

## licenceColchester Borough Council

### Equality Impact Assessment Form - An Analysis of the Effects on Equality

#### Section 1: Initial Equality Impact Assessment

Name of policy\* to be assessed: Statement of Licensing Policy for Sex Establishments

(\*Please note that the term 'policy' is used broadly to include a service, strategy or key decision.)

<https://cbccrmdata.blob.core.windows.net/noteattachment/CBC%20-%20How%20The%20Council%20Works%20-%20Licensing%20Policies%20-%20Sex%20Establishment%20Policy.pdf>

1. What is the main purpose of the policy?

- The Policy is intended as a guide to applicants, licence holders, objectors and members of the licensing committee; it provides information on what the Council expects to see in relation to an application; and it contains key regulations within the legal framework and conditions imposed by the Council.

2. What main areas or activities does it cover?

- The licensing of sex shops, sexual entertainment venues and sex cinemas.

3. Are there changes to an existing policy being considered in this assessment? If so what are they?

- No

4. Who are the main audience, users or customers who will be affected by the policy?

- Applicants and their legal representatives
- Licence Holders and their legal representatives
- Licence Committee members

- Employees of the establishments and their customers
- The general public

5. What outcomes do you want to achieve from the policy?

- Open and transparent decision-making process and the proper licensing and regulation of sex establishments within the current legal framework.

6. Are other service areas or partner agencies involved in delivery? If so, please give details below:

- Police, Environmental Control, Fire Authority, Health and Safety, Child Protection and Planning

7. Are you aware of any relevant information, data, surveys or consultations<sup>1</sup> which help us to assess the likely or actual impact of the policy upon customers or staff?

- No

8. The 'general duty' states that we must have "due regard" to the need to:

- (a) eliminate unlawful discrimination, harassment and victimisation
- (b) advance equality of opportunity between people who share a 'protected characteristic'<sup>2</sup> and those who do not<sup>3</sup>
- (c) foster good relations between people who share a protected characteristic and those who do not<sup>4</sup>

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<sup>1</sup>Click on [Customer Insight](#) for more information. The Council's surveys and consultations include 'equality monitoring information' to help us identify any particular concerns or views expressed by any particular group or 'protected characteristic'. It can also help us to assess how representative of our customers the respondent group is. Local Data on the Protected Characteristics is available [on this page](#) of the staff intranet, 'Colin'.

<sup>2</sup> The Equality Act's 'protected characteristics' include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief and sex and sexual orientation. It also covers marriage and civil partnerships, but not for all aspects of the duty.

<sup>3</sup> This involves having due regard, in particular, to the need to: (a) remove or minimise disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it, and (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

<sup>4</sup> This involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding.

Not all policies help us to meet the ‘general duty’, but most do.

- The Policy is largely governed by the legal framework over which the Council has no control.

The policy helps us to ‘eliminate unlawful discrimination, harassment and victimisation’ in the following way(s):

- The Policy is largely governed by the legal framework over which the Council has no control.

The policy helps us to ‘advance equality of opportunity...’ in the following way(s):

- The Policy is largely governed by the legal framework over which the Council has no control.

The policy helps us to ‘foster good relations...’ in the following way(s):

- The Policy is largely governed by the legal framework over which the Council has no control.

9. The Council has an important role in improving residents’ health under the Health and Social Care Act 2012. This relates to both its ‘core functions’ (such as housing, leisure, green spaces and environmental health) and to its ‘enabling roles’ (such as economic development, planning and engaging with communities)<sup>5</sup>. The Council recognises that its Public Sector Equality Duty and its role in improving health are interrelated and mutually supportive. This is especially true across the ‘protected characteristics’ of age and disability.

*“Health inequalities are the unjust and avoidable differences in people’s health across the population. They come from the unequal distribution of income, wealth and power and influence the wider determinants of health such as work, education, social support and housing. Currently, in England people living in the least deprived areas will live around 20 years longer in good health than those in the most deprived areas. Reducing health inequalities means giving everyone the same opportunities to lead a healthy life, no matter where they live or who they are.”*

- The Policy is largely governed by the legal framework over which the Council has no control. However, through the proper licensing and regulation of sex establishments and in particular, sex entertainment venues, the Council can ensure that there are no detrimental impacts on the health of the women working in this area.

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<sup>5</sup> The King’s Fund: [The district council contribution to public health: a time of challenge and opportunity, 2015](#)

10. This section helps us to identify any disproportionate equality impacts. Please indicate in the table below whether the policy is likely to particularly benefit or disadvantage any of the 'protected characteristics'.

Remember to include reference to any relevant consultation, data or information.

