

LICENSING OF SEX ESTABLISHMENTS

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Committee:	LICENSING	Agenda Item
Date:	31 MAY 2006	7
Title:	REGULATION OF SEX ESTABLISHMENTS	
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Summary

- 1 This report sets out for consideration by Members regulations that prescribe conditions for the Licensing of Sex Establishments within this District and the ability of the Council to control the number of sex shops within localities.

Recommendations

- 2 The Committee recommend that the Council adopt regulations which prescribe the standard conditions which are attached.
- 3 The Committee determines whether it wishes to consider a policy regarding the number of sex establishments it would consider appropriate within various parts of the District

Background Papers

- Suggested conditions which govern the licensing of Sex Establishments. *Unless you got the conditions from government guidance or some other source this should read "None".*

Impact

Communication/Consultation	Applications for sex establishment licences must be advertised and objections must be considered by the Committee. If Members wish to adopt a policy on controlling the number of sex shops it would be desirable to consult with the Area Panels, Town and Parish Councils and the Council's planning department
Community Safety	Conditions in place to prevent corruption of children and young persons.
Equalities	No specific implications.
Finance	Extra income to be received by District Council.

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Human Rights	Article 1 First Protocol to the European Convention on Human Rights guarantees the right to peaceful enjoyment of possessions (including licences). However control of the use of property in the general interest is permitted. We are of the opinion that imposing conditions on licences and is in the general interest and therefore satisfies the Convention.
Legal implications	Whilst the adoption of standard conditions is legitimate Members should be prepared to depart from those standard conditions or to impose additional conditions in appropriate cases.
Ward-specific impacts	Dependent upon where business is located.
Workforce/Workplace	None.

Situation

- 3 The Local Government (Miscellaneous Provisions) Act 1982 provides for the control of sex establishments that includes shops and cinemas by Local Authorities. The Act is adoptive and on 7 December 1982 this Council chose to adopt these provisions.
- 4 Currently there are no such establishments within the Uttlesford District, however Murray Hardy has been approached by a company wishing to set up such a business at the Parsonage Farm Industrial Estate, Stansted.
- 5 An applicant applying for a licence will be required to place in at least one local newspaper an advertisement advising of the proposed new business and must submit to this Authority a copy of such adverts. The purpose of this requirement is to advise local residents to see if any objections are received. In addition, a notice must be displayed by the applicant either on the premises or nearby so that the information can be read by members of the general public. This notice must be displayed for minimum of 21 days.
- 6 When submitting an application to the Licensing Authority a fee must accompany the documentation and when a licence is granted it shall be of 12 months duration.
- 7 Currently the fee for such a licence is £4,500 and is due to be reviewed on 31 March 2007.

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- 8 Local Authorities are permitted under Schedule 3 of the Act to make regulations that prescribe standard conditions applicable for sex establishments.
- 9 When an application is made for a licence it can be refused on a number of statutory grounds. One of these is that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality. The Statute states that “nil” can be an appropriate number. It would not be legitimate to apply a zero policy to the whole district as a blanket measure however. It would be necessary to identify those parts of the district where sex shops could be tolerated and by exclusion apply a nil policy to the remainder of the District.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Not having any control over the running of such establishments.	Low as even if Members decided not to adopt standard conditions appropriate conditions could be imposed on a case by case basis	High as there would be the potential for corruption of young and vulnerable people and for members of the public generally to be caused offence	Standard conditions be adopted to ensure consistency of approach in the event of sex establishments opening within the District
The Council does not have a policy on the number of sex establishments which may be appropriate in the District	Medium. There is a possibility that all of the Town and Parish Councils oppose any licensed sex establishments in their areas and that Members decline to adopt a policy or adopt a blanket zero	Medium. In the event the Committee does not adopt a policy it would not be able to refuse an application merely because of the numbers of sex shops in a locality. If a blanket	The Committee analyses where licensed sex establishments may be appropriate and adopts a policy accordingly

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	policy as a result	zero policy is adopted then the Council would be at risk of a challenge by way of judicial review.	
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UTTLESFORD DISTRICT COUNCIL

SEX ESTABLISHMENT LICENCE CONDITIONS

These conditions shall be applied to the licensed sex establishment at (the licensed premises) as granted under the 3rd Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.

