

COMMITTEE	GENERAL LICENSING COMMITTEE
DATE:	24 October 2022
TITLE:	Review of Sex Establishment Licensing Fees
PURPOSE:	TO APPROVE FEES FOR THE LICENSING AND REGULATION OF SEX ESTABLISHMENTS
AUTHOR:	HEAD OF ENVIRONMENT DEPARTMENT

1. BACKGROUND INFORMATION

- 1.1 Licensing Authorities wishing 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 ("2009 Act").
- 1.2 Adopting Schedule 3 of the 1982 Act is a discretionary power, and normally happens when a notice of intention to open such a business for the first time is submitted. This committee will be aware that following a consultation process, and full Council determination in October 2021; that these provisions were adopted by this committee and became operational on the 6th of December 2021.
- 1.3 A county wide policy and licensing regime has been adopted ; which allows the council to charge a fee for sex establishment licences. Licensing fees are reviewed annually; and the fee must be sufficient to enable the Council to recover it's costs .
- 1.4 The power to set fees and amend licence conditions was delegated by full council to this Committee on the 7th of October 2021.
- 1.5 Fees must be reasonable and in proportion to the cost of the licensing processes, which includes administration, as well as carrying out compliance inspections. Fees cannot be used to make a profit or act as an economic deterrent to discourage certain types of business from operating in the area. The principles governing the setting of fees for licensing processes are set out in law and guidance documents as follows –
- The European Services Directive (Article 12.2)
 - Guidance for Local Authorities on the Provision of Services Regulations 2009
 - Case law – Hemmings-v- Westminster City Council
- 1.6 A fee was approved for the licensing of sex shops specifically at the time the licensing regime became operational on the 6th of December 2021. However, a further costings exercise has been undertaken on an actual application for a sex shop licence; which has given the service an opportunity to consider actual costs rather than estimated or presumed costs. A fee has subsequently been calculated for the processing and administration of a sexual entertainment venue licence as well. All fees will be reviewed annually and amended as required so as to reflect the true costs to the council. The county does not have any such establishments. Sexual entertainment venue licences remain operational for 12 month.
- 1.7 As no such fee has been adopted and approved previously for sexual entertainment venues ; the costs to the council of implementing the licencing process has been calculated and the proposed fees are as follows -

LICENCE	FEE
Sexual entertainment venue – new application	£2,109
Sexual entertainment venue - renewal	£2,109
Sex shop – new application	£1,184
Sex shop - renewal application	£1,184

2. Fee comparisom – other Local authorities

- 2.1 As each Licensing Authority is expected to set fees at a level sufficient to ensure cost recovery; the fees of each licensing authority is different; and the comparative fees cannot be used as a basis for fee – setting. Actual costs incurred vary from county to county, due to several factors. For the purpose of providing a general context; sex establishments licence fees vary from £989 for a licence in Flintshire, £1655 in Conwy and £6,250 in Denbighshire.

3. RECOMMENDATION

That the Committee :

- Approves the setting of the fees as noted, which reflects the administration, compliance, and processing of applications for sex establishment licences.
- Approve an annual review of those fees .