

<b>COUNCIL</b>	<b>AGENDA ITEM No. 15(c)</b>
<b>30 JANUARY 2013</b>	<b>PUBLIC REPORT</b>

**CHANGES TO THE CONSTITUTION REQUIRED TO REFLECT CURRENT LEGISLATIVE REQUIREMENTS REGARDING THE LICENSING OF SEX ESTABLISHMENTS**

<b>R E C O M M E N D A T I O N S</b>
<b>FROM :</b> Teresa Martin - Regulatory Officer - Licensing
<p>Council is recommended to:</p> <ol style="list-style-type: none"> <li>1. approve the amendments to the delegations for the Licensing Committee in accordance with the functions and provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009; and</li> <li>2. agree that the constitution is updated accordingly (as in Appendix B)</li> </ol>

**1. PURPOSE AND REASON FOR REPORT**

- 1.1 To update references in the constitution relating to the licensing of sex establishments.
- 1.2 To clarify within the constitution, licensing delegations, confirming whether they are to the licensing committee, an officer or chair of the licensing committee when determining different applications, and to provide further clarity regarding the setting of licensing fees.

**2. BACKGROUND (& CONSULTATION)**

- 2.1 The council adopted the changes in legislation brought about by the Policing and Crime Act 2009, which introduced a new category of sex establishment called Sexual Entertainment Venue, on 8 December 2010 (agenda item 7 (ii)(b)).
- 2.2 The constitution currently states that renewal of licenses for sex shops and sex cinemas is governed by the Licensing Act 2003. This needs to be amended as they are governed by the Local Government (Miscellaneous Provisions) Act 1982.
- 2.3 The constitution does not currently include provision for granting new applications for sex establishments. These applications will be determined by the licensing committee. The licensing committee will also determine the fees applicable for sex establishments on an annual basis.

**3. LEGISLATION**

- 3.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 governs the licensing of sex establishment licenses (sex shops and sex cinemas). This was amended by the Policing and Crime Act 2009 which was adopted on 8 December 2010 by full council. This took the licensing of lap dancing clubs and similar venues out of the scope of the Licensing Act 2003 and introduced sexual entertainment venues to the provisions of the Miscellaneous Provisions Act.
- 3.2 The proposed changes will ensure that it is clear in the constitution that all new applications, applications with representations (that have not been withdrawn) and revocations will all be determined by the licensing committee. Officers will only determine

applications for renewals and transfers where no representations are received, or where representations made have been withdrawn. Variation applications will be determined by officers in consultation with the chair of the licensing committee.

#### **4. IMPLICATIONS**

##### **4.1 Legal**

Legal Services have reviewed the proposals and confirm that they meet with the legislative requirements described above. Guidance has also been sought from the Legal Section on the compilation of this report.

4.2 By not updating the constitution accordingly, it could leave the council open to criticism or judicial review.

##### **4.2 Financial**

No financial implications have been identified.

#### **5. BACKGROUND DOCUMENTS**

Council report from [8 December 2010](#).  
[Section 27 of the Policing and Crime Act 2009](#).