



Complete Agenda

Democratic Services
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

GENERAL LICENSING COMMITTEE

Date and Time

10.00 am, MONDAY, 13TH SEPTEMBER, 2021

Location

Virtual Meeting

Contact Point

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(DISTRIBUTED Friday, 3 September 2021)

GENERAL LICENSING COMMITTEE

MEMBERSHIP (15)

Plaid Cymru (8)

Councillors

Steve Collings
Dafydd Owen
Elfed Williams
W. Gareth Roberts

Annwen Hughes
Edgar Wyn Owen
Gareth Tudor Morris Jones
Elin Walker Jones

Independent (4)

Councillors

John Brynmor Hughes
Jason Wayne Parry

Eryl Jones-Williams
Angela Russell

Llais Gwynedd (1)

Councillor Gareth Williams

Gwynedd United Independents (1)

Councillor W Roy Owen

Individual Member (1)

Vacant Seat - Individual Member

Ex-officio Members

Chair and Vice-Chair of the Council

1. APOLOGIES

To receive any apologies for absence.

2. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

3. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

4. MINUTES

4 - 6

The Chairman shall propose that the minutes of the meeting of this Committee, held on 19 July 2021 be signed as a true record.

5. GENERAL LICENSING SUB-COMMITTEE MINUTES

7 - 8

To submit, for information, minutes of the General Licensing Sub-committee meeting held on the following date –

a) 15 March 2021

6. REGULATION OF SEX ESTABLISHMENTS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

9 - 14

To consider the report and approve the recommendation for the Full Council to adopt powers to regulate sex establishments and associated recommendations following the observations made in the public consultation

Agenda Item 4

GENERAL LICENSING COMMITTEE EXTRAORDINARY MEETING 19-7-21

Present:

Councillors: Annwen Hughes (Chair), John Brynmor Hughes, Gareth Morris Jones, Elin Walker Jones, Eryl Jones-Williams, Edgar Owen, Dafydd W Owen, Angela Russell, Elfed Williams and Gareth Williams

Officers:

Geraint Brython Edwards (Solicitor), Gareth Jones (Assistant Head - Environment), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

1. APOLOGIES

Apologies were received from Councillor W Roy Owen and Councillor Jason W Parry

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. MINUTES OF THE PREVIOUS MEETING

The Chair signed the minutes of a meeting of this Committee, that took place on 7 June 2021, as a true record.

5. REGULATION OF SEX ESTABLISHMENTS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

A report was submitted by the Head of Environment highlighting the need to commence a public consultation on the adoption of powers to regulate sex establishments in the County. It was explained that Licensing Authorities who wish to regulate sex establishments in their area are required to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) 1982 ("1982 Act"), as amended by the Crime and Policing Act 2009 ("2009 Act"). Adopting Schedule 3 of the 1982 Act was optional and usually happened when a proposal to open such a business was submitted for the first time.

Historically, Bangor was the only place where a licence was issued to open a business of this type and therefore only Arfon Borough Council had resolved to adopt Schedule 3, which became operational on 1 August 1983. (There was no evidence that the Dwyfor District Council or Meirionnydd District Council had resolved to adopt Schedule 3). It also appeared, as a result of the reorganisation of Local Government in 1996, that Gwynedd Council had not resolved to adopt Schedule 3 either. Therefore, Arfon was the only area of the county where the Council had the right to issue a licence under Schedule 3 (namely the former Arfon Borough Council area). In addition, since Arfon Borough Council had

adopted the schedule in 1983, this schedule had been amended by section 27 of the 2009 Act to include the ability to licence sex entertainment premises. As the amendment was optional and had been introduced following the decision made to adopt, the Council's regulation powers in Arfon under Schedule 3 did not currently include the ability to regulate sex entertainment premises.

