

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Committee & Environmental Health Portfolio Holder 10 August 2006
AUTHOR/S: Executive Director/Chief Environmental Health Officer

ADOPTION OF SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – SEX ESTABLISHMENTS

Purpose

1. To seek approval for the adoption of the Local Government (Miscellaneous Provisions) Act 1982, Part 2, Schedule 3; the policy relating to setting of fees, and agreement to a set of standard conditions in relation to the licensing of Sex establishments within the district of South Cambridgeshire.

Effect on Corporate Objectives

2.

Sustainability	The main objectives are to have sustainability at their heart, see comments on village life and quality, accessible services
Quality, Accessible services	Premises may be permitted to hold a licence subject to a very strict criteria in how they operate,
Village Life	The objectives of the adoption of this Act are all aimed at ensuring any Sex Establishment is conducted in a proper manner and promotes the protection of children and other vulnerable adults from being harmed or exploited by such activities.
Partnerships	South Cambridgeshire District Council promotes the closer working in partnership with organisations including Police and Fire Authorities.

Background

3. Over recent weeks and months the Environmental Health department has received a number of informal enquiries regarding the setting up of Sex Establishments within the area. The Licensing of Sex Establishments is dealt with by Part 2, Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (1982 Act). The legislation is adoptive and if formally adopted by an authority the operation of a Sex Establishment within the authorities area will be illegal without the benefit of a licence or waiver in that behalf in respect of the premises.
4. Activities adopted by this Authority under the 1982 Act include the registration of ear piercing, tattooing, electrolosis and issuing of street trading licences. Unfortunately, Officers can find no evidence that the Council has previously adopted the relevant schedule to cover the licensing of Sex Establishments.

Considerations

5. The definition given in the 1982 Act to Sex Establishments includes a sex cinema or sex shop as: -

Sex Shop:

"Any premises, vehicle, vessel or store used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging - sexual activity or acts of force or restraint which are associated with sexual activity".

Sex Cinema:

"Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions."

6. A licence would be granted for a period of one year or such shorter periods as considered necessary. Licences can be granted subject to terms, conditions or restrictions. A fee is payable for an application for the grant of an application and thereafter a renewal fee is also payable.
7. Anybody who operates a sex establishment without a licence or fails to comply with licence conditions or admits persons under the age of 18 years commits an offence. Penalties upon conviction can range from £1,000 to £20,000.
8. If the Council adopts Schedule 3 of the 1982 Act then it will be empowered to set conditions upon the licence as it sees appropriate. Attached at **Appendix A** are a proposed set of standard conditions that may be applied to any application made within the South Cambridgeshire District for the operation of a Sex Establishment.
9. These standard set of conditions are by no means exhaustive but illustrate the powers available to the Council when applying conditions to any licence. On consideration of an application it is open to the Licensing Committee to vary, add or apply the conditions as detailed in Appendix A, subject to the merits of the application presented.
10. When considering the suitability of an application for a sex establishment licence the Council may only use the following criteria:
 - (a) The suitability of the Applicant
 - (b) Whether the person applying is a "front" person for someone else
 - (c) The location and situation of the premises in relation to other premises in the area
 - (d) Whether the number of sex establishments in that locality is equal to, or exceeds the number which the Council considers appropriate for the area.
11. The Council can stay silent on the number of establishments it considers relevant for its area or specify the number it considers appropriate. Any restriction on numbers is however subject to the normal appeal routes.
12. Should the Council wish to adopt Schedule 3 of the 1982 Act, legal formalities must be observed. An advertisement must be placed in a local newspaper advising that this Council has passed a resolution to adopt Part 2 (Schedule 3) Control of Sex Establishments in two consecutive weeks, twenty eight days before the adoption date.

Financial Implications

13. The Council has the power, if the 1982 Act is adopted, to set reasonable fees for the grant, renewal or transfer of a licence. Neighbouring authorities charge between £130 and £4,500. It is suggested that the Council's policy in the setting of fees is to be consistent with levels set in neighbouring authorities and to ensure all costs are covered including advertising, application processing, appeal costs etc.

Legal Implications

14. As stated in the body of the report. Any applications for a licence would have a right of appeal to the Magistrates Courts if turned down or conditions were attached that the applicant considered unreasonable.

Staffing Implications

15. There are no staffing implications related to this report

Consultations

16. There are no consultation requirements in adopting the Act, however consideration has been given to the conditions and fees applied by other authorities.
17. Legal services have been asked for a view of the suggested standard conditions, which will be reported verbally to Committee and Portfolio Holder.

Recommendations

18. It is recommended that the Committee recommends to the Environmental Health Portfolio Holder, Cabinet and Council:
 - (a) The adoption of Part 2, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of the licensing of Sex Establishments;
 - (b) To approve the standard conditions of licensing laid out in Appendix A, and
 - (c) To agree the policy for the setting of fees as per paragraph 13 and the fee for the application, renewal or transfer of a licence is set at £3500.

Background Papers: Local Government (Miscellaneous Provisions) Act 1982

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