

CITY OF PLYMOUTH

Subject: Sex Establishment Licensing Policy
Committee: Customer and Communities Overview and Scrutiny Panel
Date: 18 July 2011
Cabinet Member: Councillor Michael Leaves
CMT Member: Carole Burgoyne – Director for Community Services
Author: Andy Netherton
Contact: Tel: (01752 (30) 4742
e-mail: andy.netherton@plymouth.gov.uk

Ref:

Key Decision: Yes

Part: I

Executive Summary:

Recent legislative changes provide the Council with the ability to have a greater level of control on the position and operation of sex establishments. Businesses that operate lap dancing and similar operations will now come under the same licensing system as sex shops and sex cinemas. This will require the adoption of the new provisions and an associate licensing policy. A draft policy has been open to public consultation, the results of which are contained in this report.

The panel have been invited to review the consultation findings and the subsequent amendments to the draft policy. Any recommendations from the panel will be considered and reported to Cabinet during the adoption of the legislation and policy. The decision regarding adoption of the legislation rests with City Council.

Corporate Plan 2011-2014:

This report links to the delivery of the corporate improvement priorities, in particular:

- Reducing inequalities between communities – through the appropriate licensing and control of sex establishments to reduce their impact on safety, wellbeing and local amenity.
 - Delivering sustainable growth – through the balance of regulation against the need to protect residents and creating a consistent regulatory environment in which businesses can operate
 - Keeping children safe – through the restriction of access, location and appearance of premises
 - Providing more and better culture and leisure activities – Promoting a wide range of cultural and leisure opportunities in Plymouth and through the maintenance of operating standards by businesses
-

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Fees are to be set locally and will be based on full cost recovery. Recommended fee levels are contained in this report and are a reasonable reflection of costs.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc:

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The Policy has a key role in protecting workers in sex establishments and reducing the risk of sexual offences linked to the operation of sex establishments,

Recommendations and Reasons for recommended action:

It is recommended that Members consider this report and make recommendations regarding;

1. The adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and
2. The content of the draft Sex Establishment Licensing Policy

Alternative options considered and reasons for recommended action:

Decision not to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 – This would leave sex establishment licensing split between two different pieces of legislation. Sex shops and sex cinemas would remain regulated by the 1982 Act, with lap dancing and similar venues remaining under the Licensing Act 2003. The Licensing Act provides less freedom for matters which the Council can consider when deciding on a licence application. No controls on the number, location and appearance of lap dancing clubs would be possible. Change to Policy – individual elements of the policy could be altered. The main debating areas are discussed in this report. The recommended policy has been drafted to reflect the consultation feedback and officers considered opinions on good practice and government guidance.

Background papers:

None

Sign off:

Fin	CO SF- ES1 112- 001	Leg	AG/12183/ 5.7.2011	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

1.0 Background

The Council has previously adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA), which allows local authorities to regulate premises to be used as “Sex Establishments” e.g. shops or cinemas. The Policing and Crime Act 2009, amends Schedule 3 of LGMPA to include “Sexual Entertainment Venues” in the meaning of sex establishments.

The new category covers venues that provide “Relevant Entertainment”, which is defined as: *“any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).”*

A sexual entertainment venue is defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”

- 1.1 Premises which provide relevant entertainment on an infrequent basis may continue to be regulated under the Licensing Act 2003. Exemptions allow premises to provide relevant entertainment on no more than 11 occasions within a 12 month period, with one month between events and each event must not be longer than 24 hours.
- 1.2 The new legislative controls available to the Licensing Authority will strengthen the role that local communities can play in deciding whether a sex establishment venue is appropriate for a particular locality. The provisions bring the licensing of lap dancing premises and similar venues in line with other “sex establishments” and allow the Licensing Authority to prescribe standard conditions on grounds not covered by the Licensing Act 2003 e.g. location, hours, display of adverts and the visibility of the interior of the premises.
- 1.3 Should the Authority adopt the provisions, there will be a further transitional period where existing operators can apply for licences under the new laws. New applicants can also within this period apply to the Licensing Authority for a licence; however, applications may not be determined before a period of six months after the date the provisions are adopted.
- 1.4 While local authorities are not required to publish a licensing policy relating to sex establishments, they can do so if they wish as long as it does not prevent any individual application from being considered in its merits at the time the application is made.
- 1.5 In determining suggested fee levels, Officers have had regard to the European Services Directive: Guidance for Local Authorities and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees. The fees have been based on a full cost recovery basis.
- 1.6 The Council currently licences:
 - 2 sex shops
 - 3 premises with the facility for lap dancing controlled by the Licensing Act 2003 (2 active)

2.0 Consultation Process

In order to provide clear guidelines for the administration and decision making process for any applications a draft sex establishment policy was produced. This draft policy received public consultation which was made as wide as possible. The consultation process included direct mailing to-

- 675 individuals and groups, including community groups, faith groups, licensees holding a licence under the Licensing Act 2003, licensees currently holding a sex shop licence.
- all ward Councillors
- members of Team Plymouth
- public press release and articles in the Evening Herald
- local community groups.

