

Report to: Executive Cabinet Member
Environmental Services

Date: 3rd March 2014

Report of: Director of Environmental Services

Contact Officer: Sarah Schofield

Bolton Council

Report No: ECMES/57/14

Tele No: 336718

Report Title: Sex Establishment Draft Policy Post Consultation

Non Confidential: (**Non-Confidential**) This report does **not** contain information which warrants its consideration in the absence of the press or members of the public

Purpose: The Executive Cabinet Member to consider the final Sex Establishment Policy for publication post consultation and to consider adopting the provisions of Section 27 of the Policing and Crime Act 2009

Recommendations: The Executive Cabinet Member is requested to agree to take the final Sex Establishment Policy post consultation to full Council for approval to adopt the provisions of Section 27 of the Policing and Crime Act 2009

Decision:

Background Doc(s):

(for use on Exec Rep)

Signed:

Leader / Executive Member

Monitoring Officer

Date:

1. BACKGROUND

- 1.1 In April 2010 section 27 of the Policing and Crime Act 2009 came into force. The legislation amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to give local authorities the powers to licence lap dancing clubs and similar premises as “sexual entertainment venues”.
- 1.2 The powers are not mandatory and only apply where they are adopted by the local authority. However if a local authority has not made a resolution to adopt the provisions within one year of their introduction (i.e. by April 2011) it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.

2 ADOPTING THE PROVISIONS

- 2.1 Bolton Council has already adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 for the licensing of sex shops and sex cinemas however a further resolution is necessary before the new provisions introduced by Section 27 of the Policing and Crime Act 2009 will have effect in Bolton. The process for the adoption of the amendments to Schedule 3 is set out in Section 2 of the Local Government (Miscellaneous Provisions) Act 1982.
- 2.2 Firstly, the local authority would have to pass a resolution specifying that the amendments to Schedule 3 will apply in Bolton and the day on which they will come into force. The specified day must be more than one month after the day on which the resolution was passed.
- 2.3 The local authority then has to publish a notice that they have passed a resolution under paragraph 2(2) of Schedule 3 to the Policing and Crime Act 2009 for two consecutive weeks in a local newspaper that is circulated in the area. The first publication must be no later than 28 days before the day specified in the resolution for the provisions to come into force in the local authority's area. The notice must state the general effect of Schedule 3.

3 IMPLICATIONS OF ADOPTING THE PROVISIONS

- 3.1 Currently Bolton Council only has 3 premises which would be required to be licensed under the new provisions.
- 3.2 Adopting the provisions would give the Council greater powers to regulate Sex establishments.
- 3.3 Premises which provide relevant entertainment on an infrequent basis do not need to be licensed as sexual entertainment venues. An infrequent basis is defined as:
 - no more than 11 occasions in a 12 month period
 - occasions to be at least a month apart
 - no occasion to last longer than 24 hours

4 CONSULTATION RESPONSES

4.1 Aim

The consultation sought to gather views on the proposed Sexual Establishment [SE] policy which seeks to establish an exclusion zone around the town centre, and limit the number of

SE which would be allowed to operate in the borough and not grant license where the Council feels a SE would be inappropriate.

4.2 Methodology

A consultation pack comprising of the report, proposed policy and self-completion online questionnaire was sent electronically to stakeholders. A full list of stakeholders is included at appendix 2, but these included the three existing Sexual Establishments, town centre Councillors, representatives from statutory authorities, the voluntary authorities and organisations such as Pub Watch.

In addition, the pack was sent to over 500 members of eView, the council's online consultation panel which is made up of borough residents.

The pack also appeared on the council website, together with a telephone number so that people could ring to request a hardcopy.

The consultation period ran from 5th November to 4th December 2013.

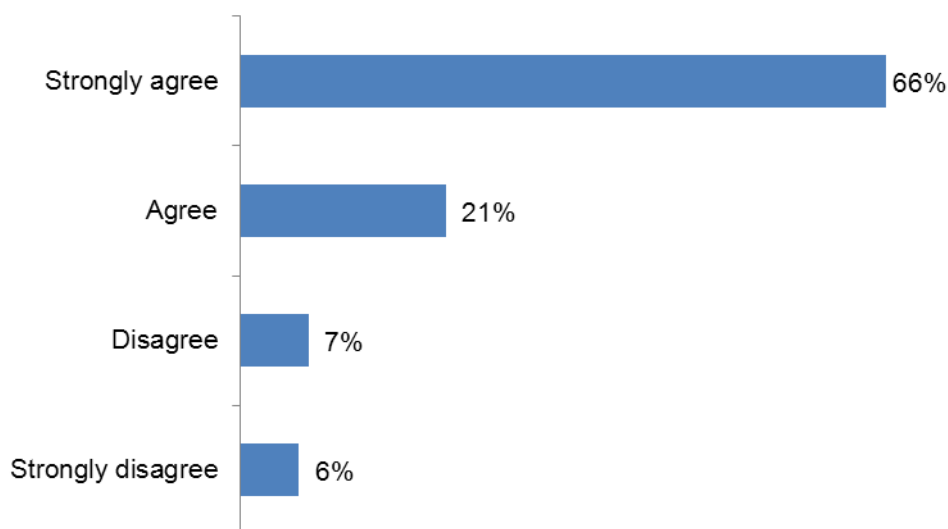
As none of the three Sexual Establishments appeared to have responded to the consultation, a reminder was sent to them on 20th November.