'Protected characteristic' group		Positive Impact	Explain how it could particularly benefit the group	Negative Impact	Explain how it could particularly disadvantage the group
Age	Older people (60+)	X	The principal purpose of the licensing regime is to protect the public therefore all groups will benefit		
	Younger people (17-25) and children (0-16)	X	As above	X	Young employees of relevant establishments might be placed in a position of vulnerability by the nature of their employment. Children could be potentially negatively impacted by the location of the premises.
Disability	Physical	X	As above		
	Sensory	X	As above		
	Learning	X	As above		
	Mental health issues	X	As above		
	Other – <i>specify</i>				
Ethnicity <sup>6</sup>	White	X	As above	X	Immigrants might be more likely than other groups to be working in relevant establishments.
	Black	X	As above	X	Immigrants might be more likely than other groups to be working in relevant establishments.
	Chinese	X	As above	X	Immigrants might be more likely than other groups to be working in relevant establishments.

<sup>6</sup> National Census 2011 categories are: Bangladeshi, Indian, Pakistani, Other Asian (Asian or Asian British), African, Caribbean, Other Black (Black or Black British), White and Black African, White and Asian, White and Black Caribbean (Mixed), British, Irish, Other White (White), Chinese, Other (Other Ethnic Group).

'Protected characteristic' group		Positive Impact	Explain how it could particularly benefit the group	Negative Impact	Explain how it could particularly disadvantage the group
	Mixed Ethnic Origin	X	As above	X	Immigrants might be more likely than other groups to be working in relevant establishments.
	Gypsies/ Travellers	X	As above		
	Other – <i>please state</i>				
Language	English not first language	x	As above	X	Immigrants might be more likely than other groups to be working in relevant establishments.
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks	X	As above		
Religion or Belief	People with a religious belief (or none)	X	As above	X	Some faith groups may object to the licensing of Sex Establishments on religious grounds
Sex	Men	X	As above		
	Women	X	As above	X	Female employees of relevant establishments might be placed in a position of vulnerability by the nature of their employment.
Gender Reassignment <sup>7</sup>	Transgender/ Transsexual	X	As above	X	Transgender/Transsexual employees of relevant establishments might be placed in a position of vulnerability by the nature of their employment.
Sexual Orientation	Bisexual, Heterosexual, Gay or Lesbian	X	As above	X	Employees belonging to this community might be placed in a position of vulnerability by the nature of their employment.

<sup>7</sup> The protected characteristic of gender reassignment is defined by the Equality Act 2010 as “a person proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.” This is a personal process that may involve medical interventions such as counselling, psychotherapy, hormone therapy or surgery, but does not have to.

'Protected characteristic' group		Positive Impact	Explain how it could particularly benefit the group	Negative Impact	Explain how it could particularly disadvantage the group
Marriage and Civil Partnership	People who are married or in a civil partnership	X	As above		

11. If you have identified any negative impacts (above) how can they be minimised or removed?

- Younger People and Children – Regulations and conditions are contained within the Policy in order to minimise, and remove where possible, the potential for harm to young people and children. For example section 4 (4.1)(b), (c) and (e) state that the Council’s policy is ordinarily to refuse licences that are in close proximity to “schools, nurseries and other premises...”, “parks and other recreational areas...” and “youth, community and leisure centres used by children and other vulnerable persons.”
- Ethnicity – Regulations and conditions contained within the Policy act to minimise, and remove where possible, the potential for harassment towards employees - which would include this identified group.
- Women - Regulations and conditions are contained within the Policy in order to minimise, and remove where possible, the potential for harm including harassment towards women.
- Transgender/Transsexual - Regulations and conditions are contained within the Policy in order to minimise, and remove where possible, the potential for harm including harassment towards this community.
- Sexual Orientation - Regulations and conditions are contained within the Policy in order to minimise, and remove where possible, the potential for harm including harassment towards this community.
- Religion or Belief – Some faith groups may object to licensing policy in relation to alcohol. The policy is statute based and there is a public right to make representation (although moral objection cannot be taken into account by law).

12. Could the policy discriminate<sup>8</sup> against any 'protected characteristic', either directly or indirectly<sup>9</sup>?

- No

### Summary and findings of Initial Equality Impact Assessment

13. Please put a tick in the relevant box to confirm your findings, and what the next step is:

Findings	Action required
A. No negative impacts have been identified <input type="checkbox"/>	Sign off screening and finish.
B. Negative impacts have been identified but have been minimised or removed X	Sign off screening and finish.
C. Negative impacts could not be minimised or removed <input type="checkbox"/>	Sign off screening and complete a full impact assessment – Section 2.
D. There is insufficient evidence to make a judgement. <input type="checkbox"/>	Sign off screening and complete a full impact assessment – Section 2.

14. Name and job title of person completing this form:

Sarah White – Senior Licensing Officer

15. Date of completion:

7 November 2019

16. Date for update or review of this screening<sup>10</sup>:

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<sup>8</sup> The Council has a general duty to 'eliminate unlawful discrimination, harassment and victimisation'. Direct discrimination occurs when a person is treated less favourably than another in a comparable situation because of their 'protected characteristic' whether on grounds of age, disability, pregnancy and maternity, ethnicity; religion or belief; sex (gender), sexual orientation, or marriage and civil partnership. Indirect discrimination occurs when an apparently neutral provision or practice would nevertheless disadvantage people on the grounds of their 'protected characteristic'.