2.1 A total of 45 responses were received as a result of the consultation process. The responses have been collated and attached at Appendix 1. The full responses are available for members to view during the meeting.

3.0 Regulators Compliance Code

From the 6 April 2008 the Legislative and Regulatory Reform Act 2006 and Statutory Code of Practice requires regulators to have regard to the principles contained in the Statutory Code of Practice when undertaking regulatory activities, including the establishment of policies. The specific obligations of the code relevant to this policy are -

3.1 Economic Progress

Regulators should consider the impact that their regulatory interventions may have on economic progress, including a consideration of the costs, effectiveness and perceptions of fairness of regulation. Regulators should consider the impact that their regulatory interventions may have on small businesses, ensuring that the regulatory interventions fall fairly and proportionately considering the size of the business and the nature of their activities.

3.2 Risk Assessment

Regulators should ensure that the allocation of their regulatory efforts is targeted where they would be most effective by maximising their target outcomes. In general policies and activities must target those businesses where greater controls will lead to the increased public protection.

3.3 No evidence has been submitted that identifies a disproportionate detrimental economic affect of the policy. It is important that each application must be taken on its own merits. The policy will provide clear guidance on the expectations and wishes of the Council when determining applications of this kind. Although the draft policy is clear that certain parts of the City are considered unsuitable, there may be scope for some applications to be approved if they meet the highly detailed requirements for the location and operation of premises. Careful consideration will be necessary should an existing premise not have a licence application renewed.

4.0 Services Directive

This impacted on the policy in respect of fees, which must be set at reasonable levels and not be used as a deterrent; and quantity limits, where artificial limits must only be set where it is in the over-riding public interest to do so.

4.1 Fees

Fee levels are based on officer time and Council resources involved in the following activities –

- processing of documents for applications, renewals and transfers
- determination of applications by the Licensing Committee
- enforcement of conditions of licence holders
- dealing with complaints
- introduction of regular review of a policy
- maintenance of staff training and back office support such as software

Fee levels are based on full cost recovery which includes officer time, staff on costs and central support recharges. The fee levels have yet to be confirmed but indicative levels will be;

Application Fee £3900

Variation Fee £ 800

Annual Renewal Fees £3200

Transfer £750

The European Services Directive requires that any fees are reasonable. The fee levels are relatively high due to the low numbers of licensed premises involved over which to spread the costs of the administration of the licensing system. The current fee for a sex shop is £2875 per annum.

4.2 Quantity Limits

The draft policy proposed that quantity limits be specified for Union Street and certain parts of the City Centre; the aim being to limit the maximum number of licensed premises in an area. This was based both on the number of existing licences and how many premises could be present without compromising the nature, amenity and character of a neighbourhood. It is felt that in the overriding public interest to limit the over provision of this type of establishment in any one area.

5.0 The Policy

Following the consultation the draft policy has been amended and is in Appendix 2. Scrutiny members' views are sought on areas of particular interest which are -

5.1 Sunday Opening

The protection of Sundays still has residual legal protection, predominantly in the form of the Sunday Trading Act 1994. This limits the hours of Sunday opening dependant on the size and nature of the retail premises. The current Council policy prevents Sunday opening for the licensed sex shops.

The restriction of operating hours on Sundays is a judgement on faith and moral grounds. 71% of all respondents to the consultation were against Sunday opening. The intention is to normally prevent Sunday trading from 06.00 am to midnight on Sundays.

5.2 Locality Criteria

There was general support for the locality statements and the areas considered to be sensitive.

5.3 Notification

There is no statutory requirement on the Council to notify residents and businesses of applications. To do so would place additional requirements on the Council. It is proposed that Ward Councillors are notified of applications within their ward or adjacent wards where appropriate. Applicants have duties to publish a notice in a local paper and a prescribed sign in the premises window. Consultation views on this subject were equally divided.

5.4 Minimum Distance

An arbitrary measurement of distance from sensitive areas does not allow flexibility to for local circumstances and geography. It is therefore proposed that no distances are prescribed in the policy. 72% of respondents felt that a distance should not be specified.

5.5 Existing Premises

Premises that are currently licensed or undertake activities covered by the policy will be invited to apply for a new licence. Additional detail has been added to the policy to clarify the Council's position regarding an existing businesses right to continue trading even though it may not completely comply with the new policy requirements. A balance must be obtained between the achievement of the licensing objectives and human rights; these being Article 1, Protocol 1 of the European Convention on Human Rights (peaceful enjoyment of possessions) and Article 10 (Freedom of expression). Belfast City Council v Miss Behavin' Ltd is the leading case and it is clear that any decision to refuse an existing licence must be rational, necessary and proportionate for the promotion of the licensing objectives.

6.0 Conclusion

The policy was generally considered favourably by those responding to the consultation and should provide a basis for rational and reasonable determination of licence applications.

