

 <b>Executive</b> <b>13<sup>th</sup> January 2016</b>		<b>Agenda Item No.</b> <b>10</b>	
<b>Title</b>		Review of the Sexual Entertainment Establishment Policy	
<b>For further information about this report please contact</b>		Jayne Bailey, Places and Projects Team Leader, Health and Community Protection 01926 456742 <a href="mailto:Jayne.Bailey@warwickdc.gov.uk">Jayne.Bailey@warwickdc.gov.uk</a>  Marianne Rolfe, Regulatory Manager, Health and Community Protection. 01926 456320 <a href="mailto:Marianne.rolfe@warwickdc.gov.uk">Marianne.rolfe@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>		All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>		No	
<b>Date and meeting when issue was last considered and relevant minute number</b>		Executive 11 <sup>th</sup> March 2015 Licensing & Regulatory Committee 9 <sup>th</sup> December 2015	
<b>Background Papers</b>			
<b>Contrary to the policy framework:</b>			No
<b>Contrary to the budgetary framework:</b>			No
<b>Key Decision?</b>			No
<b>Included within the Forward Plan? (If yes include reference number)</b>			No
<b>Equality and Sustainability Impact Assessment Undertaken</b>			Yes
<b>Officer/Councillor Approval</b>			
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>	
Chief Executive/Deputy Chief Executive	04.01.16	Andy Jones	
Head of Service	15.12.15	Richard Hall	
CMT	04.01.16	Chris Elliot	
Section 151 Officer	04.01.16	Mike Snow	
Monitoring Officer	04.01.16	Andy Jones	
Finance	18.12.15	Mike Snow	
Portfolio Holder(s)	16.12.15	Moirra Ann Grainger	
Legal	15.12.15	Warwickshire Legal Representatives	
<b>Consultation &amp; Community Engagement</b>			
<b>Final Decision?</b>			No
<b>Suggested next steps (if not final decision please set out below)</b>			
A public consultation is required upon the policy before the policy is adopted.			

## 1. **SUMMARY**

- 1.1 To present the reviewed draft Sexual Entertainment Establishment Policy which is applicable to all Sexual Entertainment Establishments within the Warwick District Boundary.

## 2. **RECOMMENDATION**

- 2.1 That Executive note the reviewed draft policy in Appendix 2.
- 2.2 That Executive agree that a 12 week public consultation is conducted on the proposed policy.
- 2.3 The Executive notes that a further report will be brought back to them summarising the consultation response, any alterations that may be made to the policy in response and seeking their recommendation of the final policy to Council for adoption.

## 3. **REASONS FOR THE RECOMMENDATION**

- 3.1 The Executive meeting on the 11<sup>th</sup> March 2015 requested officers to review Sexual Entertainment Establishment Policy.
- 3.2 Officers were requested to include in the reviewed policy the recommendation of the task and finish group as resolved by the Executive and to take into account Counsels' advice.
- 3.3 The proposed policy includes changes within both the policy document and the conditions which would be attached to any licence granted.
- 3.4 The existing policy (appendix 1) and the proposed policy (appendix 2) are attached to this report. A summary of the main alterations are included in Appendix 3.
- 3.5 The draft policy was placed before the Licensing and Regulatory Committee on the 9<sup>th</sup> December 2015. The committee made a couple of recommendations to improve the clarity of the policy. These have been included within appendix 2 but are outlined separately in appendix 4.
- 3.6 Before the proposed policy can be adopted, a public consultation must take place in order to mitigate against the risks outlined in the report.
- 3.7 Any comments received during this consultation period will be reviewed and amendments made to the policy where appropriate. The amended policy and details of the comments received will be reported to executive.

## 4. **POLICY FRAMEWORK**

- 4.1 The proposed policy would replace the existing and all previous versions of Warwick District Councils Sexual Entertainment Establishment Policy.

### **Fit for the Future**

- 4.2 The policy ensures that the application process and factors taken into account to the assessment of a licence is available to both applicants and other persons.

## **5. BUDGETARY FRAMEWORK**

- 5.1 There are no budgetary implications resulting from the change of policy.
- 5.2 The SEV Licence was reviewed as part of the Council's Fees and Charges Review in September 2015, whereby the Council endeavours to secure full cost recovery. This policy will not impact upon that charge.

## **6. RISKS**

- 6.1 Failure to undertake a public consultation in relation to the proposed policy may result in a judicial review. Judicial reviews are both resource and financially intensive.

## **7. ALTERNATIVE OPTION(S) CONSIDERED**

- 7.1 The proposed policy is adopted by the Executive without public consultation. Officers do not recommend this option as this will almost certainly result in a judicial review.

## **8. BACKGROUND**

- 8.1 The current Sexual Entertainment Policy is used to outline the council's approach to sexual entertainment applications and premises within the district.
- 8.2 In 2014, a public consultation was conducted to investigate the feelings of residents and business of Warwick District with regard to sexual entertainment venues. The outcomes of this consultation were reported to the Executive on the 11<sup>th</sup> March 2015.
- 8.3 As a result of the consultation there were four areas identified within which no localities were identified that would be suitable for a sexual entertainment venue. These four areas have been highlighted within the proposed policy.
- 8.4 The consultation led to a recommendation from the Task and Finish group to Executive. It was agreed that, as it was believed that these four areas did not have any suitable localities identified for a sexual entertainment venue, that within these areas there should be a limitation placed upon the number of sexual entertainment venues.
- 8.5 It should be noted that although this limitation is outlined for these areas, the council is unable to reject the application of a premises wishing to trade within one of these areas or fail to renew/grant a licence solely due to the existence of the limitation.
- 8.6 It should also be noted that this limitation only applies to Sexual Entertainment Venues and not Sex Shops or Sex Cinemas.
- 8.7 Counsel advice was sought to assess the outcomes of the consultations and recommendations of the Task and Finish Group to Executive. This advice was attached to the Executive report on the 11<sup>th</sup> March 2015. The advice recommended that a review of the policy also reviewed the conditions applied to any licence.

- 8.8 At the Executive meeting on the 11<sup>th</sup> March 2015, officers were asked to take into account Counsels advice during the review the policy.
- 8.9 Officers have undertaken a full review of the policy and the proposed conditions that would be attached to any premises granted a licence under the legislation.
- 8.10 Legal opinion has been sought throughout the drafting of the policy to ensure that the proposed policy is robust, proportionate and transparent.
- 8.11 Subject to the agreement of Executive, a public consultation will commence on the 18<sup>th</sup> January 2016 and close 12 weeks later.