4.3 Responses

137 responses were received, including two from Sexual Establishments.

4.4 Findings

Respondents were requested to read the policy and then asked **how strongly do you agree or disagree that Bolton Council should adopt the proposed Sexual Establishment policy in order to regulate these premises?**



Over three quarters (87%) of respondents agreed that Bolton Council should adopt the policy.

5 NEW SEX ESTABLISHMENT POLICY

- 5.1 The final draft of the Sex Establishment Policy is attached at appendix C and this has been updated post consultation. The only changes to the policy following the consultation exercise are:
- Deleted proximity to alcohol or entertainment licensed premises as a locality where a new sex establishment would be refused
 - Amended historic buildings and tourist attractions to family tourist attractions as a locality where a new sex establishment would be refused
- 5.2 With the new proposed restrictions in the policy regarding the localities for these establishments some existing premises would not comply with the policy. Therefore it is suggested that there will be a rebuttable presumption that an application to renew a sex establishment licence, or from an applicant has operated a venue as sex entertainment venue prior to 31st March 2013, will be granted.

6 FEES

- 6.1 Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 states that an applicant for the grant, renewal, variations or transfer of a sex establishment licence shall pay a “reasonable fee” to be determined by the appropriate authorities. The fee will be subject to a future report in accordance with the provision of services regulations 2009.

7 EQUALITY IMPACT ASSESSMENT (EIA)

- 7.1 An EIA has been completed for this draft policy and this can be found at appendix D. This has been updated following the consultation process.

8. RECOMMENDATIONS

- 8.1 The Executive Cabinet Member is requested to agree to take the final Sex Establishment Policy post consultation to full Council for approval to adopt the provisions of Section 27 of the Policing and Crime Act 2009.



Proposed changes to Sexual Establishment policy

Proposed Sexual Establishment Policy

Sexual Establishments include sex cinemas, sex shops and venues which provide lap, pole or table dancing, strip, peep or live sex shows. They are all legal in this country and councils are unable to ban them if they operate within the law.

Bolton Council is proposing a new Sexual Establishment policy which incorporates Section 27 of the Policing and Crime Act 2009; giving us greater powers to license and regulate Sexual Establishments.

Full details of the proposed Sexual Establishment policy and relevant legislation can be found on our website [www.bolton.gov.uk]

While there are very few Sexual Establishments in the borough at the moment, adopting the proposed policy would allow the council to limit the number of Sexual Establishments in any area and decide where we did not want them.

For example, we could decide that no new Sexual Establishments should be allowed in Bolton town centre, because they could damage the local economy.