The Licensing Manager referred to the formal process and the key measures attached to the process of adopting Schedule 3, together with the risks to the Council from not adopting the said schedule. In accordance with the 2010 Equality Act, reference was also made to the completed equality assessment that considered the equality impact of the proposal. It was reported that the proposal would give the Licensing Authority an opportunity to promote equal opportunities and the socio-economic duty, by establishing a procedure where establishments are regulated and operated lawfully.

Thanks was given for the report

During the ensuing discussion, the following observations were made by members:

- That having a system in place would ensure management and order
- That suitable wording needed to be ensured for public advertisement
- That some clauses within the impact assessment needed to be reviewed again
- There was a need to ensure input from the Police and other partners
- There was a need to work jointly with the planning service
- Not adopting a procedure would highlight risks and raise concerns

In response to a question regarding appropriate fees, it was noted that although the Shop in Bangor had by now closed, Arfon Borough Council when adopting Schedule 3 had specified the highest possible fees under the statutory provisions of the Act. However, the Council fees were challenged and in accordance with the Court ruling, the Council was forced to set fees to only recover costs. In considering the adoption of Schedule 3 in the future and arrangements for setting fees, it was suggested that the fees should reflect the costs of establishing a new system and the costs of processing applications.

In response to an observation regarding extending the consultation period (28 days appeared to be short with the consultation to be commenced over the Summer Holidays), it was noted that the Act did not set a specific period for consultation. It was considered that the period proposed for consultation regarding establishing a system was sufficient. It was argued that any delay with establishing a process would highlight risk.

In response to a question why the shop in Bangor had closed, it was noted that there had been a reduction in demand for sales from the shop situated on the high street and there had been an increase in on-line retail.

RESOLVED:

- **to approve undertaking the process to consider adopting Schedule 3 of the 1982 Act, as amended by section 27 of the 2009 Act, so that a system is in place for the regulation and licensing of sex establishments across the county;**
- **to authorise the Head of the Environment Department to undertake a 28-day consultation process, commencing on 26 July 2021, and return the matter to this Committee for a decision regarding recommending to the Full Council to adopt, as well as associated recommendations on the statutory notice, the date when the adoption comes into force, and to**

delegate powers to this Committee to determine fees, standard conditions and an application processing plan.

The meeting commenced at 10.00 and concluded at 10.50am.

GENERAL LICENSING SUB-COMMITTEE 15-03-21

Present:

Councillors: Councillor Annwen Hughes (Chair)
Councillors Edgar Owen and Dafydd Owen

Officers: Geraint Brython Edwards (Solicitor), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democratic Services Officer)

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

It was **RESOLVED** to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, or their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. The Chair welcomed everyone to the meeting. He explained that the decisions would be made in accordance with Gwynedd Council's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- Children and young people are protected
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

APPLICATION FOR A HACKNEY / PRIVATE HIRE DRIVER'S LICENCE – Mr A

The Licensing Officer presented a written report on the application received from Mr A for a hackney/private hire vehicle driver's licence. The Sub-committee was requested to consider the application according to the DBS record, the guidelines on criminal offences and relevant convictions. It was highlighted that the applicant had not declared any previous convictions on his application form and it was suggested that he expanded on this. The Licensing Authority recommended that the Sub-committee approved the application.

The applicant was invited to expand on his application and provide information about the background of the offences and his personal circumstances. He explained that the conviction was historic, and he had not offended before or subsequently.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney /private hire vehicle driver's licence from Gwynedd Council.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- the Licensing Department's report and the DBS statement
- the applicant's verbal representations
- The Driver and Vehicle Licensing Agency's guidelines

Specific consideration was given to the following matters:

In January 1986, the applicant was found guilty by Caernarfon and Gwyrfai Magistrates Court for one charge of assault that caused actual bodily harm (ABH), contrary to s47 of the Offences Against the Person Act 1861. He received a fine of £40.00.

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but he will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other related matter(s) to be considered in connection with that, the Council cannot review the merits of the conviction or other matter.