7.0 Recommendations

It is recommended that Members consider this report and make recommendations regarding –

1. the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and
2. the content of the draft Sex Establishment Licensing Policy.

APPENDIX 1

Sex Establishments Licensing Policy Consultation

No	Respondent	Synopsis of Response	Public Protection Service response
Key – SE – Sex Establishments			
1	Sarsen Housing Assoc	<p>Generally in favour.</p> <p>Requests further clarification on the proposal not to set a minimum distance that a SE should be located from 'sensitive buildings'.</p> <p>Local residents should be assured of the right to raise objections or offer opinion to any application and raises concern that leaving this up to the applicant is enough.</p>	<p>Noted.</p> <p>Noted</p>
2	St Boniface Catholic College	<p>Generally in favour.</p>	
3	Tourist Information Centre	<p>Generally in favour.</p> <p>Seeks clarification of how responsibility of the applicant to advertise be enforced by the council.</p>	<p>The applicant will be required to advertise in the local newspaper i.e. Herald and by public notice outside the premises. This is similar to that required under the Licensing Act 2003. In addition the application must show how they have consulted with local community including residents, local business and other interested parties. Officers will also take steps to inform local ward councillors as part of the application process.</p>

4	Fr Gregory Carpenter	<p>Generally in favour.</p> <p>In favour of quantity limits, however respondent considers that Union Street needs to be reclaimed with fewer such establishments.</p> <p>The respondent states that a sex establishment should not be permitted to open on a Sunday.</p>	<p>Whether to have a quantity limit for any specific area is a principle part of this consultation and if so the concentration of licences will have to be set. If a quantity limit for any area is considered not appropriate then the principle of 'each case on its own merits' would need to be applied.</p> <p>Noted.</p>
5	Plymouth Heartbeat	<p>The respondent has raised a number of points objecting to the present of any sex establishments being allowed to operate in this City and consequently was against the principle of having a quantity limit for any area.</p> <p>The respondent was of the view that by having a policy this will encourage the proliferation of establishments</p>	<p>Noted.</p> <p>By having a SE policy will provide a robust framework within which all future decisions can be made on the control of such establishments.</p>
6	Sir John Hunt Community Sports College,	<p>Generally in favour.</p> <p>.</p>	
7	Upper Barbican Res Ass	<p>Generally in favour.</p> <p>Residents have a right to know applicants do not advertise in known publications.</p>	<p>Noted</p>

		<p>All establishments should be monitored by CCTV and have doormen any breach should be rigorously punished by immediate closure.</p>	<p>The presence of CCTV and other security measures is a key part of the operating conditions of any proposed establishment and the suitability and adequacy of such systems would be scrutinised by the Police during the application process.</p>
8	UCP St Marks & St John	<p>In favour of having a policy for sex establishments.</p> <p>The respondent does not believe that limits should be set on the number of sex establishments and that all applications should be considered on their merits.</p> <p>The respondent believes residential accommodation and premises where children are present are 'sensitive buildings'. Other buildings such as places of worship, historic buildings and shopping areas should not be considered.</p> <p>The respondent does not consider the aspirations of an area to be relevant.</p>	<p>Noted</p> <p>Noted. Although those other buildings are also likely to have children present.</p> <p>Officers consider the aspirations of a neighbourhood and residents to be highly relevant.</p>
9	Abbey Hall Prysten House.	<p>Generally in favour.</p> <p>The respondent does not agree with the limits for Union Street/City Centre.</p> <p>The respondent states that the Council should notify all relevant local residents.</p>	<p>Noted.</p> <p>Noted</p>
10	Hooe Baptist	<p>Generally in favour.</p>	

	Church.	<p>The respondent considers that other premises such as supermarkets and filling stations should also be included as 'sensitive buildings'.</p> <p>The respondent stated that due to the sensitive nature of such establishments everyone in the vicinity of a proposed application should be deliberately/ specifically notified.</p> <p>The respondent was of the opinion the draft Sex Establishment Licensing Policy appears to be extremely thorough and fair.</p> <p>Comment - I am aware that there is no mention of the word 'brothel' - is this deliberate? Could a case be made by a potential proprietor for permission under these policy conditions for a brothel to be established? If so please would the Council ensure that regulations are put in place to prevent such an establishment being established?</p>	<p>Noted.</p> <p>Noted</p> <p>Noted.</p> <p>There is no mention of 'brothels' as these establishments fall outside of the law and as such are not covered by this policy.</p>
11	Keyham Methodist Community Centre,	<p>Generally in favour.</p> <p>The respondent raised concerns that sex establishments aren't going to be limited outside of the proposed Union St and City Centre localities</p> <p>The respondent believes residential accommodation and premises where children are present are 'sensitive buildings'.</p>	<p>The draft policy states that there will be a presumption that the quantity limit for all other areas will be Nil.</p> <p>Noted. Although those other buildings are also likely to have children present.</p>

