

Licensing and Appeals Committee

26 November 2025

Part 1 - Public

Matters for Decision Under Delegated Powers



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Cabinet Member	N/A
Responsible Officer	Eleanor Hoyle, Director of Planning, Housing and Environmental Health
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Sex Establishments and Sexual Entertainment Venues – Policy Review 2026-2031

1 Summary and Purpose of Report

- 1.1 The current Policy on Licensing Sex Shops, Sex Cinemas and Sexual Entertainment Venues has been reviewed. There have been no legislative updates, however following recent case law it is proposed to consult on renewing the current policy which will then run for five years.

2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective Council.
- 2.2 Licensing Services ensure that all licensable activities taking place within the Borough are granted the appropriate permissions under the relevant legislation.

3 Recommendations

- 3.1 Members are recommended to approve the Policy at **Annex 1** for public consultation. Any objections will be brought to the Committee for discussion in March 2026.
- 3.2 If no responses to the consultation are received, policy approval shall be delegated to the Director of Planning, Housing and Environmental Health.

4 Introduction and Background

- 4.1 Tonbridge & Malling Borough Council currently has one licensed Sex Shop, trading in Aylesford. There are no Sex Cinemas or Sexual Entertainment Venues currently operating within the Borough.

- 4.2 Since November 2005, the Licensing Act 2003 has required a wide range of regulated entertainment to be licensed by the Council acting as the Licensing Authority. This includes live and recorded music as well as dancing and dance performances.
- 4.3 Members will be familiar with the restrictions in the 2003 Act, which mean that any representation against a Premises licence and Club Premises Certificate can only be based on the four licensing objectives namely:
- The prevention of crime and disorder
 - The prevention of public nuisance
 - The protection of public safety
 - The protection of children from harm

Whilst licences can be subject to review procedures, they otherwise continue in force for the life of the business concerned.

- 4.4 Sex shops and sex cinemas, in contrast, are licensed under the Local Government (Miscellaneous Provisions) Act 1982. This regime gives the Licensing Authority a wider discretion in determining whether to grant or refuse licences (including the statutory grounds for refusal), a power to set a limit on the number of premises that may be suitable for a particular locality, greater flexibility on applying licence conditions and the ability to accept representations from a wider scope of the community. Sex shop licences are only valid for a year at a time, meaning there is scope for regular review.
- 4.5 These concerns were addressed by amending Schedule 3 to the 1982 Act through Section 27 of the Policing and Crime Act 2009. A new class of licensed sex establishment – Sexual Entertainment Venues (SEVs) – was created which required lap dancing venues and similar premises to be licensed under the more flexible 1982 Act rather than under the Licensing Act 2003.
- 4.6 In 2011 Tonbridge and Malling Borough Council consulted local residents and businesses on whether the Council should adopt the new powers to regulate sexual entertainment venues contained in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
- 4.7 The overwhelming view of respondents was that the Council should adopt the new provisions. Accordingly, on 23 February 2012 Council resolved to adopt the sexual entertainment licensing provisions contained in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. These adopted provisions came into effect on 1 June 2012.

- 4.8 The decision to adopt the new provision only related to relevant adult entertainment. Any other licensable activity at a venue such as alcohol sales and late night refreshment remains licensable under the Licensing Act 2003.
- 4.9 The provisions of Schedule 3 to the 1982 Act allow -
- Local people to oppose an application for a sexual entertainment venue if they have legitimate concerns that it would be inappropriate given the character of an area, for example, if the area was primarily a residential area. An objection cannot however be made on purely moral or religious grounds.
 - Local authorities to decide whether or not to set a limit on the number of sex establishments of a particular type in a locality, as well as the number of sex establishment generally. The limit for a particular locality may be set as nil, but it is however unlikely that a local authority could set the limit as nil for the whole of its area without running the risk of judicial review.

Development of the Statement of Licensing Policy

- 4.10 The Tonbridge and Malling Borough Council's Statement of Licensing Policy on Sex Shops, Sex Cinemas and SEVs was developed in close conjunction with the other local authorities in Kent. This was achieved via the mechanism of the Kent and Medway Regulatory Licensing Steering Group.
- 4.11 The current policy was developed taking full account of the requirements of the legislation and guidance so as to minimise the prospect of future judicial review.
- 4.12 The aim of the joint working group was to promote consistency to the benefit of Licensees, potential licensees, businesses, residents and to regulatory agencies such as the police.
- 4.13 The policy is attached as **Annex 1** to this report, with a pool of model conditions attached at **Annex 2**. Whilst not exhaustive, it is hoped this will guide both applicants and the public regarding what would generally be expected from anyone seeking a sex establishment licence from this authority.
- 4.14 The policy provides that each application will be judged on its own merits but taking into account the various criteria laid out within the policy document. In this way each application will be considered as to whether it is suitable given the nature of the particular locality in question.
- 4.15 There have been no recent changes which require amendments to the policy at this time, however given the policy is now three years old it is recommend a public consultation is undertaken prior to being renewed.

5 Proposal

- 5.1 It is proposed to put the policy on Licensing Sex Shops, Sex Cinemas and Sexual Entertainment Venues as shown at **Annex 1** out for public consultation ultimately running for five years.

Consultation timetable

- 5.1.1 The proposed timetable for consultation in respect of the policy is:

- Licensing and Appeals Committee – 26th November 2025
- Public Consultation – 1st December – 27th February 2026
- Responses to Licensing and Appeals Committee 25th March 2026
- Council – 21st April 2026
- New policy comes into force – May 2026

- 5.1.2 A feedback form for use during the consultation is shown at **Annex 3**

- 5.1.3 As per recommendations, should no responses be received policy approval shall be delegated to the Director of Planning, Housing and Environmental Health.

6 Other Options

- 6.1 It is an option that this Policy could be renewed as is without the need for public consultation.

7 Financial and Value for Money Considerations

- 7.1 There are no statutory fees for sex establishments or sexual entertainment venues. The level of fee is therefore at the discretion of the Licensing Authority, subject of course to the general principle that the income generated should not exceed the costs of providing the service.
- 7.2 The current licence fee for a sex shop, sex cinema or sexual entertainment venue is £2,000 (with proposals in place to raise this to £2080 from 1st April 2026 following the annual review of fees and charges).

8 Risk Assessment

- 8.1 The retention and suitable updating of a policy should provide a transparent and consistent basis for decision making. This in turn should reduce the risks of decisions being challenged in the Courts.

9 Legal Implications

- 9.1 There is no statutory requirement to have a licensing policy for sex establishments. However, it is considered best practice and also an effective policy document will ensure that the trade and public alike will have a document that fully explains the elements of the regulatory process. This will include the principles to be applied when considering applications for sex establishments, the application process itself and the grounds for objection, refusal, the hearings procedure and the grounds for appeal.
- 9.2 Any criteria applicable to applications for sex establishments must meet the requirements of the Provision of Services Regulations 2009. It is considered that the policy complies with these regulations.

10 Consultation and Communications

- 10.1 The proposal is to consult on renewing the existing policy for five years (2026-31).

11 Implementation

- 11.1 If the recommendations are agreed the existing policy will be consulted on and any comments/objections brought to the next Committee for discussion prior to the policy being renewed for five years.

12 Cross Cutting Issues

12.1 Climate Change and Biodiversity

- 12.1.1 Limited or low impact on emissions and environment.

- 12.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

12.2 Equalities and Diversity

- 12.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

12.3 Other If Relevant

- None

Background Papers	None
Annexes	Annex 1 – SEV Policy Annex 2 – Pool of draft conditions Annex 3 – Feedback form