

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.