		<p>Other buildings such as places of worship, historic buildings and shopping areas should not be considered.</p> <p>There is a consensus from residents of Keyham who attend the community centre that they would like to be informed of any such establishments.</p>	<p>Officers will review whether it is appropriate to notify other 'interested parties' or 'community buildings located within the vicinity.</p>
12	Ashoka Kadampa Buddhist Centre	<p>Generally in favour.</p> <p>The respondent put forward an additional licensing criterion against which an application should be considered. The Prevention of Moral Turpitude.</p> <p>The respondent was not in favour of a quantity limit as specified, stating that the lower limit the better.</p> <p>The respondent considered that people have the right to be notified</p> <p>Comment - We believe these kinds of establishment are harmful to the long term moral health and happiness of both those using them and their families and the well being of our under society.</p>	<p>Officers consider that licensing criteria should be objective and not include any references to behaviour other than that included in the Protection of Safety, Health and Public Decency.</p> <p>Noted</p> <p>Noted.</p>
13	Pelican Children's Centre	<p>Generally in favour.</p> <p>The respondent does not agree with quantity limits being set for Union Street/City Centre.</p> <p>The respondent does not agree with the draft proposal not to set a minimum distance</p>	<p>Noted.</p> <p>Noted.</p>

		<p>a SE would need to be located away from sensitive buildings. Citing the government guidelines for the Protection of Children and Vulnerable People.</p> <p>The respondents stated that the policy should be bias towards the wishes of residents.</p> <p>The respondent stated that residents should be told.</p>	<p>Noted.</p> <p>Noted</p>
14	The Clifford Club,	<p>The respondent was not in favour of a quantity limit, expressing the view that each case should be considered on its own merits.</p> <p>The respondent was happy for premises to open on Sundays</p> <p>The respondent was of the view that no policy is needed.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted. Although Officers are of the view that a policy will provide a robust framework within which all future decisions can be made.</p>
15	Plymouth High School for Girls, (Yr 12 members)	<p>Generally in favour.</p> <p>The respondent did not agree that applications should not be granted in other areas of the city, providing that they were discrete and as long as they follow rules.</p> <p>The respondent believes that hotels and 'transport hub' should also be considered as 'sensitive buildings'.</p> <p>The respondent was happy for SE premises</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p>

		to open on Sundays	
16	Leigham Primary School	<p>Generally in favour.</p> <p>The respondent does not agree with the draft proposal not to set a minimum distance an establishment would need to be located away from sensitive buildings. Citing that 'it is never right to be neat a school or where young people congregate'</p>	Noted.
17	Economic Development PCC	<p>No reference to protection/prevention/identifying individuals who are victims of Sex Trafficking which is becoming a significant problem.</p> <p>Prevention of Nuisance – no measures to deal with people congregating outside establishments to smoke which could be seen as intimidatory.</p> <p>Quantity Limits – on what quantitative methodology has this been based on?</p> <p>Hours of Opening – if sex establishments are restricted to Union Street and the City Centre, then what is the justification for prohibiting them opening on Sunday's and Bank Holidays being as most other shops and entertainment venues in those areas can / do? – this policy seems arbitrary and illogical</p>	<p>Officers will explore this point.</p> <p>This is a key part of the licensing objective the Prevention of Public Nuisance</p> <p>The draft policy sets out quantity limits for areas based on existing establishments likely to be covered by this policy. There are other premises outside of these areas that will also need to be considered. These factors will be considered prior to the approving the policy.</p>
18	The Art of Dance	Generally against the proposal as it will not	Noted.

		<p>have any benefits for the wider community and may lead to a restriction in liberty.</p> <p>The respondent questions the link surrounding crime linked to sexual encounter establishments and crimes linked to such establishments are recorded and that this information is publicly available.</p> <p>There are several elements of the new guidelines (draft policy) that I must bring into question as they may have a knock on effect to my business:</p> <p><i>The external appearance and advertising of the business, e.g. no sexually explicit material</i></p> <p><i>Any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means). An audience includes an audience of one”</i></p> <p><i>I am concerned about this vague definition of what it is to sexually stimulate? As I carry out more than 12 pole dancing performances at my establishment and other venues during the year to a mixed audience of both men and women could my</i></p>	<p>Noted. In considering any future application all interested parties will have the opportunity to submit evidence linked to criminal behaviour that may be associated to the establishment concerned. It will be the responsibility of the Licensing Committee to consider all relevant information prior to making a decision to grant vary or revoke a licence.</p> <p>Noted – Officers have replied in detail the respondent. The Home Office has issued guidance to local authorities on how to interpret and implement this legislation and officers have been mindful in drafting this draft policy.</p> <p>This public consultation is designed to seek local views on this draft policy prior to the final version being considered by Council for adoption.</p>
--	--	---	--