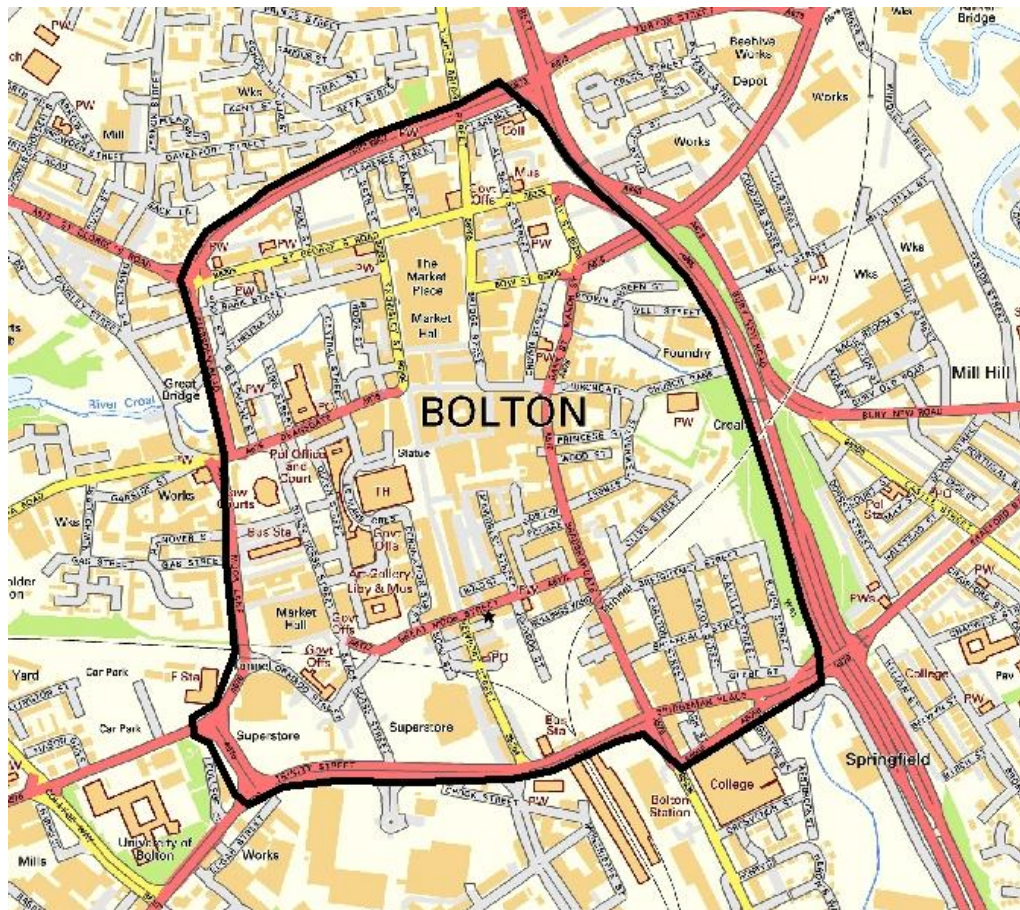
We could also decide that no new Sexual Establishments should be allowed anywhere that we feel is inappropriate. This could include places where children / young people congregate [such as schools and parks], areas where people live or shop, and near to places of worship.

We would like to hear what you think about the proposed policy and whether we should adopt it or not.

Exclusion areas

If the legislation is adopted, the council will be able limit the number of Sexual Establishments in any area.

The proposal is that no new Sexual Establishments will be licensed within Bolton town centre [within the black boundary of the map]



Q1 Do you have any comments on this proposed town centre exclusion zone?

New applications may be considered outside the town centre, but these will generally not be granted, especially if the area is made up of residential accommodation, parks or children's play areas, shops, schools, colleges, universities, religious buildings, communal buildings, licensed premises [e.g. pubs and clubs], historic buildings or tourist attractions, family shopping or leisure areas.

Q2 Do you have any comments on these proposed exclusion areas?

If the proposed policy is adopted

Q3 How will you be affected, if at all, if the proposed policy is adopted?

Alternative suggestions

Q4 Please use this space if you wish to suggest any alternatives or additions to the proposed policy.

Comments and alternative solutions

Q5 Having looked at the proposed policy and taken everything into consideration, how strongly do you agree or disagree that Bolton Council should adopt the proposed Sexual Establishment policy in order to regulate these premises?

☐ Strongly agree

☐ Agree

☐ Disagree

☐ Strongly disagree

☐ Don't know

Q6 Please use this space if you wish to make any further comments.

About you. Questions in this section are entirely optional. Please be assured that no individual will be identified in any report.

Q7 In what capacity are you completing this questionnaire?

- ☐ Live / work in Bolton borough
- ☐ Local Councillor
- ☐ Staff / owner / manager of licensed premises [pub, club etc.]
- ☐ Staff / owner / manager of Sexual Establishment
- ☐ Representative of a religious / faith group
- ☐ Representative of statutory authority [police etc.]
- ☐ Other

If 'other' please state

Please use this box if you wish to give us further details of the organisation you represent.....

Please give your postcode. If you don't want to give the full postcode, please provide the first 4 characters e.g. BL1 2.

Thank you for completing this questionnaire.

Appendix B –Consultees

The following stakeholder organisations and individuals were invited to comment on the proposed adoption of the new powers:

- Development and Regeneration Department (Planning Control, Building Control, Town Centre Strategy)
- Community Safety – Crime and Disorder
- Children’s Services Department (Child Protection)
- Regulatory Services
- Legal and Democratic Services
- Voluntary and Community Organisations
- Primary Care Trust (Medical Practices)
- Faith Leaders Forum
- Town centre ward Councillors
- GM Police
- GM Fire and Rescue Service
- Current sex establishments including sexual entertainment venues in Bolton

Appendix C – Draft Sex Establishment Policy

See separate document enclosed.