1 Hours of Opening

- 1.1 The Licensed premises shall not be open to the public before 9.30 am and shall not be kept open after 6.00 pm from Monday to Saturday (inclusive).
- 1.2 The licensed premises shall not be open to the public on Sundays, Christmas Day or Good Friday.

2 Management and Staffing of the Licensed Premises

- 2.1 Where the Licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for in the management of the body is to be notified in writing to the Licensing Authority within fourteen days of such change and such written details as the Licensing Authority may require in respect of any new director secretary or manager are to be furnished within fourteen days of a request in writing from the Licensing Authority.
- 2.2 The name of the person responsible for the management of the licensed premises, whether the Licensee or a manager approved by the Licensing Authority shall be prominently displayed within the licensed premises throughout the period during which that person is responsible for its conduct.
- 2.3 The Licensee shall notify the Licensing Authority and the Police of the name and address, and date of birth of any manager or employee involved at the premises within 7 days of them commencing employment. In the case of existing staff at the time the Sex Establishment licence comes into operation for the first time, this information shall be supplied to the Licensing Authority within 14 days of the licence coming into operation. The Licensing Authority shall reserve the right to object to persons being involved with the premises where they are unsuitable, eg by way of previous relevant criminal convictions.
- 2.4 At all times during which the premises are open to the public, one or more approved persons shall be present on the premises and shall be responsible for their management. An approved person for the purposes of this condition shall be a person approved in writing in advance by the licensing authority following the submission of details and a satisfactory photograph by the Licensee. A person shall only be approved for the purposes of this condition if

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the licensing authority considers him or her to be a suitable person to have control of the premises.

- 2.5 No person under the age of 18 shall be admitted to the licensed premises or employed by the licensee to work at the licensed premises.
- 2.6 The Licensee shall ensure that no part of the licensed premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.
- 2.7 Neither the Licensee nor any employee or other person shall seek to obtain custom for the licensed premises by means of personal solicitation, by means of flyers, handouts or any like thing, outside or in the vicinity of the licensed premises.
- 2.8 A copy of the licence and these conditions shall be displayed in accordance with paragraph 14 (1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in a conspicuous position at the premises for the customers to see.
- 2.9 No amusement or gaming machines of any kind, whether for prizes or otherwise, shall be kept or used upon the licensed premises any time.

3 External Appearance

- 3.1 Windows and openings to the licensed premises other than entrances shall not be obscured otherwise than with the consent of the Licensing Authority but shall have suspended immediately behind them, plain light coloured screens or blinds of a type and design approved by the Licensing Authority. No advertisements or other notices or items shall be displayed so as to be visible from the exterior of the premises, subject to conditions 3.2 and 3.3.
- 3.2 The Licensing Authority shall approve the design of the front elevation of the shop which shall include reference to the name of the shop, its postal address, opening hours, website address and any security grilles/shutters.
- 3.3 The exterior and entrance to the licensed premises shall be suitably screened so as to prevent any part of the interior being visible from outside the shop. There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order. On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 namely:

WARNING

“Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age”.

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4 Maintenance and Repair

- 4.1 The Licensee shall maintain the licensed premises in good order, repair and state of cleanliness at all times. This will include the need to maintain the front and rear of the premises in a clean and tidy condition, and to take appropriate measures to keep secure from public access (including unauthorised access) refuse and discarded sex articles/waste stock emanating from the premises pending prompt removal from site.
- 4.2 The licensee shall comply with any fire prevention and safety measures that may be required by the Fire Authority.

5 General

- 5.1 The licence shall be revocable in the event of the Licensing Authority being reasonably satisfied that a breach of any of the foregoing conditions has occurred and the licence holder may be liable to prosecution.
- 5.2 IN ADDITION TO THE ABOVE CONDITIONS, IT IS THE DUTY OF THE LICENCE HOLDER TO COMPLY WITH ALL THE REQUIREMENTS OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982.