

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 13th March 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 On 14th January 2009 the Licensing Committee approved a set of standard licence conditions for sex establishments for the purpose of holding a consultation exercise with the holders of current sex shop licences. The report puts forward the result of the consultation exercise with a proposal that the conditions be approved subject to a small number of amendments made in response to some of the comments which were received.

1.2 The proposed conditions, as amended, are appended at **Appendix A**.

2.0 Decision Required

2.1 To approve the proposed standard licence conditions for sex shops, as amended, with effect from 1st April 2009.

3.0 Financial Implications for Transition Costs

3.1 None.

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 The resolutions previously passed by the three constituent authorities of Cheshire East will carry over into Cheshire East. The Council must now however approve its standard 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 There would be a risk of a legal challenge to the validity of the conditions if the responses to the consultation exercise were not considered before arriving at a decision.

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 were drawn from the conditions currently in force in the Boroughs of Macclesfield and Crewe and Nantwich. They were chosen to reflect the best of the current practices from those authorities.

7.3 A consultation exercise with the holders of the three current sex shop licences was held over the period from 14th January to 27th February 2009 on the proposed conditions.

7.4 One response was received and is appended at **Appendix B**.

7.5 The proposed conditions have been amended to incorporate most of the comments made by the respondent. It is submitted however that the condition limiting the size of the lettering of the trading name (condition 5.1) should remain as originally proposed. The conditions are meant to be standard conditions and if the specific circumstances referred to by the respondent arose it would be open to the applicant to apply for a specific variation of that condition.

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 to introduce the conditions, as amended, has been made after giving due consideration to the response received to the consultation exercise from the holder of two of the current licences.

2 Local Government (Structure Changes)(Transitional Arrangements)(No.2) Regulations 2008

For further information:

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Background Documents:

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

Letter sent to all holders of current licences

Documents are available for inspection at the respective authorities.

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