<sup>9</sup> If you answer 'yes' to question 11 (above) you will need to complete the following section *and* go on to complete Section 2 in order to conduct a full Equality Impact Assessment.

December 2021

*If you have selected A or B (above), you have completed the assessment and can remove this paragraph and everything that appears below. In this case please:(a) send a copy to the relevant Head of Service and the Equality and Safeguarding Officer; (b) arrange for it to be published on the Council's website [here](#) (under the relevant service area heading); and (c) update the Corporate Spreadsheet by clicking [here](#) and selecting and updating the first document. If you have selected C or D (above), you must complete Section Two (below).*

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<sup>10</sup> This is normally three years, but not always: You may know that the policy itself will be reviewed earlier in which case the EqIA should be reviewed at that time. Or, in the case of a five year strategy, you may want to have a review date of five years. In the case of a “one off” decision, such as closing a service, a review date may not be needed - in which case you should indicate ‘N/A’. In any event, the review date should be brought forward if you receive information or feedback which raises new concerns, or if the public policy context changes. You can speak to the [Equality and Safeguarding Co-ordinator](#) for more advice.



## Section 2: Full Equality Impact Assessment

### Where there is a negative impact which has not been minimised or removed

17. If you have identified negative impact(s) on the ‘protected characteristics’ that have not been minimised or removed, is this considered to be ‘a proportionate means of achieving a legitimate aim’?<sup>11</sup> If yes, state how:

*If a negative impact cannot be minimised or removed and cannot be objectively justified as being ‘a proportionate means of achieving a legitimate aim’, the policy should not be implemented as it is could unlawfully discriminate.*

### Where there is insufficient evidence to make a judgement

*If you identified that there was insufficient evidence to make a judgement on whether there are any negative impacts on the ‘protected characteristics’, please complete the first column of the Action Plan below.*

### Engagement and Consultation Action Plan

		Details of Planned Engagement	Date for Review	Summary of findings
Age	Older people (60+)			
	Younger people (17-25) and children (0-16)			
Disability	Physical			
	Sensory			
	Learning			

<sup>11</sup> This phrase is taken from sections 15 and 19 of the Equality Act 2010. ‘Positive action’, benefitting one or more protected characteristic(s), may result in a disproportionate negative impact upon another, but this may be justified as being ‘a proportionate means of achieving a legitimate aim’. The need to balance a budget can constitute a “legitimate aim”. Contact the Equality and Safeguarding Co-ordinator for more information or look at the [Equality and Human Rights Commission](#) webpage under “objective justification”.

		Details of Planned Engagement	Date for Review	Summary of findings
	Mental health issues			
	Other – <i>please specify</i>			
Ethnicity	White			
	Black			
	Chinese			
	Mixed Ethnic Origin			
	Gypsies/ Travellers			
	Other – <i>please state</i>			
Language	English not first language			
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks			
Religion or Belief	People with a religious belief (or none)			
Sex	Men			
	Women			
Gender Reassignment	Transgender/ Transsexual			
Sexual Orientation	Bisexual, Heterosexual, Gay or Lesbian			
Marriage and Civil Partnership	People who are married or in a civil partnership			

*If your answer to question 16 (above) is 'no', this policy could be unlawfully discriminatory against a 'protected characteristic'. You should not implement this policy. Otherwise, you may implement the policy, taking care to review its impact based on planned engagement. The Review should be carried out within 6 months from the date of this Full Impact Assessment, at which point a further Review may or may not be required depending on whether you have collected sufficient evidence.*

## Summary and findings of Full Equality Impact Assessment

18. Please put a tick in the relevant box to confirm your findings, and what the next step is:

Findings	Action required
Likely negative impacts have been identified but are considered to be a proportionate means of achieving a legitimate aim. <input type="checkbox"/>	Sign off and finish.
Further planned engagement with equality target groups will take place in order to gain sufficient evidence to make a judgement on impact. <input type="checkbox"/>	Sign off and review within 6 months.
Planned engagement has taken place: No likely negative impacts have been identified. <input type="checkbox"/>	Sign off and finish.
Planned engagement has taken place: Likely negative impacts have been identified but have been minimised or removed. <input type="checkbox"/>	Sign off and finish.
The policy could be unlawfully discriminatory and will not be implemented. <input type="checkbox"/>	Finish without signing off.

19. Name and job title of person completing this form:

Sarah White, Senior Licensing Officer

20. Date of completion:

7 November 2019

21. Date for update or review of this screening:

December 2021

*If you have now signed off this full assessment, please (a) send a copy to the relevant Head of Service and the Equality and Safeguarding Officer (b) arrange for it to be published on the Council's website [here](#) (under the relevant service area heading) and (c) update the Corporate Spreadsheet by clicking [here](#) and selecting and updating the first document.*