

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 14 January 2009

Report of: A C Lee, Principal Licensing Officer
Crewe & Nantwich Borough Council

Title: Licensing of sex establishments

1.0 Purpose of Report

- 1.1 Cheshire East will be the licensing authority for the function of licensing sex establishments from 1st April 2009. Sex establishments include sex shops. The report puts forward proposed standard conditions to be attached to licences granted for sex shops.
- 1.2 The proposed conditions are attached at the end of the report.

2.0 Decision Required

- 2.1 To approve the proposed licence conditions for the purpose of a consultation exercise with the holders of current sex shop licences.

3.0 Financial Implications for Transition Costs

- 3.1 The costs of the consultation exercise will be met from the existing budgets of the constituent authorities of Cheshire East.

4.0 Financial Implications 2009/10 and beyond

- 4.1 None

5.0 Legal Implications

- 5.1 The authority to control sex establishments by licensing derives from the provisions of the Local Government (Miscellaneous Provisions) Act 1982¹. To do so an authority must first of all pass a resolution that the provisions of the Act will apply in its area. Having done so, the legislation prescribes that the authority may then approve standard conditions for the grant, renewal or transfer of a licence.
- 5.2 Both Macclesfield and Crewe and Nantwich Boroughs have previously passed such a resolution and approved their respective sets of standard conditions. Congleton Borough has previously passed a resolution but without the conditions.

- 5.3 If the conditions for licensing sex shops are not in place by 1st April 2009 Cheshire East will rely on the provisions of the Transitional Regulations² in order to perform its statutory function as the licensing authority from Day One.

6.0 Risk Assessment

- 6.1 Failure to carry out a consultation exercise prior to the introduction of the conditions could lead to a legal challenge about their validity.

7.0 Background and Options

- 7.1 A sex shop licence is required in order to use premises to sell or trade in items of a sexual nature.
- 7.2 The proposed conditions have been drawn from the conditions currently in force in the Boroughs of Macclesfield and Crewe and Nantwich. They have been chosen to reflect the best of the current practices from those authorities.
- 7.3 For the reason given at paragraph 5.2, there are no licence conditions in force in the area of Congleton Borough.
- 7.4 It is proposed to hold a six week consultation exercise with the existing holders of sex shop licences at Crewe and Nantwich and Macclesfield on the proposed conditions. There are no licensed sex shops in Congleton Borough.
- 7.5 The result of the exercise will be reported to a further meeting of the Committee to enable a final decision to be made with a view to their introduction on 1st April 2009 for new licences and from the date of renewal of existing licences as and when they fall due on or after 1st April 2009.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 The requirement to have sex shop licence conditions in place is a Year One requirement.

9.0 Reasons for Recommendation

- 9.1 The recommendation is made with a view to ensuring that Cheshire East is in position to carry out the licensing function from Day One. It also recognises that the holders of existing licences should have an input and for this reason it recommends the holding of a consultation exercise prior to a final decision being taken by the Committee.

For further information:

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Background Documents:

The current sex shop licence conditions of Crewe and Nantwich BC and Macclesfield BC.

Documents are available for inspection at the respective authorities.

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