

BRISTOL CITY COUNCIL

Licensing Committee

28 July 2022

Report of: Executive Director: Growth & Regeneration

Title: Sex Establishment Policy Review

Ward: Citywide

Officer Presenting Report: Abigail Holman

Contact Telephone Number: 0117 3574900

RECOMMENDATION

That the having consulted on its proposed policy the Licensing Committee resolve to:

- i) Adopt the amended Sex Establishment Policy annexed as Appendix 1 and Standard Conditions attached as Appendix 17 and approve their effect from 1 August 2022.
- ii) Determine what the number of premises of each type in the currently defined localities should be based on the two proposals at Appendix 2
- iii) direct that this policy be published on the Council's web pages before that date.

Summary

The Local Government (Miscellaneous Provisions) Act 1982 allows the Council, as the Licensing Authority, to develop and implement a policy in respect of exercising its functions under the Act. The Council adopted additional provisions in respect of Sexual Entertainment Venues in 2011.

There is no statutory requirement to review a Sex Establishment Policy however it is good practice to review policy on a periodic basis.

The significant issues in the report are:

- Sex Establishment policy context
 - Updates and amendments to policy wording
 - Proposed appropriate numbers for three localities: City Centre locality, Old Market/West Street locality, and Bishopston/Redland/Cotham/Ashley locality
 - Updated standard conditions for all types of sex establishments
- Responses:
 - Initial engagement and invitation for submissions to working group
 - Pre-consultation questionnaire
 - Consultation 1 and additional responses
 - Consultation 2 and additional responses
 - Other information for consideration outside of consultations
- Equalities impact assessment and consideration of public sector equality duty
- Legal obligations

Policy

1. The Sex Establishment Policy must comply with the requirements of the Local Government (Miscellaneous Provisions) Act 1982 (the Act). The Act defines the type of activity which can be regulated but does not specify a requirement for a policy or review of any such policy.
2. The Council adopted additional parts of the Local Government (Miscellaneous Provisions) Act 1982 in 2011 which gave it the ability to control and regulate Sexual Entertainment Venues. A policy was developed at that time which resulted in three sexual entertainment venues becoming licensed under the legislation, along with the five existing sex shops already covered by the same Act. It had not been reviewed in full since this date.
3. There are now two licensed sexual entertainment venues and two licensed sex shops within Bristol City Council's administrative area. There are currently no licensed sex cinemas.

Context

4. Decisions in respect of this policy are not an executive function and are dealt with by the Licensing Committee.
5. A working group was set up in 2016 by the Licensing Committee to review the policy. The working group began by inviting submissions from relevant stakeholders and previous commenters. A wide range of information was submitted, and the working group met eight times

between October 2016 and November 2018.

6. During these sessions they considered a wide range of information and heard from various stakeholders including the Police & Crime Commissioner, Avon & Somerset Constabulary, a number of groups and individuals who oppose sexual entertainment venues, proprietors and performers and Destination Bristol. They had a range of views, often with competing interests, and opinions. They also heard from officers regarding the legal framework under which the policy is created and maintained, and about decisions of other local authorities with regard to their policies.
7. The working group initially invited written comments from a wide range of stakeholders and received seventeen responses. A copy of these responses is attached at **Appendix 3**. One response was requested to not be disclosed publicly and is attached at **Appendix 4** as a restricted document for the committee only to view. Four respondents did not provide permission to disclose their responses and therefore these are not included in the documents.
8. The working group invited these respondents to speak to them and nine attended. The working group additionally invited a performer and the Operations Director for the Bristol Improvement District to speak to them. A copy of the summary of the minutes from each respondent is attached at **Appendix 5**. A journal article entitled 'Men's Objectifying Media Consumption, Objectification of Women, and Attitudes Supportive of Violence Against Women' as well as a presentation relied upon in the verbal submissions are attached at **Appendix 6** and **Appendix 7** respectively. Two respondents did not provide permission to disclose the summaries and therefore these are not included in the documents.
9. The working group requested officers provide information relating to other cities policy positions in particular those which had been referenced in submissions as having a policy limiting numbers to nil, and other core cities. That information was collated at the time and has recently been updated in June 2022. It is attached at **Appendix 8**.
10. The working group also received a briefing note from the planning team on the status of sex establishments from a planning perspective, local planning policy and information about the current and expected changes in the uses of buildings within the city centre and old market areas. The information was correct at the time of submission in July 2017. This is attached at **Appendix 9**.

Consultations

11. There are no requirements as to who should be consulted in respect of a Sex Establishment Policy under the Act, however officers consulted with a broad range of persons and bodies including:
 - The Chief Officer of Police
 - The Police and Crime Commissioner
 - Avon Fire and Rescue
 - Other regulatory bodies such as BCC public health and pollution control
 - Members of the Public
 - Persons involved in the types of premises which are regulated
 - Equalities Groups
 - Neighbourhood and community groups
 - Interest groups
 - Business groups
 - Citizen Panel

12. The working group produced a questionnaire to seek the views of the wider public on the types of venues regulated under the Act. The questions related to whether people thought the venues were appropriate in particular types of areas, as well as giving examples of specific areas within Bristol. The questionnaire did not seek views on the draft or current policy.