		<p><i>business fall under this restricted category?</i></p> <p><i>Will the legislation extend to clubs/bars who have poles installed for customer use?</i></p> <p><i>How will the rules apply to burlesque performances that include elements of striptease?</i></p> <p><i>I do appreciate that the document does detail what it classes as nudity:</i></p> <p><i>“A display of nudity” means:</i> <i>(a) In the case of a woman, exposure of her nipples, pubic area, genitals or anus; and</i> <i>(b) In the case of a man, exposure of his pubic area, genitals or anus;</i></p> <p><i>However this wording would still allow an exotic dancer to perform wearing a string bikini and thong without the need for any restrictions?</i></p> <p><i>The wording, I assume, may also restrict theatre performances where nudity may be involved such as the recent Theatre Royal performance 'Puppetry of the penis'?</i></p>	
19	Corporate Support, PCC	Reference to statement concerning CCTV and not about the purpose of the policy.	Noted – Officers will review the text to ensure compliance with the Information Commissioners Code of Practice
20	Thornbury Primary School	<p>Generally in favour.</p> <p>The respondent considers not to set a minimum distance that an establishment would need to be located away from</p>	<p>Noted.</p> <p>Noted.</p>

		sensitive buildings as 'too ambiguous'.	
21	Vue Cinema	<p>The respondent does not agree with the quantity limits for Union Street/City Centre.</p> <p>The respondent does not consider places of worship should be viewed to 'sensitive buildings'.</p> <p>The respondent stated that all residents in the area should be notified at the expense of the applicant.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p>
22	Manor Street Children's Centre	Generally in favour	Noted.
23	Hyde Park Junior School	<p>Generally in favour</p> <p>The respondent stated that where an application is located in a residential area then the publicity should be wider.</p> <p>Comment - This is a real move in the right direction.</p>	<p>Noted.</p> <p>Noted</p> <p>Noted.</p>
24	Resident	<p>Generally in favour.</p> <p>The respondent stated that the safety of 'workers' should be included in the licensing objectives.</p> <p>The respondent was not in favour of a quantity limit, expressing the view that each case should be considered on its own merits.</p> <p>The respondent believes premises where children are present and tourist attractions are 'sensitive buildings'. Other buildings</p>	<p>The safety of employers and performers is part of the licensing criteria.</p> <p>Noted.</p> <p>Noted.</p>

		<p>such as residential areas, places of worship and shopping areas should not be considered.</p> <p>The respondent did not agree that an existing SE should expect its licence to be automatically renewed.</p> <p>Comment - You must have as a primary aim the safety of the workers and an aim to support the workers in illegal establishments helping them to leave unlicensed premises.</p> <p>Women in the sex industry need support and help to leave the industry and licences to support the workers is a good idea.</p>	<p>The respondent has draw comparisons with illegal activities and protecting workers from the sex trade as these activities are not licensable.</p> <p>Existing online services provide support to individuals involved in the sex industry.</p>
25	Engage SW, St Levan Road	<p>Generally in favour.</p> <p>The respondent agrees with the principle of quantity limits for Union St and the City Centre but not with the numbers proposed for Union St.</p> <p>The respondent stated that SE should be located near industrial areas or in remote locations away from residential areas.</p> <p>The respondent stated that residents should be informed by leaflet or letter</p> <p>Comment - I applaud the Council for trying to protect the public from such unsavoury establishments. The risks to the public and to our cities reputation is of the utmost importance when the authority makes its decision. This is a great City and should not</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted</p> <p>Noted.</p>

		have its good name sullied by such places existing here.	
26	Avondale Arms	<p>The Respondent did not support the draft licensing policy. Citing that her premises was not a SE just a bar.</p> <p>The respondent was not in favour of setting quantity limits or that applications should not normally be granted in other areas of the city</p> <p>The respondent supported the principle that an existing SE should not expect its licence to automatically renew if the aspirations of the surrounding neighbourhood change.</p> <p>Comment - My pub is not a sex establishment and is having problems enough paying all. The staff is just bar maids with the bust on show. There is not physical contact with customers and must always put their top on when leaving the bar to collect glasses or go to toilet.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted</p> <p>Any establishments that fall within the parameters of the amended legislation will be invited to apply. Whether not or a licence is necessary will be a matter consideration by officers by reference to legislative requirements</p>
27	St Andrews Church,	<p>Generally in favour.</p> <p>The respondent was in favour of a quantity limit for Union St, but did not agree with a limit being set for City Centre in which case it should be each application on its own merits.</p> <p>The respondents stated that for applications notification should be given to properties within 200 metres of proposed premises.</p>	<p>Noted.</p> <p>Noted</p>