Paragraph 4.5 was considered which states that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allows the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 6.0 of the Policy addresses violent offences. Paragraph 6.1 states that, since licensed drivers come into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who have offences involving violence. Paragraph 6.5 of the Policy states that an application for a licence will usually be refused if the applicant has a matter to be considered for assault causing actual bodily harm which happened less than three years prior to the date of the application.

The Sub-committee concluded that the January 1986 conviction was a violent-related offence. However, as the conviction was issued 35 years ago (far beyond the period of 3 years), none of the presumptions for refusal under section 6 of the Policy stood, therefore there were no grounds to refuse the application.

Having carefully weighed up the evidence and information, the Sub-committee was in favour of approving the application and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

The meeting commenced at 11:20am and concluded at 11:50am

COMMITTEE	GENERAL LICENSING COMMITTEE
DATE:	13 September 2021
TITLE:	REGULATION OF SEX ESTABLISHMENTS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PURPOSE:	TO APPROVE THE RECOMMENDATION FOR THE FULL COUNCIL TO ADOPT POWERS TO REGULATE SEX ESTABLISHMENTS AND ASSOCIATED RECOMMENDATIONS FOLLOWING THE OBSERVATIONS MADE IN THE PUBLIC CONSULTATION
AUTHOR:	HEAD OF ENVIRONMENT DEPARTMENT

1.0 BACKGROUND INFORMATION

- 1.1 Licensing Authorities that wish to regulate sex establishments in their area are required to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) 1982 ("1982 Act"), as amended by the Crime and Policing Act 2009 ("2009 Act").
- 1.2 Adopting Schedule 3 of the 1982 Act is optional and usually happens when a proposal to open such a business is submitted for the first time. Historically, Bangor was the only place where an application was received and a licence was issued to open such a business.
- 1.3 The 1982 Act came into force in 1982. Between 1982 and 1996, deciding whether to adopt Schedule 3 was a matter for the former district and borough councils. Evidence from the minutes of the former councils show that only the Arfon Borough Council decided to adopt Schedule 3, with the decision becoming operational on 1 August 1983. There is no evidence that Dwyfor District Council or Meirionnydd District Council resolved to adopt Schedule 3 between the 1982 Act coming into force and the dissolution of those authorities at the time of local government reorganisation in 1996.
- 1.4 It also appears that there is no evidence that Gwynedd Council, since its establishment in 1996, has ever decided to adopt Schedule 3 either. The only area in the county where the Council is permitted to licence under Schedule 3 is the Arfon area (namely the area of the former Arfon Borough Council). This is as a result of powers inherited by the Council from the former Arfon Borough Council at the time of reorganisation, powers that derive from the decision made by the former authority to adopt within the boundaries of Arfon.
- 1.5 In addition, since the Arfon Borough Council decided to adopt in 1983, Schedule 3 has been amended by section 27 of the 2009 Act to include the ability to licence sexual entertainment venues. As the amendment was optional and had been introduced following the decision made to adopt, the Council's regulation powers in Arfon under Schedule 3 did not currently include the ability to regulate sexual entertainment venues.
- 1.6 You may remember that this Committee, at its meeting on 19 July 2021, considered the need to adopt such a procedure. At that meeting, this Committee approved undertaking the process to consider adopting Schedule 3 as amended by the 2009 Act, to ensure that a system is in place for the regulation and licensing of sex establishments across the county. In addition, the Committee authorised the Head of Environment Department to

undertake a 28-day consultation process, commencing on 26 July 2021, with the aim of returning the matter to this Committee for a decision regarding recommending to the Full Council to resolve to adopt in October 2021, as well as associated recommendations on the statutory notice, the date when the adoption comes into force, and to delegate powers to this Committee to determine fees, standard conditions and an application processing plan.