Equality Impact Assessment Part 1: Screening Form

Title of report or proposal:
Sex Establishment Draft Policy and Proposal to Consult

Department:	Environmental Services
Section/SIAP unit:	Licensing, Neighbourhood and Regulatory Services
Date:	15 th October 2013

This report is for decision and is therefore subject to an Equality Impact Assessment. The following questions have been completed to ensure that this proposal, procedure or working practice does not discriminate against any particular social group. Details of the outcome of the Equality Impact Assessment will also be included in the main body of the report.

Equality Impact Assessment Questions

1. Describe in summary the aims, objectives and purpose of the proposal, including desired outcomes:

In April 2010 section 27 of the Policing and Crime Act 2009 came into force. The legislation amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to give local authorities the powers to licence lap dancing clubs and similar premises as “sexual entertainment venues”.

The powers are not mandatory and only apply where they are adopted by the local authority. However if a local authority has not made a resolution to adopt the provisions within one year of their introduction (i.e. by April 2011) it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.

Bolton Council is proposing to adopt these new provisions which will give it greater powers to regulate sex establishments.

2. Who are the main stakeholders in relation to the proposal?

The main stakeholders in relation to this proposal are listed below and it is suggested that they should be invited to comment on the proposed adoption of the new powers:

- Development and Regeneration Department (Planning Control, Building Control, Town Centre Strategy)
- Community Safety – Crime and Disorder
- Children’s Services Department (Child Protection)
- Regulatory Services
- Legal and Democratic Services
- Voluntary and Community Organisations
- Primary Care Trust (Medical Practices)
- Faith Leaders Forum
- Town centre ward Councillors
- GM Police
- GM Fire and Rescue Service
- Current sex establishments including sexual entertainment venues in Bolton

3. In summary, what are the anticipated (positive or negative) impacts of the proposal?

The proposal to adopt the provisions of section 27 would give the Council powers to licence sexual entertainment venues which would mean in practice that there would be greater regulation of all sex establishments in Bolton including sex entertainment venues, sex shops and sex cinemas. For local people the impact of Bolton Council adopting these new powers would be positive as greater restrictions would be placed on the operation of sex establishments.

Impact for the business community

The new policy would impact on current businesses already operating in Bolton as sex entertainment venues but it is likely that existing businesses would be allowed to continue to operate in their current locations even if they do not comply with the new restrictions written into the policy.

Impact for the wider community

The changes proposed in the revised Statement of Principles are not anticipated to impact significantly on the wider community.

4. With regard to the stakeholders identified above and the diversity groups set out below:

	Is there any potential for (positive or negative) differential impact?	Could this lead to adverse impact and if so what?	Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group, or for any other reason?	Please detail what measures or changes you will put in place to remedy any identified adverse impact
Race	It is not anticipated that the proposed amendments will have an effect on the grounds of race.	Not applicable	Not applicable.	During the consultation period, no issues specific to race were raised.
Religion	There will be a presumption for refusal of a licence if the locality includes religious buildings	Not applicable	Not applicable	During the consultation period, no issues specific to religion were raised.
Disability	It is not anticipated that the revised statement will have an impact on the grounds of disability. Businesses have obligations under national equality legislation, which can include the	It is not anticipated that the proposed amendments will have an adverse impact on the grounds of disability.	Not applicable.	During consultation two consultees queried whether there were implications for access to buildings for disabled people. However, it is considered that this would be addressed on a specific basis under the DDA and reasonable

	<p>requirement to make reasonable adaptations for people who have a disability. They also have an obligation to ensure that appropriate evacuation arrangements are in place in the event of an emergency, and that patrons who have a disability are made aware of these arrangements.</p>			
<p>Gender (including gender reassignment)</p>	<p>The new provisions will give Bolton Council greater powers to ensure that the licence holders comply with the standard conditions laid down in the policy including rules relating to the conduct of the performers. These conditions give the performers, mainly female, greater</p>	<p>Not applicable.</p>	<p>Not applicable.</p>	<p>During the consultation period, no issues specific to gender were raised.</p>

	protection.			
Age	<p>There will be a presumption for refusal of a licence if the locality includes schools, nurseries, childrens centres, colleges or university.</p> <p>The standard conditions in the policy for all sex establishments and sex venues include a requirement for them to operate the challenge 25 proof of age scheme ensuring that people under the age of 18 are not allowed into the premises.</p>	Not applicable.	Not applicable.	During the consultation period, no issues specific to age were raised.