13. The questionnaire received 1430 responses from a range of people. The majority of respondents were members of the public. The full results can be seen in the questionnaire report which is attached at **Appendix 10**.

14. In the questionnaire there were a number of questions where a large proportion of people neither agreed nor disagreed with the statement, indicating that there is not a definitive split between those who believe sex establishments should be permitted in Bristol and those who do not.

15. The questionnaire, information from other Licensing Authorities, and submissions from respondents assisted the working group in the formulation of the draft policy, EQIA and draft standard conditions which were then put out for consultation between 16 August 2019 and 10 November 2019. The consultation sought responses from the public to questions around the policy approach as well as specific areas of the policy.

16. The consultation was available online, and paper copies of the

questions and alternative accessible formats were available on request. The questionnaire was publicised through media, social media and communications with the public including relevant responsible authorities, equalities groups, and stakeholders. It was also sent to residents' groups and officers attended a Night Panel meeting to notify them of the consultation and answer questions.

17. The questions were also distributed to the Citizen Panel for response. The Citizen Panel was made up of a range of people who reflect the demographics of the City and regularly responded to consultations across a range of issues.
18. The consultation received 1046 responses with 809 (77%) of responses from members of the public. Separately 425 responses were received from the Citizen Panel, representing 35% of their membership. Additional submissions were received outside of the questionnaire from a range of groups, as well as comments made alongside the questions within the consultation.
19. The consultation report is attached at **Appendix 11**. Some of the information in the Appendices of the report is restricted as the contributors have not given permission for it or their details to be made available to the public but has been made available in full for the members of this committee.
20. In the results of the consultation, it can be seen that the majority of members of the public agreed with the proposed numbers for the localities in Old Market, City Centre, and Bishopston/Redland/Cotham/Ashley areas, between 59% and 66%. However, a significant proportion of people, between 21% and 33% did not agree with the proposed number. Strong representations were also received outside of the consultation questions from a number of groups who felt that to permit SEVs in particular undermined the public sector equality duty and the Council's commitment to ensuring the safety of women in public spaces.
21. A number of comments were made alongside consultation responses relating to the fear that some women experience when in proximity to these premises, whether objectively justified or not which is relevant when the committee consider whether to impose a particular policy.
22. The working group therefore considered the information provided and asked the Licensing Committee to approve a consultation on a policy with revised proposals for numbers within the currently defined localities. A policy with revised numbers of nil for SEVs in the three defined localities was put out for consultation between 28 September 2021 and 19 December 2021.

23. The consultation sought responses from the public to questions around the proposed revised numbers, feelings of safety and impact of existing SEVs on feelings of safety within the specified localities. The consultation was available online, and alternative formats were available on request. The questionnaire was publicised through media, social media and communications with the public including relevant responsible authorities, equalities groups, and stakeholders.
24. The consultation received 6273 responses with 90% of responses from members of the public. Additional submissions were received outside of the questionnaire from a range of groups, as well as comments made alongside the questions within the consultation.
25. The consultation report is attached at **Appendix 12**. Some of the information in the Appendices of the report is restricted as the contributors have not given permission for it or their details to be made available to the public but has been made available in full for the members of this committee.

Other information outside consultations

26. We are aware of a number of other submissions which have been made during the review process directly to the council, but outside of consultations, as well as a number of public documents such as open letters and statements being published.
27. In 2018 the Women and Equalities Select Committee heard from a range of experts and commenters in relation to the sexual harassment of women and girls in public places. Their report on the matter was published on 23 October 2018 and includes a section at paragraphs 135-142 on the licensing of sexual entertainment venues. The full report can be accessed on the [Parliament archive for this select committee](#).
28. A number of public forum statements were made in relation to the licensing committee on 8 March 2021. A copy of these is attached at **Appendix 13**. A public forum statement was made by Bristol Women's Commission to Full Council on 6 July 2021. A copy of this is attached at **Appendix 14**.
29. The Bristol Sex Workers Collective wrote an open letter to the Council after 8 March 2021. A copy of the letter was captured from the relevant webpage on 14 June 2022 and is attached at **Appendix 15**.
30. The Police and Crime Commissioner for Avon and Somerset Constabulary, Mark Shelford, made a statement in support of a nil cap, which is published on the [Avon and Somerset PCC website](#).

31. In March 2021 the Home Secretary commissioned a report by Her Majesty's Inspectorate of Constabulary and Fire Rescue Services in the wake of the murder of Sarah Everard. The report was about the police response to violence against women and girls and found a number of issues, including inconsistency of recording of offences both within and across forces. A full copy of the report can be accessed on the [HMICFRS website](#).

Updates to policy and conditions

32. Following the consultations officers updated the wording in both the policy and the standard conditions. A copy of the policy is attached at **Appendix 1**, along with options for numbers of premises in each currently defined locality at **Appendix 2**. A copy of the revised standard conditions can be found at **Appendix 17**. A summary of the changes in the policy and in the conditions can be found at **Appendix 18**.
33. Officers have also prepared a local area profile, which sits alongside the policy but is separate to it. This document is designed to assist applicants and members of the public in understanding and outlining the types of activities which take place in the council's administrative area, but which are not necessarily licensable under this legislation. A copy of this is attached at **Appendix 19**. This document is attached for information only.