1.7 Adopting Schedule 3 as amended across the county would enable the Council to regulate and license sex establishments. Sex establishments can include:

- Sex shops (selling goods of a sexual nature)
- Sex cinema (showing films with substantial content of a sexual nature)
- Sexual entertainment venues (business premises that hold live entertainment of a sexual nature, often and regularly)

1.8 Adoption would also enable the Council to impose standard conditions on sex establishment licences and charge a reasonable fee in relation to them.

1.9 Finally, adoption would enable the Council to take enforcement steps in relation to the following offences (the maximum penalty upon conviction by the Magistrates Court is noted in brackets):

- the use of any building, vehicle, boat or stall as a sex establishment, except when this is in accordance with a Council-issued licence (unlimited fine);
- making false statements in relation to an application for a sex establishment licence (unlimited fine);
- failure of the licence holder to display their licence without a reasonable excuse (fine that does not exceed level 3 on the standard scale, which is currently £1,000.00).

2 PUBLIC CONSULTATION

- The public consultation was launched on 26 July 2021 and ended on 23 August 2021.
- A press statement was released and an awareness raising campaign of the consultation was held on the Authority's social media accounts. E-mail messages were sent to key stakeholders, inviting them to contribute to the consultation, including North Wales Police and town/community councils. In addition, a questionnaire was placed on the website in order to facilitate public participation in the consultation.
- An e-mail was received from North Wales Police confirming that they had no objection, as well as an e-mail from Cricieth Town Council.
- A total of 102 responses were received to the questionnaire. Amongst these, responses were received from individuals, seven members of Gwynedd Council, two town council clerks and one business:

- 2..1 Forty of the responses were supportive of the principle to adopt, 19 objected and the rest were incomplete.
- 2..2 Amongst those who objected, 15 of them made observations:
 - Three responders were of the opinion that there was no need to adopt a procedure as there was no need to regulate such shops in Gwynedd, as it was unlikely that many applications or demand would exist for such establishments.
 - Another individual noted that some counties did not choose to regulate sex shops.
 - Four responders felt that adopting the powers was a waste of public funding.
 - Eight responders noted their objection on moral grounds or as they considered that the procedure was a way of normalising the exploitation of young women. Some were concerned that the procedure was going to lead to children being influenced inappropriately and that licensed establishments would encourage prostitution.
 - One was of the opinion that regulatory powers would be ineffective.
- In general, a clear majority (68%) of the complete responses received were in favour of adopting Schedule 3 in order to secure powers for the regulation of sex establishments.
- Under the circumstances, it is recommended that the Committee proceeds with the recommendation for the Full Council to adopt Schedule 3 as well as the associated recommendations.

3. NEXT STEPS

- 3.1 If the Committee proceeds with the recommendation, the matter will be submitted before the Full Council on 7 October 2021.
- 3.2 If the Full Council makes a decision in line with the recommendations of this Committee:
 - it is anticipated that the decision to adopt will come into force in December 2021
 - the Head of Legal Services will make arrangements for statutory notices to be published as soon as possible in a local newspaper for two consecutive weeks, with the first no later than 28 days before the date when the decision to adopt comes into force.

- this Committee will reconvene in November 2021, before the date when the decision to adopt comes into force, in order to determine fees, set standard conditions and a plan for processing applications.

4. EQUALITY AND WELL-BEING ASSESSMENTS

- 4.1 An equality assessment that has been prepared in accordance with the requirements of the 2010 Equality Act, is attached. This assessment is an update following the consultation on the one prepared with the first report to the Committee on 19 July 2021. Whilst the assessment as updated addresses matters raised in the consultation, it was concluded that no valid reason had been disclosed so as not to continue with the process of recommending adoption, and so it is recommended to press on with this process.
- 4.2 The proposal will give the Licensing Authority an opportunity to promote equal opportunities and the socio-economic duty, by establishing a procedure where establishments are regulated and have to operate lawfully.
- 4.3 In addition, in accordance with the recommendations of the Well-being of Future Generations (Wales) Act 2015, the Licensing Authority has considered the principles of the legislation, and specifically the five ways of working. The updated well-being assessment is also attached.

