangements.

4. EQUALITY IMPACT ASSESSMENT

The proposal will give the Licensing Authority an opportunity to promote equal opportunities and the socio-economic duty, by establishing a procedure where establishments are regulated and have to operate lawfully.

As no negative impact has been identified, it is recommended to proceed with the proposal. However, this equality assessment will be reviewed and updated following the consultation and before the matter is referred to this Committee for the second time. The equality impact assessment can be seen in the appendix to this report.

RECOMMENDATION

That the Committee:

- approves undertaking the process to consider adopting Schedule 3 of the 1982 Act, as amended by section 27 of the 2009 Act, so that a system is in place for the regulation and licensing of sex establishments across the county;
- to authorise the Head of Environment Department to undertake a 28-day consultation process, commencing on 26 July 2021, and return the matter to this Committee for a decision regarding recommending to the Full Council to adopt, as well as associated recommendations on the statutory notice, the date when the adoption comes into force, and to delegate powers to this Committee to determine fees, standard conditions and an application processing plan.