

REPORT TO LICENSING

Date of Meeting: 29th October 2019

Report of: Environmental Health & Licensing Manager

Title: Report Outlining a Proposal to Amend the Sex Establishment Licensing Policy

Is this a Key Decision?

No

* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

Is this an Executive or Council Function?

Council function

1. What is the report about?

1.1 This report details a proposal to amend condition 17 of the standard conditions found within Appendix C of the Sex Establishment Licensing Policy.

1.2 On 29th January 2019 the Licensing Authority received a request from a representative of ABS Holdings who operate Simply Pleasure (156 Sidwell Street), for them to be able to display their clothing range as part of a window display. A copy of the request email is attached at Appendix A. Further correspondence was conducted between the Licensing Authority and ABS Holdings throughout early 2019, and a formal letter requesting a variation to condition 17 of the Sex Establishment Licensing Policy was received on 18th June (also attached within Appendix A).

1.3 Standard Condition 17 which relates to the exterior appearance of the licenced premises would currently prohibit the display of clothing as requested by ABS Holdings. The current standard conditions are reproduced in full at Appendix B.

1.4 It is proposed that the existing Standard Condition 17 is amended as follows:

No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:-

(i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the Premises by law, or by any condition of a licence granted by the Council.

(ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.

1.5 It is further proposed that the responsibility for the above approval be delegated to the Environmental Health & Licensing Manager.

1.6 The above condition is in-line with the wording used by numerous other Council's in the South West, including Torbay, Bournemouth, and Bristol.

2. Recommendations:

2.1 That the Committee approves the amended Sex Establishment Licensing Policy,

3. Reasons for the recommendation:

3.1 Standard Condition 17 has been in place with its current wording since July 2013. The current wording would not permit the type of window display requested by the Licence holder.

3.2 The proposed amended wording would provide for an appropriate balance to be struck between the commercial requirements of the Licence Holder, and the need to maintain appropriate/ acceptable window displays in licenced sex establishment premises.

4. What are the equality and diversity impacts of this decision?

A completed EqIA is attached at the end of this report.

5. What are the resource implications including non financial resources:

5.1 The proposed changes to policy do not give rise to any significant additional resource implications or have any revenue impact.

5.2 Any future costs in relation to the production of the policy will be met by income from fees.

6. Section 151 Officer comments:

6.1 There are no significant financial implications contained in this report for Council to consider.

7. What are the legal aspects?

7.1 As with all policies produced by the Council, it is necessary for it to be reasonable and workable in order to avoid any legal challenge by third parties. It is considered that the above amended condition is both reasonable and workable, and is in-line with the wording used by numerous other Licensing authorities in their licence conditions.

8. Monitoring Officer Comments:

The amendment to the policy suggested are sensible and look to providing a balance between the interests of the operator and the interest of the public.

9. Report details:

9.1 The proposed policy and the conditions included represent guidance on details of the service provided and the general principles that the Council follows in relation to the enforcement of Sex Establishment Licensing and the discretionary functions it undertakes.

9.2 The authority embraces the Department for Business Innovation and Skills' "Regulators Code." The authority embraces the principles of better regulation to promote efficient and effective approaches to regulatory activity without imposing unnecessary burdens on business. The Licensing Authority shall have regard to any plan agreed between a company and primary authority.

10. How does the decision contribute to the Council's Corporate Plan?

10.1 The proposed policy amendment will contribute to a business friendly economy whilst maintaining appropriate standards of decency.

11. What risks are there and how can they be reduced?

11.1.1 There are risks that a poorly drafted policy that is neither proportionate nor reasonable, or is inadequately consulted upon, may give rise to legal challenge. These risks have been

minimised by the amendment being only minor in nature, and in common with a condition used by numerous other Licensing Authorities. The proposed delegation to the Environmental health & Licensing Manager would also ensure appropriate application oversight.

12. What is the impact of the decision on health and wellbeing; safeguarding children, young people and adults with care and support needs, economy, safety and the environment?

12.1 It is considered that the proposed policy amendment will have a neutral effect through the measures outlined above.

13. What other options are there, and why have they been dismissed?

13.1 The Committee may reject the proposed policy amendment.

Environmental Health & Licensing Manager

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:

None

Contact for enquiries:

Democratic Services (Committees)

Room 2.3

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Equality Impact Assessment - To be completed using the checklist of questions at the end of the table

Title of work being assessed: Report Outlining A Proposal To Amend the Sex Establishment Licensing Policy

Introduction

The above report details a proposal to amend condition 17 of the standard conditions found within Appendix C of the Sex Establishment Licensing Policy. Condition 17 deals with the external appearance of Licenced Sex Establishments.

Following a request by ABS Holdings who operate Simply Pleasure (156 Sidwell Street), for them to be able to display their clothing range as part of a window display. This would be prohibited under the existing policy wording, and as such an amended form of words for condition 17 has been proposed which would require window displays to obtain prior approval by the Environmental Health & Licensing Manager.