RECOMMENDATION

That the Committee recommends to the Full Council:

- to adopt, county-wide, the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) 1982, as amended by the Crime and Policing Act 2009, to become operational no earlier than 1 December 2021
- to instruct the Head of Legal Services to publish the statutory notices associated with the decision to adopt for two consecutive weeks, with the first no later than 28 days before the date when the decision to adopt comes into force
- to delegate the matters of determining fees, setting standard conditions and a plan for processing applications to the Central Licensing Committee.

UPDATE TO THE EQUALITY AND WELL – BEING IMPACT ASSESSMENT - ADOPTION OF POWERS TO REGULATE SEX SHOPS

In accordance with the 2010 Equality Act, this report has considered the equality and well-being impact of the proposal as follows:

Race: No impact identified

The Welsh Language: No impact identified

Disability: No impact identified

Gender: Positive impact identified. A substantial number of women work in sexual entertainment venues. The licensing procedure will mean that these establishments are regulated, which will assist to tackle any immoral or illegal employment practices (e.g. modern slavery), that this cohort of workers would be more likely to be exposed to in these posts. One responder noted that regulating sex establishments could possibly have a positive impact on reducing violence against women.

Age: Positive impact identified. In general, young adults would be most likely to work as performers in sexual entertainment venues. The licensing procedure will mean that these establishments are regulated, which will assist to tackle any immoral or illegal employment practices (e.g. modern slavery), that this cohort of workers would be more likely to be exposed to in these posts. In addition, a licensing procedure will enable the Licensing Authority to prevent such establishments in sensitive locations (e.g. near schools), thus assisting to protect the most important cohort in our society by protecting children from harm; and ensuring that conditions are imposed on licences to prevent access to young individuals.

Sexual orientation: No impact identified.

Religion or belief: Positive impact identified. A licensing procedure will enable the Licensing Authority to prevent such establishments in sensitive locations (e.g. near places of worship), thus helping to reduce a detrimental impact on the religious practices of individuals.

Gender reassignment: No impact identified.

Pregnancy and maternity: No impact identified.

Marriage and civil partnership: No impact identified; although one responder was of the opinion and noted that sex is a sign of love in a relationship and that it was not something to exploit in a business.

The proposal will give the Licensing Authority an opportunity to promote equal opportunities and the socio-economic duty, by establishing a procedure where establishments are regulated and have to operate lawfully.

Observations were received from some responders, noting that the proposal gave an opportunity to regulate a safe space for individuals from the LGBTQ+ community

As no negative impact has been identified, it is recommended to proceed with the proposal.

1. in terms of Well-being:

In accordance with the recommendations of the Well-being of Future Generations (Wales) Act 2015, this report has considered the principles of the legislation, and specifically the concept of the five ways of working as shown below:

Long term - Once a decision is made to adopt, a permanent procedure will be in place that will enable the licensing and regulation of sex establishments across the county. In the long term, this will contribute to the responsible planning of such establishments, and thus contribute to more

responsible attitudes and respect towards the protection of our communities and an understanding of the need to consider the impact on others.

Prevent - Adoption will enable the Council to keep control of establishments of this nature, helping to prevent any social harm deriving from them or activities that would enable modern slavery.

Integration - The consultation process addresses the features of a number of organisations (Gwynedd Council, the Police, community and town councils, the county's residents in general, the sex establishment industry). It will also contribute towards the objectives of the Police in terms of tackling modern slavery and the Council's ambition of seeing communities that succeed and thrive.

Collaboration - Any decision to adopt would be as a result of a consultation with the above.

Inclusion - A public consultation will take place before a final decision is made on the matter.

This equality assessment has been reviewed and updated following the public consultation, and before the matter is referred to the Committee for the second time.