28	Elburton Methodist Church	<p>Generally in favour.</p> <p>The respondent does not agree with any quantity limit for Union Street or the City Centre. Preferring a zero limit for both areas.</p> <p>Comment - We do not agree that such establishments add anything of value to our city and urge the council to move towards NIL values in all parts of the city as soon as possible.</p> <p>The section at the bottom of Page 13 and at the top of Page 14 is unclear and needs to be rewritten.</p> <p>The return is made at the request of the church Council of Elburton Methodist Church. The Church has predominantly White British members.</p>	<p>Noted.</p> <p>The text will be reviewed.</p>
29	The Hoe Conservation Residents Association	<p>Generally in favour.</p>	
30	Oasis Project	<p>Generally in favour.</p> <p>The respondent stated that the sex industry should not be present in the City Centre.</p> <p>The respondent stated that libraries, doctor's surgeries and dentists should also be classified as 'sensitive buildings'.</p> <p>The respondent considered that by not setting minimum distance criteria then there will be an erosion of unmet limits. Specified</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p>

		limits can be agreed and set.	
31	North Road West Area Residents Association.	<p>The respondent did not consider that the proposed licensing objectives would prevent crime & disorder, only lesson and control to an extent.</p> <p>The respondents did not agree with the proposal to set quantity limits or the proposal to not normally grant application in other areas of the city as this would result in all SE being located in Union St., 'people that live there including children already have enough to cope it'</p>	<p>Noted.</p> <p>Noted.</p>
32	Resident	<p>The respondent stated that Union St is run down and this is not a reason to concentrate SE as this can increase the sense of seediness.</p> <p>Concentrating sex establishments near to the Palace could limit the appetite of investors and certainly for visitors. It compounds the stigma of our neighbourhood, we are working hard to try to change perspectives and this will confirm the current stigma in lots of ways.</p> <p>Given Union St is a main route out of town I think it is important for the rest of Plymouth not to drive through an area that could be defined by the sex shops, cinema's and lap dancing clubs.</p>	<p>The draft policy sets out quantity limits for areas based on existing establishments likely to be covered by this policy and will seek to prevent the proliferation of sex establishments in that specific area</p> <p>The draft policy outlines the options that are available however a locality policy would also apply to areas that could be the subject of a quantity limit.</p> <p>The draft policy does set out the principle that an existing establishments should not expect its licence to be automatically renewed where it can be established that the aspirations of the surrounding area have changed. This is explored in Qu. 10 on the feedback response form.</p>

		Union St is also a main route for visitors to Plymouth from the ferry port into Cornwall, what sort of impression would this type of concentration of establishments have on them.	Noted.
33	Church of the Holy Spirit	Generally in favour.	
34	Church of the Holy Spirit	Generally in favour.	
35	Resident	Generally in favour.	
36	Resident	Generally in favour.	
37	Resident	Generally in favour. The respondents felt that the policy was not fair on the residents of Unions St.	Noted.
38	Resident	The respondent does not agree with any quantity limit for Union Street or the City Centre. Citing that there are already concerns that the existing establishment (in Union St) are near to a children's centre, play area, residential properties and a primary school. The respondent stated that where an application is made for establishments in a non-residential area these should be considered on their own merit i.e. Faraday Mill. The respondent stated that children's	Refer to the comment set out in No.32.

		<p>centres should also be classified as 'sensitive buildings'.</p> <p>The respondent did not agree with the draft policy not to set a minimum distance that establishments would need to be located away from sensitive buildings, but did not state the reasons why.</p> <p>The respondent did not agree with the proposal not to notify local residents when an application is made but did not state the reasons why.</p> <p>Comments – Whilst I welcome the contents of the policy in places it contradicts the practices on the ground. The decision to focus the location of establishments within Union St puts these establishments within 100 yards of children's centre play parks and primary schools. Given concerns raised about the sexualisation of children, increasing concerns about the impact of drugs and alcohol on the lives of children and the on-going work to improve Stonehouse and Millay the decision to site establishments within Union St does not support the communities aspirations for the area.</p>	
39	<p>Cllr Sue McDonald Ward Councillor</p>	<p>The respondent stated that the draft policy did not contain enough detail and information to understand how the policy and decision making process will work.</p> <p>The respondent stated that Union St (and to some extent the City Centre) has all the</p>	<p>Officers acknowledge that the locality criteria set out in the draft document are equally</p>

	<p>features listed within the 'relevant locality statement'. Therefore given these criteria considered that Union St is not suitable for the location of certain defined licensed sex establishments as outlined in the draft policy statement.</p> <p>All other parts of the City are generally considered unacceptable, although each case would be considered on its own merits having regard to the specific detail of the application. For example; it may be appropriate based on the individual merits of the application to grant a licence in a commercial area where there are no residential properties, such as on a business park.</p> <p>The respondent does not agree with any quantity limit for Union Street. Citing that there are already concerns that the regeneration of the Palace Theatre as reason for not permitting any SE in Union St. In addition concern is raised that Union St and the City Centre would be the only available areas as establishments would not be permitted elsewhere.</p> <p>The respondent stated that community facilities, home zones, hostels should also be classified as 'sensitive buildings'.</p> <p>The respondents stated that the policy is not fair to the residents Union St as it contains a high density of flats.</p> <p>The respondent did not agree with the</p>	<p>applicable to Union St. The option of a quantity limit is designed to provide a cap and prevent the proliferation of establishments concentrated in one area. The limits put forward in this draft policy represent the status quo for those particular areas.</p> <p>For all other localities the draft policy has put forward that the appropriate number of establishments will be nil. Although each case would be considered on its own merits having regard to the specific detail of the application it may be appropriate based on the individual merits of the application to grant a licence in a commercial area where there are no residential properties, such as on a business park.</p> <p>As previously stated a quantity would prevent the proliferation of establishments in a particular locality.</p> <p>Noted.</p> <p>Noted.</p>
--	---	---