If approved this policy amendment would strike an appropriate balance between the commercial interests of Licence holders and the need to maintain appropriate/ acceptable window displays in licenced sex establishment premises.

Lead officer: Lee Staples (Principal Licensing Officer)

Service Manager: Simon Lane (Environmental Health & Licensing Manager)

Stakeholders:

For each of the areas below, an assessment has been made on whether the policy has a **positive, negative or neutral impact**, and brief details of why this decision was made and notes of any mitigation are included. Where the impact is negative, a **high, medium or low assessment** is given. The assessment rates the impact of the policy based on the current situation (i.e. disregarding any actions planned to be carried out in future).

High impact – a significant potential impact, risk of exposure, history of complaints, no mitigating measures in place etc.

Medium impact –some potential impact exists, some mitigating measures are in place, poor evidence

Low impact – almost no relevancy to the process, e.g. an area that is very much legislation led and where the Council has very little discretion

	Neutral	Positive	Negative
Protected characteristic/ area of interest Race and ethnicity (including Gypsies and Travellers; migrant workers asylum seekers etc.)	There is no evidence to suggest that the proposed policy amendment would have a potential impact on this characteristic.		
Disability (as defined by the Equality Act - a person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities)	There is no evidence to suggest that the proposed policy amendment would have a potential impact on this characteristic.		
Sex/Gender	There is no evidence to suggest that the proposed policy amendment would have a potential impact on this characteristic.		
Gender reassignment	There is no evidence to suggest that the proposed policy amendment would have a potential impact on this characteristic.		
Religion and belief	There is no evidence to suggest that the proposed policy amendment would have a potential impact on this characteristic.		
Sexual orientation (including heterosexual, lesbian, gay, bisexual)	If approved the amended policy condition would be overseen by an appropriate delegated officer who would		

	ensure the appropriateness of any proposed window displays.		
Age (children and young people aged 0 – 24, adults aged 25 – 50, younger older people aged 51 – 75/80; older people 81+. The age categories are for illustration only as overriding consideration should be given to needs).	If approved the amended policy condition would be overseen by an appropriate delegated officer who would ensure the appropriateness of any proposed window displays.		
Community relations	There is no evidence to suggest that the proposed policy amendment would have a potential impact on this characteristic.		
Human Rights	There is no evidence to suggest that the proposed policy amendment would have a potential impact on this characteristic.		
Actions identified as a result of the impact assessment	None		
Action	Lead	By when	

Equality Impact Assessment Report Questions checklist	
1.	Describe the piece of work you are assessing and the reason it is being carried out. Are you: <ul style="list-style-type: none"> ○ Making a strategic budget proposal ○ Developing a new policy, strategy or project ○ Reviewing and revising a policy, strategy or project ○ Reviewing a function or a service ○ Restructuring a service. Include any options appraisal and if you have a preferred option explain why.
2.	What are the timescales for completing the work? What committee deadlines do you have to meet?
3.	What are the aims and objectives of the work? How do these link to wider council or strategic objectives.
4.	Who will be the main beneficiaries of the piece of work and in what way? All people in Exeter? Council staff? A specific stakeholder group? A combination of these?
5.	What data do you have on how different groups would be affected by the work?
6.	What research studies or reports have been carried out in other areas of the country or nationally that provide information about the likely impact of your work on equality groups?
7.	What consultation has taken place or is planned with customers (individuals and groups) from equality groups?
8.	What does the consultation indicate about any differential positive or negative impact(s) of this piece of work?
9.	If there are gaps in your previous or planned consultation and research are there any experts/relevant groups that can be contacted to get further views or evidence on the issues? If so please explain who they are and how you will obtain their views.
10.	If you have indicated there is a negative impact on any group, is that impact Legal; Intended; of high or low impact?
11.	If you identified any negative impact that is of low significance, can you minimise or remove it? If so how?
12.	Could you improve the strategy/policy/project's positive impact and if so how?

13.	How do you intend to continue monitoring the impact of this strategy/policy/project?
14.	If there are gaps in your evidence base, do you need to carry out any further research about the likely impact of your work on equality groups?
	There might be a time delay here as you will need to get the results of your consultation before you can continue working your way through the questions.
15.	As a result of this assessment and available evidence collected, including consultation, what if any changes do you need to make to the strategy/policy/project?
16.	Will the changes planned ensure that the negative impact is: Legal; Intended; of low impact?
17.	What monitoring/evaluation/review process have you set up to check the successful implementation of the strategy/policy/project?
18.	How will this monitoring/evaluation further assess the impact on the equality groups/ensure the strategy/policy/project is non-discriminatory?
19.	Please provide an action plan showing any recommendations that have arisen from the assessment and how you plan to take them forward. Are your actions SMART (specific, measurable, achievable, relevant and time-based).
20.	When will you next review this work and the impact assessment?