

# County Council

21 May 2014

## Licensing (Policy) Fee Setting for Sex Establishments and Sexual Entertainment Venues



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### Report of Corporate Management Team Terry Collins, Corporate Director Neighbourhood Services Councillor Brian Stephens, Portfolio Holder for Neighbourhoods and Local Partnerships

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#### Purpose of the Report

1. To consider for adoption proposed new fees relating to the licensing of sex establishments and sexual entertainment venues.

#### Background

2. On 8 September 2010 the Council resolved to adopt schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the amendment to this schedule provided by section 27 of the Policing and Crime Act 2009. This enabled the Council to licence all forms of sex establishments including sex shops, sex cinemas and Sexual Entertainment Venues. At the time of this resolution, Council set the application and annual fees at £3000.
3. The application and annual fees for such licences must be determined by a duly authorised Licensing Committee in accordance with the Local Government (Miscellaneous Provisions) Act 1982.
4. The EU Service Directive that came into force on 28<sup>th</sup> December 2009 requires fees for the granting of licences to be cost-neutral.

#### Material Considerations

5. The provision of fee setting under this section of the Act does not allow the delegation of the responsibility to any other officer or function other than the Licensing Committee. The proposed fee is supported by Neighbourhood Services Management Team and by Corporate Management Team. This proposal is also endorsed by the General Licensing and Registration Committee.
6. It is known that applications for licences for this category of trading are highly contentious and result in significant resource pressures due to the usual level of interest and likely objections.
7. The proposed fee has been calculated having had regard to guidance issued by the Home Office with the approval of the Treasury and the Local Government Association. Figures relating to salary costs (including

on-costs) provided in guidance have also been used by many local authorities when setting their fees. In setting their fees a local authority must have regard to the requirements of the European Union Services Directive and any licensing case law, of which the recent case in the Court of Appeal of *Hemming v Westminster City Council* is especially relevant.

8. The following aspects have been considered in calculating the proposed fees:
  - Consultation with the trade and other relevant parties
  - Advice and guidance to prospective applicants
  - Fee processing
  - Application processing
  - Consideration of application
  - Formal committee hearings where required
  - Production of licence
  - Post licence inspection(s)
9. The proposed fee for the licence is £3517 with a breakdown of the estimated costs attached as Appendix 2 to this report.
10. The cost estimate is based on a previous application for such a venue in 2012. The fees in relation to the costs of hearing is a best estimate as Democratic Services are unable to provide an accurate figure which shows the overall costs as they consider that there are too many variable factors.
11. On the 23<sup>rd</sup> April 2014, these matters were presented to Members at the General Licensing and Registration Committee. Members of that committee agreed with the proposed Sexual Entertainment Licensing Fee of £3517 and they recommend its adoption by Council

## **Conclusion**

12. A local authority can set a fee for sex establishments and sexual entertainment venues.
13. This fee must be cost neutral and must be set by the Licensing Committee.
14. The General Licensing and Registration Committee Members have recommended the adoption of the proposed fee by Council

## **Recommendations**

15. It is recommended that the proposed Sexual Entertainment Licensing Fee of £3517 is adopted.

## **Background papers:**

Local Government (Miscellaneous Provisions) Act 1982

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## **Appendix 1: Implications**

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### **Finance**

There are no financial implications. Licensing fees must be considered cost neutral and a breakdown of this proposed fee is included in this report.

### **Staffing**

None

### **Risk**

Local Councils have been challenged as to the cost of Sexual Entertainment fees. These challenges have been for fees set considerably higher than the DCC proposed fee. The fee has been set based on the officer time and cost of similar applications so it is considered that this fee is realistic and is less likely to be challenged.

### **Equality and Diversity / Public Sector Equality Duty**

None

### **Accommodation**

None

### **Crime and Disorder**

None

### **Human Rights**

None

### **Consultation**

None

### **Procurement**

None

### **Disability Issues**

None

### **Legal Implications**

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**Appendix 2: Cost accounting for Fee setting – Sexual Entertainment Licensing**

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**A. Total Personnel Costs (Based on Previous Application from 2012)**

<b>Officer</b>	<b>£ Per Hour</b>	<b>Time in Hours</b>	<b>£ Total</b>
Licensing Manager (LM)	45	15	675
Senior Licensing Officer (SLO)	32	5	160
Licensing Team Leader (LTL)	32	74 (2 weeks)	2368
Legal Advice (LA)/Committee (C)/Members (M)			£250
Licensing Enforcement officer (Based on an annual inspection)	32	2	£64
		<b>94</b>	<b>3517</b>