		<p>proposal not to notify local residents when an application is made and that the council should notify local residents, churches and nurseries.</p> <p>Comment – Union St neighbourhood contains all of the listed factors on page 8 (relevant locality statement) that the Council considers as unsuitable. A debate needs to take place with the public in the neighbourhoods as aspirations have changed. I have raised the topic of the policing proposals at the City Centre Neighbourhood meetings ‘Stonehouse Action’. Latter community organisation working with Oliver Colvile MP who attended and chaired the last two meetings re. Regeneration of the Palace Theatre.</p>	Refer to the comments stated above.
40	Waterfront City Church	<p>Generally in favour.</p> <p>The respondent did not agree with the proposal not to notify local residents when an application is made and that the council should notify local residents, and businesses.</p>	Noted.
41	Revd Dave Rix	<p>Generally in favour.</p> <p>The respondent did not agree with the proposal not to notify local residents when an application is made as people directly affected would benefit from the opportunity to respond.</p>	Noted.
42	Thompson &	No over-riding objections to the policy as	Noted.

	<p>Jackson on behalf of Temptations T2 Ltd.</p>	<p>drafted, although they would want to ensure that the policy did not hinder their continued business or restrict it in such a way that it would affect profitability and the employment of a significant number of persons.</p> <p>The respondents raised concerns over some of the attached conditions (which do not form part of the policy) considering them to be confusing, restrictive and not appropriate.</p> <p>The respondents raised concerns that the implementation of a quantity limit may not be entirely lawful under European legislation and that any application has to be considered on its own merits.</p> <p>The respondent agrees that it is not appropriate to have establishments in a suburban area such as the Barbican, Mutley Plain or North Hill.</p> <p>Restrictions on advertising should be considered carefully as it could amount to a restraint of trade.</p> <p>The respondents raised concerns that the proposal that an existing establishment should not expect its licence to be automatically renewed where it is established that the aspirations of the surrounding area have changed, would potentially mean the destruction of a viable and successful business which has not caused problems.</p>	<p>Officers will review the proposed conditions having regard to the respondent's comments and in tandem with other enforcement agencies to ensure that any published licensing conditions are clear, suitable and relevant.</p> <p>Officers will consider these concerns.</p> <p>Noted.</p> <p>Noted.</p> <p>Any licensing decision would be made having regard to the licensing objectives and the evidence presented at the time</p> <p>The draft policy outlines that a 'locality' is not defined on a map with a finite arbitrary</p>
--	---	--	--

		<p>The respondent was in favour of quantity limits for Union St and the City Centre subject to their existing premises being within the defined area of Union St.</p> <p>The respondent has strong reservations that for localities other than Union St and the City Centre, the appropriate number the establishments would be Nil as this would effectively be a blanket ban and lawful.</p>	<p>boundary but it is intended to be a virtual boundary that has regard to neighbourhoods, natural boundaries, postal districts and local precedents. Material decisions that might be relevant to a local community could include a establishments premises that is 'on the way to the' local shops, school or places of worship.</p> <p>The draft policy states that for all other localities the appropriate number will be nil. It will be for the Council to decide, having regard to all the available information, government guidance, legal advice and the opinions received from the public consultation as to the appropriateness of such a policy.</p>
43	<p>Martin Worthington Licensing Sergeant</p> <p>Devon and Cornwall Constabulary</p>	<p>The DCC supports the purpose of the policy</p> <p>DCC believes the SE licensing policy contains sufficient detail to make a clear transparent and robust framework for a meaningful policy.</p> <p>DCC support the five proposed licensing objectives and the publication of a list of control measures and have submitted some amendments to the published pool of conditions.</p> <p>DCC whole heartedly support the creation of a Relevant Locality Statement for Plymouth.</p> <p>DCC note the council's Quantity Limit</p>	<p>Noted.</p> <p>Officer will review the submitted amendments.</p> <p>Noted.</p> <p>Noted.</p>

		<p>Statement. The police do not have a view on the number of SE it is acutely aware of concerns raised by some residents in areas where 'lap dancing' clubs have operated. Therefore it may well be of benefit to maintain the current level of SE for the introduction of the policy and review the quantity limit once the policy has had the opportunity to 'bed in'</p> <p>DCC believe the licensing objectives to be proportionate, necessary and appropriate.</p> <p>DCC wish to point out that the demography of Union St varies with commercial and ENTE licensed premises interspersed with large areas of residential housing.</p> <p>DCC agree not to support any arbitrary minimum distance and that in this context each application should be considered on its own merits.</p> <p>DCC consider the draft policy to be proportionate and a mechanism by which the council and other responsible authorities can ensure that the highest standards can be maintained.</p> <p>DCC do not have any concerns with establishments operating on Sundays providing that the appropriate safeguards</p>	<p>Noted.</p> <p>Officers will review the locality known as Union St to ensure that it remains applicable and relevant in the context of this policy.</p> <p>The draft policy outlines that a 'locality' is not defined on a map with a finite arbitrary boundary but it is intended to be a virtual boundary that has regard to neighbourhoods, natural boundaries, postal districts and local precedents.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>
--	--	---	---

