

MEETING	THE COUNCIL
DATE	7 OCTOBER 2021
TITLE	REGULATION OF SEX ESTABLISHMENTS – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PURPOSE	TO ADOPT POWERS TO REGULATE SEX ESTABLISHMENTS AND ASSOCIATED REQUIREMENTS
CABINET MEMBER	COUNCILLOR GARETH GRIFFITH
CONTACT OFFICER	GWENAN MAI ROBERTS, LICENSING AND POLLUTION CONTROL MANAGER (PUBLIC PROTECTION)

1. 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) Act 1982 (the "1982 Act"), as amended by the Crime and Policing Act 2009 (the "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 council's 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 the Dwyfor District Council or Meirionnydd District Council ever 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 license sex entertainment premises. As the amendment was optional and was introduced following the decision made to adopt, the Council's regulation powers in Arfon under Schedule 3 do not currently include the ability to regulate sex entertainment premises.
- 1.6 The General Licensing Committee considered the need to adopt such a procedure and to undertake a public consultation on this at its meeting on 19 July 2021. At that meeting, the 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.
- 1.7 In addition, the Committee authorised the Head of Environment Department to undertake a 28-day consultation process, commencing on 26 July 2021. When the consultation period ended, another report was submitted to the General Licensing Committee on 13 September to consider the responses to the consultation, and to make a final decision regarding the recommendation to the Full Council.

1.8 The unanimous decision of the Committee was to recommend to the Full Council to adopt the powers, as well as associated recommendations on the statutory notice, the date when the adoption comes into force, and to delegate powers to the General Licensing Committee to determine fees, standard conditions and an application-processing plan.

What will the adoption of powers mean?

1.9 Adopting the powers in 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 sexual content)
- Sex entertainment premises (business premises that hold live entertainment of a sexual nature, often and regularly)

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

1.11 Finally, adoption would enable the Council to take enforcement action 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 (a fine that does not exceed level 3 on the standard scale, which is currently £1,000.00).

1.12 A decision has been made to prioritise the recommendation to the Full Council to adopt the procedure, as a company has submitted an application with the intention of opening a sex shop in Barmouth, which has highlighted the gap in the licensing system.

2 PUBLIC CONSULTATION

2.1 The public consultation was launched on 26 July 2021 and it ended on 23 August 2021.

2.2 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.

2.3 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.

2.4 A total of 102 responses were received to the questionnaire. Amongst these responses, responses were received from individuals, seven members of Gwynedd Council, two town council clerks and one business:

2.4.1 Forty of the responses were supportive of the principle to adopt, 19 objected and the rest were incomplete.

2.4.2 Among 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 procedure was a waste of public funding.
- Eight responders noted their objection on moral grounds or they considered that the procedure was a way of normalising the exploitation of young women. Some were concerned that the procedure would lead to children being influenced inappropriately and that licensed establishments would encourage prostitution.
- One was of the opinion that regulatory powers would be ineffective.

2.5 In general, a clear majority (68%) of the complete responses received were in favour of adopting Schedule 3 in order to obtain a procedure for the regulation of sex establishments.

2.6 Given the response to the public consultation, the unanimous decision of the General Licensing Committee and the fact that the objective here is to give powers to the Council to regulate sex establishments, it is believed that there is a sound basis for the Full Council to proceed to approve the recommendation to adopt Schedule 3, as well as the associated recommendations.

3. NEXT STEPS

3.1 If the Full Council makes a decision in line with the recommendations of the General Licensing Committee:

- It is anticipated that the decision to adopt will come into force in December 2021
- that 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 The equality assessment that was prepared in accordance with the requirements of the 2010 Equality Act, is attached. This assessment is an update following the public consultation, and was submitted to the General Licensing Committee on 13 September 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.

5. RECOMMENDATION

5.1 That the Full Council:

- Adopts, county-wide, the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Crime and Policing Act 2009, to become operational no earlier than 1 December 2021
- Instructs 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
- Delegates the matters of determining fees, setting standard conditions and a plan for processing applications to the Central Licensing Committee.

VIEWS OF THE STATUTORY OFFICERS

Monitoring Officer: The reports highlights the process followed with the support of Legal Services. It is important that the Council has due regard to the Impact Assessment and the results of the consultation when coming to a view on the recommendations.

Head of Finance: Nothing to add from a financial propriety perspective.

APPENDICES

Appendix 1: Equality and well-being impact assessment