Sexuality	It is not anticipated that the proposed amendments will have an effect on the grounds of sexuality.	Not applicable.	Not applicable.	During the consultation period, no issues specific to sexuality were raised.
Caring status (including pregnancy & maternity)	It is not anticipated that the proposed amendments will have an effect on the grounds of caring status.	Not applicable.	Not applicable.	During the consultation period, no issues specific to caring status were raised.
Marriage and civil partnership	It is not anticipated that the proposed amendments will have an effect on the grounds of marriage and civil partnership.	Not applicable.	Not applicable.	During the consultation period, no issues specific to marriage and civil partnership were raised.
Socio-economic	It is not anticipated that the proposed amendments will have an effect on the grounds of socio-economic.	Not applicable.	Not applicable.	During the consultation period, no issues specific to socio-economic were raised.
Other comments or issues	Existing sex establishments and venues will have some of the locality restrictions lifted in order to ensure they can continue to operate their business in their current location.			

<p>Please provide a list of the evidence used to inform this EIA, such as the results of consultation, service take-up, service monitoring, surveys, stakeholder comments and complaints where appropriate.</p> <p>If you have undertaken consultation as part of the proposal, the consultation manager will upload it on to the corporate database.</p>	<ul style="list-style-type: none"> • The draft Sex Establishment Policy • National legislative frameworks and guidance – Sexual Entertainment Venues March 2010 •
---	--

5.a Are there any gaps in your evidence or conclusions that make it difficult for you to quantify the potential adverse impact?

No

5.b If so, please explain how you will explore the proposal in greater depth or please explain why no further action is required at this time.

Please see above.

You may wish to consider undertaking secondary data analysis, further consultation or research or investigating best practice. If you are planning to undertake further consultation or research as a result of this EIA, please contact the Consultation Manager on ext. 1083.

Equality Impact Assessment

Part 2: Consultation Form

(To be completed where consultation has been undertaken)

This report is for decision and is therefore subject to an Equality Impact Assessment. The proposal was also subject to consultation and this Equality Impact Assessment (Consultation Form) provides details of the consultation results.

The following questions have been completed to ensure that this proposal, procedure or working practice does not discriminate against any particular social group. This has been ensured by undertaking consultation. Details of the outcome of the consultation have also been included in the main body of the report.

This form asks you to provide details of all the consultation undertaken specific to the proposal you are making, either prior to the EIA or as part of it and the results of this.

1	Consultation with staff
a	Please summarise the consultation undertaken with staff and their Trades Unions regarding this proposal.
	No consultation was undertaken with staff as they are not affected by the proposals
b	Please summarise the results of this consultation, including key issues arising and any changes being made to the proposal as a result of the consultation
	N/A
2	Consultation with customers and other stakeholders
a	Please summarise the consultation undertaken with customers and other stakeholders regarding this proposal (refer back to the stakeholders identified in your screening form)
	<p>A consultation pack comprising of the report, proposed policy and self-completion online questionnaire was sent electronically to stakeholders. The stakeholders included the three existing Sexual Establishments, town centre Councillors, representatives from statutory authorities, the voluntary authorities and organisations such as Pub Watch.</p> <p>In addition, the pack was sent to over 500 members of eView, the council's online consultation panel which is made up of borough residents.</p> <p>The pack also appeared on the council website, together with a telephone number so that people could ring to request a hardcopy.</p> <p>The consultation period ran from 5th November to 4th December 2013.</p> <p>As none of the three Sexual Establishments appeared to have responded to the consultation, a reminder was sent to them on 20th November.</p> <p>Responses 137 responses were received, including two from Sexual Establishments.</p>

b	Please summarise the results of this consultation, including key issues arising and any changes being made to the proposal as a result of the consultation
	There are no changes to the proposals as the result of the consultation.

This EIA form and report has been checked and countersigned by the Departmental Equalities Officer before proceeding to Executive Member(s)

Please confirm the outcome of this EIA:

No major impact identified, therefore no major changes required – proceed	<input checked="checked" type="checkbox"/>
Adjustments to remove barriers / promote equality (mitigate impact) have been identified – proceed	<input type="checkbox"/>
Continue despite having identified potential for adverse impact/missed opportunities for promoting equality – this requires a strong justification	<input type="checkbox"/>
Stop and rethink - the EIA identifies actual or potential unlawful discrimination	<input type="checkbox"/>

Report Officer

Name: _____

Signature: _____

Date and Contact No: _____

Departmental Equalities Lead Officer

Name: Ann McDonna

Signature: _____

Date and Contact No: 19.12.13 ext:6728