Public Sector Equality Duty

34. The council must in its decision making have due regard to the requirements under the Equalities Act 2010. This is not to say that it must come to one conclusion or another, but that it must weigh the evidence and give equality considerations the weight which is proportionate in the circumstances, given the potential impact of the policy on equality.
35. Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
 - i) Eliminate discrimination, harassment, victimisation, and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it.

This involves having due regard, in particular, to the need to --

- remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
- tackle prejudice; and
 - promote understanding.

36. Officers have completed an Equalities Impact Assessment attached as **Appendix 20**.

Proposal

37. The committee is asked to:

- consider the information presented in this report and appendices
- adopt the proposed draft policy and standard conditions
- Determine what the number of premises of each type in the currently defined localities should be based on the two proposals provided at Appendix 2.

Other Options Considered

38. Do nothing: The policy could be left in place with no changes.

Risk Assessment

The risks associated with the implementation of the recommendations of the report

No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK (Before controls)		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of mitigation).	CURRENT RISK (After controls)		RISK OWNER
		Impact	Probability		Impact	Probability	
1	Any policy decision is open to judicial challenge	Medium	High	Bristol City Council has followed a clear process in reviewing the policy, however this is a contentious issue and following a clear process may not be sufficient to mitigate against a judicial challenge	Medium	High	

The risks associated with <u>not</u> implementing the recommendations of the report							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK (Before controls)		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of mitigation).	CURRENT RISK (After controls)		RISK OWNER
		Impact	Probability		Impact	Probability	
1	There could be reputational harm to the Council for not updating the policy and taking account of changes within the Council's administrative area. This would mean the policy would revert to the previous version which includes outdated aspects of the policy.	Medium	Medium	Review of policy and consideration of consultation results.	Medium	Medium	

Legal and Resource Implications

Legal

Local Authorities are not bound to have a sex establishment policy but may have one if they wish to do so. Any policy must not prevent individual applications from being considered on their own merits at the time they are made.

A consultation process has been undertaken and case law guides on

what constitutes lawful consultation and from this some key guiding principles have been established, in summary that those being consulted must:

- a. be provided with material upon which a decision is likely to be made;
- b. be given enough time for intelligent consideration of that material and to respond to it;
- c. be given the opportunity to make considered representations;
- d. have their representations conscientiously considered.

It is therefore important that members are satisfied that the consultation process has allowed sufficient time to enable any person or body wishing to make representations to obtain relevant material, to consider it and to put their representations to the Council.

The outcomes of this consultation should be conscientiously taken into account by the committee when making decisions about the policy

The Equalities Impact Assessment is designed to assist the committee in paying due regard to the Public Sector Equalities Duty when formulating the policy. Members should not however, rely solely on the Equalities Impact Assessment provided when making their decision, but rather should take a considered and engaged approach in order to grasp the issues themselves.

Kate Burnham-Davies, Specialist Lawyer, Litigation, Regulatory and Community Team – 30th June 2022

Financial

The Licensing Service currently receives approximately £10,000 annually from the renewal of these existing licenses. This funds only part of the costs of administering the licenses, which is sensitive and complex, requiring legal implications and policy development work. There is a risk to resource allocation for this work in the future if funding is reduced or withdrawn. Further review is required to ensure the sustainability of the administrative demands of providing these licenses.

Kayode Olagundoye, Interim Finance Business Partner for Growth and Regeneration – 4th July 2022

Personnel

There are no HR implications evident

Celia Williams, HR Business Partner for Growth and Regeneration –
4th July 2022

Appendices:

Appendix 1	Draft proposed policy	Public
Appendix 2	Proposed options for numbers of sex establishments in defined localities	Public
Appendix 3	Initial written responses from stakeholders	Public
Appendix 4	Initial written responses from stakeholders - redacted	Restricted
Appendix 5	Summaries of responses	Public
Appendix 6	Journal article	Public
Appendix 7	Presentation in relation to verbal submissions	Restricted
Appendix 8	List of local authority policy decisions	Public
Appendix 9	Planning briefing note 2017	Public
Appendix 10	Questionnaire report 23-04-2019	Public
Appendix 11a	Consultation report 2020	Public
Appendix 11b	Consultation appendices 2020	Restricted
Appendix 12a	Consultation report – proposed nil numbers 2021	Public
Appendix 12b	Consultation appendices – proposed nil numbers 2021 – comments	Restricted
Appendix 12c	Consultation appendices – proposed nil numbers 2021 – additional responses	Restricted
Appendix 13	Public Forum 08-03-21	Public
Appendix 14	Public Forum 06-07-21	Public

Appendix 15	Open Letter Bristol Sex Workers Collective	Public
Appendix 16	Open Letter United Voices of the World Union	Public
Appendix 17	Standard conditions	Public
Appendix 18	Summary of changes	Public
Appendix 19	Local Area Profile	Public
Appendix 20	Equality Impact Assessment	Public

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers: