

COMMITTEE	GENERAL LICENSING COMMITTEE
DATE:	6 December 2021
TITLE:	REGULATION OF SEX ESTABLISHMENTS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PURPOSE:	TO APPROVE THE PROCEDURE FOR THE PROCESSING OF APPLICATIONS, FEES AND STANDARD CONDITIONS FOR THE LICENSING AND REGULATION OF SEX ESTABLISHMENTS
AUTHOR:	HEAD OF ENVIRONMENT DEPARTMENT

1. BACKGROUND INFORMATION

- 1.1 Licensing Authorities that wish to regulate sex establishments in their area are required to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act"), as amended by the Crime and Policing Act 2009 ("2009 Act").
- 1.2 Adopting Schedule 3 of the 1982 Act is a discretionary power, and normally happens when a notice of intention to open such a business for the first time is submitted. A decision was made to prioritise the recommendation to the Full Council to adopt the procedure, because a company has submitted an application of an intention to open a sex shop in Barmouth, and that this has highlighted the gap in the licensing procedure.
- 1.3 The General Licensing Committee considered the need to adopt such a procedure and to undertake a public consultation on this at its meeting on 19 July 2021. At that meeting, the Committee approved undertaking the process to consider adopting Schedule 3 as amended by the 2009 Act, to ensure that a system is in place for the regulation and licensing of sex establishments across the county.
- 1.4 In addition, the Committee authorised the Head of Environment Department to undertake a 28-day consultation process, commencing on 26 July 2021. When the consultation period ended, another report was submitted to the General Licensing Committee on 13 September to consider the responses to the consultation, and to make a final decision regarding the recommendation to the Full Council.
- 1.5 A decision has been made to prioritise the recommendation to the Full Council to adopt the procedure, as a company has submitted an application with the intention of opening a sex shop in Barmouth, which has highlighted the gap in the licensing system.
- 1.6 The unanimous decision of this Committee was to recommend to the Full Council to adopt the powers, as well as associated recommendations on the statutory notice, the date when the adoption comes into force, and to delegate powers to the General Licensing Committee to determine fees, standard conditions and an application-processing procedure.
- 1.7 At its meeting dated 7 October, the Full Council determined, based on this Committee's decision, the conclusions of the public consultation, the conclusions of the Equality Assessment and well-being as well as the views of the statutory officers to approve the adoption of the regulatory system for sex establishments, as follows -
- To adopt, county-wide, the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Crime and Policing Act 2009, to become operational no earlier than 1 December 2021.
 - To instruct the Head of Legal Services to publish the statutory notices associated with the decision to adopt for two consecutive weeks, with the first no later than 28 days before the date when the decision to adopt comes into force.
 - To delegate the matters of determining fees, setting standard conditions and a procedure for processing applications to the General Licensing Committee.

- 1.8 It is confirmed that the statutory notices associated with the decision, have appeared in the local newspapers, in accordance with the procedure. A copy of the advertisement can be seen in the appendix to this report.

Powers available to the Council following the adoption of Schedule 3

- 1.9 Adopting the powers in Schedule 3 as amended across the county will enable the Council to regulate and license sex establishments. Sex establishments can include:
- Sex shops (selling goods of a sexual nature)
 - Sex cinema (showing films with substantial sexual content)
 - Sex entertainment premises (business premises that hold live entertainment of a sexual nature, often and regularly)
- 1.10 It will introduce powers for the Council to impose standard conditions on the licences of sex establishments and charge a reasonable fee in relation to them.
- 1.11 Finally, adoption would enable the Council to take enforcement action in relation to the following offences (the maximum penalty upon conviction by the Magistrates Court is noted in brackets):
- the use of any building, vehicle, boat or stall as a sex establishment, except when this is in accordance with a Council-issued licence (unlimited fine);
 - making false statements in relation to an application for a sex establishment licence (unlimited fine);
 - failure of the licence holder to display their licence without a reasonable excuse (a fine that does not exceed level 3 on the standard scale, which is currently £1,000.00).

2 Statutory notices

In accordance with the Full Council's instruction and legal requirements, it can be confirmed that a Statutory Notice has been published in the press associated with the decision to adopt for 2 successive weeks, with the first to appear no later than 28 days before the date when the decision comes into force. See a copy of the advertisement in the appendix to the report.

3 Sex Establishments Licensing Policy

- 3.1 The Council considers each application for a licence on its own merits. For consistency, fairness and transparency, the Licensing Service and this Committee, over the years, have adopted many policies and general principles for the purpose of offering guidance in its consideration for licensing applications.
- 3.2 A policy document has therefore been formulated for the approval of this Committee; which encompasses the processes adopted in relation to Sex Establishments.
- 3.3 The Policy details the process of applying for a licence, renewal, variation and transfer of sex establishment licences in relation to a premises that operates within the Gwynedd Council area. See the Policy document in its entirety in the appendix.

4 Licensing process

- 4.1 In order to ensure order and consistency and an opportunity for the public and responsible authorities to submit representations; a specific procedure has been established for licence applications.
- 4.2 A licence application must be received on a designated application form; then the application will need to be advertised on the premises for 21 days and in the press for a specific period. The applicant will need to ensure that the notice of application provides sufficient information about the proposal; including opening hour details and how to make representation on the application.

- 4.3 Gwynedd Council will be responsible for consulting with Responsible Authorities, including the Police, Planning Authority, Education Authority, Social Services and the Fire and Rescue Authority as well as Local Members.
- 4.4 It is expected that any responses will be received in writing, no later than 28 days after the date when the application is received.
- 4.5 If any responses will be received, the application will be referred to the Sub-committee of this Committee for a decision. If there are no responses on an application, it will be approved by the authorised officers in accordance with the determined delegated powers.
- 4.6 The Sex Establishment Policy document in the appendix details the licensing process in full; as well as the ground for objection and the appeals process.
- 4.7 An approved licence will last for one year; and if there is an intention to submit an application for licence renewal, this must be done in good time.
- 4.8 An application for licence renewal will also be referred to the Sub-committee if responses are received on the application.

5 Imposing standard conditions

- 4.9 The Schedule 3 regulatory procedure allows the Council as a Licensing Authority to impose conditions or restrictions on the licence which could include restricted opening hours, restrictions on displays and advertising on the premises, appearance and the visibility of the inside of the premises from the outside, etc.
- 4.10 The standard conditions can be seen in full in the appendix to the Sex Establishments Policy Document.
- 4.11 It can be seen that the conditions give the Licensing Sub-committee the flexibility to change or remove or add conditions, where it is appropriate to do so.

4. Fees

- 4.1 The legislation sets permissions to charge a fee for sex establishments licences. Licensing fees are reviewed annually; and a fee that is sufficient to enable the Council to recover its costs must be set.
- 4.2 The current fee set has existed since 2013. The sex shop licence fee has not been subject to annual review in the same way as other fees, as the only shop in the County, located in Bangor, has now been shut for some years.
- 4.3 The current fee of £310 has been reviewed in order to fully consider the processing and administration costs of sex shop licences under the new regulatory process adopted by the Council. Following a review of the costs, the fee set for new application will be £560 and for renewal applications will be £505 .

5. RECOMMENDATION

- 5.1 That the Committee:
 - Approves the county-wide adoption of the Sex Establishments Licensing Policy Statement, which will set procedures and conditions in order to allow for the regulation of sex establishments via the licensing procedure from the 6th of December 2021
 - Approves setting the fee noted, which reflects the administration and processing of applications for sex establishment licences, and approves an annual review of those fees.