		<p>are in place.</p> <p>DCC have concerns that establishments may be utilised for the purposes of prostitution, organised crime, sexual exploitation, money laundering etc. The police recommend the council ensures appropriate safeguards are in place for an application.</p>	<p>Noted. Officers will have regard to the proposals put forward to ensure that the appropriate checks and balances are in place.</p>
44	Social Inclusion Unit PCC	<p>The respondent recommends that the policy reference the Equalities Act 2010.</p>	<p>Officers will review the draft policy with regard to the suggestions made.</p>
45	Stonehouse Neighbourhood Management. PCC	<p>In favour of the policy and its licensing objectives.</p> <p>The respondent set out agreement in principle with limiting establishments in the Union St locality. Set out concerns that the existing sex shop is in very close proximity to a children's centre residential accommodation.</p> <p>The respondent was concerned that the existing establishments are located near services targeted at vulnerable client such as street drinkers, homeless and treatment centres.</p> <p>Union St is also a main route for visitors to Plymouth from the Millbay Port and focussing establishments in this area does not support the stated aspiration for the city.</p> <p>As a ENTE area vulnerable persons are more liable to attack/ victim of crime.</p> <p>The respondent stated that Union St is a mixed use area with a high density of</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Noted.</p>

		<p>residential accommodation and not just a ENTE area. Residents are desperate that Union St should be viewed as not merely a convenient place to site any establishments that other residents would object to having in their streets.</p> <p>The respondent stated to establishments should be granted in other areas of the city.</p> <p>The respondent was in favour of not setting a minimum distance to sensitive buildings but with a caveat of protecting sensitive buildings.</p> <p>The respondent felt that due to the sensitive nature of establishments local residents in the immediate area should be notified. Although the neighbourhood team could assist.</p>	<p>Noted.</p> <p>Noted. It is proposed that as part of the application process the applicant will have to show evidence of local consultation. Officers will notify elected councillors of the submission of an application. Officers will review the draft policy to consider way to ensure that the applicant has notified all 'sensitive buildings', community representatives, etc.</p>
--	--	--	---

Consultation Results			
Qu.1	Does the draft Sex Establishment Licensing Policy contain enough detail and information for you to understand how the policy and decision-making process will work?	Yes 34	No 3
Qu.2	Do you agree that the following criteria for considering sex establishment licence applications adequately address all the issues? <ul style="list-style-type: none"> • Prevention of crime and disorder • Protection of safety, health and public decency • Prevention of nuisance • Protection of children from harm • Protecting the nature, amenity and character of a neighbourhood 	Yes 37	No 3
Qu.3	The draft policy proposes that limits are set on the number of sex establishments within two areas of the city – Union Street and the city centre. Do you agree with this proposal? <p>If yes, do you agree with the following limits, which take into account premises already operating in these areas?</p> <p>Union Street: One sex shop/cinema and two sex entertainment venues</p> <p>City centre: One sex shop/cinemas and no sex entertainment venues</p> <p>If no, (and you are not in favour of limits for specified areas) then are you in agreement that each application should be considered on its own merits?</p>	Yes 25	No 10
Qu.4	Do you agree that applications should not normally be granted in other areas of the city?	Yes 28	No 10
Qu.5	The draft policy considers that it is important to highlight ‘sensitive’ buildings, locations and areas. Do you agree that it is not appropriate to issue a licence for a sex establishment near the following? <ul style="list-style-type: none"> • Primarily residential accommodation • Schools, play areas, youth clubs • Places of worship • Historic buildings or tourist attractions • Shopping areas aimed at attracting visitors to the city 	Yes 37	No 2
		39	1
		35	5
		36	3
		35	4

Qu.6	The draft policy does not propose a minimum distance that a sex establishment would need to be located away from sensitive buildings, locations or areas. Instead, it is proposed that an application should be considered against the specific geographical circumstances of the area in question. Do you agree with this proposal?	Yes 28 No 11
Qu.7	Do you think the draft Sex Establishment Policy is fair to both local residents and licensed establishments?	Yes 27 No 8
Qu.8	The Council proposes that it will not notify local residents and businesses when a licence application is made, as there is a statutory responsibility on the applicant to advertise the application. However, elected members in the wards concerned and wards nearby will be notified. Do you agree that this will be acceptable?	Yes 19 No 20
Qu.9	Should any sex establishment be permitted to open on a Sunday?	Yes 11 No 27
Qu.10	Do you agree that an existing sex establishment should not expect its licence to be automatically renewed where it can be established that the aspirations of the surrounding area have changed?	Yes 32 No 8

Appendix 2